



Home Office

Country Information and Guidance

Iran: Sexual orientation and gender identity

Version 2.0

September 2016

Preface

This document provides country of origin information (COI) and guidance to Home Office decision makers on handling particular types of protection and human rights claims. This includes whether claims are likely to justify the granting of asylum, humanitarian protection or discretionary leave and whether – in the event of a claim being refused – it is likely to be certifiable as ‘clearly unfounded’ under s94 of the Nationality, Immigration and Asylum Act 2002.

Decision makers must consider claims on an individual basis, taking into account the case specific facts and all relevant evidence, including: the guidance contained within this document; the available COI; any applicable caselaw; and the Home Office casework guidance in relation to relevant policies.

Country Information

The COI within this document has been compiled from a wide range of external information sources (usually) published in English. Consideration has been given to the relevance, reliability, accuracy, objectivity, currency, transparency and traceability of the information and wherever possible attempts have been made to corroborate the information used across independent sources, to ensure accuracy. All sources cited have been referenced in footnotes. It has been researched and presented with reference to the [Common EU \[European Union\] Guidelines for Processing Country of Origin Information \(COI\)](#), dated April 2008, and the [European Asylum Support Office’s research guidelines, Country of Origin Information report methodology](#), dated July 2012.

Feedback

Our goal is to continuously improve the guidance and information we provide. Therefore, if you would like to comment on this document, please email [the Country Policy and Information Team](#).

Independent Advisory Group on Country Information

The Independent Advisory Group on Country Information (IAGCI) was set up in March 2009 by the Independent Chief Inspector of Borders and Immigration to make recommendations to him about the content of the Home Office’s COI material. The IAGCI welcomes feedback on the Home Office’s COI material. It is not the function of the IAGCI to endorse any Home Office material, procedures or policy. IAGCI may be contacted at:

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Information about the IAGCI’s work and a list of the COI documents which have been reviewed by the IAGCI can be found on the Independent Chief Inspector’s website at <http://icinspector.independent.gov.uk/country-information-reviews/>

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Guidance

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1. Introduction

1.1 Basis of Claim

1.1.1 Fear of persecution or serious harm by the state and/or non-state actors because of the person's actual or perceived sexual orientation or gender identity.

1.2 Points to Note

1.2.1 For the purposes of this guidance, sexual orientation or gender identity includes gay men, lesbians, bisexual and transgender (LGBT) persons though the experiences of each group may differ.

1.2.2 Decision makers should also refer to the [Asylum Instruction on Sexual identity issues in the asylum claim.](#)

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2. Consideration of Issues

2.1 Credibility

2.1.1 For further information and guidance on assessing credibility the [Asylum Instruction on Assessing Credibility and Refugee Status.](#)

2.1.2 Decision makers must also check if there has been a previous application for a UK visa or another form of leave. Asylum applications matched to visas should be investigated prior to the asylum interview. See the [Asylum Instruction on Visa Matches, Asylum Claims from UK Visa Applicants.](#)

2.1.3 Decision makers should also consider the need to conduct language analysis testing. See the [Asylum Instruction on Language Analysis.](#)

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2.2 Particular social group

2.2.1 LGBT persons from Iran form a particular social group (PSG) within the meaning of the Refugee Convention because they share a common characteristic that cannot be changed and have a distinct identity which is perceived as being different by the surrounding society.

2.2.2 Although LGBT persons in Iran form a PSG, it does not mean that establishing such membership makes the person a refugee. The question to address in each case is whether the particular person will face a real risk of persecution on account of their membership of such a group.

2.2.3 For further guidance on particular social groups, see the [Asylum Instruction on Assessing Credibility and Refugee Status.](#)

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2.3 Assessment of risk

i. General approach

- 2.3.1 Decision makers must establish whether or not the person, if returned to their country of origin, will live freely and openly as a LGBT person. This involves a wide spectrum of conduct which goes beyond merely attracting partners and maintaining relationships with them. If it is found that the person will in fact conceal aspects of his or her sexual orientation/identity if returned, decision makers must consider why the person will do so.
- 2.3.2 If this will simply be in response to social pressures or for cultural or religious reasons of their own choosing and not because of a fear of persecution, then they may not have a well-founded fear of persecution. But if the reason why the person will resort to concealment is that they genuinely fear that otherwise they will be persecuted, it will be necessary to consider whether that fear is well-founded.
- 2.3.3 For further guidance, see the [Asylum Instruction on Sexual Identity Issues in the Asylum Claim](#).

ii. State treatment of LGB persons

- 2.3.4 The Islamic Penal Code (IPC) criminalizes same-sex sexual relations. Punishments range from lashes to the death penalty. It varies for gay men according to whether the accused was the active or passive partner and can also depend on their marital status. Lesbians if convicted will receive 100 lashes or the death penalty on their fourth conviction (see [Legal rights](#)).
- 2.3.5 It is extremely difficult to determine whether those charged and executed for same-sex conduct are in fact members of Iran's LGB community or those who are being framed by the government as being gay. It is equally difficult to confirm the frequency of executions for same-sex conduct (see [Treatment by and attitudes of state authorities](#)).
- 2.3.6 In practice, Iran's security forces – including police and the basij – rely upon discriminatory laws to harass, arrest and detain those they suspect of being lesbian, gay and bisexual. LGB persons face a variety of abuse by government authorities including beatings, verbal assaults, rape, sexual assault and torture (see [Treatment by and attitudes of state authorities](#)).

iii. State treatment of transgender persons

- 2.3.7 The law defines transgender persons as mentally ill. Whilst the government does provide financial assistance to undergo sex reassignment surgery, some LGBT persons have been advised and reportedly also forced or coerced to undergo sex reassignment surgery to avoid legal and social consequences due to their gender-identity ambiguity. Undergoing sex reassignment surgery against the person's will amounts to persecution (see [Legal rights](#)).
- 2.3.8 Iran's security forces often harassed and abused transgender individuals whom they considered to be homosexual (see [Treatment by and attitudes of state authorities](#)).

iv. Societal treatment of LGB persons

- 2.3.9 In general Iranian society does not accept LGB persons. Many find themselves subject to familial violence, societal discrimination, abuse, harassment and in some cases physical attacks. There are no criminal justice mechanisms to prosecute those accused of hate crimes against members of the LGB community (see [societal treatment and attitudes](#) and [Legal rights](#)).

