

# Submission to the UN Universal Periodic Review 34th Session of the UPR Working Group

## Islamic Republic of Iran November 2019

The Iranian Lesbian and Transgender Network (6Rang) is a UK registered not-for-profit organization which was established following the first Iranian lesbian and transgender gathering held in 2010. Its network and contacts span across more than 100 LGBTI individuals, the majority of whom are based in Iran. 6Rang's mission is to raise awareness on sexual rights, and eradicate homophobia, transphobia, and violence against lesbian and transgender people in particular, as well as the LGBTI community in general. 6Rang highlights the fact that, due to the Islamic Republic's discriminatory gender-based laws and codes favouring heterosexual males above others, as well as the patriarchal power structure rooted in Iranian culture, lesbian and transgender citizens are the most marginalized within an already marginalized segment of Iran's population.

6Rang is a member of International Lesbian and Gay Association (ILGA) and has made submissions to UN bodies and published reports that, among other issues, have focused on documenting human rights abuses against lesbian, gay and transgender persons in health-care settings in Iran.

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**6Rang** شش رنگ



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## **Executive Summary**

- 6Rang's submission focuses on several key issues regarding LGBTI rights in Iran and highlights the failure of Iranian authorities to undertake appropriate measures and implement the recommendations from Iran's previous UPR reviews in 2010 and 2014. Islamic Republic of Iran (IRI) remains an extremely hostile and dangerous environment for LGBTI individuals and activists. The IRI's penal laws continue to impose criminal sanctions and maintain the death penalty and corporal punishment for consensual same-sex sexual conducts and perceived homosexuality.
- This submission raises specific concerns about continuing patterns of serious human rights abuses against LGBTI people in health-care settings in Iran, which is focused on reparative therapies including electroshock therapy, sterilization and sex reassignment surgeries, many of which are cruel, inhumane and humiliating and amount to torture. 6Rang notes with deep concern that such reparative therapies on gays and lesbians as well as the number of private and semi-governmental institutions and clinics treating LGB persons have been continually increasing.
- 6Rang also notes that, IRI officials regularly arbitrarily arrest, harass and persecute members of the LGBTI community and gender rights activists and continue to suppress any form of civil activism and defense of human rights that is concerned with gender identity and sexual orientation. High-ranking IRI officials also promote and engage in hate speech, abusive and derogatory rhetoric and incitement to violence against LGBTI people.

## **Follow-up from the previous review**

1. During Iran's second UPR it received 13 recommendations in relation to sexual orientation and gender identity issues.<sup>1</sup> However, Iran refused to support the majority of those recommendations and only partially accepted the three following recommendations<sup>2</sup>, which already raised serious doubts about Iran's will to implement them:
  - *138.135 Outlaw forced or coerced sterilization, sex reassignment surgeries and reparative therapies imposed without, free and informed consent (Iceland);*

- *138.183 Ensure, in accordance with articles 5 and 7 of ICCPR, freedom from torture, while in detention, for all, regardless also of sexual orientation (Denmark);*
  - *138.282 Ensure that religious, ethnic and sexual minorities are able to exercise their rights and freedoms, as guaranteed by the Iranian Constitution (Netherlands).*
2. 6Rang regrets that Iran refused to support most of the recommendations, and that none of the above recommendations, neither fully nor partially, have been implemented by Iran. No attempt has been made in terms of adopting legislation and policymaking to end or limit the abusive and discriminatory laws, policies and practices against LGBTI persons by IRI state authorities and institutions. Harmful, abusive and discriminatory practices are routinely taking place at the hands of, among others, police, security forces, judiciary and the medical sector.
  3. Iran continues to be an extremely hostile and dangerous environment for LGBTI individuals and serious human rights violations continue to be perpetrated by state and private actors against LGBTI community. The Iranian government has completely failed to hold perpetrators accountable who carry out abuses with impunity.
  4. 6Rang notes with deep concern that since Iran's previous UPR, reparative therapies on gays and lesbians to change their sexual orientation or gender identity through cruel, inhumane and humiliating treatments have increased.

## **Issues**

5. The present submission is concerned with the following four core issues which are at the heart of state interference with the control of LGBTI individuals over their body, potentially placing them on the frontlines of severe human rights abuses in a vast array of public and private spheres.

### **a. Criminalization**

6. Iran's new Islamic Penal Code (IPC) adopted in 2013 continues to penalize consensual same-sex relations between adults by severe and inhuman punishments including the death penalty and flogging.
7. In relation to consensual same-sex sexual intercourse between men, called *livat* (i.e. sodomy), the IPC imposes the death penalty, although it treats the active and passive parties differently. The active partner will be sentenced to death and executed provided that he is either married, or if he is a non-Muslim who has engaged in sodomy with a Muslim passive partner. The passive partner, however, is punishable by death sentence regardless of his marital status or religion (art. 234). Same-sex conduct between men that do not amount to sexual intercourse are also punishable by up to 100 lashes (arts. 236-7).

