

**Universal Periodic Review of Iran**

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**Joint submission by:**

**Iranian Queer Organization (IRQO)**

**[www.irqo.org](http://www.irqo.org)**



**&**

**Sexual Rights Initiative**



**Keywords: transgender, human rights, discrimination, violence, gender identity, cultural life, right to health.**

1. This report is submitted by the Iranian Queer Organization (IRQO)<sup>1</sup> and the Sexual Rights Initiative (SRI)<sup>2</sup>. It focuses on the human rights violations of transgender persons living in the Islamic Republic of Iran (IRI), who face discrimination, and are victims of violence on the basis of their gender identity.

#### **Progress and gaps in implementation of recommendations from previous cycle:**

2. In the first cycle of Universal Periodic Review (UPR), the state of Israel recommended to IRI to eliminate, in law and practice, all forms of discrimination against persons belonging to religious, ethnic, linguistic and other minorities, as well as against lesbian, gay, bisexual and transgender persons. The state of Luxemburg recommended to IRI to revise legislative provisions that are discriminatory on the basis of sex, religion, political opinion or sexual orientation. The state of Czech Republic recommended to decriminalize consensual same-sex activity between adults and to eliminate legal provisions discriminatory to women and religious, national and other minorities. All three recommendations were rejected by the IRI.

#### **Background and Context**

3. Iran is a State party to the International Covenant on Economic, Social and Cultural Rights (ICESCR), which it ratified on June 24, 1975.<sup>3</sup> In accordance with Article 9 of the Civil Code of Iran, international treaties which Iran has ratified are legally binding upon it,<sup>4</sup> and therefore, Iran is under the obligation to enforce the rights of individuals under the ICESCR. Despite its obligation, Iran has failed to take measures to protect the rights of Transgender persons as stipulated under the ICESCR, and on numerous occasions, it has also acted in violation of the Covenant. IRI has done so by failing to respect transgender persons' right to participating in cultural life, in accordance with Article 15 of ICESCR. Also, in regards to Article 2, paragraph (2) of the ICESCR, that is to protect the individuals against discrimination, IRI fails to provide transgender persons with equal opportunities to work, get married, protection against violence, and harassment. Finally, although Article 12 of the ICESCR, which protects the right of everyone to "the highest attainable standard of physical and mental health", IRI has failed to regulate sex reassignment surgery as to ensure the quality of the health care services received by transgender persons. Furthermore, Iran was among the 48 member states of the United

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<sup>1</sup> IRQO is a nonprofit human rights organization registered in 2007 in Toronto, Canada. The board of directors, the council, the working groups and the staff of various arms of IRQO like Cheragh magazine and Gilgamishan publication are all consisted of Iranian LGBT activists and individuals formerly active in Iran and now active in countries like Turkey, the US and Canada. Its mission include 1. Defending human and civil rights of Iranian gay, lesbian, bi-sexual, and transsexual individuals living in Iran or as refugees in Diaspora. 2. Raising awareness and explaining the concepts of sexual orientation and gender identity to the Iranian society. 3. Working towards decriminalization of homosexuality in Iran. 4. Along with the international LGBTQI community, sustaining and supporting human and civil rights of the LGBTQI community in the world. 5. Creating active relationship with activists and organizations from other countries and building bridges between the Iranian community and LGBTQI communities from other countries. 6. Adding the voice of the LGBT community to the human rights discussions of Iranian civil and political activist community 7. Supporting Iranian lesbians, gays bisexuals and transgender persons seeking asylum in Turkey and other countries. 8. Documentation of the violations of the rights of the LGBT community and individuals.

<sup>2</sup> The Sexual Rights Initiative (SRI) is a coalition of organizations that advocates for the advancement of human rights in relation to gender and sexuality within international law and policy. The SRI focuses its efforts particularly on the work of the United Nations Human Rights Council, including its resolutions and debates as well as the work of the Universal Periodic Review mechanism and the system of Special Procedures. The SRI combines feminist and queer analyses with a social justice perspective and a focus on the human rights of all marginalized communities and of young people. It seeks to bring a global perspective to the Human Rights Council, and collaborates in its work with local and national organizations and networks of sexual and reproductive rights advocates, particularly from the Global South and Eastern Europe. The SRI partners are: Action Canada for Population and Development, Akahatá - Equipo de Trabajo en Sexualidades y Generos, Coalition of African Lesbians, Creating Resources for Empowerment in Action (India), Egyptian Initiative for Personal Rights, and Federation for Women and Family Planning (Poland).

