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IRAN

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TABLE OF CONTENTS

1. Glossary of Terms and Naming Conventions.....	3
2. Introduction.....	3
3. Executive Summary.....	5
4. Recent cases of Iranian nationals sentenced to death or corporal punishment for alleged homosexual acts.....	6
5. Death sentences imposed on alleged homosexuals for crimes committed as juveniles.....	7
6. Arrests of homosexuals as part of wider 'morality campaigns'.....	7
7. Homosexuality and Iranian politics.....	9
8. The position of transsexuals.....	10
9. Bibliography.....	12
10. Map of the Islamic Republic of Iran.....	14

1. GLOSSARY OF TERMS AND NAMING CONVENTIONS

For the purposes of this paper, the terms ‘gay’ and ‘homosexual’ refer only to men in male-male relationships. The term ‘bisexual’ denotes a person who chooses sexual contact with both sexes. The term ‘lesbian’ refers exclusively to female homosexuals in same-sex relationships.

The term ‘transsexual’ in this paper, whilst contestable, refers to a person who has undergone a clinical surgical procedure to biologically change sex from one to the other, with the resultant adoption of the general physical and behavioural attributes of the other.

The problematic nature of self-identification, particularly within a conservative theocratic society such as Iran, is compounded by the very real and frequently-enforced criminal sanctions against homosexual behaviours and practices, whether real or imputed.

The process of self-identification of homosexuals of Iranian origin is perhaps more sophisticated than that of other Middle Eastern countries. Available evidence gathered by CRS suggests that the ‘underground’ homosexual movement is in many cases well-organised and has a number of strong support networks, operating within Iran and outside, that provide assistance to Iranians identifying as members of sexual minorities. Such assistance may comprise social services (given that self-admission of homosexuality may result in loss of family support) as well as assistance in gaining refugee status overseas.

Self-identification has in part been assisted, in more recent years, with the advent of widespread Internet access in Iran. Whilst censorship remains a key issue and Iranian authorities have in recent months attempted to extend access prohibitions or restrictions to sites such as Facebook and Twitter, as well as launch a vigorous campaign against illicit dating sites and those advertising partner-swapping services.

Whilst anecdotal evidence gathered by CRS indicates isolated pockets of partial societal acceptance, the general trend in Iran has been one of bringing an increasing level of criminal action against homosexuals, both in frequency and severity. Incidents of the arrest, imprisonment and further punishment of alleged homosexuals have increased since the re-election of Iranian President Mahmoud Ahmadinejad, with a particular increase in the number of juveniles being sentenced, involving capital sentences in many cases.

2. INTRODUCTION

The purpose of this paper is to provide background and context to Protection Visa Case Managers when making primary decisions on nationals of Iran claiming protection of the basis of membership of a Particular Social Group or on the basis of sexual orientation. The paper draws upon existing entries in the CISNET database. The paper is not intended as an exhaustive account of either the situation of sexual minorities in Iran, or an in-depth historical study of the same but rather a background study which will lead Case Managers to consult both quoted sources and those related to the topics of sexual minorities in Iran.

3. EXECUTIVE SUMMARY

The Iranian state's official position on homosexuality is one of legal opposition. Within the Shari'a-inspired penal code adopted in Iran since 1979, homosexuality is one of the offences which various fits into the legal category of *hadd* (mandatory death penalty) offences. In addition, current Iranian jurisprudence has also classified it, from time to time, under the categories of *mohareb* ('enmity against God') or *mofsed fel-Arz* ('one who spreads corruption on earth').

Sexual minorities form one of several minorities within Iran that are, or have been in recent times, the subject of particular attention from the authorities with varying degrees of severity. Since the Islamic Revolution of 1979, human rights groups estimate that between 3000 and 4000 people have been executed under Islamic Shari'a Law for the crime of homosexuality.¹

Periodic bouts of repression of homosexuals have increased in frequency since the election of Mahmoud Ahmadinejad as President of Iran in August 2005. Homosexuality is often a discrete element of a range of subcultures in Iran, such as the underground 'heavy metal' music scene as well as in less formal and less organised groups in universities and other informal settings, as well as individual homosexual relationships. Some research specialists in the field of Iranian homosexuality, such as Harvard professor Afsaneh Najmabadi, claim that most Iranian homosexuals are not activist in nature and are not seeking to form any particular social movement to advance their cause.² Rather, she insists, they are, for the most part, not seeking revolution but rather the right to live their lives in peace and with the possibility of acceptance by the Iranian state.³