v. Societal treatment of transgender persons

- 2.3.10 Transgender persons also face the risk of harassment, discrimination and physical attacks. Failure to be certified as transsexual and undergo gender reassignment surgery risks the person being identified as a homosexual. They will be at real risk of being targeted for discrimination, arbitrary arrest and detention, torture and other forms of ill-treatment. Such treatment will similarly amount to persecution (see [societal treatment and attitudes](#) and [Legal rights](#)).
- 2.3.11 For further guidance on assessing risk, see the [Asylum Instruction on Assessing Credibility and Refugee Status](#)

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2.4 Protection

- 2.4.1 Where the person fears persecution/serious harm at the hands of the state, they will not be able to avail themselves of the protection of the authorities.
- 2.4.2 Where the person fears persecution/serious harm from non-state actors, decision makers must assess whether the state can provide effective protection.
- 2.4.3 As stated above the Iranian security forces harass, arrest and detain those suspected of being LGBT and there are no laws that protect against anti-LGBT violence. Those that have been subject to violence and/or threats are unwilling to report these assaults to the authorities out of fear that they would themselves be charged with a criminal act.
- 2.4.4 As a result, the state appears able but unwilling to offer effective protection and the person will not be able to avail themselves of their protection.
- 2.4.5 For further guidance on assessing the availability or not of state protection, see the [Asylum Instruction on Assessing Credibility and Refugee Status](#).

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2.5 Internal relocation

- 2.5.1 Where the person fears persecution/serious harm at the hands of the state, they will not be able to relocate to escape that risk.
- 2.5.2 Where the person fears persecution/serious harm from non-state actors, they may be able to relocate to another area. Some evidence suggests that homosexual and bisexual persons who do not openly reveal their sexual orientation and keep a low profile are able to move freely within society.
- 2.5.3 However, decision makers must also note that in the case of [HJ \(Iran\)](#), the Supreme Court made the point that internal relocation is not the answer if it

depends on the person concealing their sexual orientation in the proposed new location for fear of persecution.

- 2.5.4 For further guidance on internal relocation and the factors to consider, see the [Asylum Instruction on Assessing Credibility and Refugee Status](#).

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2.6 Certification

- 2.6.1 Where a claim is refused, it is unlikely to be certifiable as ‘clearly unfounded’ under section 94 of the Nationality, Immigration and Asylum Act 2002.

- 2.6.2 For further guidance on certification, see [Certification of Protection and Human Rights claims under section 94 of the Nationality, Immigration and Asylum Act 2002 \(clearly unfounded claims\)](#).

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3. Policy Summary

- 3.1.1 The law criminalizes consensual same-sex sexual activity, which may be punishable by death or lashes. The authorities rely upon discriminatory laws to harass, arrest, and detain people whom they suspect of being LGBT.
- 3.1.2 There is widespread and systematic state and societal discrimination against LGBT persons in Iran, including harassment and violence. LGBT persons experience familial violence, and in the case of transgender persons, forced medical treatment. They are unlikely to be able to report these assaults to the authorities for fear of being charged themselves with a criminal act.
- 3.1.3 The law defines transgender persons as mentally ill. Some transgender persons have reportedly faced discrimination in employment and education, physical attacks, arbitrary detention, rape and torture.
- 3.1.4 Where there is a real risk that an LGBT person – or those reasonably likely of being suspected as such – will come to the attention of the authorities, the person would face a real risk of persecution. They are likely to qualify for a grant of asylum as LGBT persons in Iran are considered members of a particular social group within the meaning of the Refugee Convention.
- 3.1.5 Homosexual and bisexual persons may be able to internally relocate, but decision makers must consider this in line with the Supreme Court’s judgment in [HJ \(Iran\)](#).
- 3.1.6 Where a claim is refused, it is unlikely to be certifiable as ‘clearly unfounded’ under section 94 of the Nationality, Immigration and Asylum Act 2002.

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4. Legal rights

4.1 The Penal Code

- 4.1.1 The undated Iran Human Rights Documentation Center report titled 'The Execution of Women in Iranian Criminal Law: an Examination of the Impact of Gender on Laws Concerning Capital Punishment in the New Islamic Penal Code' noted that:

'Under the new Islamic Penal Code sexual relationships between two men or two women are subject to the law of Hadd, which under certain conditions is punishable by death. Iran is one of seven countries whose laws prescribe death by execution for consensual homosexual relations.¹

- 4.1.2 The Iran Human Rights Documentation Center's report entitled 'Denied Identity: Human Rights Abuses against Iran's LGBT Community' provides details of the punishments for same sex offences under Iranian law:

"the IPC [Islamic Penal Code of Iran] explicitly criminalizes sexual relations between same-sex individuals. A new version of the IPC came into effect in 2013 [...] The IPC criminalizes specific sexual acts; it does not, however, provide for punishment of homosexuality in general. There are four types of same-sex sexual acts that are explicitly recognized as criminal by the IPC.

[...] Shari'a, or Islamic law, prescribes punishments for certain offenses [...] one category of crime and punishment as prescribed by Shari'a is called hadd. In plural, these punishments are called hodud, and they comprise a separate class of punishments from other Shari'a punishments or those that originate in the civil law. While hodud punishments have been incorporated into the IPC, they differ from other punishments in several aspects. Evidentiary requirements and treatment of repeat offenders are two examples of the ways in which hodud crimes differ from other crimes. In addition, hodud punishments are fixed and the judge cannot change or mitigate these punishments. Among the crimes listed below, sodomy, tafkhiz, and mosaheqeh belong to the hodud class of crimes. On the other hand, crimes falling under the title "other homosexual acts" are not hodud crimes. Punishment for these crimes is referred to as ta'zir."