<sup>3</sup> See International Covenant on Economic, Social, and Cultural Rights, New York, 16 December 1966, Status as at: 22-02-2013 05:04:15 EDT, United Nations Treaty Collection, [http://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg\\_no=IV-3&chapter=4&lang=en](http://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-3&chapter=4&lang=en) (Feb. 22, 2013).

<sup>4</sup> Civil Code of the Islamic Republic of Iran, 23 May 1928, <http://www.unhcr.org/refworld/country,LEGAL,,LEGISLATION,IRN,,49997adb27,0.html> (last visited Feb. 22, 2013), art. 9.

Nations in 1948 that unanimously adopted the Universal Declaration of Human Rights (UDHR)<sup>5</sup>. Iran has also ratified the International Covenant on Civil and Political Rights in 1975 and is legally bound by its provisions<sup>6</sup>.

### Right to participate in cultural life

4. The Committee on Economic, Social and Cultural Rights (CESCR), in General Comment No. 21 interpreted Article 15 to protect the right of minorities “to their cultural diversity, traditions, customs, religion, forms of education, languages, communication media (press, radio, television, Internet) and other manifestation of their cultural identity and membership”.<sup>7</sup> This means that “States parties must abolish censorship of cultural activities in the arts and other forms of expression.”<sup>8</sup> Therefore, transgender persons, as minorities in Iran, are entitled to enjoy the right to their culture. However, this right has been violated by IRI as a result of its strict control of media content, limitation of Individuals’ access to information, and the surveillance of lesbian, gay, bisexual and transgender (LGBT)-related websites and chat rooms.
5. In 2009, the Iranian government enacted the Cyber Crimes Penal Code, which contains provisions that directly affect transgender individuals’ freedom of expression. This is because, according to the Code, posting LGBT-related content on the internet may be classified as a “crime against public decency and morality”.<sup>9</sup> Furthermore, any posting that includes English words such as “Sex”, “sexual”, “transgender”, and “transsexual”, or the translation of these words in Farsi, might result in an automatic filtering of that website or weblog. The automatic filtering system in Iran once caused the filtering of the official website belonging to the supreme leader Ali Khamenei, because one of his statements included the word “antifiltering”.<sup>10</sup>
6. As a result of the filtering system in IRI, transgender persons, through their limited access, are denied their right to access information that could help them define their identity. Without access to this information, they might be confused regarding their gender identity and the possible treatments available to them, and suffer as a result<sup>11</sup>. For example, the website of the Iranian Queer Organization, IRQO, has been filtered in Iran. IRQO is not allowed to freely access media channels and the general public to share information related to gender identity. With access to the media, and the public, IRQO can more effectively set up conferences, and organize events through which it could educate the public on the issue of gender identity, and

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<sup>5</sup> See Iran’s Obligations under International Law. Closed Doors: Iran’s Campaign to Deny Higher Education to Bahais, at [http://denial.bahai.org/004\\_5.php](http://denial.bahai.org/004_5.php) (Jan. 25, 2014). Also see Universal Declaration of Human Rights. Wikipedia, at [http://en.wikipedia.org/wiki/Universal\\_Declaration\\_of\\_Human\\_Rights](http://en.wikipedia.org/wiki/Universal_Declaration_of_Human_Rights) (Jan. 25, 2014)

<sup>6</sup> See National Report Submitted in Accordance with Paragraph 15 (A) of the Annex to Human Rights Council Resolution 5/1 by the Islamic Republic of Iran, at [http://lib.ohchr.org/HRBodies/UPR/Documents/Session7/IR/A\\_HRC\\_WG6\\_7\\_IRN\\_1\\_E.pdf](http://lib.ohchr.org/HRBodies/UPR/Documents/Session7/IR/A_HRC_WG6_7_IRN_1_E.pdf) (Jan. 25, 2014). Also see UN Human Rights Committee Grills Iran on Treaty Violations, on Oct. 18, 2011, International campaign for human rights in Iran, at <http://www.iranhumanrights.org/2011/10/iccrp-ira/> (Jan. 25, 2014)

<sup>7</sup> CESCR, General Comment No. 21 E/C.12/GC/21 (21 December 2001), at 8-9, ¶ 32.

