

LGB in Iran-The Homophobic Law and Social System

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ABSTRACT

Study research Forbidden Tale; A Comprehensive Study on Lesbian, Gay and Bisexual (LGB) in Iran (250 pages-2018) was conducted in order to analysis the existence of sexual minorities in Iran from various perspectives. Many turns were taken to understand the phenomenon of LGB in Iran by interviewing with over 400 individuals (60% male and 40% female) in 3 major Iranian cities: Tehran, Mashhad and Isfahan. For the first time ever in Iran, by using snowballing and Grounded Theory approach, a research was conducted during the course of one year to narrate the continuous struggle of Lesbian, Gays, and Bisexuals in Iran along with their struggle with law enforcement and legislation. This is the first study conducted inside Iran exploring the presence of LGB along with their agonies and pain and soon full version of this study will be published by a US publisher. Present research study contributes a unique dimension to the literature on LGB by focusing specifically on Iran. This article presents one aspect of a comprehensive study that demonstrates the prevalence of LGB in Iran and their agonies while struggling with the Islamic Sharia's based law in the country. Research study presents an overview and exploration of the dynamics of LGB individuals in Iran that employs fieldwork as a base. This research study reveals to the readers that Iran is not an exception when it comes to prevalence of LGB and whilst homosexuality has gained greater social acceptance in many Western societies, it remains stigmatized, in most cases forbidden and potentially lethal in most Islamic countries.

Keywords: LGB, Iran, Sharia, Tehran, Mashhad, Isfahan, Homosexuality, Law, Legislation, Human Rights, LGBT, Homosexuality, Gay, lesbian, bio sexual, Gender

INTRODUCTION

LGB Iranians live in an atmosphere of uncertainty, peril, and pressure. There are various factors that contribute to their inhumane living conditions. First and foremost, the religious and patriarchal elements characteristic of the present Iranian republic view homosexuality as something to be feared and controlled. Moreover, the Penal Code of the Islamic Republic of Iran is based on Sharia law that reserves penalties for those convicted of same-sex sexual conduct. Furthermore, queers in

Iran may face arrest as well as physical and sexual assault during detention, summary prosecution, and corporal punishment due to their consensual same-sex acts. Finally, familial and societal pressures to be other than themselves deprive Iranian queers of their dignity, leaving them stranded and invisible in stark vulnerability.

In Iran, the three forces that dictate ones behavior, law, religion and popular culture are opposed to homosexuality. They

operate singularly, collectively and simultaneously. Thus homosexuals in Iran cannot come out as freely as LGBT do in other countries. Nevertheless, there are threads that indicate traces of homosexuality acceptance; however, it cannot be fully come on surface as the legal environment, and legislation are not favorable for the people who are not heterosexuals and do not follow the society defined life style.

This article is going to talk about that how the outer world, human rights perceive LGB and the situation in Iran in the context of Law towards homosexuality. The vulnerability of human rights and laws and legislation is pretty much highlighted in this article which is expected to give the readers an idea of the agonies of the sexual minorities in Iran. This article also explores that due to the un-supportive attitude of the Law and legislation, society has developed the homophobic attitude towards the LGBs which is quite alarming.

Contemporary Worldviews of LGBT in the context of Law

Laws combatting same-sex relations have dated back to the sixteenth century reflecting much of British society's belief that homosexuality is "the worst of crimes (Charles, Upchurch, 2009). This unspeakable act threatened the stability of Victorian society so remarkably that a homosexual identity did not exist (at least not openly) during this era. This did not mean that British citizens did not know the characteristics of homosexual men. Rather there was a general societal distaste for them during the nineteenth century (Brady, 2005). Statistics are scarce but the number of arrests is undoubtedly lower than it was during the British wave of homophobia in the 1950s. In England during the year 1952, there were 670 prosecutions for sodomy, 3,087 for attempted sodomy or indecent assault, and 1,686 for gross indecency (Whitaker, 2006).

Nevertheless, this distaste was not universal. Indeed, there are cultures that revere same-sex relationships and love. Hinduism does not view homosexuality as a religious sin. In fact, the Hindu Council UK released a statement asserting "Hinduism does not condemn homosexuality"¹. The Sikh Holy Scriptures the *Guru Granth Sahib*, teaches tolerance, equality and acceptance of all people, regardless of race, religion, gender,

or sexuality. Sikh wedding ceremonies are non-gender specific and so same-sex marriage is possible within Sikhism².

An analysis of the global perception of LGBT shows a striking and troubling observation. In general, in the Middle East and Africa, homosexuality has been predominantly rejected³.

As the United States and other countries grapple with the issue of same-sex marriage, a new Pew Research Centre survey finds huge variance by region on the broader question of whether homosexuality should be accepted or rejected by society. The survey find out that total of 39 countries finds has accepted homosexuality. These countries comprised of North America, the European Union, and much of Latin America. In terms of widespread Muslim nations and in Africa are predominant⁴. Opinion about the acceptability of homosexuality is divided in Israel, Poland and Bolivia as well as in parts of Asia and in Russia⁵.

Since joining the U. S. coalition against terrorism, Egypt has hunted gay men and entrapped them on the internet in order to convince their citizens that the government and not just Muslim extremists are protecting the morality of the nation (Gauch, 2002). These waves of open hatred have naturally caused couples to heed caution. Although public displays of affection (PDA) should generally be avoided to both homosexual and heterosexual couples, LGBTs in Africa have been advised to use discretion⁶.

Recent years have seen a stable attitude towards homosexuals and other members of the LGBT community, except in South Korea, the United States and Canada, where the percentage saying homosexuality should be accepted by society has grown by at least ten percentage points since 2007. These are among the key findings of a new survey by

² <http://www.wahegurunet.com/gay-sikh>

³ The Global Divide on Homosexuality Greater Acceptance in More Secular and Affluent Countries, WWW;pewglobal.org. See also The Global Divide on Homosexuality Greater Acceptance in More Secular and Affluent Countries, WWW;pewglobal.org)

⁴ The Global Divide on Homosexuality Greater Acceptance in More Secular and Affluent Countries, WWW;pewglobal.org

⁵ Ibid.

