



**Iranian Lesbian &  
Transgender Network**

**6Rang شش رنگ**

## **Follow-up Submission to the UN Committee on the Rights of the Child**

**71st Session of the Committee on the Rights of the Child (January 2016)**

1. This report is submitted by Iranian Lesbian and Transgender Network (6Rang), in response to the replies of the Islamic Republic of Iran (IRI) to the list of issues brought forward by the United Nations Committee on the Rights of the Child (the Committee).

### **Introduction**

2. The Islamic Republic of Iran's replies to the list of issues presented by the UN Committee on the Rights of the Child indicates a rudimentary lack of knowledge and understanding with regard to the issues pertaining to LGBTI children and the LGBTI community on the part of the Iranian government.
3. For instance, in paragraph 54, the respondent indicates "Bisexual children according to Islamic Sharia inherit from their parents. Based on a fatwa by Imam Khomeini in Tahrir al-Wasilah on the subject of inheritance." However, the respondent fails to even differentiate between intersex children and bisexual children and misconceptualizes the two groups. The respondents are seemingly unaware of the difference between bisexuality and being an intersex child. Referring to this section of the IRI's law reveals the nature of the lawmaker's fundamental discriminatory analysis. This revelation is indicative of the dominant discourse in the hierarchy of the governmental structure which only recognizes transsexual identity and the IRI officials do not even introduce the vocabulary to recognize the existence of transgender as well as intersex adolescents. Furthermore, while the law allows sex reassignment surgeries in Iran, authorities view both homosexuality and transsexuality as a form of illness.
4. The callous response of the IRI shows that they have no interest to truly confront these issues and it also underlies the widespread problem of violence against the LGBTI children in Iran. The government is responsible to take measures to ensure the safety of children in their homes and school.
5. As detailed below, please note our essential responses to the reply of the IRI to the Committee.

## **Discrimination against LGBTI children**

6. The IRI in its reply, paragraph 53, under the title of "elimination of discrimination against bisexual children, children with gender identity disorder, and homosexual children" states: "Articles 3 (paras. 9 & 14), 19 and 20 of the Constitution is applicable to all nation. In general and absolute terms, they stress on elimination of unfair discrimination, securing the rights of all and people's entitlement to equal rights and equal legal protection. Drawing on this general and non-exclusive statement of the legislator, the necessity to protect the basic rights of this group of children or the necessity to eliminate discrimination against them on this basis can be concluded."
7. However, the reply undermines the fact that article 223 of the Islamic Penal Code prescribes the cruel and inhuman punishment of flogging and capital punishment for same sex relationships. This article is applicable for 9 lunar year old girls and above 15 lunar year old boys who would engage in a homosexual act.
8. The reply also fails to address that transgender expressions, including cross dressing and not observing Islamic veil (hijab) are also punishable by flogging and monetary fines (Article 638 of the Islamic Penal Code).
9. Apart from the general statement on non-discrimination which addressed above, nowhere in the responses of IRI the basic rights of homosexual, bisexual, transgender and intersex children are even mentioned because the respondent knows that such a claim is obviously in contradiction with the Islamic Penal Code, the everyday enforcement of law by the police and the morality police, the entire foundation of the Iranian public education system and the medical institutions which mistreat LGBTI children.
10. The entire community of LGBTI children in Iran is deprived of their basic human rights and face horrific inhumane treatments in practice while facing social shaming and humiliation on daily basis.
11. De facto, the IRI's law provides no protection for the LGBTI children. Those who perpetuate crimes against the LGBTI children enjoy absolute impunity. Rape, sexual assault, discrimination and violence against LGBTI children in the hand of the family or the society are usually ignored by law enforcement.

## **Violation of the right to health and the right to freedom from torture and ill-treatment**

12. The IRI in the paragraph 58 of its reply states: "Children with gender identity can legally obtain the permit from the Iranian Legal Medicine Organization to undergo a sex reassignment surgery." It then adds: "accessing to psychological therapy and physiological medical services for Children with gender identity disorder. Among adolescents and adults, following diagnosis and confirmation of Legal Medicine Organization, permission is given for sex change surgery. SWO also helps by offering specialized and psychological consultation, social work services, and partial payment of surgery costs, supplementary treatments and empowerment allowances before and after surgery."
13. This section of The Reply clearly underlies the approach of the IRI about gender identity. The IRI's legislator, the government and the law enforcement authorities define transgender identity as a form of illness. In other words, the Iranian government does not recognise any gender identity other than heterosexual male or heterosexual female and by medicalization of gender identity and sexual orientation, they pressure transgender adolescents and adults to be cured or 'normal' by undergoing hormone therapy and sex reassignment surgeries even under the age of 18.