<sup>8</sup> Id., at 12, ¶ 49 (c).

<sup>9</sup> Raha Bahreini, supra note 33

<sup>10</sup> Cyrus Farivar. Iran’s web censorship filters supreme leader’s own statement. (May. 19, 2012). Retrieved from <http://arstechnica.com/tech-policy/2012/05/irans-web-censorship-filters-supreme-leaders-own-statement/> on Nov. 10, 2013, at 14:00 Eastern time

<sup>11</sup> Kasra, now a 40-year-old transsexual man was not aware that he could undergo a Sex Reassignment surgery: “... one of the things that hurts me the most, is that I didn’t know we could do Sex reassignment surgery in Iran until I was 38. I had suffered so much. I wish I knew that many years ago, so that I didn’t have to suffer so much”

Mani, now a 30-year-old transsexual man also didn’t know about gender identity disorder and he thinks the reasons for his lack of knowledge has been the censorship of the media and the filtering of websites: “... it was by luck that I came across an issue of Roozhaaye Zendegi (a monthly magazine) that had explained vaguely about transsexuality. Apparently they had to stop writing that column. ... I didn’t know how to look for more information, I didn’t even know what my condition was called, however reading that column (in Roozhaaye Zendegi) I knew that I wasn’t alone. ... I read many books but I didn’t know anything. ... It took two years before I met a girl at our dormitory who explained to me about gender identity disorder ... there were some weblogs, but they were constantly being filtered. ... I started writing a weblog, but it was filtered too. ... There was a very good weblog, but they filtered it too many times, and every time he (the blogger) started writing a new weblog, but he eventually gave up”

the human rights that transgender persons are entitled to. Currently, IRI does not authorize such activities organized by IRQO or similar organizations.

7. In addition to internet filtering, which limits transgender persons' participation in virtual activities through weblogs and websites aimed at raising awareness among the general public and transgender persons themselves, they do not have the opportunity to participate in events organized for or by them. This prevents them from networking and meeting each other, in public spaces. If transgender persons, and the organizations supporting them, such as IRQO, are able to freely organize educational events, it would increase the public's awareness on the topic of gender identity which could gradually normalize it in society.
8. Furthermore, because gender identities remain stigmatized in Iran, and because IRI has not only failed to take any measures to normalize the presence of transgender persons in society, but also discourages any such activities, transgender persons are unable to have an active presence in society. This has resulted in a lack of information in regards to transgender persons among the public, including professionals who are in contact with transgender persons, which contributes to their lack of knowledge of and awareness to issues of gender identity. As a result, being a transgender person continues to be considered 'taboo' in society even among educated sectors of the society. For example, when transgender persons visit health professionals, they might be confronted by negative reactions due to a lack of sensitization among doctors and other professionals.<sup>12</sup> They might be asked by the doctor to leave the office and never return, that they are manipulating "God's creation", that their condition is due to their excessive companionship with the opposite sex.<sup>13</sup> The doctor might also express his/her lack of knowledge regarding their condition.<sup>14</sup>
9. Transgender persons are also afraid of getting together or dress the way they want because of police raids on parties or gatherings of LGBT individuals, and the strict Islamic dress codes.<sup>15</sup> As a result of these limitations imposed on them, they are not able to freely express themselves and have an active social life, without fear of stigma or discrimination.
10. Therefore, as a result of the restrictions placed on transgender persons by the IRI, including internet filtering, censorship, persisting levels of stigma on behalf of public service providers and the Islamic codes of conduct, transgender persons right to participate in cultural life continues to be violated. This leads to the continuing stigmatizations of transgender persons and many barriers for transgender persons' ability to live the social life of their choosing.