8. With regard to same-sex relations between women, called *Musahiqa* (i.e. lesbianism), the IPC imposes flogging (100 lashes) for each party (art. 239).
9. Transgender expressions including *cross-dressing* may attract a punishment of flogging (74 lashes) under the broad and vaguely worded article 638 of the IPC. Homosexual expressions either in the society or via social media platforms are also punishable under general provisions about immorality and indecency according to articles 639 and 640 IPC by imprisonment, flogging and a fine. Alternatively, in more extreme cases such acts may be punishable according to article 286 IPC under a more serious charge of *efsad-e-fel-arz* (corruption on earth) punishable by the death penalty.

## **b. Medicalization**

10. 6Rang's research shows that the criminalization of lesbian, gay, bisexual and transgender persons on the basis of sexual orientation and gender identity is being increasingly accompanied by a range of legal and medical practices intended to coerce LGB and transgender people into reparative or conversion therapies, hormone treatments and sex reassignment and sterilization surgeries.
11. Being a trans person is not a crime in Iran, but it is recognized as a medical condition, that is Gender Identity Disorder (GID), curable through sex reassignment surgeries (SRS), which were made legal in Iran after a 1986 fatwa by the previous Supreme Leader, Ayatollah Khomeini. As a result of this legal framework, LGBTI individuals who do not conform to culturally approved models of femininity and masculinity have to choose between risking criminal prosecution, harassment, and arbitrary arrest and detention on the one hand, and seeking a diagnosis of GID with a view to undergo sex reassignment surgeries, sterilization and hormone therapies which are seen as a prerequisite to enjoying legal gender recognition.
12. Medical professionals frequently assign a diagnosis of GID to LGBTI individuals merely on account of their same-sex desires and gender non-conformity. This means that they often coax LGBTI individuals to either receive reparative therapies aimed at "curing" them of homosexuality or undergo sterilization and SRS aimed at turning them into "normally gendered" men or women, which accounts for Iran's reputation as having one of the highest numbers of SRS in the world. These abusive practices are taking place at the instigation of or with the knowledge and support of Iranian officials such as Mohamad Javad Larijani, the head of Iran's Human Rights Commission, who has called homosexuality "an illness" for which "people must be put under psychiatric care and sometime even biological and physical care."<sup>3</sup>
13. In a joint research project with Justice For Iran, 6Rang documented<sup>4</sup> the accounts of dozens of LGBTI individuals who have been prescribed reparative treatments without being given adequate and accurate information whether about the risks, benefits, efficacy and scientific validity of such procedures or about issues relating to sexuality and gender diversity. 6Rang's research has revealed countless instances of administration of SRS that drastically fall short of international clinical standards resulting in bleeding or serious infections and leading to permanent and irreparable

physical damage and long-lasting health complications.<sup>5</sup> These are particularly grave given the IRI's failure to ensure that SRS surgeons and other health care professionals dealing with such cases meet appropriate standards of education, skill and ethical codes of conduct.<sup>2</sup> There have also been numerous incidents of abuse and harassment at the hands of health care professionals;<sup>3</sup> while the process of applying for legal sex change is itself marked by deep-seated homophobia and other discriminatory attitudes from the officials.<sup>6</sup>

14. Furthermore, these individuals often take such irreversible decisions without having been given the opportunity to have a real-life experience of one or two years in their desired gender, as prescribed by the Standards of Care of the World Professional Association for Transgender Health.<sup>7</sup> Iran refuses to respect the medical requirement of real life experience on the basis of religion and custom.
15. 6Rang investigations showed that the number of private and semi-governmental psychological and psychiatric institutions and clinics treating LGB people has seen a significant increase in the year 2017. 6Rang's field study on eleven polyclinics, institutions and private clinics, that have listed counseling to LGBTI people as one of the areas of their expertise, show that these centers consider homosexuality to be either a disease or sexual deviation, and have made a business by alleging in their advertisements that they can cure them.<sup>8</sup>
16. 6Rang's findings also showed that the use of reparative therapies such as electric shock therapy to hands and genitalia, prescribing psychoactive medication, hypnosis, [coercive] masturbation to pictures of the opposite sex, etc., on gay and lesbian individuals have continually increased.<sup>9</sup>