14. Moreover, by criminalising same sex relationship and transgender expression on one hand and promoting negative stereotypes about homosexuality on the other, the Iranian authorities create discriminatory social policies in which they coerce LGBTI adolescents who do not conform to culturally approved models of femininity and masculinity to choose between risking harassment, persecution, and arbitrary arrest and detention by police and paramilitary *Basij* forces because of their actual or perceived homosexual orientation on the one hand, and seeking a diagnosis of gender identity disorder with a view to undergo sex reassignment procedures on the other.
15. Lacking access to information about sexual orientation and gender identity and fearing laws criminalizing any informative speech about homosexuality, medical professionals frequently assign a diagnosis of GID to LGBTI adolescents merely on account of their same-sex desires and gender non-conformity. According to the first paragraph of the *Code of Ethics for Psychiatrists and Counsellors*, which all mental health professionals are obliged to follow in Iran, therapists must “continue to observe ethical standards and religious values of the IRI in counselling and therapy services.”<sup>1</sup> Consequently, they are forbidden from informing their clients about the fact that non-heterosexual desires are normal and acceptable.
16. Setting aside exceptional cases, the medical professionals coax LGBTI children to either receive reparative therapies (including electroshock therapy and psychoactive medications) aimed at “curing” them of homosexuality or undergo sterilization and genital reassignment surgeries (GRS) aimed at turning them into “normally gendered” men or women. These abusive practices are taking place at the instigation of or with the consent or acquiescence of Iranian officials.
17. It is noteworthy to emphasise that in paragraph 58 of the reply, they expressly speak of facilitating sex change for children as a governmental policy while they provide no access to information about sexual orientation and gender identity in official or non-official education system. Furthermore, informed consent of adolescence who have not reached the age of majority become irrelevant when the IRI allows these individuals to undergo hormone therapy and sex reassignment surgery.
18. While the IRI admits in its reply to the Committee to classifying transgender adolescents as mentally ill -suffering from gender identity disorder-, The World Professional Association for Transgender Health (WPATH) has affirmed that gender variance is not in itself pathological and having a cross or transgender identity does not constitute a psychiatric disorder.<sup>2</sup>
19. International standards of care for the health of transgender, transsexual and gender-nonconforming people also have recognized that not all transgender people necessarily need or want “the complete therapeutic triad [of]... real-life experience in the desired role, hormones of the desired gender, and surgery to change the genitalia and other sex characteristics.”<sup>3</sup>

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<sup>1</sup> Gender X, Shadi Amin, 6Rang & JFI, P.366, 2015, available at: <http://6rang.org/wp-content/uploads/2015/12/Jensiat-X.pdf>.

<sup>2</sup> Response of the World Professional Association for Transgender Health to the Proposed DSM 5 Criteria for Gender Incongruence (by De Cuypere, G. Knudson G. & Bockting, W. airs of the WPATH consensus building process on recommendations for revision of the DSM diagnoses of Gender Identity Disorders), May 2010, online: [http://www.wpath.org/uploaded\\_files/140/files/WPATH%20Reaction%20to%20the%20proposed%20DSM%20-%20Final.pdf](http://www.wpath.org/uploaded_files/140/files/WPATH%20Reaction%20to%20the%20proposed%20DSM%20-%20Final.pdf). (Retrieved on 4 May 2014).

<sup>3</sup> World Professional Association for Transgender Health, “Standards of Care for Gender Identity Disorders,” Sixth Version (2001), online: [ww.wpath.org/Documents2/socv6.pdf](http://www.wpath.org/Documents2/socv6.pdf), p. 3 (Retrieved on 4 May 2014). See also: World Professional Association for Transgender Health, “Standards of Care for the Health of Transsexual, Transgender and Gender Non Conforming People,” SeventhVersion (2012), online: [http://www.wpath.org/uploaded\\_files/140/files/Standards%20of%20Care,%20V7%20Full%20Book.pdf](http://www.wpath.org/uploaded_files/140/files/Standards%20of%20Care,%20V7%20Full%20Book.pdf). (Retrieved on 4 May 2014).