## Recommendations

The IRI must:

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<sup>12</sup> Kasra, the 40-year-old transsexual man, was usually confronted with doctors and nurses who didn't know much about gender identity disorders : " first She (the doctor) told me that she didn't know what I was, then she said that she felt sorry for me, but at the same time she felt disgusted by me". At another point he was told by another doctor: "A doctor told me that I shouldn't expect to live long because of my disorder". Also when he had asked a clerk at the Islamic judiciary to explain why on the military exemption card of the transgender persons it says that they have been exempted due to a mental disorder, the clerk had said: "because you are crazy"

<sup>13</sup> After Mani, the 30-year-old transsexual man had found out about his condition, he had started seeking professional help, but he had a hard time finding a doctor who could help him: "... a psychiatrist told me that I would get well if I marry a man, then I went to see another doctor. It took me some months before I could make an appointment because he was very busy. When I went to see him, he asked me to leave his office because he didn't want any trouble. ... when I explained my problem to the doctor at coronary office, he ask me why I wanted to change the way God had created me ..." Setare, the 26-year-old transsexual woman had been told by a doctor that her condition was because of her excessive companionship with women.

<sup>14</sup> Ibid.

<sup>15</sup> Setare said in her interview " ... for me it was a dream to be able to wear lipstick or nail polish. I couldn't dress the way I wanted to. I was always quiet and tried to act in a way not to attract any attention, especially whenever I saw the police ... I was afraid to go to any parties because I had heard that our parties could be raided by the police ... "

Mani said in his interview : "I wanted to dress as a boy but I couldn't, because I was afraid of being arrested. Therefore every time I went to the clinic I would go to the basement and change my clothes there ..."

11. Abolish censorship through the repeal of the Cyber Crimes Penal Code, and cease interference with transgender activities and information on the internet and other communication media.
12. Establish policies requiring all educational institutions (including guidance schools, high schools, universities) to set up programs aimed at educating students at all levels on the topic of human rights, specifically those related to sexual and reproductive rights, including the rights of those with diverse gender identities and expressions, with the aim of promoting and normalizing the active presence of transgender persons in society.
13. Establish programs that support the organization of gatherings, without fear of reprisal, for transgender persons with the intention of providing them the opportunity to meet with one another, build friendships, express themselves and improve the quality of their social lives.
14. Establish sensitization programs for police and health professionals to increase their awareness of the human rights of transgender persons.

### **Right to Non-discrimination & Right to Life**

15. Article 2 paragraph (2) of the ICESCR obliges Iran to protect the rights of everyone under the Covenant “without discrimination of any kind”, including on the basis of “sex” or “other status.”<sup>16</sup>
16. Similarly, the CESCR in its General Comment No. 20 on Non-Discrimination in Economic, Social and Cultural Rights (art. 2, para. 2) defines discrimination as:  

“[A]ny distinction, exclusion, restriction or preference or other differential treatment that is directly or indirectly based on the prohibited grounds of discrimination and which has the intention or effect of nullifying or impairing the recognition, enjoyment or exercise, on an equal footing, of Covenant rights.”<sup>17</sup>
17. The Universal Declaration of Human Rights (UDHR) and the International Covenant on Civil and Political Rights (ICCPR) also clearly articulate individuals’ right to life. Article 3 of the UDHR states that “everyone has the right to life, liberty and security of person.”<sup>18</sup> Article 6 of the ICCPR states that “every human being has the inherent right to life.”<sup>19</sup>
18. Formal or de jure discrimination against transgender persons takes place because under Article 220 of the Islamic Penal Code of Iran, which allows for a father who assassinates his children under the pretext of “honor killing” to avoid criminal charges. In many cases, the family member only has to pay Diah (blood-money) to the descendants of the killed children<sup>20</sup>. This article, as well as the religious doctrine of Amr’e Be Maroof va Nah’ye az Monkar (enforcing the good deed and forbidding the evil), have often been invoked by fathers, who committed or ordered to commit murders of their own children, who were known to be LGBT individuals.
19. In the case of transgender persons, because gender identities and expressions are considerably stigmatized in society, article 220 of the penal code creates allowances for fathers and other family members to kill their transgender children. In April 2010, two brothers killed their sister, a 24-year-old male-to-female transsexual. In this case, they claimed honor killing to justify their act and stated that their father forgave them. While they were prosecuted, they received only

<sup>16</sup> International Covenant on Economic, Social, and Cultural Rights, Dec. 16, 1966, 993 U.N.T.S. 3, art. 2 (2).