The death penalty has been frequently applied in cases of persons accused of homosexuality. Evidence documented by CRS includes recent cases involving the execution of juveniles; one of these cases, that of Nemat Safavi who was arrested in 2005 at the age of 16, involved a charge of "sexual relations that were not admitted".⁴ This formed the basis of the conviction and death sentence during Safavi's 2008 trial; however, at no stage was he formally accused of having homosexual relations.⁵ *The Guardian* reported that the last documented death sentences for consensual homosexual conduct were handed down in March 2005 and that it is not known whether these sentences were carried out.⁶ This article emphasised the importance of differentiating between sentences handed out for consensual homosexual conduct and those for non-consensual conduct (i.e. rape). It mentioned what it regarded as a campaign in Europe and the US to 'identify executions – often random ones – in Iran

¹ 'New study claims 16% of Iranian men have had gay relationships', Pink News, 22 January 2009, CX218946

² 'Gay rights in Iran a complex battle', Nova News Net, 26 February 2009, CX221474

³ 'Gay rights in Iran a complex battle', Nova News Net, 26 February 2009, CX221474

⁴ 'Death penalty for man accused of homosexuality', Adnkronos International Press News Agency (AKI), 23 September 2008, CX211183

⁵ 'Death penalty for man accused of homosexuality', Adnkronos International Press News Agency (AKI), 23 September 2008, CX211183. See also 'Iranian juvenile sentenced to death for homosexual [sic] act', Stop Child Executions, 26 November 2008, CX215072. This article mentions the right, under the Shari'a law interpretation applied in Iran, of judges to apply 'judges understanding' (*elm-e ghazi*) in a case, without reliance upon either material evidence or witnesses of fact.

⁶ Scott Long, 'The issue is torture', *Guardian Unlimited*, 31 March 2008, CX197389

DIAC-IN-CONFIDENCE

as killings of gay men’, which it claimed often backfired against ordinary Iranian citizens.

Given the illegality of homosexual practice in Iran and the reluctance of many Iranian homosexuals to admit their sexuality publicly, the precise numbers of those identifying as homosexuals in Iran are not known. Estimates provided by various human rights groups, based both in Iran and overseas, give some indication based on the number of reported cases of arrest and prosecution; however, it is difficult to verify these claims as no statistics from official sources (such as the Iranian government) have so far been released. This is perhaps unsurprising given high-level official denials from the current Iranian administration that homosexuality even exists within the country. This denial has been most notably in the translated speech given by President Mahmoud Ahmadinejad at Columbia University, New York, in 2007.⁷

Homosexual self-identification forms a large part of homosexual identity. In Iran, as in a number of other Middle Eastern countries (such as Egypt, for instance), the process of homosexual self-identification is less clear and perhaps less defined than in many Western countries. However, current evidence collected by CRS does point to an increasing self-awareness, as well as a desire to form networks and informal support groups, on the part of Iranian homosexuals.

⁷ ‘Ahmadinejad calls homosexuality among “ugliest acts”’, Radio Free Europe / Radio Liberty, 29 April 2009, CX225494

¹⁸ ‘Revoke death sentences for juvenile offenders’, Human Rights Watch (HRW), 4 November 2009, CX235977

4. RECENT CASES OF IRANIAN NATIONALS SENTENCED TO DEATH OR CORPORAL PUNISHMENT FOR ALLEGED HOMOSEXUAL ACTS

Reports from Iran, dating from the beginning of 2008, indicate a pattern of sentences handed out by courts for real or alleged homosexual behaviour. On 4 November 2009, Human Rights Watch (HRW) reported on the case of three Iranian males, all of them juveniles at the time of the alleged offences who were sentenced to death in separate hearings. Mehdi P. from Tabriz, Nemat Safavi from Ardebil and Mohsen G. from Shiraz were, according to the report, found guilty on the basis of the judge's own 'knowledge' (*elm-e ghazi*), without reliance on either material facts or witnesses.¹⁸ The judicial knowledge component forms a significant part of the Iranian criminal justice system. Even in cases of homosexuality, where the testimony of four adult male witnesses is required as proof of guilt, in many cases the police are able to satisfy the form of this requirement by bringing four other officers as witnesses. This occurs most frequently in raids on properties where homosexual activity is alleged to be taking place.¹⁹