⁶ Planet, Lonely. "Gay and Lesbian travel in Africa - Lonely Planet". Retrieved 13 July 2016

¹ Gay Histories and Cultures, Routledge, p. 438, George Haggerly

the Pew Research Centre conducted in 39 countries among 37,653 respondents⁷.

There remains a great deal to be accomplished in freeing many millions of gays and lesbians from the tyranny of fear of discovery, of actual and potential economic disenfranchisement, of the burden of ridicule, shame, and scorn, and of penalties for alleged criminal behavior (Sari H. Dworkin and Huso Yi., 2003). According to the Amnesty International (2001) reports, rapes, beatings, and life imprisonment for alleged crimes against the order of nature in such countries as Uganda, Zimbabwe, Romania, Malaysia, the Caribbean, Russia, China, Sri Lanka, Afghanistan, and the U. S. In fact, at least 70 countries criminalize same-gender relationships and some countries punish offenders with flogging or the death penalty⁸.

LGBT and the Middle East

Although Muslim societies today can be described as generally homophobic, it is erroneous thinking to view homophobia as a self-contained problem. Rather it is part of a syndrome in which the rights of individuals are subsumed in the perceived interests of the community and, often, maintain an "Islamic" ethos. Muslim societies are steeped in a patriarchal culture that values family, stability, passing on the bloodline and rejection of homosexuality. Consequently in these highly patriarchal societies, the high value on conformity is sacrosanct and expressions of individuality are unacceptable. Simply put, there is a strong emphasis on upholding social "norms" and keeping up appearances – in public if not necessarily in private. The patriarchal system plays a major part with strongly defined roles for men and women. Gay men, especially those who exhibit what is perceived as feminine attributes are regarded as those who are challenging the social order. Ironically, "masculine" men who have sex with other men are a slightly different matter. Although state and traditional Islamic law view the penetrator and penetrated in anal sex as equally culpable, the popular opinion is that the penetrator tends to be viewed with less hostility: he is still a man, doing what men naturally do, even if it is not with a woman. The receptive (or passive)

partner, on the other hand, is viewed with disgust, shame and dishonour. As his behaviour is that of a woman, it is assumed that he cannot be engaging in homosexual behaviour for pleasure, so he must be a prostitute.

Organised activism for gay rights began to develop in the Middle East in the early 2000s. In 2002 a group of Palestinian women formed Aswat ("Voices") which was later joined by another Palestinian group, al-Qaws ("The Rainbow"). Both groups are based in Israel but have connections in the Palestinian territories. Around 2004 a group of Lebanese activists established Helem, the first LGBT organisation to function openly in an Arab country. These are not the only activist groups. Others have sprung up in various places but often disappear quickly. There are also Arab LGBT websites and blogs which, as the activist groups, do come and go. *My Kali*, a Jordanian magazine which aims "to address homophobia and transphobia and empower the youth to defy mainstream gender binaries in the Arab world" has been published regularly since 2007.

Whitaker (2016) shares in his article that "Even today, in some Muslim countries, whole towns have become the butt of jokes about the supposed homosexuality of their inhabitants. Idlib in Syria is one of them; Qazvin in Iran is another. In Pakistan, there are jokes associated with one of the famous cities in the north of the country. An old joke in Afghanistan is that birds fly over Kandahar with one wing held under their tail as a precaution (Whitaker, 2006).

Still, no one has attempted to hold a Gay Pride parade in any country in the Middle East, though there have been parades in Istanbul, Turkey since 2003, albeit not without opposition. The city is hardly rolling out the rainbow carpet. However there have been activities in Lebanon and elsewhere linked to IDAHOT, the International Day Against Homophobia and Transphobia, which have been less likely to arouse hostility. But one thing the LGBT community has done is make it difficult to claim that LGBT Muslims do not exist. They have established the first step towards achieving SO rights⁹.

⁷ Ibid

⁸ Amnesty International. (2001). Crimes of hate, conspiracy of silence. Oxford, United Kingdom: The Alden Press

⁹ Everything you need to know about being gay in Muslim ...
www.theguardian.com › World › LGBT rights

However it has been three years that the ruling pro-Islamic AKP government has cancelled the Istanbul Gay Pride Parade " due to security concerns". The official fiction is that LGBT people do not exist in the Middle East. They do and for many LGB, the attitudes of family and society are a problematic source of pain and fear. The one common denominator that affects all LGB individuals in making the decision to come out of the closet is fear of their family's reaction. For Muslims this can be an especially excruciating and difficult decision. How families respond to a coming out depends on several factors, including their social class and level of education. In the more extreme cases, coming out results in the person being ostracised by their family, physically attacked, imposed religious cure or, in more affluent families, expensive but futile psychiatric treatments.

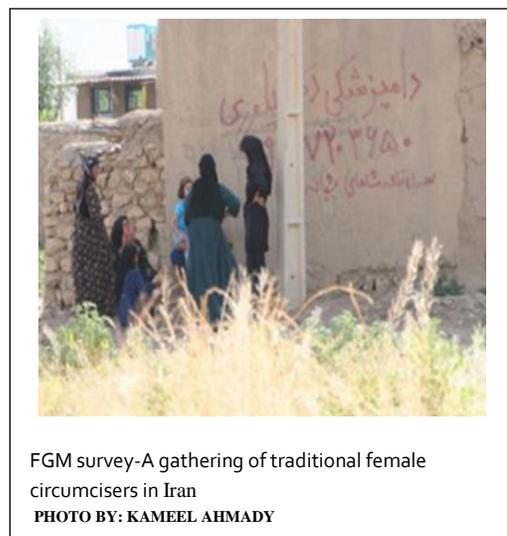
The pressure to marry is much greater in Muslim countries than in most Western countries. Remaining single is usually equated with social disaster so once young people have completed their studies, organising their marriage becomes a priority for the families. The more traditional kinds of family take on the task of finding them a partner; arranged marriages are still common¹⁰. Some LGBT individuals manage to circumvent this by prolonged studies or going abroad. Nonetheless, some cave into the pressure and accept a marriage for which they are ill-suited. A few of the more fortunate ones find a gay or lesbian partner of the opposite sex and enter a false marriage. And some simply decide to " come out". However, coming out is usually rare, even in capital city, Tehran which is more liberal.