<sup>17</sup> Committee on Economic, Social, and Cultural Rights, General Comment No. 20, Non-Discrimination in Economic, Social and Cultural Rights (art. 2, para. 2), adopted in the Committee’s 42nd session, Geneva, 4-22 May 2009, UN Economic and Social Council, E/C.12/GC/20, 10 June 2009, at 3, ¶ 7.

<sup>18</sup> Universal Declaration of Human Rights, Article 3.

<sup>19</sup> International Covenant on Civil and Political Rights, Article 6.

<sup>20</sup> Abbas Zera’at, Qanooni Muja’za’ti Islami [Islamic Criminal Law] [In Persian] 72 (Tehran-2004), quoted in Iran: Payment Can Save a Murderer from Execution, Library of Congress, [http://www.loc.gov/lawweb/servlet/lloc\\_news?disp3\\_l205401537\\_text](http://www.loc.gov/lawweb/servlet/lloc_news?disp3_l205401537_text) (Aug. 31, 2009).

a short prison sentence.<sup>21</sup> In such cases, because of the stigmatization of gender identities and expressions, the society would also look the other way and not criticize the murder of a transgender person. Therefore the transgender persons know that even if they are killed by a family member or members, the murderer could get away with it, both legally and socially. This represents serious discrimination against transgender persons, as they would feel that their lives are not as important as the lives of other citizens of IRI. The fact that those who commit violence against transgender persons have a high chance of not being prosecuted appropriately makes the transgender persons more vulnerable against violence at home and in public.<sup>22</sup>

20. Transgender persons living in IRI are also victims of other forms of violence both at home and in public. Due to their gender identity, they are viewed in society as 'deviants'. This means they are stigmatized, and are harassed and abused, both verbally and physically, by their family members, people on the street, classmates at school, colleagues at work, and state-agents in plain-clothes (such as Basijis who are not in uniform). They are stared at, ridiculed, bullied, insulted, called certain offensive names, beaten, and, on occasions, raped.<sup>23</sup> Transgender persons are often not able to protect themselves against their abusive family members because in IRI parents have extensive discretion in disciplining their children. Also if transgender persons want to file a complaint against their abusive family members, they risk being ridiculed by the state agents because of the nature of their complaint. In many such cases, they risk being thrown out of the house and therefore unable to support themselves financially. This often causes their abusive family members to become more furious and therefore more abusive, verbally and physically.<sup>24</sup> As a result, transgender persons feel they are more vulnerable to violence and do not have the same protections as others against violence at home or in public spaces.<sup>25</sup>
21. Transgender persons are also discriminated against at work. They are often humiliated and harassed at work, and can also be fired, often on the basis of their gender identity. On occasions, because they are not able to find a job, they may be forced into prostitution.<sup>26</sup> Despite laws against discrimination, there are no laws protecting transgender persons against discrimination in the work place.
22. Another example of formal discrimination against transgender persons is in the area of marriage equality. According to the law<sup>27</sup>, when heterosexual couples want to get married, the woman should typically have her father's official consent. If the father refuses to give his consent, the woman can apply through the judicial system to obtain a court ruling allowing her to proceed with the marriage. Transgender persons face considerable challenges obtaining consent from parents when choosing to marry. Additionally, a transgender man and his fiancé

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<sup>21</sup> Men convicted of murdering their sister were sentenced to imprisonment, Khabar Online (25 August, 2010), <http://www.khabaronline.ir/NEWS-87473.ASPX>, quoted in Raha Bahreini, id.