On 20 July 2008, Mehdi Pouran, then aged 17, together with three other boys (Hamid Taaghi, Ebrahim Hamidi and Mohammad Rezai) was sentenced to death for an alleged homosexual act in May 2008. According to advocacy group Stop Child Executions, this was another case involving the application of *elm-e ghazi* rather than the testimony of witnesses and the consideration of fact.²⁰ All four boys denied the charge and claimed it had been fabricated by the complainants because the boys had been vandalising the agricultural land of Rezai's father.²¹ The three boys were released on bail, after one month's imprisonment, appeared again at the Second Branch of the Penal Court in the north-eastern city of Tabriz in Iran's Eastern Azerbaijan (*Azerbaijan-e Sharqi*) Province in August 2008, on this occasion with a new attorney who claimed that three family members of the complainant gave false testimony to the court.²² At this stage, CRS has been unable to locate information as to the current situation regarding Pouran, Taaghi, Hamidi or Rezai.

Earlier, in February 2008, two other males, Hamzeh Chavi and Loghman Hamzeshpour, aged 19 and 18 respectively were detained for homosexuality in the north-western city of Sardasht, according to the Coalition of Human Rights Advocates in Iran. At the time of writing their current status was unknown.²³

¹⁹ 'Revoke death sentences for juvenile offenders', Human Rights Watch (HRW), 4 November 2009, CX235977

²⁰ 'Iranian juvenile sentenced to death for homosexual [*sic*] act', Stop Child Executions, 9 August 2008, CX215072

²¹ 'Iranian juvenile sentenced to death for homosexual [*sic*] act', Stop Child Executions, 9 August 2008, CX215072

²² 'Iranian juvenile sentenced to death for homosexual [*sic*] act', Stop Child Executions, 9 August 2008, CX215072

²³ 'Homosexual youngster sentenced to death', Coalition of Human Rights Advocates in Iran, 25 September 2008, CX211382.

5. DEATH SENTENCES IMPOSED ON ALLEGED HOMOSEXUALS FOR CRIMES COMMITTED AS JUVENILES

In December 2007, an alleged homosexual from the city of Kermanshah in Kordestan (Iranian Kurdistan) Province, Makwan Moloudzadeh, by that time aged 20, was hanged after having been convicted of having 'homosexual relations' at the age of 13 and of having raped a number of boys of the same age.²⁴ The July 2009 report *Cradle to Coffin: A Report on Child Executions in Iran*, prepared jointly by the Foreign Policy Centre and Stop Child Executions (SCE), claimed that as of June 2009, at least 160 Iranian juveniles were on death row for offences such as homosexuality amongst others.²⁵ The report listed the respective ages of eligibility for the death penalty as 14.5 years (15 lunar years) for males and 8.66 years (9 lunar years) for females.²⁶

6. ARRESTS OF HOMOSEXUALS AS PART OF WIDER 'MORALITY CAMPAIGNS'

Arrests of homosexuals in Iran often take place with sporadic attempts, on the part of the *Pasdaran* and *Basij* religious police, to enforce Iran's Shari'a morality code, in raiding house parties where homosexual activity is alleged to be taking place. Over the weekend of 28-29 February 2008, police raided a private home in the city of Esfahan, arresting more than 30 alleged homosexuals.²⁷ At the time of reporting, the men had been jailed for more than four weeks without access to legal counsel with the police having referred them to a forensic medical examiner to find proof of homosexual activity.²⁸ In March 2008, police in Esfahan also entrapped several homosexual men by answering personal advertisements, placed over the Internet, interrogating them to reveal other contacts upon arrest.²⁹ In addition, one of the men arrested possessed a mobile phone containing erotic pictures of other men saved on its SIM card.³⁰ The article reported that this man received a three-year prison sentence from a local court for possession of the digital photographs.³¹