Prevalence of LGB in Iran

Homosexuality has always been a contentious topic in Iran due to the stigma surrounding the homophobic views of certain members of society, which related to a "radicalized view of sexuality, cultural norms concerning sexuality and gender, and connections to religious institutions (Moghissi, 2016). Iran is a traditional society that operates on a basic premise that homosexuality is an abnormality. Traditional society dealing with what are assumed abnormalities such as heterosexuals is not a new story in Iran nor is the combat

against it, but the manner in which Iran exposes perceived "abnormalities "to maintain control over its sexual the minorities is yet a controversial issue rooted in its past and carrying on in the present. An extract from the work of Mehrangiz Kar concludes that "Members of the LGBT community in Iran are viewed as the ones who depart significantly from mainstream religious values or social expectations. LGBT rights activists thus face huge obstacles in their efforts towards accommodating their identity in the current context of Iranian society"¹¹.

In Iran there is no standardized measure of gender binaries. Sexual desires are bound to intricate deep-rooted ever-lasting social definitions to such a significant extent that sometimes it is difficult for homosexuals themselves to distinguish, understand and accept their own orientations. In Iran, when enquiring about someone's gender, one cannot find an appropriate response that yields a third possibility. Either one is a man or a woman. This fact is so categorically clear cut that it has left no questionable room of doubt. Any departure from this dual sexual system of classification in Iran is categorized under the auspice of mental and behavioural disorders. Iran emphasizes the complementarity and unity of the two sexes, each associated with distinguishable gender roles. Given that homosexuality can undermine the Iranian patriarchal social structure, Iran and Islamic ideology strictly oppose homosexuality (Afary, 1997).



FGM survey-A gathering of traditional female circumcisers in Iran
PHOTO BY: KAMEEL AHMADY

¹⁰ (See, Early/Child marriage (ECM) in Iran for a further in depth discussion on the pressure to marry).

¹¹ Iranian's Queers & Laws: <http://hir.harvard.edu/article/?a=9885> {Accessed April 12, 2018}

Interestingly, amongst all members of LGBT community in Iran, bisexuals are the one category in the sexual orientation framework that receives less attention. This area of research of bisexuality in Iran suffers from the lack of available literature and the overriding rationale that bisexuality in Iran is a sin. The general perceived notion in Iran is not favourable for this category of LGBT. Even homosexuals consider bisexuality is not only an insult to heterosexuality, but is not even categorized in the Lesbian-Gay binary. In many respects, bisexuals are viewed as the “unacceptable” within an already unacceptable group. In addition to thorough analysis of the LGBT discourse in Iran, this present research study ***Forbidden Tale; A Comprehensive Study on Lesbian, Gay and Bisexual (LGB) in Iran (2018)*** also revealed an uncomfortable fact: the un-acceptance of bisexuals was the norm and frequently the familiar attitude.

This light-handed approach is not the same for women. LGBT have been oppressed during the sociocultural transformations in contemporary Iran while Femi phobic attitudes have been central to this marginalization. What is more revealing is that women, even amongst the sexual minorities (Lesbians) in comparison to gays and male bisexuals, suffer more from societal restrictions and risk harsher social repercussions and punishments when caught (Blumenfeld, W. J., & Raymond, D. C., 1993). Women are already marginalized in Iranian society as the demands of their patriarchal society and draconian policies define their existence (Afshar, 2005). They are even more so marginalized if they are lesbian. Frequently familiar and none at all surprising is that there is a heightened level of discrimination towards women even within the category of sexual minorities.

RESEARCH METHODOLOGY

The research findings have been collected, screened, and triangulated through the GT method so that the actual situation could be visible to a vast majority of readers via diagrammatic representations and direct quotes that represent the major facets of the research study. They represent a thorough analysis of what the study gathered through a comprehensive research process in the three major and prominent cities in Iran.

Mixed method approach was used to obtain the actual data and synchronize findings in order to reach the actual facts about their lives. Despite the draconian conditions and perpetual feelings of fear, what was revealed was a surprisingly optimistic and brighter image of what is currently taking place of LGBT's individual's lives in Iran. Many of the LGBT individuals were resilient. Over 400 homosexuals were interviewed in three phenomenal cities in Iran. Each city has its

own ambience and significance. An extensive questionnaire was designed to explore the multi-dimensional narrative of LGBT from multiple angles. The questionnaire probed an LGBT individual to share the history of his/her relationships encompassing numbers, how many groups they know, and how many they are currently engage with. The use of Grounded Theory helped the researcher torch out the actual figures currently prevailed. The interviewees gave the idea of a specific number of LGBTs who has come out and are experiencing a significant amount of problems in their daily lives. The findings show that LGBT are in abundance in these three selected cities as they have come out, as much as one can openly come out in Iran, within certain like-minded circles and talk openly about their sexual orientation.

ETHICAL CONSIDERATION

Ethical considerations were extremely important in the sampling (and collection) strategy. Moore and Miller (1999) mentioned that members of vulnerable populations often experience multiple risks that may diminish their autonomy, thus rendering them doubly (or indeed triply and so on) vulnerable (Moore LW, Miller M, 1999). This means that researchers might avoid working with people who are classified or perceived as vulnerable; consequently, their needs and concerns are not addressed within research, practice and policy arenas. Albeit there are many ethical limitations and boundaries if we are going to research on sensitive topics or groups, however, it is clear that some research questions may only be effectively addressed by recourse to work with vulnerable people (Moore LW, Miller M, 1999). For our research objectives, the research study employed numerous techniques to ensure their safety. The research study also employed ethical practices to ensure people were not harmed by participating.

