



Iranian Lesbian & Transgender Network

29 May 2020

Subject: Notaoverleg Asiel en Migratie en de Herbeoordeling veiligheid lhbt'ers en christenen in Iran

Ministerie van Justitie & Veiligheid
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Your Excellency,

The undersigned of this joint letter (we) write to you in response to the Minister of Foreign Affairs letter (#2803092) to the Dutch House of Representatives, dated 17 April 2020, and to the Dutch government's additional analysis for the new thematic country report on Iran from March 2019. These documents will be used to assess claims of Iranian LGBT (lesbian, gay, bisexual, transgender) asylum seekers.

In this letter we highlight our persisting concerns over the Dutch government's decision to change its policy regarding Iranian LGBTI asylum seekers and thus discontinue its policy of affording Iranian LGBTI asylum seekers the highest protection status.

Both of our organizations originally submitted letters responding to the Minister's letter (#254686) dated 8 October 2019 and 11 February 2020 to highlight the ways in which LGBTI Iranians continue to face systemic and systematic persecution, discrimination and violence at all levels. Through our extensive background and work with LGBTI Iranians we provided a thorough overview of the lived experiences of LGBTI Iranians and the ways in which they continue to face multiple, intersecting forms of discrimination and violence.

The information provided, detailed that LGBTI Iranians face violations to not only their right to freedom from violence and discrimination, but also freedom from arbitrary arrest and detention, freedom of expression and association, and access to justice as well as healthcare and education. The continued criminalization of same-sex consensual intimacy under the current Iranian Penal Code, restrictions on speech in terms of same-sex behavior, and strict regulations around transgender persons' right to legal recognition have created an environment that enable these violations.

In particular, both of our letters highlighted the apparent discrepancy between the use of these laws and the known experiences of LGBTI individuals of being subjected to arbitrary arrest and detention. As we noted, although publicly it seems the Iranian government has not prosecuted individuals explicitly using the Penal Code provisions or the laws regulating speech, in reality, it is widely known that LGBTI individuals in Iran have been and continue to be prosecuted and imprisoned based on their real or perceived sexual orientation, gender identity and/or gender expression.¹ Further, the mere existence of these criminalizing legal provisions results in the increased stigmatization and legitimization of violence and discrimination against LGBT individuals in Iran.²

In both of our letters, we expressed particular concern about the continued framing by some global actors and news outlets of transgender people as widely accepted following Ayatollah Khomeini's 1986 religious decree accepting forms of transition-related healthcare for the Iranian trans community.

As noted, transgender individuals in Iran continue to face systematic forms of persecution. Furthermore, we find it inconsistent that the ministry confirms *nothing* has changed about the position of trans people in the Iranian society; however, the policy of the Dutch government *has* changed lowering the protection afforded to transgender Iranian asylum seeker in Dutch asylum policy, which negatively impacts them.

Furthermore, we remain concerned with the report's framing of some of the information we provided and the way in which some of our sources were not considered or accurately reflected. The ministry's response to our letters shows the sources are cherry picked or skewed to serve the conclusions. Some sources that 6RANG refers to are disqualified because they are in Farsi and the ministry "only uses Dutch, English, German and French sources." Ignoring sources in its national language while researching Iran puts the

¹ Out News, Iran Could Execute Popular Singer Accused of Being Gay, available at: <https://www.out.com/news/2019/10/08/iran-could-execute-popular-singer-accused-being-gay>; 6Rang, "Men Arrested at a Party in Isfahan Charged with 'Sodomy'", 20 April 2017, available at: <http://6rang.org/english/2276>;

² Being Lesbian in Iran, OutRight Action International, page 3 (2016) available at: https://outrightinternational.org/sites/default/files/OutRightLesbianReport.pdf?_ga=2.135263537.1212040805.1590521427-742754972.1590069609

entire methodology of the research report to question. Similarly, OutRight wrote to the Dutch government that there is no proof that if a gay man whose same-sex sexual orientation is known reports to the police in Iran, this person will be served like any other person. The ministry now responds that the report already mentions that there was only one source for this claim. However, despite being based on one source, the fact that this claim makes up a substantial paragraph of the short section on LGBTI in the country report skews the overall conclusion drawn on the situation and has strong implications for the policy decisions made on the basis of this report.

Once again, we jointly and strongly urge you to reconsider your position regarding Iranian LGBTI asylum seekers and afford them the highest level of protection under the Dutch law. This will prevent many tragic consequences for Iranian LGBTI as well as *transgender* individuals.

Kind regards,

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