The protests following the disputed presidential elections of June 2009 also coincided with an increase in enforcement of morality-based legislation across Iran, directed against both political protesters and the public at large. Even before the elections, however, there were documented instances of the Iranian Revolutionary Guards Corps (IRGC) arresting 26 proprietors, both male and female, of Internet pornography sites

²⁴ 'Nine minors waiting to be hanged', Adnkronos International Press News Agency (AKI), 4 February 2008, CX192657. See also Anne Penketh, 'Brutal land where homosexuality is punishable by death', *The Independent* (United Kingdom), 6 March 2008, CX193820. This article claimed that not only did Moloudzadeh withdraw his own confession prior to sentence, his accusers also withdrew their accusations.

²⁵ 'From cradle to coffin: A report on child executions in Iran' (a joint report of The Foreign Policy Centre and Stop Child Executions (SCE)), July 2009, CISLIB 17656

²⁶ 'From cradle to coffin: A report on child executions in Iran' (a joint report of The Foreign Policy Centre and Stop Child Executions (SCE)), July 2009, CISLIB 17656

²⁷ 'Private homes raided for immorality', Human Rights Watch (HRW), 28 March 2008, CX196596

²⁸ 'Private homes raided for immorality', Human Rights Watch (HRW), 28 March 2008, CX196596

²⁹ 'Private homes raided for immorality', Human Rights Watch (HRW), 28 March 2008, CX196596

³⁰ 'Private homes raided for immorality', Human Rights Watch (HRW), 28 March 2008, CX196596

³¹ 'Private homes raided for immorality', Human Rights Watch (HRW), 28 March 2008, CX196596

DIAC-IN-CONFIDENCE

in April 2009.³² One of the pornography sites shut down had a subscription list comprising some 300,000 Iranian users and the pornographic video clips it contained had been downloaded six million times.³³ In addition, recent statistics released by sociologist Parvaneh Abdul Maleki of a Tehran university, claimed that 16% of Iranian men had had a homosexual experience at some point in their lives, with 24% of Iranian women surveyed having had at least one lesbian experience.³⁴ Ms Maleki presented these findings at the Third Conference on Well-being in the Family, which were reported in the Iranian press, although presented as a report on sexual deviance which 'needed to be treated.'³⁵ The research methodology and statistical sample base was not revealed in this article and CRS is unable to ascertain how representative a sample this survey is of the entire Iranian population. CRS has also been unable to determine Ms Maleki's academic affiliation.

At least one case documented by CRS involves a political demonstrator and campaign worker for defeated presidential candidate Mir-Hossein Mousavi known only as Hamid, aged 29. He had previously been arrested in 2007 during a police campaign targeting gay Internet chat rooms and was released after signing a document, under pressure, confessing his homosexuality.³⁶ In July 2009, Hamid was again arrested at a pro-Mousavi political demonstration in Shiraz where he alleged he was beaten with an electric baton and detained for 48 hours, before fleeing to Turkey to seek protection.³⁷ According to Arsham Parsi, director of the Iranian Queer Railroad based in Toronto, Canada, quoted in the same report, there were a number of self-identified Iranian homosexuals campaigning either for Mousavi or the other reform-leaning candidate, Mehdi Karroubi, although none were campaigning for incumbent Ahmadinejad.³⁸ Available reporting is unable to say whether or not such arrests are merely coincidental as part of a broader and sporadic morality drive, or rather a political tool to identify pretexts for the arrest and detention of anti-Ahmadinejad activists.

³² Ali Asghar Ramezanzpour, 'Iran rounds up "porn site bosses"', British Broadcasting Corporation (BBC), 16 April 2009, CX224736

³³ Ali Asghar Ramezanzpour, 'Iran rounds up "porn site bosses"', British Broadcasting Corporation (BBC), 16 April 2009, CX224736

³⁴ 'New study claims 16% of Iranian men have had gay relationships', Pink News, 22 January 2009, CX218946

³⁵ 'New study claims 16% of Iranian men have had gay relationships', Pink News, 22 January 2009, CX218946

³⁶ 'Gay Iranians face stark decisions, slim hopes in election unrest', Xtra.ca (Canada), 21 August 2009, CX232376