As this research study involves human subjects, human rights, law and legislation, therefore, the Institutional Review Board permission was required. Particular attention was paid to ensure that the people were carefully informed and understood the nature of the research. Confidentiality was maintained by anonymizing the data and using pseudonyms for the participants, youth organizations and their locations. Both the interview and observational data were collected. Participants were interviewed in a location of their choice. By informing the participants they acknowledged that he/she understood his/her rights as a volunteer for the study, thereby giving permission to the researcher to use any data collected.

Iranian Legal perspective on LGBT

In Iran, the Islamic Revolution in 1979 resulted in massive changes, via executions and sex change operations, for homosexuals. Taylor et al. (2015) comments that “It is unclear that how many non-heterosexuals individuals have been executed since the Islamic Revolution but between 1979 and

1990 some 107 executions were recorded”⁵⁵. Whilst referencing Najmabadi, Taylor et al. notes that “after Thailand, the Islamic Republic of Iran performs more sex change operations per annum than any other country in the world”

The Iranian penal code was also reformed. The newly revised Islamic Penal Code was ratified by the Islamic Consultative Assembly in 2009 and in May 2013, the Guardian Council of the Constitution, the upper house of the Iranian Parliament, also ratified the new penal code, formally known as the Islamic Penal Code⁵⁹. The new Islamic Penal Code lists the different types of punishments. According to Islamic law, Hadd punishments are considered penalties which concern the ‘legal rights of God’. The sentence is set, and the court has no room for discretion. In ta’zir penalties, the judge has a margin for discretion⁶⁰. The new Islamic Penal Code includes controversial articles, such as the Qisas law of retribution for murder, stoning for adultery, amputations of body parts for theft and certain national security offenses, and flogging for a wide range of offenses⁶¹.

Similar to the Iranian Islamic Revolution in 1979, the newly enacted Islamic Penal Code directly and indirectly affected the lives of LGBT individuals. Specifically, under Chapter 2, articles 232 to 241 it is clear the legal system’s preference for heterosexual relationships. LGBT individuals are not wanted and will not be protected. The numerous atrocities being perpetrated against LGBT in Iran are sanctioned under this new criminal code.

Article 233 - Livat is defined as penetration of a man’s sex organ (penis), up to the point of circumcision, into another male person’s anus.

Article 234 - The hadd punishment for livat shall be the death penalty for the insertive/active party if he has committed livat by using force, coercion, or in cases where he meets the conditions for ihsan; otherwise, he shall be sentenced to one hundred lashes. The hadd punishment for the receptive/passive party, in any case (whether or not he meets the conditions for ihsan) shall be the death penalty. If the insertive/active party is a non-Muslim and the receptive/passive party is a Muslim, the hadd punishment for the insertive/active party shall be the death penalty.

Article 235 - Tafkhiz is defined as putting a man’s sex organ (penis) between the thighs or buttocks of another male person.

Article 236 - In the case of tafkhiz, the hadd punishment for the active and passive party shall be one hundred lashes.

Article 237 - Homosexual acts of a male person in cases other than livat and tafkhiz, such as kissing or touching as a result of lust, shall be punishable by thirty-one to seventy-four lashes of ta’zir punishment of the sixth grade.

Article 238 - MUSAHEQEH is defined as where a female person puts her sex organ on the sex organ of another person of the same sex.

Article 239 - The hadd punishment for musaheqeh shall be one hundred lashes.

Article 240 - Regarding the hadd punishment for musaheqeh, there is no difference between the active or passive parties or between Muslims and non-Muslims.

Article 241 - In the cases of indecent offenses, in the absence of admissible legal evidence and the denial from accused, any type of investigation and interrogation in order to discover hidden affairs and things concealed from the public eye shall be prohibited. They cannot entrap people or interrogate them if there is no evidence.

As plainly evident, the new Islamic Penal Code criminalizes same sex relationships, with a myriad of punishments ranging from 100 lashes for consensual sexual activity between women (Article 239) to the death penalty for consensual sexual intercourse between men (Article 234). The law also criminalizes other acts between members of the same sex, including touching and intimate kissing, which are punishable up to 74 lashes. Articles 232-233 sentence the “passive” partner of consensual sexual intercourse between two men to death, whilst the law sentences the “active” partner to receive 100 lashes, as long as he is Muslim and unmarried. Non-Muslims and married men who engage in consensual same sex relations are subjected to the death penalty⁶².

It is interesting to note that the second book of the Fourth Chapter of the Islamic Penal Code, which covers all forms of sexual crimes, remains ostensibly mute on the subject of rape between married couples. The rape of a minor is a crime only if the sex act takes place outside religiously sanctioned relationships. This twisted logic means that two consenting adult men in an intimate sexual relationship have committed a crime and risk death whilst someone who forces sex on a ten-year-old girl in the name of marriage is not considered to have committed a crime.

Under the new Penal Code, homosexuality and the hovering application of the death penalty operate in unity. It is understandable why many LGBT live in a state of anxiety and fear as the Iranian authorities often publicly flaunt its laws and the executions.

Although not enforced nowadays but according to the law heavy punishments for “homosexual behaviour” are still in place; the social climate is hardly conducive to frank discussion of sexual rights. LGBT Iranians choices are limited: to live in secrecy or immigrate to larger cities like the capital Tehran and carry on with life with relatively secure and freer movement, or to seek

asylum as refugees, leaving their country, their homes and their families behind them.