- 4.1.3 A full English translation of Book One and Book Two of the new [Islamic Penal Code of Iran \(IPC\) of 2013](#) can be found on the IHRDC website.²

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¹ Iran Human Rights Documentation Centre, The Execution of Women in Iranian Criminal Law: an Examination of the Impact of Gender on Laws Concerning Capital Punishment in the New Islamic Penal Code, undated <http://www.iranhrdc.org/english/publications/legal-commentary/1000000102-the-execution-of-women-in-iranian-criminal-law.html> [date accessed 22 June 2016]

² <http://www.iranhrdc.org/english/human-rights-documents/iranian-codes/1000000455-english-translation-of-books-1-and-2-of-the-new-islamic-penal-code.html> [date accessed 19 July 2016]

4.2 Sodomy

- 4.2.1 'Article 233 of the IPC [Islamic Penal Code of Iran] defines sodomy as: "penetration of a man's sex organ, up to or beyond the point of circumcision, into the anus of another man." If there is no penetration, the parties could be charged with the lesser crime of tafkhiz.
- 4.2.2 Iranian law distinguishes between "active" and "passive" partners involved in sodomy. This distinction is rooted in Islam's views on homosexuality. Accordingly, the punishments for active and passive partners are different.
- 4.2.3 The passive partner in sodomy, if convicted, will be sentenced to death. His marital status is irrelevant.
- 4.2.4 The sentence given to the active partner engaging in sodomy is more complicated. If he is married, he will be sentenced to death. If he is not married, however, he will be sentenced to one hundred lashes. The death penalty will also apply to the active partner when the active partner is a non-Muslim but the passive partner is a Muslim³.

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4.3 Tafkhiz

- 4.3.1 Article 235 of the IPC defines tafkhiz as: "placing a man's sex organ between the thighs or the buttocks of another man." A proviso to Article 235 states that if penetration does not reach the point of circumcision, the sex act is considered to be tafkhiz.
- 4.3.2 Unlike sodomy, there is no distinction between an active and a passive partner. Also, there is no distinction between a married and an unmarried partner. Neither is punishment more severe if one partner forces the other to engage in the sexual act. Any man convicted of tafkhiz will be sentenced to one hundred lashes. Nevertheless, if the active partner is a non-Muslim and the passive partner is a Muslim, the non-Muslim active partner will be sentenced to death⁴.

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4.4 Mosaheqeh

- 4.4.1 Sexual acts between two females can lead to a charge of mosaheqeh.

³ Iran Human Rights Documentation Center. Denied Identity: Human Rights Abuses against Iran's LGBT Community. 7 November 2013. 3. Treatment of Homosexual Acts under Current Iranian Law, 3.1. Same-sex Offenses under Current Iranian Law and 3.2. Punishments for Sam-sex Offenses under Current Iranian Law, Page 9 -10.

http://www.iranhrdc.org/files.php?force&file=reports_en/Denied-Identity.pdf. [date accessed 19 July 2016]

⁴ Iran Human Rights Documentation Center. Denied Identity: Human Rights Abuses against Iran's LGBT Community. 7 November 2013. 3. Treatment of Homosexual Acts under Current Iranian Law, 3.1. Same-sex Offenses under Current Iranian Law and 3.2. Punishments for Sam-sex Offenses under Current Iranian Law, Page 9 -10.

http://www.iranhrdc.org/files.php?force&file=reports_en/Denied-Identity.pdf. [date accessed 19 July 2016]

- 4.4.2 Article 238 of the IPC defines mosaheqeh as: “when a female places her reproductive organ on another female’s reproductive organ.”
- 4.4.3 Article 239 of the IPC states that mosaheqeh is punishable by one hundred lashes. Article 240 explains that there is no difference between an active and a passive partner, and the marital status of the parties has no effect on the punishment. Also, the religion of the partner is not a relevant factor. Similar to tafkhiz, the punishment for a person convicted of mosaheqeh would not be more severe if she forces another woman to engage in the sexual act⁵.
- 4.4.4 Iran Human Rights Documentation Centre’s undated report titled ‘The Execution of Women in Iranian Criminal Law: an Examination of the Impact of Gender on Laws Concerning Capital Punishment in the New Islamic Penal Code’ noted that:

‘The primary punishment for lesbianism under the new Code is 100 lashes, and just as in the Islamic Penal Code, “If a female is convicted of lesbianism three times, and punishment is enforced each time (under the law of Hadd), the death sentence will be issued the fourth time.”’

‘The definition of Musaheqeh [lesbianism], however, has slightly been modified in the new Code, and according to Shadi Sadr, based on this definition it is very difficult to prove lesbianism.’

‘The original Islamic Penal Code defined Musaheqeh as “homosexuality of women by genitals.” The new Code defines Musaheqeh as “placing female genitalia on the genitalia of the same sex.”’⁶

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4.5 Other Same-sex Sexual Acts

- 4.5.1 Other sexual acts are discussed in Article 237 of the IPC. According to this Article, in addition to sodomy and tafkhiz, other homosexual acts such as kissing and touching for pleasure are forbidden as well.’[...] they are punishable by 31 to 74 lashes. This provision applies to both men and women. Shari’a law does not specify punishments for crimes falling under this category. Therefore, the punishment of lashes provided in the IPC is referred to as a ta’zir punishment.⁷

⁵ Iran Human Rights Documentation Center. Denied Identity: Human Rights Abuses against Iran’s LGBT Community. 7 November 2013. 3. Treatment of Homosexual Acts under Current Iranian Law, 3.1. Same-sex Offenses under Current Iranian Law and 3.2. Punishments for Sam-sex Offenses under Current Iranian Law, Page 9 -10.

http://www.iranhrdc.org/files.php?force&file=reports_en/Denied-Identity.pdf. [date accessed 19 July 2016]

⁶ Iran Human Rights Documentation Centre, The Execution of Women in Iranian Criminal Law: an Examination of the Impact of Gender on Laws Concerning Capital Punishment in the New Islamic Penal Code, undated <http://www.iranhrdc.org/english/publications/legal-commentary/1000000102-the-execution-of-women-in-iranian-criminal-law.html> [date accessed 22 June 2016]

⁷ Iran Human Rights Documentation Center. Denied Identity: Human Rights Abuses against Iran’s LGBT Community. 7 November 2013. 3. Treatment of Homosexual Acts under Current Iranian Law, 3.1. Same-sex Offenses under Current Iranian Law and 3.2. Punishments for Sam-sex Offenses under Current Iranian Law, Page 9 -10. http://www.iranhrdc.org/files.php?force&file=reports_en/Denied-Identity.pdf. [date accessed 19 July 2016]