### **c. Persecution and Harassment**

17. IRI is extremely hostile towards the LGBTI community and any form of same-sex conduct or non-binary gender expression as well as any form of civil activism and defense of human rights that is concerned with sexual orientation and gender identity.
18. 6Rang has carried out extensive research and produced reports on credible patterns of persecution of LGBTI individuals and activists. 6Rang's findings show that arbitrary arrests, violence and mistreatment by police forces, raids on private parties against the LGBTI community are widespread. IRI has no intention to end such practices of repression and persecution, or to hold perpetrators accountable who carry out abuses with impunity.
19. Iranian officials continue to systematically harass and persecute gender rights and LGBTI activists including by violent reprisals and bringing broad and vaguely defined national security charges against them. Such cases are heard and decided with complete disregard of internationally recognized due process and fair trial standards.
20. In September 2018, a new wave of arrests of gender rights activists by Iran's security forces began which led to the detainment, among others, of Ms. Rezvaneh Mohammadi, a gender equality activist who was arrested on September 3, 2018. She was held

incommunicado and subjected to ill-treatment and intense pressure during relentless interrogations for 26 days at Ward 209 of Tehran's Evin prison. According to the reports received by 6Rang, her court session was held on February 18, 2019, in Branch 28 of Tehran's Revolutionary Court presided by the notorious Judge Moghiseh. Ms. Mohammadi's lawyer was given neither the opportunity to defend his client during the hearing, nor to have access to the court file. Ms. Mohammadi's charges included "gathering and colluding against national security by normalizing same sex relations", the first time a human rights defender has faced such an accusation in Iran. She may be sentenced to up to five years imprisonment.<sup>10</sup>

21. Security forces also arrested Ms. Maryam Azad, an LGBTI activist from the city of Shiraz, on September 25, 2018, when she attempted to board a flight at Tehran airport bound for Turkey.
22. In line with the state practice of harassment and persecution of LGBTI community, IRI officials have carried out numerous raids on private parties in Isfahan, Shiraz, Kermanshah and Kerman, after which the individuals arrested were often charged with same-sex conducts and sent to the Legal Medicine Organization of Iran (LMOI) to undergo forced anal examinations as a proof of homosexuality.
23. On 13 April 2017, Basij militia forces raided a friendly gathering of young men in Bagh-e Bahadoran, Isfahan. An estimated of 30 men were arrested and transferred to Dastgerd Prison. A court in Isfahan charged them with "sodomy and consuming psychedelic drugs and alcohol."<sup>11</sup>
24. On 17 September 2017, IRGC and Basij forces raided a birthday party in a private garden in Shiraz, arresting 23 individuals some of whom identified themselves as transsexuals. They were subjected to derogatory conduct and beating by the agents and transferred to the detention center of the Ministry of Intelligence where they were further ill-treated and interrogated. They were charged with "attending a *haram* (i.e. religiously prohibited) party".<sup>12</sup>
25. On 29 December 2018, according to the reports received and verified by 6Rang, two men named Ehsan Rahmanian and Sajjad were arrested by security forces in the city of Jahrom after a private video of their symbolic wedding was published on social media by a third party. They have been charged with same-sex relations, breach of public morality and the capital offence of *efsad-e-fel-arz* (corruption on earth). Their case is currently being considered by the criminal court of the Province of Fars.

#### **d. Hate Speech**

26. As documented by 6Rang in a 2017 report<sup>13</sup>, homophobic comments and incitement to hatred and violence against LGBTI people is widespread in public domains. High-ranking IRI officials, religious leaders and state media continue to use hateful, derogatory and dehumanizing rhetoric against LGBTI individuals, describing LGB persons as "animalistic", "subhuman", "sick" and "diseased".<sup>14</sup>

27. Seyed Ebrahim Raisee, the then Deputy Head of Judiciary (recently appointed as the Head of Judiciary) has described homosexuality as “nothing but savagery”.<sup>15</sup>
28. Denouncing the report of the UNSR in 2017, the Speaker of Parliament Ali Larijani stated that homosexuality amounts to “adopting an animalistic approach and exiting humanity.” He then asked rhetorically, “Do you really expect us to legalize the savagery of today's modern Western societies – that is *hamjensbazi* [faggotry]?”<sup>16</sup>
29. Mohammad-Reza Naghdi, the commander in chief of Iran’s Basij militia, said that by granting freedom to homosexuals, the Europeans have sunk lower than animals: “They impose on us the condition to permit *hamjensbazi* [faggotry] when even animals won’t do it if they were let free.”<sup>17</sup>