Iranian's Law and LGB-FINDINGS & DISCUSSION

Homosexuality and the Iranian Law

Homosexuality is against the law in the Islamic Republic of Iran. Iranian penal laws are rooted in an interpretation of Islam that does not acknowledge same-sex desire as a permanent state. According to The UN Special Rapporteur's March 2013 report the members of the LGB community in Iran were denied basic human rights. According to Iranian law, which is modelled on Islamic Sharia Law, homosexuality is illegal and punishable either by 100 lashes or the death penalty (Yvette Taylor, Ria Snowdon, 2014). Homosexual acts still carry a sentence of corporal punishment and, although the revision of Iran's Penal Code reduced the circumstances under which the death penalty should be applied for sodomy, its application was retained. A "confession" can be punished by thirty one to seventy four lashes without other evidence but a confession "repeated four times is considered to be sufficient evidence of guilt for the full penalty of either 100 lashes or the death penalty.⁴¹ The Iranian judiciary can often extract "confessions" under torture as evidence. Under the revised Iranian Penal Code in 2012-2013, the laws regarding homosexuality were altered.

If I were born once again, I would have liked it not to be a homosexual. So far I have done everything possible. I have contacted these safe houses to let me in as I escaped my house. But instead of sheltering me, they started lecturing me. They told me maybe you are not a good girl. Be a good girl so that you are not beaten up.

Nerqes 27, Mashhad

The earlier version mandated that an 'active participant' (male) would receive the death penalty in all cases, when he was of age. However, the limitation of 'only' up to 74 lashes for minors in the earlier version was removed in the newer version.

In Today's Iran, lavat (sodomy) is a capital offence. Iran is perhaps one of the few nations that have executed a number of its citizens for homosexuality. Since the 1979 Islamic revolution in Iran, it is believed the Iranian government has executed more than 4,000 people charged with homosexual

acts. The reported 4000 death has not been confirmed by the government and it is hard to prove that many have been executed because of being LGBT. However, it appears that things are changing in Iran where executions have stopped in the last few years and homosexuality appears to be a tolerated practice with the police turning a blind eye. This change in attitude seems to be due to international pressure and negative press coverage homosexuality.

The Islamic Republic of Iran is another state that has a poor human rights record and that is hostile to LGBT individuals. Since 1979, Iran has been an Islamic State under Article 2 of the 1979 Constitution of Islamic Republic of Iran. The Iranian Legal System is structured as a civil law system similar to the French civil law system. The government is comprised of the Supreme Leader, the Executive, Judicial and Legislative powers.⁵³

The hovering presence of receiving the death sentence is always present. If a man is a "passive partner" in a homosexual act, he always faces the possibility of death. The "active" partner faces the death penalty under certain conditions, or otherwise receives 100 lashes. Therefore, Iranian men who have sex with men (MSM) or women who have sex with women (WSW) are penalized for their actions,⁴² by punishing men with death and flogging women for same-sex sexual relations⁴³.

In Iran the rules and legislation concerning LGB individuals are varied from those rules concerning transsexual individuals. Historical discussions speak to a varied religious discourse, with many followers of the faith choosing to accept trans-identity as normal within Islam⁴⁴. In 1967, Khomeini published a religious fiqh (Religious Ruling), or Islamic jurisprudence that prescribes guidance based on historical experiences, in his Tahrir al-wasilah. Tahrir al-wasilah was a philosophical important document primarily aimed to Mr Khomeini's followers at its time of publication, but it later cemented into national policy when Khomeini became the Supreme Leader of Iran. Mr Khomeini's religious fiqh validated the rights of trans-identified persons to pursue gender change surgery. Khomeini's progressive fiqh proclaimed that the "prima facie, or al-zahir, view is contrary to prohibiting the changing sex by operation"⁴⁵. As previously reiterated, the pressure to undergo GCS can be intense.

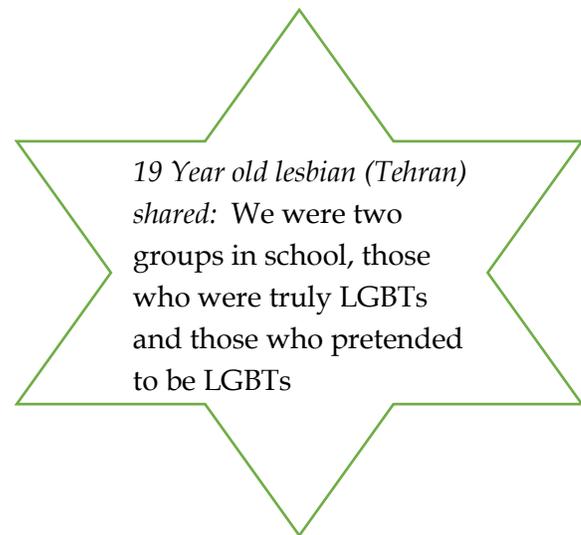
In 2010, the Office for the Socially Harmed at the Welfare Organization of Iran responded to strategic lobbying and activism by trans-identified individuals to reclassify their military exemption from the "mental disorders clause" (Section 33.8) to the "glandular disorders clause" (Section 30). As this "glandular disorders clause is now clearly displayed on their identification, this has, at least in theory, reduced the amount of discrimination trans-identified men receive when seeking employment. The glandular disorders clause is viewed as a more socially-permissible exemption. Najmabadi explains that

"For legal and medical authorities, sex change surgeries are explicitly framed as the cure for a diseased abnormality, and on occasion they are proposed as a religion-legally sanctioned option for heteronormalizing people with same-sex desires or practices" (Najmabadi, 2013) .

Iran's legal system with respect to LGB individuals is emblematic, unequivocal and adamant in its non-acceptance and no recognition of homosexuality. The Judiciary does not recognize the concept of sexual orientation other than the heterosexuals, and thus from a legal standpoint there are no homosexuals or bisexuals, only persons committing homosexual acts⁵⁴. The adverse and broad-ranging impact of these laws and punishment of criminalizing consensual, private same-sex conduct between two adults are punctilious in its interpretation and applications.