<sup>22</sup> Setare said during her interview: "Every time I went out of home, I was harassed by the people on the street, someone even pulled my hand once trying to make me go with him, another time someone threatened me with a knife and asked me to get into his car, I had to tell him that I had an illness so that he let me go, I was scared of people but I couldn't go to the police for help because I had heard how bad they had treated my friends. Others could go to police for help, but I was even afraid of the police."

<sup>23</sup> Shiva's statement with Center for Human Rights Documentation of Iran: <http://www.iranhrc.org/persian/permalink/1000000404.html#Uo1VvGRDvhm>

<sup>24</sup> Kasra said in his interview "(on one occasion) I was beaten by my father and my brother so bad that one of my fingers was broken, my front tooth was broken and there were scars on my forearm, neck and face, but I couldn't make any complaints, what I could I tell the police, I would have just made the police laugh at me if I told them why I was being beaten by my father and brother"

<sup>25</sup> Mani said in his interview: "Everyone is our enemy in Iran. My family was my enemy, the people on the street were my enemy, the police officers were my enemy. Who did I have to turn to? My family members had beaten me up so much that sometimes I would start beating up myself before they start doing that. Once I beat up myself so bad that I had bruises for many days. I had heard that those transgender persons who go to police to complain, are abused by the police and in one occasion even raped. One day my mother told me that I better kill myself and she gave me a bunch of pills. I took all of those pills and I was unconscious for days. As a result I still have stomach problems"

<sup>26</sup> Gita's case in IRQO's archive: she was forced to become concubine repeatedly to save money for her operations

<sup>27</sup> code 1043

cannot ask the court to grant them permission to get married because of the fact that from a legal point of view transgender men suffer from a 'mental disorder.'<sup>28</sup> Therefore the court cannot legally permit them to get married without the official consent of the girl's father.<sup>29</sup> Even if a transgender man marries a woman and the father later finds out about the status of his daughter's husband, the father can file a complaint and nullify the marriage.<sup>30</sup> Therefore unlike others, a transgender man can only marry a woman if he has the official consent of the woman's father.

23. In addition to formal discrimination, Iran has also committed de facto discrimination by virtue of consistent patterns of systematic persecution against transgender persons. IRQO has both first-hand and second-hand reports confirming widespread acts of detention and verbal abuse committed by state agents against transgender persons. Evidence suggests Male to Female transgender persons are more vulnerable to such forms of discrimination and violence. Many transgender persons, for fear of arbitrary arrests, detention or harassment, carry their official identification cards in order to demonstrate their status of being transgender, to protect them against official harassment. Even though the state agents are required to release the transgender person when he/she presents his/her identification card that states his/her status, however IRQO has reports that on numerous occasions, before the transgender person is released, he/she has been ridiculed, and verbally and physically abused.<sup>31</sup>
24. These facts demonstrate that Iran, by virtue of its legislative actions and omissions, has imposed, de jure and de facto, direct and indirect, forms of discrimination resulting in distinctions, exclusions, restrictions, preferences, and other differential treatments on the basis of gender identity. The consequences of such forms of discrimination deny, nullify, and impair the exercise of the human rights of Transgender persons under the ICESCR. Therefore, Iran has committed to violations of transgender persons rights to equality, non-discrimination, and life, which is in direct violation of Article 2 paragraph (2) of the Covenant, as well as Article 3 of the UNDR and Article 6 of the ICCPR.

## Recommendations

The IRI must:

25. Implement and ensure the effective realization of the principles of equality and non-discrimination as per the ICSECR on the basis of gender identity in the national constitution or other domestic legislation.
26. Enact legislation to protect and develop programs to financially support transgender persons who need to leave their abusive families.
27. Repeal the law requiring daughters seek the consent of their fathers when to marry.
28. Enact legislation to legally permit the marriage of transgender persons.

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<sup>28</sup> Military exemption law, Code 33, Article 8. However according to the Diagnostic and Statistical Manual of Mental Disorders 5 (DSM5), when people experience significant discontent with the sex they were assigned at birth and/or their gender roles associated with that sex, they might be diagnosed with Gender Dysphoria.