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4.6 Death Penalty on the Fourth Conviction

- 4.6.1 Article 136 of the IPC states that any person convicted for the fourth time of any crime in the hodud category will be sentenced to death, provided that after each conviction he or she has been accordingly flogged. With the exception of the passive partner in sodomy, who will be executed after the first punishment, Article 136 means that an active partner in sodomy, a man convicted of tafkhiz, and a woman convicted of mosaheqeh may be put to death after their fourth conviction. This repeat-offender scheme, however, does not apply to those convicted of “other same-sex sexual acts” such as kissing and touching for pleasure.’⁸

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4.7 Transgender persons

- 4.7.1 The US State Department, Country report on Human Rights Practices for 2015 noted that:

‘The law defines transgender persons as mentally ill, and the government provided transgender persons financial assistance in the form of grants of up to 45 million rial (\$1,506) and loans up to 55 million rial (\$1,841) to undergo gender-confirmation surgery. Additionally, the Ministry of Cooperatives, Labor, and Social Welfare requires health insurers to cover the cost of gender-confirmation surgery. Individuals who underwent gender-confirmation surgery may petition a court for new identity documents with corrected gender data, which the government reportedly provided efficiently and transparently. Human rights activists and NGOs reported that authorities pressured some LGBTI persons to undergo gender-confirmation surgery to avoid legal and social consequences due to their sexual orientation or gender-identity ambiguity. The March report by the UN special rapporteur addressed concerns about the quality of the medical care in these surgeries.’⁹

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⁸ Iran Human Rights Documentation Center. Denied Identity: Human Rights Abuses against Iran’s LGBT Community. 7 November 2013. 3. Treatment of Homosexual Acts under Current Iranian Law, 3.1. Same-sex Offenses under Current Iranian Law and 3.2. Punishments for Sam-sex Offenses under Current Iranian Law, Page 9 -10.

http://www.iranhrdc.org/files.php?force&file=reports_en/Denied-Identity.pdf. [date accessed 19 July 2016]

⁹ US State Department, Country report on Human Rights Practices for 2015- Iran, 13 April 2016, <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2015&dliid=252923> [date accessed 21 June 2016]

5. Treatment by and attitudes of state authorities

5.1 Gay men and lesbians

5.1.1 The Human Rights Watch world report for 2016 noted that: 'Lesbian, gay, bisexual and transgender people are subjected to official harassment, arbitrary arrest and detention, prosecution, and ill-treatment or torture.'¹⁰

5.1.2 The US State Department, Country report on Human Rights Practices for 2015 noted that:

'The law criminalizes consensual same-sex sexual activity, which is punishable by death, flogging, or a lesser punishment. The law does not prohibit discrimination based on sexual orientation and gender identity. Security forces harassed, arrested, and detained individuals they suspected of being gay or transgender. In some cases security forces raided houses and monitored internet sites for information on LGBTI persons. Those accused of sodomy often faced summary trials, and evidentiary standards were not always met.'¹¹

'Hate crime laws or other criminal justice mechanisms do not exist to aid in the prosecution of bias-motivated crimes against members of the LGBTI community. International LGBTI NGOs reported that many young gay men faced harassment and abuse from family members, religious figures, school leaders, and community elders. Authorities reportedly expelled some persons from universities for alleged same-sex sexual activity. Those dismissed from mandatory military service due to their sexual orientation received special exemption cards indicating the reason for their dismissal, which became the basis for later discrimination.'¹²

5.1.3 The Observer opinion article titled 'How Iran Solved Its Gay Marriage Problem' dated 5 April 2015 noted that:

'Lobbyists and politicians are well aware that the number of Iranian homosexuals who have been executed under Iranian law since 1979 is estimated by human rights activists and opponents of the current Iranian regime to be in the range of 4000-6000 gays and lesbians killed for having sexual relations with someone of the same gender.'¹³

5.1.4 Iran Human Rights Documentation Centre in their undated report 'The Execution of Women in Iranian Criminal Law: an Examination of the Impact of Gender on Laws Concerning Capital Punishment in the New Islamic Penal

¹⁰ Human Rights Watch, World report 2016- Iran, 27 January 2016, <https://www.hrw.org/world-report/2016/country-chapters/iran#e81181> [date accessed 21 June 2016]

¹¹ US State Department, Country report on Human Rights Practices for 2015- Iran, 13 April 2016, <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2015&dliid=252923> [date accessed 21 June 2016]

¹² US State Department, Country report on Human Rights Practices for 2015- Iran, 13 April 2016, <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2015&dliid=252923> [date accessed 21 June 2016]

¹³ Observer- Opinion, How Iran Solved Its Gay Marriage Problem, 5 April 2015, <http://observer.com/2015/05/how-iran-solved-its-gay-marriage-problem/> [date accessed 17 August 2016]

Code' spoke to Sadr, a notable activist with experience in the field of women's rights who has defended many men and women sentenced to death. Sadr was of the opinion that:

'with the new modification in the Code concerning punishment and execution of homosexuals, there will be less arrests and issuance of verdicts under the law of Hadd, or execution for homosexuality. Sadr [indicated that] during her years of active involvement, she has never come across a case of [execution for] lesbianism and is not aware of any. While not denying the fact that in general the punishment of Hadd is carried out against lesbians, Sadr added that the few cases of lesbianism that she has seen were in relation with female prisoners.'¹⁴

- 5.1.5 Human Rights Watch's report 'We are a buried generation- Discrimination and Violence against Sexual Minorities in Iran' dated 15 December 2010 states that:

'In recent years there has been considerable debate regarding how many individuals have been executed by the state for having committed same-sex acts, if those executed had engaged in consensual sex (or any sex at all) or not, and whether the state specifically targets homosexuals for execution. Notwithstanding these debates, the fact remains that Iranian law provides the death penalty for consensual same-sex acts, the threat of execution hangs above all Iranians who engage in such acts, and Iran's sexual minorities are disproportionately affected by these discriminatory laws.'¹⁵

- 5.1.6 Outright- Action International's report on Iran's sodomy law- 'Reading between the lines' dated 14 August 2012 noted:

'Given the legal ambiguity of Iran's penal code on rape and child sexual abuse, and considering the fact that in most publicized cases, the alleged perpetrators of rape and/or child abuse are also found guilty of sodomy, it is not possible to determine whether the convicted people are truly guilty of sexual offenses, or are being penalized for being homosexuals. Furthermore, in the case of Iran [...], it is difficult to know whether those accused of sodomy are really gay or being framed by the government as gay. Not surprisingly, in recent cases documented by International Gay and Lesbian Human Rights Commission (IGLHRC), Iranian authorities have made no effort to publicly present the required four male witnesses needed for conviction – thus lending to our suspicions that their current practice really is to rid society of lesbians and gay men and promote fear.'¹⁶

¹⁴ Iran Human Rights Documentation Centre, The Execution of Women in Iranian Criminal Law: an Examination of the Impact of Gender on Laws Concerning Capital Punishment in the New Islamic Penal Code, undated <http://www.iranhrdc.org/english/publications/legal-commentary/1000000102-the-execution-of-women-in-iranian-criminal-law.html> [date accessed 22 June 2016]

¹⁵ Human Rights Watch: "We Are a Buried Generation"; Discrimination and Violence against Sexual Minorities in Iran, 15. December 2010. X. Transgender and Transsexual Iranian, Sex Reassignment Surgery, Page 80. http://www.hrw.org/sites/default/files/reports/iran1210webwcover_1.pdf [date accessed 19 July 2016]

¹⁶ Outright- Action International, Iran: Iran's sodomy law- Reading between the lines, 14 August 2012, <https://www.outrightinternational.org/content/iran-iran%E2%80%99s-sodomy-law-reading-between->

- 5.1.7 According to the findings of Justice for Iran (JFI) & the Iranian Lesbian and transgender network (6Rang) report 'Pathologizing Identities, Paralyzing Bodies: Human Rights Violations Against Gay, Lesbian and Transgender People in Iran' published in June 2014:

'Almost every lesbian, gay and transgender interviewee who did not conform to culturally approved models of femininity and masculinity told JFI & 6R that they lived in fear of being sexually assaulted and raped by members of the police and Basij. For several of them, this fear had unfortunately come true.'

'Since 2007, there have been several confirmed reports of state-led raids on private parties followed by mass arrest and detention of those suspected of "homosexuality". Detainees are reported to have been beaten, and subjected to other cruel, inhuman or degrading treatments or punishments, including anal examinations by medical doctors without consent. In many cases, intelligence forces are believed to have carried out the raids while in at least one case in the western city of Kermanshah, the intelligence unit of the Revolutionary Guards took responsibility for the raid.'¹⁷

- 5.1.8 The Austrian Centre for Country of Origin and Asylum Research and Documentation (ACCORD), COI compilation titled 'Iran: Women, children, LGBTI persons, persons with disabilities, "moral crimes"' dated December 2015 featured a translation of a country report undertaken by the Netherlands Ministry of Foreign Affairs in May 2015. The report notes that:

'homosexual and bisexual persons who do not openly reveal their sexual orientation and keep a low profile are able to move freely within society. In Iran, it often happens that persons of the same sex live together, and this is not necessarily associated with homosexuality. This is especially true for the larger cities where there is a greater anonymity.'

'In the past, there have been regular raids on meeting places for homosexual persons. But with the rise of social media and online dating, these groups have shifted their activities to gay-oriented chat rooms and dating sites. Authorities now condone public meetings between homosexual persons in specific locations. Even places that were known to the authorities as venues where gay sex is provided for money (e.g. certain baths) were left undisturbed during the reporting period.'

'In larger cities in particular, the authorities do not pursue a policy that aims to fight homosexuality "with fire and sword". However, according to a confidential source, authorities would intervene immediately once there is activism or if they believe that some activities might give Iran a bad name abroad.'

'As far as can be ascertained, all investigative services, i.e. the Basij, the IRGC and the intelligence services are mandated to pursue homosexual

[lines](#) [date accessed 16 August 2016]

¹⁷ Justice for Iran and Iranian Lesbian and Transgender Network (6Rang) 2014, Pathologizing Identities, Paralyzing Bodies: Human Rights Violations against Lesbian, Gay and Transgender People in Iran, June 2014, pg39 <http://6rang.org/english/wp-content/uploads/2014/06/Pathologizing-Identities-Paralyzing-Bodies.pdf> [date accessed 18 July 2016]

activities. According to a source, it is known that the Basij are those who most actively seek to pursue people engaging in homosexual activities. The majority of arrests relating to homosexuality take place at private home parties. Initially, these arrests would be justified on grounds of illegal alcohol consumption, dress code violations and “debauchery”. This has not changed during the reporting period.’

‘A number of interviews with persons accused of homosexual behaviour seem to show that the authorities use harsh measures during arrests and interrogations. Intimidation, blackmailing, incommunicado detention, rape, torture, coercion to sign (false) confessions and extrajudicial punishments such as flogging are widely practiced during detention and interrogation. In most cases, authorities try to press the detainee to make a confession of homosexual conduct and/or to reveal the identity of other homosexual persons.’¹⁸

5.1.9 Vocati’s article ‘Living Dangerously: What It’s Like To Be Gay In Iran’ dated 23 December 2014 noted:

‘While the new centrist government under President Hassan Rouhani maintains a similar refrain as its predecessor, foreign-based media outlets like BBC Persian, Radio Zaman and Voice of America use non-derogatory language about homosexuals, and it is slowly trickling down to reformist outlets inside the country, and to young Iranians, says Alizadeh. And despite its often venomous rhetoric, the Iranian regime silently accepts that gays do exist, and takes a few pragmatic steps to account for that reality. [...] sex reassignment surgery (SRS) has become a controversial solution for gay men trying to reconcile their faith with their sexuality. The government even extends loans to people who undergo sex reassignment surgery, and requires insurance companies to cover SRS in their policies.