³⁷ 'Gay Iranians face stark decisions, slim hopes in election unrest', Xtra.ca (Canada), 21 August 2009, CX232376

³⁸ 'Gay Iranians face stark decisions, slim hopes in election unrest', Xtra.ca (Canada), 21 August 2009, CX232376

7. HOMOSEXUALITY AND IRANIAN POLITICS

Janet Afary, Professor of History and Women's Studies at Purdue University and author of *Sexual Politics in Modern Iran*, in referring to the longer-term trends regarding the Iranian state's attitude to homosexuals post-1979, mentioned what effectively functioned as a 'don't ask, don't tell' policy during the presidency of Mohammad Khatami (August 1997 – August 2005). This period saw an easing of state repression against homosexuals and even toleration of some 'queer' newspapers.³⁹ Whilst Afary indicated this did not mean acceptance of homosexuals on the part of the state, she noted that the state did not aggressively act against homosexuals during this time.⁴⁰ This period of comparative toleration under Khatami, she noted, was followed immediately by a much more repressive atmosphere under Ahmadinejad, whom she argued, pioneered the use of the Internet to 'track down' Iranian homosexuals.⁴¹

A self-described gay activist known only as 'Amir' wrote in *The Washington Post* on 1 October 2007 an account of his self-awareness of his homosexuality. Amir spoke of the role of the Internet in facilitating same-sex contacts within Iran (although also alluding to the dangers of revealing personal information online where government agents frequently monitor Internet traffic)⁴², as well as what he saw as the apparent openness and comparative liberalism towards homosexuals under the Khatami presidency, which saw Amir enter the gay social movement that started in 2000.⁴³ The article also described the lengths to which Iranian homosexuals went to ensure secrecy, with meetings taking place only in what the writer described as 'trusted private homes' with even 'fellow gays' being only 'slowly accepted'.⁴⁴ 'Amir' went on to describe the changing nature of gay life in Iran, which he indicated that despite continual repression, was not 'as underground as it used to be' and that homosexuals now congregated in coffee shops, special park areas and even offices. Despite this however, he also attested to the difficulties of Iranian homosexuals in gaining parental acceptance of their sexuality. He spoke of the initial restrictions placed on his personal life by his parents when, in 2002, he decided to 'come out' at the age of 20. These restrictions included a cutting back of financial support, as well as restrictions on household telephone usage and inviting friends home.⁴⁵

Amir also provided an estimate (unsupported by any other referenced sources within this article), that 0.5% of the Iranian population was homosexual, bisexual or transsexual.⁴⁶

³⁹ 'Gay Iranians face stark decisions, slim hopes in election unrest', Xtra.ca (Canada), 21 August 2009, CX232376

⁴⁰ 'Gay Iranians face stark decisions, slim hopes in election unrest', Xtra.ca (Canada), 21 August 2009, CX232376

⁴¹ 'Gay Iranians face stark decisions, slim hopes in election unrest', Xtra.ca (Canada), 21 August 2009, CX232376

⁴² Amir (pseudonym), 'Ahmadinejad's in denial: I'm a gay who's out in Iran', *The Washington Post*, 1 October 2007, CX185835

⁴³ Amir (pseudonym), 'Ahmadinejad's in denial: I'm a gay who's out in Iran', *The Washington Post*, 1 October 2007, CX185835

⁴⁴ Amir (pseudonym), 'Ahmadinejad's in denial: I'm a gay who's out in Iran', *The Washington Post*, 1 October 2007, CX185835

⁴⁵ Amir (pseudonym), 'Ahmadinejad's in denial: I'm a gay who's out in Iran', *The Washington Post*, 1 October 2007, CX185835

DIAC-IN-CONFIDENCE

The presence of homosexual-oriented campaign workers on both the Mousavi and Karroubi campaigns in 2009 requires some clarification. Whilst there is no evidence that either Mousavi or Karroubi supported full liberalisation of policies regarding homosexuals, they nonetheless promised, according to Parsi, an end to polygamy (currently allowed under Iranian law) as well as liberalisation of divorce laws to allow wives to more easily initiate divorce from their husbands.⁴⁷

Certainly, anecdotal evidence (such as President Ahmadinejad's highly-publicised address at Columbia University, New York, in 2007) suggests that the current Iranian regime remains strongly opposed to homosexuality and will continue to investigate and prosecute alleged homosexual activity as part of a broader morality campaign. Ahmadinejad in his speech described homosexuality as one of the 'ugliest' behaviours in which a person could engage at a speech in Shiraz in 2007 (this took place after the address at Columbia University).⁴⁸

8. THE POSITION OF TRANSSEXUALS

This paper applies the definition of 'transsexual' to mean a person who, born into and formally identifying with a particular gender, later changes to the opposite sex by surgical means, thereafter identifying as a member of that sex.