<sup>29</sup> Kasra said in his interview "my wife's father knew about me and didn't give his consent. I applied through every legal channel I could think of, but I was told that I should give up, because there was no way I could get married because I have a mental disorder. I was even told at one point that I should consider living alone for the rest of my life"

<sup>30</sup> Kasra said in his interview "I was told that even if I could get married, the father of my wife can cancel our marriage at any time because according to the law I was mentally and physically incompetent. They also told me that according to Islamic laws my marriage would not be an official marriage because of my condition"

<sup>31</sup> Pouya's case in IRQO's archive: He left his home town to live anonymously. He was stopped, in the new town by government agents, searched first, when his gender identity was exposed, was taken to basement, sexually harassed, beaten, insulted, and then the agents had spread the word about him in town. He was forced to leave that town, too.

29. Enact specific legislation to ensure that when changing a transgender persons' birth certificate, the change date remain confidential and all other dates refer to the original date of acquisition.
30. Repeal the law that categorizes transgender persons, as persons with a mental disorder.
31. Enact legislation to ban the arbitrary detention of transgender persons, and bring to justice any government official who arrests, humiliates, verbally or physically abuses the transgender persons on the basis of their gender identity.
32. Repeal Article 220 of the Islamic Penal Code of Iran, ensuring that family members who kill their children are held accountable for their actions.
33. Hold those responsible for murder, torture, rape and other forms of violence against transgender persons accountable for their crimes.

### Right to health

34. Article 12 of the ICESCR protects the right of everyone to "the highest attainable standard of physical and mental health". This right has been violated by IRI by virtue of its policy on sex reassignment surgeries.
35. When Iranians experience significant discontent with the sex they were assigned at birth and/or the gender roles associated with that sex, the medical community has the authority to diagnose them with a 'Gender Identity Disorder'. In the Diagnostic and Statistical Manual of Mental Disorder 5 (DSM 5), this is currently called Gender Dysphoria and is classified as a medical disorder. The Iranian government classifies transgender persons as persons with "gender identity disorder" in need of medical treatment.<sup>32</sup>
36. Sex reassignment has been legal in Iran since 1987, when Ayatollah Khomeini, the spiritual leader of the 1979 Islamic revolution authorized it under a *fatwa* (religious edict).<sup>33</sup> Since its legalization, there have been records of malpractice by doctors both during diagnosis<sup>34</sup> and during sex reassignment surgeries. This has resulted in different problems for transgender persons such as permanent injuries to the muscle tissues, major infections, chronic pain, among other medical issues. This is due to the lack of any policy that could provides guidance for the regulation of the practice of sex reassignment surgeries as to ensure they are performed to the highest quality and provide protection to patients in cases of malpractice.
37. In cases of malpractice, patients are afraid of filing complaints against doctors. One of the reasons that transgender persons are afraid of filing complaints is because in order to change their names in their birth certificate, they should present a letter of confirmation of their status. This letter is written by the doctor who has performed their surgery. If the doctor refuses to give them such of letter of confirmation, they can apply for it at the Coroner Office, where they will be fully examined to determine their status as transgender. Female to Male transgender persons who have not done their genital reassignment surgery, are afraid that the Coroner's Office would not issue a confirmation letter for them.<sup>35</sup>

<sup>32</sup> Raha Bahreini, supra note 33

<sup>33</sup> Human Rights Watch, supra note 29, at 79.

<sup>34</sup> IRQO has records of malpractice including in the case of Amir: Amir, a male to female transgender was taken to a doctor in Tehran by her parents who claimed their son acted like a girl, when she was 17. Amir was injected male hormones by doctor's prescription and her parents' permission. Within a couple of months she was taller, heavier, her voice changed, and her body hair grew rapidly. She experienced nightmares and a feeling of disgust with her body image. She started experiencing constant mood swings. Eventually, when she was forced to marry a girl by her parents, she left Iran and claimed refugee status.