‘[...] Another piece of pragmatism by the government is their rule meant to keep gays out of the army. If a man can get a doctor to testify he is gay, he will be exempt from military service. Still, these small concessions hardly amount to any sort of tangible freedom for Iran’s gays, many of whom continue to fight their own sexuality.’¹⁹

5.1.10 The US State Department, Country report on Human Rights Practices for 2015 noted that:

‘On September 17 [2015], police arrested several dozen persons in Shiraz after a raid on a social gathering. LGBTI rights organizations reported that police forced several individuals to undergo rectal examinations while in custody and that prison authorities beat many of them while incarcerated.’²⁰

¹⁸ Austrian Centre for Country of Origin and Asylum Research and Documentation (ACCORD), Iran: Women, children, LGBTI persons, persons with disabilities, “moral crimes”: COI Compilation, December 2015, <http://www.refworld.org/docid/568a98324.html> [accessed 19 July 2016]

¹⁹ Vocativ, Living Dangerously: What It’s Like To Be Gay In Iran, 23 December 2014, <http://www.vocativ.com/culture/lgbt/iran-gay-laws/> [date accessed 22 June 2016]

²⁰ US State Department, Country report on Human Rights Practices for 2015- Iran, 13 April 2016, <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2015&dliid=252923> [date

- 5.1.11 BBC news reported in May 2016 that: 'Iranian authorities are investigating the women's national football team because they believe some players might be homosexual.'²¹

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5.2 Transgender persons

- 5.2.1 Vocati's article 'Living Dangerously: What It's Like To Be Gay In Iran' dated 23 December 2014 noted:

'The Quran, the foundation of Iranian law, explicitly bans homosexuality. But it doesn't mention transsexuality, which Ayatollah Khomeini, the founder of the Islamic Republic, permitted in a fatwa in 1983. As a result, sex reassignment surgery (SRS) has become a controversial solution for gay men trying to reconcile their faith with their sexuality. Iran carries out more sex-change operations than any other country, apart from Thailand. (Simple cross-dressing, before a surgery, is not allowed because men or women disguising as another gender allegedly disrupts the social order.'²²

- 5.2.2 Human Rights Watch's World report for 2016 noted that: 'Although Iran permits and subsidizes sex reassignment surgery for transgender people, no law prohibits discrimination against them.'²³

- 5.2.3 The Austrian Centre for Country of Origin and Asylum Research and Documentation (ACCORD), COI compilation titled Iran: Women, children, LGBTI persons, persons with disabilities, "moral crimes" dated December 2015 featured a translation of a country report undertaken by the Netherlands Ministry of Foreign Affairs in May 2015. The report notes that:

'the authorities regard trans-sexuality as a disorder for which medical solutions are available. Transsexuals are often—voluntarily or not—referred to a psychiatrist or psychologist.'

- 5.2.4 The report goes on to note with reference to a confidential source that:

'transgender persons are less looked down upon by society than homosexuals. They have been tolerated since Ayatollah Khomeini issued a fatwa in 1987 declaring trans-sexuality to be in conformity with Islam. The authorities allow hormone treatment and sex change through surgery. Whether a person qualifies for such treatment is determined by the Department of Forensic Psychiatry in Tehran. Only after the sex reassignment surgery has been completed and the identity card adjusted is a person legally allowed to dress according to the opposite sex and move into the spaces reserved for this sex.'

accessed 21 June 2016]

²¹ BBC News, Iran footballers investigated over lesbian claims, 27 May 2016
<http://www.bbc.co.uk/news/world-middle-east-36399393> [date accessed 28 June 2016]

²² Vocativ, Living Dangerously: What It's Like To Be Gay In Iran, 23 December 2014,
<http://www.vocativ.com/culture/lgbt/iran-gay-laws/> [date accessed 22 June 2016]

²³ Human Rights Watch, World report 2016- Iran, 27 January 2016, <https://www.hrw.org/world-report/2016/country-chapters/iran#e81181> [date accessed 21 June 2016]

5.2.5 The report notes, however, that: ‘while Iran does not allow individuals to pose as the other sex, in practice, this is done under the guise of transsexuality.’ The report states that: ‘there were no known serious cases of discrimination against transgender persons during the reporting period.’²⁴

5.2.6 Human Rights Watch’s report ‘We are a buried generation- Discrimination and Violence against Sexual Minorities in Iran’ dated 15 December 2010 states that:

‘Iran’s transgender community is also adversely affected by the country’s criminalization of same-sex conduct. Iran’s transgender and transsexual persons are often targeted, harassed, and abused by security forces and others because they are considered to be homosexuals. Moreover, transgender Iranians who have not undergone sex reassignment surgery (SRS) and engage in consensual same-sex conduct are, pursuant to Iranian law, subject to criminal punishment.’

‘...once an individual is diagnosed by a medical professional as suffering from ‘gender dysphoria’ and agrees to undergo SRS [sex reassignment surgery], they may secure permits from local authorities allowing them to appear in public dressed as women prior to the actual surgery. Without this permit, however, individuals dressing like members of the opposite sex will be considered transvestites and in violation of the law.

‘Once a transgender individual has undergone SRS in Iran that person legally becomes the ‘new’ sex—male, in the case of trans-men, and female, in the case of trans-women. All legal documents, such as birth certificates and passports, are also changed accordingly. After completing their transition, however, many transgender Iranians are advised to maintain discretion about their past. This is because of the negative stigma associated with being transgender and undergoing SRS in mainstream Iranian society.’²⁵

5.2.7 BBC news reported in 2014 that: ‘There is no reliable information on the number of gender reassignment operations carried out in Iran. Khabaronline, a pro-government news agency, reports the numbers rising from 170 in 2006 to 370 in 2010. But one doctor from an Iranian hospital told the BBC that he alone carries out more than 200 such operations every year.’²⁶

5.2.8 A 2013 report by Heartland Alliance for Human Needs & Human Rights and others noted that:

²⁴ Austrian Centre for Country of Origin and Asylum Research and Documentation (ACCORD), Iran: Women, children, LGBTI persons, persons with disabilities, “moral crimes”: COI Compilation, December 2015, <http://www.refworld.org/docid/568a98324.html> [accessed 19 July 2016]

²⁵ Human Rights Watch: “We Are a Buried Generation”; Discrimination and Violence against Sexual Minorities in Iran, 15. December 2010. X. Transgender and Transsexual Iranian, Sex Reassignment Surgery, Page 80. http://www.hrw.org/sites/default/files/reports/iran1210webwcover_1.pdf [date accessed 19 July 2016]