## Recommendations

1. Remove the death penalty and flogging for offences relating to consensual same-sex conducts between adults, with a view to fully decriminalize such relations and repeal all laws that impose punitive sanctions based on individual’s sexual orientation, gender identity and gender expression;
2. Ban all forms of forced, coercive or otherwise involuntary psychological, medical and surgical procedures designed to change or reassign people’s sexual orientation, gender or sex characteristics without their free, prior and informed consent;
3. Outlaw reparative therapies that amount to torture or cruel, inhuman and degrading treatment including electro-shock therapies and psychoactive medications aimed at converting people’s sexual orientation and gender identity;
4. Adopt a comprehensive legislation to streamline legal sex change procedures and protect the right to health of trans persons, without imposing sterilization and genital reassignment surgeries as a prerequisite for individuals to exercise their basic rights and fundamental freedoms, including their right to legal gender recognition;
5. Adopt the Standards of Care of the World Professional Association for Transgender Health in relation to have a real-life experience in their desired gender.
6. Ensure that human rights violations against all individuals irrespective of their sex, gender or sexual orientation are impartially and comprehensively investigated and, those responsible are held accountable;
7. Ban and refrain from making public statements that incite hatred, violence and discrimination against individuals on the basis of sexual orientation, gender identity or gender expression;
8. Immediately and unconditionally release LGBTI activists and human rights defenders from detention and put an immediate end to the persecution and harassment of those who promote sexual diversity and gender rights.

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Notes:

<sup>1</sup> By Uruguay, Argentina, Iceland, Canada, Italy, Spain, Israel, Luxemburg, Chile, Denmark and the Netherlands (138.96, 116, 135-143, 183 and 282).

<sup>2</sup> A/HRC/28/12/Add.1, at 7.

<sup>3</sup> The interview is available online at the following link: <https://www.youtube.com/watch?v=8Wh0snjDCX0> (accessed 12 March 2018).

<sup>4</sup> Justice for Iran, “Denying Identities, Maiming Bodies: Human Rights Violations against Individuals of Diverse Sexual Orientations and Gender Identities in the Islamic Republic of Iran” (2012), available at: <https://justice4iran.org/wp-content/uploads/2013/11/Denying-Identities-Maiming-Bodies-Justice-for-Iran-Report-November2012.pdf>.

<sup>5</sup> These include chronic chest pain, kidney malfunction, sever back pain, unsightly scarring, loss of sexual sensation, debilitating infections, recto-vaginal and recto-urethral fistula and incontinence. For the details see: *ibid.*

<sup>6</sup> The Psychologists and psychiatrists making up the relevant commission in charge of the procedures at the Legal Medicine Organization of Iran (LMOI) often regard homosexuality as a morally reprehensible act worthy of criminal punishment and contrast it with transsexuality as ‘a gender identity disorder’ in need of hormonal and surgical corrections and therefore push the applications to trace the origins of their same-sex desire and feelings of confusion, depression and isolation to being in the ‘wrong body’ rather than perhaps being in a social environment that highly reprimands homosexuality, and leaves no leeway in traditional masculine and feminine role behavior. See: Justice for Iran, “Denying Identities, Maiming Bodies”, *supra* note 4 at 20-22 and 33-34.

<sup>7</sup> World Professional Association for Transgender Health, “Standards of Care for Gender Identity Disorders,” Sixth Version (February 2001), available at: <http://www.wpath.org/documents2/socv6.pdf>.

<sup>8</sup> For the details, see: 6Rang, Reparative Therapies on Gays and Lesbians through Cruel, Inhumane and Humiliating Treatments Has Increased in Iran, July 13, 2018, available at: <http://6rang.org/english/2422>.

<sup>9</sup> *Ibid.*

<sup>10</sup> FIDH, “Iran: Judicial harassment of Ms. Rezvaneh Mohammadi”, Urgent Appeal, 20 March 2019, available at: <https://www.fidh.org/en/issues/human-rights-defenders/iran-judicial-harassment-of-ms-rezvaneh-mohammadi>.

<sup>11</sup> 6Rang, “Men Arrested at a Party in Isfahan Charged with ‘Sodomy’”, 20 April 2017, available at: <http://6rang.org/english/2276>.

<sup>12</sup> 6Rang, “End Persecution and Harassment of Shiraz Party Detainees”, 23 Sep 2015, available at: <http://6rang.org/2726>.

<sup>13</sup> 6Rang, “It’s a great honor to violate homosexuals’ rights: Official hate speech against LGBT people in Iran”, 18 December 2017, available at: <http://6rang.org/english/2331>.

<sup>14</sup> For the detailed account of such statements and references see: *ibid.*

<sup>15</sup> IRNA, “The First Deputy of the Judiciary: Free-spirited individuals showed their free spirit in their fight against Global Arrogance”, 18 August 2014, available at: <http://www.irna.ir/fa/News/81276307/آزادگان/یاجتماع/با مبارزه در آزادگان/یاجتماع> (accessed 12 March 2019).

<sup>16</sup> Ya-lsarat, “Larijani’s eight solutions for a resistant economy”, 22 October 2012, available at: <http://www.yalasarat.com/vdcgtq9t.ak9qu4prra.html> (accessed 12 March 2019).

<sup>17</sup> Ya-lsarat, “The European Union should not dare to open an office in Iran”, 4 April 2014, available at: <http://www.yalasarat.com/vdcaiina.49nuo15kk4.html> (accessed 12 March 2019).