The position of transsexuals in Iran is somewhat ambiguous and information, where available, has been less clear on their treatment by the state, as well as formal legal position, than homosexuals, whose treatment and legal status has been frequently documented. British journalist Jane White, writing in *Marie Claire* magazine on 18 December 2009, described a change in the Iranian government's position on transsexuality, to the extent where they were actively encouraging heterosexual marital unions between transsexuals and providing funding for sex-change operations.⁴⁹ White also alluded to the fact that in many cases of such gender reassignment, those undergoing the process were former homosexuals who had been placed under pressure by government officials to do so and in many cases having such surgery presented as a 'cure' for the perceived 'mental illness' of homosexuality.⁵⁰ White quoted Arsham Parsi, of the Canada-based Iranian Queer Railroad support group, as believing that a recent transsexual wedding in Iran, where the father of the bride had initially refused his blessing but later relented, represented a major step forward in the recognition of transsexuals (but not homosexuals) as 'normal people' within Iran.⁵¹

Even in cases where the government is supportive of gender reassignment for homosexuals who are unable to adopt heterosexuality except through such reassignment, there are significant personal costs for the individual involved. Ali

⁴⁶ Amir (pseudonym), 'Ahmadinejad's in denial: I'm a gay who's out in Iran', *The Washington Post*, 1 October 2007, CX185835

⁴⁷ 'Gay Iranians face stark decisions, slim hopes in election unrest', Xtra.ca (Canada), 21 August 2009, CX232376

⁴⁸ 'Ahmadinejad calls homosexuality among "ugliest acts"', Radio Free Europe / Radio Liberty (RFE/RL), 29 April 2009, CX225494

⁴⁹ Jane White, 'Iran's transsexual revolution', *Marie Claire*, 18 December 2009, CX238902

⁵⁰ Jane White, 'Iran's transsexual revolution', *Marie Claire*, 18 December 2009, CX238902

⁵¹ Jane White, 'Iran's transsexual revolution', *Marie Claire*, 18 December 2009, CX238902

DIAC-IN-CONFIDENCE

Asfar, at the age of 24, decided on gender re-assignment after receiving constant harassment in the workplace from male colleagues, whilst at the same time being unable to work in a female workplace due to his male sex.⁵² Despite his father's threats to kill him if proceeded with the surgery, he did so and adopted the new name of Negar and the identity of a woman.⁵³ Gender reassignment surgery has the religious backing of *Hojatolislam* (a position second only to *Ayatollah* in Iran's Shi'ite Muslim clerical hierarchy) Mohammed Mehdi Kariminia, the cleric responsible for gender reassignment, who described such surgery as no more a sin than 'changing wheat to flour to bread.'⁵⁴ Documentary film maker Tanaz Eshaghian, who spent a number of weeks filming several transsexuals across Iran, believed that one of the main reasons for males undergoing gender reassignment was the avoidance of shame.⁵⁵

⁵² Vanessa Barford, 'Iran's "diagnosed transsexuals"', British Broadcasting Corporation (BBC), 27 February 2008, CX194096

⁵³ Vanessa Barford, 'Iran's "diagnosed transsexuals"', British Broadcasting Corporation (BBC), 27 February 2008, CX194096

⁵⁴ Vanessa Barford, 'Iran's "diagnosed transsexuals"', British Broadcasting Corporation (BBC), 27 February 2008, CX194096

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DIAC-IN-CONFIDENCE

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10. MAP OF THE ISLAMIC REPUBLIC OF IRAN



Source: http://lib.utexas.edu/maps/middle_east_and_asia/iran_rel_2001.pdf