<sup>35</sup> Kasra said during his interview: "my blood type is AB negative. During my operation they didn't have enough blood, because my blood type is rare. After the operation I had become so weak that I was trembling all the time, I was dizzy and I had nausea. I was very sick for a long time. We had to find blood ourselves and they didn't help us. It was very difficult for us to find blood. I wanted to file a

38. Another challenge facing transgender persons in this regard is that doctors might not have sufficient expertise for conducting the operations.<sup>36</sup> This has resulted in causing serious harm to patients, sometimes causing permanent and/or irreparable damage. For example, IRQO obtained the medical report from a female-to-male transgender person whose breast removal surgery has left his left arm paralyzed (his left pectoral muscle group was completely torn).<sup>37</sup>
39. Furthermore, transgender persons are requested by the hospitals to present a letter of consent signed by their fathers before they can have an operation. This letter of consent is required of them regardless of their age. For the transgender persons who don't have the support of their families, this can be very stressful.<sup>38</sup> In government hospitals, where treatment is financially subsidized, they would never agree to do the operations without the father's consent.
40. Finally, although some government affiliated organizations, such as Behzisti, agree to pay for the operations, there is often a long waiting time and funds provided do not cover all the costs of their operation. The long waiting time can be very stressful for transgender persons<sup>39</sup>.

## Recommendations

The IRI must:

41. Enact legislation and develop a clear policy to regulate the practice of sex reassignment surgery, ensuring that it is grounded in human rights, provides quality, affordable, and timely care and protects patients in cases of malpractice.
42. Ensure that the process of changing the birth certificates of transgender persons does not require a letter from their doctors or a government institution.
43. Establish a program for providing transgender persons with adequate funding to cover the costs associated with their operations, ensuring that such funds are delivered in a timely fashion.
44. Eliminate hospital policies that require the transgender persons over the age of 18 to provide a letter of consent from their fathers to proceed with their sex reassignment surgeries.
45. Establish clear policies providing sufficient guidelines for the training of health care professionals in providing sex reassignment surgeries.

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complaint, but I knew that no one would care, and I was afraid of making my doctor angry, because he had not given me my documents, and I needed to get a letter from him for changing my name in my birth certificate. If I couldn't get that letter of confirmation from my doctor, I had to go to the coroner's office, and because I had not done my third operation, I was afraid that they might not issue the letter for me" Mani said during his interview: "I had so much pain after the surgery of removing my breasts that for days I couldn't even pull a blanket over my shoulder. I knew some other ones who had different problems, such as one of them had a serious infection that almost killed him. Some of them had filed complaints but without any results, and I was afraid of filing any complaint"

<sup>36</sup> Mani said during his interview: "At Imam Khomeini hospital, the doctors didn't do the surgeries themselves. They let the residence do the surgeries and as a result we called that hospital a slaughter house"

<sup>37</sup> His files are kept in IRQO's archives

<sup>38</sup> Kasra said during his interview: "right before my operation they asked me to get my father's consent for the surgery. I was 38 years old, I couldn't understand why I should ask for my father's consent. I was so afraid because I didn't have any contact with my father. During those moments I was under so much stress, I didn't want anything to cause delay in my surgery. I was furious." Mani said during his interview: "they asked me for my father's consent for my first and second operation. Without my father's consent I couldn't do the operation. I was lucky that a doctor at the hospital agreed to help me in this regard. She accepted responsibility and I could do the operation. Without her help I couldn't do anything. I had the same problem with my second operation, and the same doctor helped me with that too. It was very stressful for me every time they asked me for my father's consent. I was old enough and I couldn't understand why I should have my father's consent for the operations."

<sup>39</sup> Kasra said during his interview: "I went to Behzisti to ask them to pay for my surgery, however there were people waiting for 3 – 4 years, and I couldn't wait for that long. So I went to a doctor directly and he asked me for 5 million Tomans. I told him that I didn't have that much money. He agreed to charge me half of that amount. I thought he had given me a discount, what I didn't know was that he wanted to do only the first half of the surgery of removing my breast and didn't want to also do a plastic surgery. I found out about this after the surgery when I saw that no plastic surgery was done for me"

46. Establish clear policies for monitoring and investigating doctor's treatment where transgender patients are concerned.