²⁶ BBC News, The gay people pushed to change their gender, 5 November 2014 <http://www.bbc.co.uk/news/magazine-29832690> [date accessed 28 June 2016]

“there have been instances of botched sex reassignment surgeries, which have left some people with permanent and irreparable physical damage...the doctors performing the operations in Iran are so careless - for them, it is like cutting paper and not flesh ... just because it's a highly profitable business ... they perform all these operations improperly, and often incompletely.”²⁷

5.2.9 The same report continued

“Furthermore, Iran has done little to ensure the quality of medical services offering sex reassignment operations: in cases that constitute malpractice, we found no evidence that those victimized have had legal recourse or that the government has taken steps to remedy them. Moreover, we have found no evidence that the State has taken measures to address the emotional trauma and compromised mental health of individuals who have had sex reassignment surgeries, which were caused by, inter alia, their repudiation by their family members as well as continuous persecution and harassment.”²⁸

5.2.10 According to the findings of Justice for Iran (JFI) & the Iranian Lesbian and transgender network (6Rang) report ‘Pathologizing Identities, Paralyzing Bodies: Human Rights Violations Against Gay, Lesbian and Transgender People in Iran’ published in June 2014:

‘ “transgender individuals who transgress socially constructed gender expectations without applying to become diagnosed as “certified transsexuals” and undergoing sex reassignment surgery risk being identified as “homosexual”, and targeted for discrimination, arbitrary arrest and detention, torture and other forms of ill-treatment.”

‘The findings of this report suggest that transgender people also experience serious violations of the right to health as a result of negligent and substandard sex reassignment surgeries that are carried out without proper documentation of evidence of Gender Identity Disorder and the full consideration of different possible therapeutic approaches.’

‘In fact, the Iranian healthcare system not only fails to recognize the various expressions of gender that may not necessitate psychological, hormonal or surgical treatments, but it also engages in the administration of sex

²⁷ Heartland Alliance for Human Needs & Human Rights; Iranian Queer Organization; International Human Rights Clinic: The Violations of the Economic, Social and Cultural Rights of Lesbian, Gay, Bisexual, and Transgender (LGBT) Persons in the Islamic Republic of Iran, March 2013. III. Substantive Violations, 2. Article 12 (Right to Health), a. Sex reassignment surgery, Page 13. http://hrp.law.harvard.edu/wp-content/uploads/2011/01/JointHeartlandAlliance_IRQO_IHRC_Iran_CESCR50.pdf [date accessed 28 June 2016]

²⁸ Heartland Alliance for Human Needs & Human Rights; Iranian Queer Organization; International Human Rights Clinic: The Violations of the Economic, Social and Cultural Rights of Lesbian, Gay, Bisexual, and Transgender (LGBT) Persons in the Islamic Republic of Iran, March 2013. III. Substantive Violations, 2. Article 12 (Right to Health), a. Sex reassignment surgery, Page 15. http://hrp.law.harvard.edu/wp-content/uploads/2011/01/JointHeartlandAlliance_IRQO_IHRC_Iran_CESCR50.pdf [date accessed 28 June 2016]

reassignment surgeries that drastically fall short of international clinical standards and result in long-lasting health complications including chronic chest pain, severe back pain, unsightly scarring, loss of sexual sensation, debilitating infections, recto-vaginal and recto-urethral fistula and incontinence. The great deal of pain and suffering that is inflicted upon transgender people through these surgeries, as indicated by the cases below, is a cause for serious concern considering that transgender persons are required to undergo sex reassignment surgeries as a prerequisite for enjoying legal recognition of their preferred gender. The accounts of those interviewed for this report show that more often than not, individuals are rushed through sex reassignment surgeries without free and informed consent, and a clear understanding of the risks that such interventions entail.²⁹

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6. Societal treatment and attitudes

- 6.1.1 The Austrian Centre for Country of Origin and Asylum Research and Documentation (ACCORD), COI compilation titled Iran: Women, children, LGBTI persons, persons with disabilities, "moral crimes" dated December 2015 featured a translation of a country report undertaken by the Netherlands Ministry of Foreign Affairs in May 2015. The report notes that:

‘The social acceptance of homosexuality in Iranian society is low. The general social attitude towards LGBT persons is “don’t ask, don’t tell”. The report goes on to note that due to social stigma, homosexual persons have a greater fear of how they are treated by their immediate surroundings than of their treatment by the authorities. If a family member reports a person as being homosexual, this could result in the person’s dismissal from work or university. For LGBT persons, it is easier to keep a low profile in the large cities, which is why many choose to move there from elsewhere. As a confidential source noted, the authorities are not inclined to offer protection to LGBT persons who feel discriminated by members of society.’³⁰

- 6.1.2 According to the findings of Justice for Iran (JFI) & the Iranian Lesbian and transgender network (6Rang) report ‘Pathologizing Identities, Paralyzing Bodies: Human Rights Violations Against Gay, Lesbian and Transgender People in Iran’ published in June 2014:

‘Taunts, insults and threats are a constant reality for lesbian, gay and transgender people and are in fact so common that many of them try to

²⁹ Justice for Iran & Iranian Lesbian and Transgender Network (6Rang). Pathologizing Identities, Paralyzing Bodies: Human Rights Violations Against Gay, Lesbian and Transgender People in Iran. June 2014. 4. Legal Gender Recognition Procedures in Iran. <http://6rang.org/english/wp-content/uploads/2014/06/Pathologizing-Identities-Paralyzing-Bodies.pdf> [date accessed 28 June 2016]

³⁰ Austrian Centre for Country of Origin and Asylum Research and Documentation (ACCORD), Iran: Women, children, LGBTI persons, persons with disabilities, "moral crimes": COI Compilation, December 2015, <http://www.refworld.org/docid/568a98324.html> [accessed 28 June 2016]

isolate themselves and avoid public interaction in order to reduce their risk of being harassed and abused.’

‘Sexual assault and other physical attacks against lesbian, gay and transgender people who do not conform to culturally approved models of femininity and masculinity are also all too common. Many of the lesbian, gay and transgender people interviewed by JFI & 6Rang reported that their life in Iran was marked by a constant fear of being assaulted and raped by men. This was particularly true for female-to-male transgender persons who had not undergone genital reassignment surgeries and worried about having their transgender identity unwantedly disclosed by men who try to fondle their genitals.’