20. In 2013, the United Nations Special Rapporteur on Torture having classified unnecessary hormone therapies and coerced sex reassignment surgeries as ill-treatment, called upon "all States to repeal any law allowing intrusive and irreversible treatments, including forced genital-normalizing surgery, involuntary sterilization, unethical experimentation, medical display, "reparative therapies" or "conversion therapies," when enforced or administered without the free and informed consent of the person concerned."<sup>4</sup> He has also called upon states to outlaw forced or coerced sterilization in all circumstances and provide special protection to individuals belonging to marginalized groups, including lesbian, gay, bisexual, transgender and intersex persons.<sup>5</sup> However, the IRI admits its policies to coerced sterilization and other irreversible therapies towards children and adolescent who do not conform to heteronormative or cisgender norms.
21. In the paragraph 58 of the reply, the IRI also claims "to support children with gender identity disorder, "the Association to Support Patients with Gender Identity Disorder" has been established and works nationwide and this group help the above-mentioned children." However, our in-depth interviews with 105 LGBTI Iranians indicated that none of these individuals have ever received any such post or pre-operative assistance from the government.<sup>6</sup>
22. The funds which the government does make available are an insignificant portion of the procedure and sometimes the economic challenges of the sex change procedures force the victims to work as sex workers. In reality, LGBTI adolescence and their families are kept in the dark about making responsible choices about these irreversible medical procedures.
23. Medical abuses against LGBTI people in Iran are not limited to psychiatric settings. The findings of 6Rang's report suggests that transgender people, which may even include a large number of lesbian and gay individuals under the dominant discourses in Iran, 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 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.
24. The great deal of pain and suffering that is inflicted upon transgender people through these surgeries, as indicated by our study, 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 the mentioned 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.

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<sup>4</sup> Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, A/HRC/22/53 (11 February 2013), para. 88.

<sup>5</sup> Ibid.

<sup>6</sup> Pathologizing Identities, Paralyzing Bodies: Human Rights Violations Against Gay, Lesbian and Transgender People in Iran, 6Rang & JFI, 2014, available at: <http://6rang.org/english/wp-content/uploads/2014/06/Pathologizing-Identities-Paralyzing-Bodies.pdf>.

25. After the sex change procedure no form of postop counselling or governmental aid is available to transgender adolescents. The government takes no responsibility to protect the individuals who have a record of these surgeries or facilitate their access to jobs and education. After they reach adulthood, many people are fired from their jobs if their employer finds out that they are transgendered.
26. It is noteworthy to mention that after several surgeries, most of them suffer from deprivation from higher education and employment due to serious health problems as well as social stigma and discrimination. Sadly, going through such a painful process never makes them an accepted member of society. That is why a lot of those who have undergone sex reassignment surgeries ended up either seeking asylum in Turkey or committing suicide.

## **Recommendations**

27. The most important responsibility of the government should be to ensure the safety and care for the children. The state has a responsibility to stop discrimination and overcome their homophobic attitudes. Independent consulting agencies should be allowed provide guidance to the LGBTI adolescence without the fear of reprisal or intimidation from the government. Furthermore, such agencies should not coax adolescence to receive life threatening irreversible surgeries like sex change operations.
28. An urgent need is felt to change educational environment and start a national dialogue about homophobia. The government must take action to build safer spaces for LGBTI adolescence in Iran.
29. In conclusion, Iranian Lesbian & Transgender Network (6Rang) urge the United Nation Committee of the Rights of the Child to recommend the government of Iran:
  - **Take effective measures, including enacting or rescinding legislation, to ensure that LGBTI adolescences are not discriminated against, in law or practice, on account of their sexual orientation or gender identity and that they enjoy their human rights on an equal footing with others.**
  - **Abolish the death penalty for consensual same-sex sexual conducts, particularly when they are committed by individuals under 18.**
  - **Prohibit the imposition and execution of all forms of torture and other cruel, inhuman or degrading treatment or punishment, such as flogging, for same-sex sexual conducts, particularly when they are committed by individuals under 18.**
  - **Repeal all laws that impose mandatory veiling on girls and ensure that children are not criminalized or punished for modes of clothing deemed to be in violation of Islamic dress codes.**
  - **Refrain from assigning a diagnosis of mental disorder to children with homosexual feelings and transgender expressions and reclassify aspects relevant to the provision of health care in a non-stigmatizing health category.**
  - **Ensure that medical professionals do not diagnose gender non-conforming adolescents with a gender identity disorder based on stereotypical notions of masculinity and femininity.**
  - **Adopt medical policies, practices and protocols that are respectful of the right**

**to free and informed consent, autonomy, self-determination and human dignity, without any distinction on the basis of sexual orientation or gender identity.**

- **Abolish requirements to undergo psychiatric assessment and receive a diagnosis of “transsexuality” for obtaining legal gender recognition.**
- **Take all the necessary measures to ensure that persons under 18 are not subjected to torture and other cruel, inhuman or degrading treatment or punishment, in health-care settings.**
- **Remove the requirement that transgender individuals undergo sterilization and genital reassignment surgeries as a precondition for obtaining legal recognition of their gender.**
- **Ensure that adolescents can receive quality mental health care for issues relating to sexual orientation and gender identity.**
- **Conduct prompt, impartial and thorough investigations into allegations of violation, torture and other ill-treatment in family, society and health-care settings, and ensure that the perpetrators are brought to justice in fair trials.**