The UN Special Rapporteur on the situation of human rights in Iran, Asma Jahangir, in her second report, covering the period January 1 – June 31, 2017, drew on information from a number of expert and civil society sources, including the Abdorrahman Boroumand Foundation, to describe Iran's "serious human rights challenges". Ms. Jahangir criticized the Iranian's Judicial System in her report and condemned the alarming number of capital punishment sanctions for homosexuality that is illegal in the country. Her influential comments have exposed the prevailing harsh circumstances LGB individuals face in Iran. Her position on this subject has also given a ray of hope that efforts are in process to bring peace and comfort in LGBT's marginalized lives.

The 1979 revolution transformed Iran's judicial system. Part of the transformation included the incorporation of Islamic Sharia law. Sharia contains all the guidance communicated by God to the Prophet Muhammad in the text of the Qur'an, as explicated by Muhammad in word and deed⁵⁷. In Iran, Sharia law is largely interpreted by the clerical establishment, which wields great influence over the legislative process, and ensures that laws and regulations do not violate Islamic law. Under this law, the criminal and civil codes were modified and the family laws encompassing marriage, divorce, child custody and many women's rights were the recipient of the biggest changes.



Exposure of Homosexuals to Law

This has been predominantly noted that in countries where homosexuality is illegal, social and cultural attitudes towards Lesbian, Gay and Transgender people force many to hide who they truly are and are being stigmatized and discriminated against, creating great concerns to the security and well-being of the LGB people living there. Below is the discussion based on the findings of the desk reviews and field study

The Fate of LGB in the Light of the Iranian's Law

LGB individuals are attacked and harassed in Iran. The laws are stacked against them; they are vulnerable to harassment, abuse and violence from their families and society. There is an eternal and inseparable connection between religion with sexual norms in Iran and a flourishing legal system and draconian laws which serve to punish those who do not respect religious and sexual norms. Legal sanctions are perpetrated by the government, the judiciary system and by non-state actors such as schools, communities and families. Iranian laws provide no protection against discrimination or harassment on the basis of sexual orientation or gender identity. LGB individuals are denied the legal right to be who they are.

The penal code of Iran uses the term *lavāt*, in reference to the name of the prophet Lot (Lūt in the Qur'ān) and the story of Sodom. Its association with this story of homosexuality is debatable and controversial, but suffices to say that the religious authorities in Iran have chosen to interpret it in this way.

With reference to Iran's Penal Code and in the author's previous books, (Ahmady, 2015) there is an indisputable gap between penal ratifications and executive realities. Recent

studies indicate that punishments and penalties for having homosexual relationships, pederasty/ Paedophilia and lesbianism are maybe met with a combination of corporal punishments such as flogging. In case the deed is repeated and evidenced, the homosexual person will be sentenced or stoned to death, although it has been years since such a sentence has been passed and it seems the justice system and the police tolerate the LGB community as long as they do not congregate in large groups and remain invisible. Paying attention to laws in today's current Iran continues to weigh on then LGB community. Although these laws are considered as human rights violation, the history and background of their implementation in Iranian society go back to 2005. The feedback from the interviewees indicates that they think the lifting of such punishments is unlikely.

When the sexual minorities were asked about their knowledge of laws, many exhibited ambiguities about the details on implementations of the regulations, even though some of the participants used words such as execution or stoning, and flogging. As we observed, as many of the interviewed sexual minorities have an inflated feeling of being in control, a sense of relative carelessness, and no recent cases of execution or stoning, many considered the occurrence of such an event quite unlikely. Cocooned in the safe zone that is located in a secure circle has pushed many to exist within a protective mode, falsely leading many to believe there will be protection for their privacy and for their wish to keep their sexual relationships confidential. Despite being individually concerned over the laws, many had carved out a social niche that merely emphasizes remaining a hidden and invisible member of society. It seems that the Iranian authorities usually turn a blind eye to the gay community's escapades, but even this de facto borderline tolerance can be risky.

The impuissant forces that implement control, power and supervision on sexual desire, although external and compulsory such as laws and police, often transform into internal provoked forces created by the person himself. The individual is now in a vortex of self-censorship and loathing. Strangely, although there is concern or fright about being arrested by the police or the sanction of death, this fear is eclipsed by their worries of disgracing the family and/or the disclosure of their sexual identity that had been carefully hidden or disguised for years.

Considering the above mentioned issues, one can have a clearer image of the effect of the law on the individual's life. There is evidence that the police actions are only against the gathering of sexual minorities' venues in public places, cafes or parks in the city centre that draw the police to their large crowds. These parks are well known hangouts for the LGBT community. During the interviews, the participants revealed they were relegated to visiting well-reputed public places, like special parks in the metropolitan cities of Tehran, Isfahan and Mashhad.

This sort of security response is a classic method to set a moderate and radical atmosphere of traditionalism and to control human communities at various intervals for reasons such as social interest, or supervising interactions. It is a response to the complexity and the interrelatedness of both old and new by tackling such threats. However, the primary goal is not to make arrests or inflict punishment but ostensibly to disperse large crowds in well-known public places for security reasons.

Despite the atrocities being perpetrated against gays in Iran, a deeper analysis on such a projective reaction proves that in reality the heterosexual public's awareness of homosexuality is low. No matter what rationales are put forth, the veracity of sexual minorities' existence cannot be denied or ignored. Yet, what is important here is that obliterating the appearance of sexual minorities is not meant to disguise or cover up their existence. Rather the strategy may be an attempt not to highlight their existence and thus garner legal recognition and international media attention. The governing security system does not insist on drawing attention to this group that defies all acceptable norms of sexual behaviour. As the former Iranian President Mahmoud Ahmadinejad once stated "In Iran we don't have homosexuals like in your country". This eyebrow raising statement may not exactly false. As homosexuality is illegal and punishable, the idea of someone living their life openly gay in Iran is difficult to imagine. Ahmadinejad's now infamous assertion was flat out erroneous as there are plenty of gay Iranians living in the shadows. It is just that the government chooses to ignore them — at least until it doesn't.

