

**The Violation of Transgenders' right to the highest attainable
standard of health**

in the Islamic Republic of Iran (Art. 12)

A Brief Submitted to the Committee on Economic, Social, and Cultural Rights

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By:

Justice for Iran

Justice For Iran
عدالت برای ایران

شش رنگ

Iranian Lesbian & Transgender Network



1. Justice for Iran submits this brief to the Committee on Economic, Social, and Cultural Rights on the occasion of its 50th Session (29 April – 17 May 2013). The brief focuses on the right to health of Iranian transgenders and more specifically on the violations that this extremely vulnerable community has been made to endure through Iran’s policy of enforced sex reassignment surgeries (SRS).
2. Iran requires that transgender persons undergo often-unwanted sex reassignment surgeries, sterilization and hormone therapies as a prerequisite to enjoying legal recognition of their preferred gender. This requirement constitutes a significant interference with the right of transgenders to control their health and body, including sexual and reproductive freedoms, considering that Sex reassignment procedures can lead to loss of sensation and serious medical complications.¹
3. In Iran, these risks have proved to be particularly grave given the State’s failure to ensure that SRS surgeons and other health care professionals dealing with transgenders meet appropriate standards of education, skill and ethical codes of conduct.² Our research has revealed countless instances of substandard sex reassignment surgeries resulting in bleeding, serious infections and permanent and irreparable physical damage (e.g., recto-vaginal or urethral fistula, vaginal or urethral stricture partial, complete flap necrosis, paralysis, chronic chest pain, severe back pain, etc.) as well as numerous incidents of abuse and harassment at the hands of health care professionals.³
4. This is not to mention transgenders’ lack of access to information about required lengths of hospitalization and likely post-surgical complications as well as more fundamental issues relating to gender diversity and non-surgical options. This knowledge deficit results directly from the government and its associated medical entities withholding or intentionally misrepresenting modern, scientific information on matters of sexual orientation and gender identity.⁴
5. A preliminary overview makes clear that the process through which transgenders have to apply for legal sex change is marked by deep-seated homophobia and other discriminatory attitudes. Applicants have to appear before the Psychiatric Patients Ward of the Legal Medicine Organization of Iran (LMOI). The Psychologists and psychiatrists making up this commission 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

¹ *General Comment No. 14, The Right to the Highest Attainable Standard of Health* UN. Doc. E/C.12/2000/4 (11 August 2000), para. 8 [hereinafter GC14].

² *Ibid.* at para. 35.

³ 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), prepared by Raha Bahreini, UNICEF “Addressing Inequalities” Global Thematic Consultation at 23-34, available at <http://www.worldwewant2015.org/node/287187> [hereinafter Justice for Iran, “Denying Identities, Maiming Bodies”].

⁴ GC14, *supra* note 1 at para. 34.

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.⁵

6. Accordingly, many individuals whose gender or sexual identity does not conform to that of a heterosexual man or woman are led to opt for hormone therapies and sex reassignment procedures. It bears mentioning that these individuals often take such irreversible decisions without been given the opportunity to have a real-life experience of one or two years in their desired gender, contrary to the Standards of Care of the World Professional Association for Transgender Health.⁶

7. Iran refuses to respect the medical requirement of real life experience on the basis of religion and custom. Iranian law draws a sharp boundary between men and women, enforces the compulsory veiling of women and subjects those who transgress gender boundaries to harassment, detention and fines. It also defines same-sex sexual conduct as a crime carrying the death penalty and sanctions acts of violence against individuals who are suspected of homosexuality. Together, these practices create very unsafe living conditions for members of the LGBT community, and particularly lesbians and female-to-male transgenders, taking a great toll on their mental and emotional health. They also compel transgender persons to administrate hormones in a rushed manner often by themselves and without a proper understanding of all the negative health effects so as to minimize their risks of harassment and abuse when appearing in society in their desired gender.⁷

8. However, transgenders cannot live a life in dignity until and unless they fully alter their bodies and obtain a change in their identity certificate. Otherwise as one state radio reporter has infamously noted,

If you want to continue to dress like a girl but keep your male body, you are not a transsexual anymore; you are a transvestite; you may even be suspected of being a homosexual [meaning that you are no longer entitled to the enjoyment of personal security, health, housing, employment, education, human dignity, non-discrimination, privacy and freedom of movement].⁸

9. In the past several years, there has been much self-congratulation by Iranian authorities about recognition of transsexuality and permissibility of sex change operations. It is, however, submitted that in order for Iran to meet its obligations to

⁵ Justice for Iran, “Denying Identities, Maiming Bodies”, *supra* note 3 at 20-22 and 33-34.

⁶ 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>.

⁷ Justice for Iran is in the process of documenting over a dozen cases where continued or extreme (ab)use of hormones without proper medical supervision has caused a break in transgenders’ health and at times resulted in their death.

⁸ Tanaz Eshaghian, *Be Like Others*, 2008, DVD (Wolfe Video).

respect, protect and fulfill the right to health, it must take the following steps:

- a. Iran must abolish hormone therapy, sterilization and other compulsory medical surgeries as a requirement for legal recognition of transsexuality, and proceed to guarantee the full legal recognition of a person's gender identity in all areas of life, in particular by making possible the change of name and gender in official documents.**
- b. Iran must further repeal all laws that criminalize consensual sexual activity among persons of the same sex and take appropriate legislative, administrative, educational and other measures to prohibit violence and discrimination on grounds of sexual orientation and gender identity. This includes protecting transgenders against harmful medical practices based on sexual orientation or gender identity, including on the basis of stereotypes regarding conduct, physical appearance or perceived gender norms.**
- c. Finally, Iran must ensure the appropriate training of surgeons and other medical personnel in contract with the LGBT community and the provision of a sufficient number of hospitals, clinics and institutions providing quality counseling and mental health services, without discrimination.**

It is only then that the decision by an individual transgender person of whether in fact to undergo hormone therapy and SRS is restored to its proper domain, namely that of the health and wellbeing of the individual in question.