6.1.3 The report went on to note that during their research they:

‘received seven accounts of sexual assault and rape, six of which were perpetrated by non-state actors. In all these cases, the victims said they not only did not feel protected by the law but also feared that they will be arrested and charged with sexual offences, if they were to file complaints with the police. This absence of an adequate police response to incidents of sexual assault and rape makes non-state actors feel emboldened to enact homophobic and transphobic violence with impunity, and is a source of human rights violation in that the state is failing in its duty to protect one group of its population from violence.’

‘A considerable number of lesbian, gay and transgender individuals interviewed by JFI & 6Rang, also reported being subjected to various forms of abuse by their family members because of their sexual orientation and gender identity. These included beatings and flogging as well as forms of psychological abuse such as enforced seclusion and isolation from friends and society, neglect and abandonment, verbal insults and death threats. For lesbians and female-to-male transgender persons, these abuses were often accompanied by threats or realities of being concerned into arranged marriage. Lesbian, gay and transgender individuals in Iran often have no recourse to justice or support for the abuse and violence they routinely suffer in their families, leading non-state actors to feel emboldened to enact homophobic and transphobic violence with impunity.’

‘Students perceived as being lesbian, gay or transgender also experience widespread violence and harassment, including bullying and rape, from classmates, and school authorities rarely take any effective action to confront such prejudice and intimidation.’³¹

6.1.4 The Guardian article ‘Intimate spaces: coming out in Iran’ dated 11 June 2015 stated that:

‘It’s not the police or the mullahs who are the biggest obstacles to having a successful homosexual relationship in Iran. It’s the utter lack of opportunities

³¹ Justice for Iran & Iranian Lesbian and Transgender Network (6Rang). Pathologizing Identities, Paralyzing Bodies: Human Rights Violations Against Gay, Lesbian and Transgender People in Iran. June 2014. Pg 44 <http://6rang.org/english/wp-content/uploads/2014/06/Pathologizing-Identities-Paralyzing-Bodies.pdf> [date accessed 18 July 2016]

for any kind of intimate contact with your significant other. This is a combination of two factors: the first is that most unmarried Iranian men seem to live with their families, the second is that public spaces are no-go zones for anything above hand-holding. Every relationship I've pursued has run into this problem.'

'[...]This is the strange grey area that gay men in Iran find themselves in. The government appears to be loosening its grip, it's becoming easier for LGBT people to move in Iranian society without fear of arrest and prosecution, but a deeply engrained shame lingers, stunting the development of a truly 'out' LGBT culture.'³²

6.1.5 The Iranian Railroad for Queer Refugees, 'Iranian Queer Watch Report' from July 2015 reported that:

'While the Islamic Republic penal code's punishment for sexual conduct is less harsh for lesbians, their social and economic situation is significantly more restrictive when compared to gay men. As women, lesbians are already trapped in a cultural and structural paradigm of patriarchy that restricts Iranian women generally to domestic roles. These disadvantages are compounded by the discrimination that they suffer because of their sexual orientation. Survival for Iranian lesbians, financially and socially, is dependent on their ability to repress or hide their sexual identity in various ways. This self-repression stems from a well-founded fear of discovery: if her family ever finds out about her sexual orientation, the Iranian lesbian is likely to become subject to abuse, beatings, and even murder. The so-called 'honour killings' by male kin are not uncommon, and the socially justifiable status of such crimes reflects the conservative value-norms of the Iranian society. Most often, lesbian Iranians find themselves abandoned by their families, a situation that can induce these women to enter into prostitution to survive and to the frequently dire effects that it can have for already marginalized women.'

'Most transgendered individuals cannot obtain legal employment permits unless they undergo sexual reassignment surgery. However, the cost of this operation is not absorbed by the state and few transgendered Iranians have the financial means necessary to cover the costs of the procedure and the requisite hormone therapy. Forced into poverty and social exclusion, many turn to prostitution and risk contracting sexually transmitted diseases, beatings, rape, and even murder.'³³

6.1.6 Iran Wire featured an article titled 'Yes, there are gay people in Iran'. The article featured an interview with Mehdi Hamzad a young gay man in his early thirties who lives in Tehran, and has braved coming out to his friends, though not to his family. When asked how homophobia manifest itself in Iran Mehdi stated that:

³² The Guardian, Intimate spaces: coming out in Iran, 11 June 2015, <https://www.theguardian.com/world/iran-blog/2015/jun/11/iran-gay-coming-out-intimate-spaces> [date accessed 18 July 2016]

³³ Iranian Railroad for Queer Refugees, Iranian Queer Watch Report, July 2015 pg 25 <https://www.planetromeofoundation.org/iranian-queer-watch-report/> [date accessed 20 July 2016]

“[I see homophobia] in jokes, conversations, socializing, or judgments, which often refer to homosexuals in degrading, insulting, comical, pathetic, disgusting, or immoral ways. All the homosexuals I know face many instances of homophobia on a daily basis.”³⁴

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7. NGO's and support groups

7.1.1 The US State Department, Country report on Human Rights Practices for 2015 noted that:

‘The government restricted the work of human rights groups and activists and often responded to their inquiries and reports with harassment, arrests, and monitoring of individual activists and organization workplaces.’³⁵

‘The government censored all materials related to LGBTI problems. There were active, unregistered LGBTI NGOs in the country, but most activities to support the LGBTI community occurred outside the country.’³⁶

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³⁴ Iran Wire, Yes, there are gay people in Iran, 13 June 2016 <https://en.iranwire.com/features/2092/> [date accessed 28 June 2016]

³⁵ US State Department, Country report on Human Rights Practices for 2015- Iran, 13 April 2016, <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2015&dliid=252923> [date accessed 21 June 2016]

³⁶ US State Department, Country report on Human Rights Practices for 2015- Iran, 13 April 2016, <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2015&dliid=252923> [date accessed 21 June 2016]

Version Control and Contacts

Contacts

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Clearance

Below is information on when this version of the guidance was cleared:

- version **2.0**
- valid from **28 September 2016**

Changes from last version of this guidance

CIG updated to reflect current country information.

Reorganisation of legal rights section in the COI.

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