Dispersing homosexual groups and preventing them from assembling in public places for occasions such as birthdays, recreations, anniversaries, anniversary of creating Telegram channels, etc. shows the length Iranian society will go to keep sexual minorities swept under the rug. It is done to appeasing the majority who are terrified of and repulsed by homosexuality.

The research study *Forbidden Tale; A Comprehensive Study on Lesbian, Gay and Bisexual (LGB) in Iran* (2018) witnessed the omniscient threat of police security. The police and morality enforcement forces interrupted the field study several times causing participants to quickly scramble in order to avoid possible recognition. It is worth mentioning that the measures were taken differently in each metropolitan city like Tehran, Mashhad, and Isfahan and even in various areas within the city. In addition to the difficulties securing participants who were willing to be interviewed, this cloak and dagger routine when the police interrupted made the interview process additionally laborious.

During an interview a gay man from Mashhad shared his feeling;

“Communities of sexual minorities provoke the current susceptibility based on their type and context. Gatherings for celebrating birthday and anniversary trigger various police reactions in case transgender people or those with special makeup and clothing are present. Specially Mashhad and in Tehran, I have heard some [good] things have happened for homosexuals. Such as parties and other issues, but Mashhad and both cities are home to shrine of important religious figures) are horrible, I don't know why at all”.

Predictably, the study discovered that sexual minorities' sense of trust has been eroded owing to traumatic experiences of police arrests and attacks at parties or in public places. Building trust with the interviewees for the face to face conversations and interviews necessitated the field study team to employ additional time and energy. During the research, many cancelled their visits at the last moment even after many attempts were made for arrangements, owing to the chronic fear of discovery and mistrust. In particular, the team members in the field study in Isfahan encountered these last minute cancellations with alarming regularity and on numerous occasions. Therefore, fieldwork team made greater attempts to select larger homosexual samples.

Interpretation of the interviews indicated that sexual minorities' concerns and anxieties were not specifically limited to governmental security forces but to the potential disclosure of their sexual orientation to the hidden enclaves of family, friends and relatives.

Due to lack of legal protections, LGB individuals face widespread social dishonour that are heavily influenced by conservative and religious values. In essence, their identity is negated in daily life. Graph No.11 shows the percentage of violence, discrimination and humiliation inflicted on homosexuals in Tehran, Mashhad and Isfahan. Based on the graph, most violence and discrimination is seen in Isfahan (80%) followed by Mashhad and Tehran (66.6% and 7.1% respectively). Compared to Tehran, Mashhad and Isfahan are more traditional and religious and thus consider homosexuality as an abnormality and deviation. It is unsurprising that these two cities have a high rate of violence against homosexuals.

The opponents of homosexuality see it as moral corruption or something unnatural. Homophobia and stigmatization of homosexuality in these societies are the major causes behind violence and discrimination. In Iranian society, homosexuality is punishable under the law. From a religious perspective, it is seen as an unacceptable and abnormal conduct. Since homosexuality is considered a flagrant social mismatch and is stigmatized, there are many who believe that homosexuals deserve the violence and discrimination.

In general, the public perceive homosexuals as perverts who threaten the moral health of the society. Aggressive attacks on homosexuals are still rampant; many homosexuals try to have anti-

A 25 Year old guy from Isfahan shared;

I'm homosexual; I'm an emotional person. I have made friends with a person who was looking sincere and nice. I became intimate with him. After sometime he asked me to go to his house along with him. He showed extreme warm feelings and intimacy and said that we are a real and perfect match. It overwhelmed me deep down. Eventually I went there and found out that there were two, three people more. They hit me severely, tied my hands and feet and did whatever they wanted. Now I'm bleeding, ruined, my mind is ruined.

Homosexual attempts categorized as hate crimes based on the law.

CONCLUSION & RECOMMENDATIONS

LGB individuals in Iran belong to a silenced minority who often are compelled to hide their sexual orientation from their families and friends out of a well-founded fear of reprisals and social rejection. In Iran, sexual minorities cannot take advantage of their constitutional and civic rights in Iran and cannot defend themselves when involved in an unhealthy violent relationship. In fact LGBT are comprehensively and systematically denied legal protection. As the laws in Iran already view their relationship as blatant contravention of religion norms and legal violations, sexual minorities already terrified of disclosure do not have a comfortable relationship with the legal system, police and/or law enforcement.

While homosexuality is contentious in many countries, in Iran it is the excuse for the possible arbitrary arrest or possible detention. Whether because of politics, religion, or common cultural practices, homosexuals within the Iran continue to fight for their lives and their right to love. Only with the cessation of these practices and the advocacy of human rights for all people will human beings truly achieve peace.

In Iran, Homosexuals living openly as a gay person is not easy in Iran; same-sex partnerships exist in secret. Women have even less freedom than men. Even if she is a lesbian, and as such detests intimacy with men. A self-determined and self-reliant life is unattainable, especially for women coming from smaller environment, poor and strict religious families. Cases have been identified in which lesbian women have been put under pressure by their relatives until they “consented” to marriage. For these women, marriage always means the end of a possible former same-sex relationship.

Although part of the Iranian population has liberal views, conservative social restrictions also exist. The conservatives consider this homosexuality as a violation of the "divine order". The study *Forbidden Tale; A Comprehensive Study on Lesbian, Gay and Bisexual (LGB) in Iran* (2018) proved that the community's approach and reaction is a greater threat to LGB individuals as compared to laws. The situations mentioned in the article narrate that acceptance and introduction of sexual identities is a pre-requisite to development. Changing people's attitude is need of the day. Lack of sexual education is a prime reason of such a volatile attitude towards people with different sexual orientation other than heterosexuals. Initiatives should be taken to create awareness and empathy so that acceptance could chip in people's lives.

Although this study that over 400 individuals may not be representative of the general population of LGB individuals in Iran but by far 400 interviews are more than enough to achieve a high standard and credible social research method. This research studies undoubtedly and for the first time offers a better window into the lives of LGB individuals in Iran who live covert lives. It is the hope that the findings and conclusions in this study will lead to new policies and interventions and changes in attitude of public. Hopefully future research studies should replicate this research with a larger, possibly nationally representative population, and outline the extent to which results vary by individual who identified as LGB.

Meaningful action can only happen within a favourable environment with open minded policy makers, politicians and the political elite. This includes alteration of traditional ideology and rigid norms. In Iran, where homosexuality is still criminalized, projects to support the social and economic inclusion of sexual minorities are either impossible to implement, or unlikely to make a significant difference. By emphasizing that LGBT exclusion affects everyone, we can

hopefully help countries to realise that putting an end to discrimination will reap a wide range of benefits.

Since the Islamic revolution in Iran, there have been strenuous but not always successful efforts to bury this past (Jaspal, 2014). This article examines this unvisited field of sexuality in Iran by looking into the multiple complex dimensions of sexual identity and nuances within the LGB community against a rising recognition of one's sexual orientation. This study has certainly maintained this stance that as long as changes not happening in attitude of public and the law is not flexible enough to accept the sexual orientation's diversity, the troubled lives of LGB people would continue to be more troubled in Iran. As the world is changing and tolerance and acceptance are the prime attributes and pre-requisites for development, Iran is lagging behind and still has a lot of catching up to do. LGBs are citizens and their lives and safety are equally matter. In this regards, the law makers need to play a proactive roles to synchronise policies with the international human rights mandate.

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London Law university and the IKWR Women's Rights Organisation, and recipient of 2018 first place winner award of Literary Category by Global P.E.A.C.E. Foundation at the George Washington University in D.C. Kameel has worked mainly on international and social development on gender related issues. His previous pioneering research books have garnered International attention. *In the Name of Tradition* (A Country Size Comprehensive Study on Female Genital Mutilation FGM/C in Iran), published by Uncut Voices Press-Oxford- 2015 and *An Echo of Silence* (A Comprehensive Study on Early Child Marriage ECM in Iran) published by Nova Science Publisher, Inc., New York 2017 also his recent book; *A house on water* (A Comprehensive Study on temporary Marriage) which is under printing.

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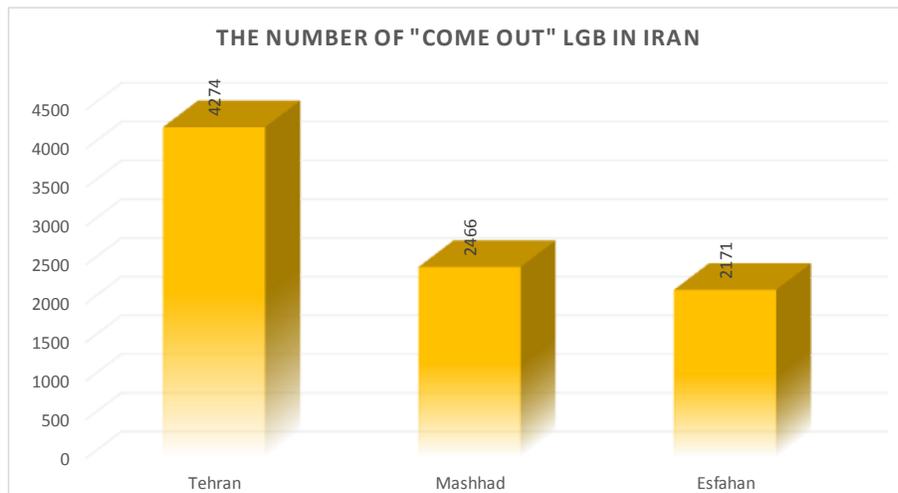
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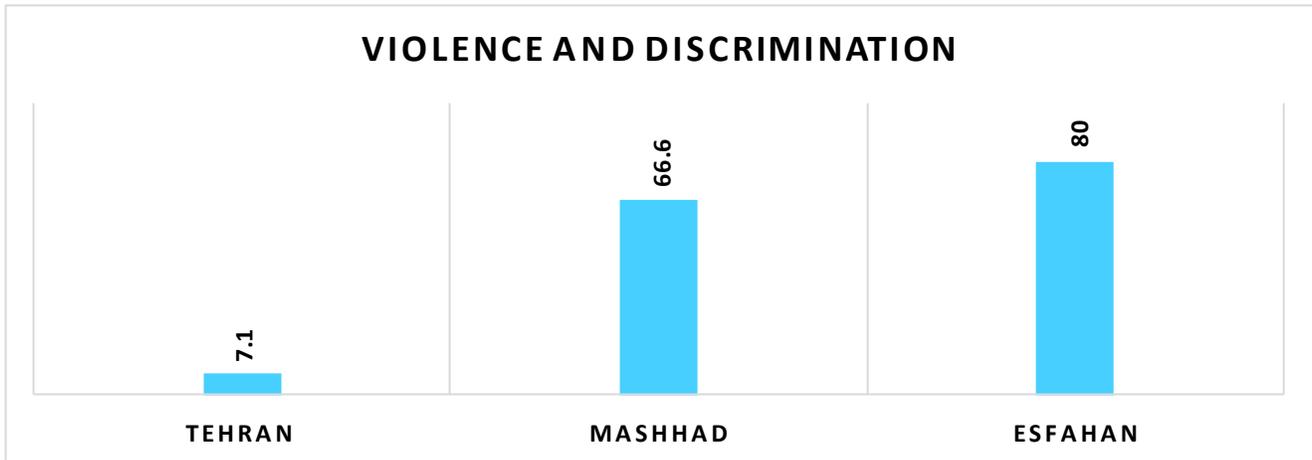
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each city is given

A brief overview of below;

Graph 1 shows the population of LGB in Tehran, Mashhad and Isfahan. On this basis, Tehran with 4274 homosexuals has the biggest number followed by Mashhad, 2466 and Isfahan,



Violence & Discrimination by the Social System

Graph No.2: Percentage of violence and discrimination against homosexuals