

# With Shoes Tied Around My Neck: Trans-Identified Exceptionalism and (Un)intentional Realities for LGB in Iran

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*This paper explores the history and modern-day social relevance of state-sanctioned acceptance and support of trans-identified individuals in Iran. As a result of a declaration made by Supreme Leader Ayatollah Ruhollah Khomeini in 1987, Gender Confirmation Surgery (GCS) has become a state-subsidized option for trans-identified persons looking to transition. Iran now completes more GCS annually than almost any other nation. Additionally, Iran furnishes its newly transitioned citizens with new identification, corresponding rights, and other tools to proceed in a gender-segregated society. Although these statistics may seem progressive, other alternative expressions of sexual identity are illegal and even punishable by death. Research indicates that trans-exceptionalism in Iran creates pressure for non-trans-identified men who have sex with men (MSM) and women who have sex with women (WSW) to undergo GCS in order to gain legality, safety, and acceptance in Iran. Furthermore, the social experience of the LGBT community as a whole has not caught up to the progressive policies that some in this community enjoy.*

## Introduction

On the holy day of Ashura in 1987, Fereydoon Molkara, a 37-year-old Iranian man of faith who desperately wanted to gain acceptance as a woman, walked onto Ayatollah<sup>1</sup> Ruhollah Khomeini's compound with shoes tied around his neck and a Quran in his hand<sup>2</sup>, in an act symbolizing a request for shelter. Fereydoon utilized this symbolic gesture as he searched for recognition of an identity that he could claim publicly without fear of reprisal. Following the historic meeting with Khomeini, the single most influential man in Iran at the time, Fereydoon left the compound waving a historic authorization in the form of a fatwa<sup>3</sup>, or legal judgment, granting his request for Gender Confirmation Surgery (GCS)<sup>4</sup>. Khomeini addressed the fatwa to the chief prosecutor of Iran and to the head of the medical ethics committee, permitting Fereydoon to receive a sex change procedure that would align his self-gender identification with his anatomy (McDowall & Khan, 2004).

Fereydoon, soon to be the transgender woman Maryam Molkara, was impassioned by the nationalistic fervor brought on by the Iranian revolution of 1979. The revolution, led by Ayatollah Khomeini, provoked strict ideological scrutiny of every aspect of Iranian culture, including that of sexual and gender identity

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<sup>1</sup> The title "ayatollah" is given to a high-ranking Shiite religious leader in Iran who wields considerable legal and political power. Ayatollah Ruhollah Khomeini was the Supreme Leader of the Islamic Republic of Iran from the Iranian Revolution of 1979 until his death in 1989. His significance was not only as the most senior leader of the nation, but also as the charismatic leader of one of the most massive revolutions of the 20th century.

<sup>2</sup> Carrying motifs of religious symbolism depicting request for shelter (shoes, Quran) are common rituals conducted during the holy day of Ashura. It depicts the heroism of the Imam Hossein, accepted as the third Imam by Shi'a Muslims, who Shi'a believe was martyred on that day.

<sup>3</sup> Held as binding for the followers of the jurist who proclaims it, depending on their rank.

<sup>4</sup> Gender Confirmation Surgery, previously referred to as Sexual Reassignment Surgery, is the current term preferred by advocates.

(Najmabadi, 2011, p. 534, 542). In the years following the revolution, Khomeini rose to the position of Supreme Leader of Iran. Simultaneously, the critical reassessment and integration of religion into government presented an opportunity for trans-identified people to eventually live as citizens aligned with their government and faith while expressing their self-identified gender.

The radical governmental authorization granted by Khomeini in 1987 validated Fereydoon's ability to identify publicly as the trans-woman, Maryam Molkara (Tait, 2008). She pursued her own GCS in 1997 after securing support and funds from family and friends (Human Rights Watch, 2010). Molkara served as an advocate for GCS within the Iranian healthcare system, eventually co-founding an organization with members of the Supreme Court and judiciary to help individuals with issues surrounding their sexual identity (McDowell & Khan, 2004). She was instrumental in advancing the rights and legal status of trans-identified individuals in Iran, not only by securing the fatwa for herself (and others in turn), but also by refusing to accept a society that remains unstructured to fully accept or deny her identity.

A confluence of religio-legal jurisprudence, which characterizes Iran's governmental system and Molkara's victory, has created a progressive legal reality for her and for other trans-identified individuals. The legal barrier for same-sex desire in Iran however, has not been addressed. A continuing mismatch between legal realities for LGB identified and trans-identified Iranians, coupled with the ongoing struggle for social acceptance for the entire LGBT community, marks the strides and shortcomings that define trans-exceptionalism in Iran.

### **Status of LGBT Individuals in Iran**

Traditionally in Islam<sup>5</sup>, individuals who identify as gay or lesbian are reduced only to their sexual behavior (Cole, 2006). Iranian penal laws are rooted in an interpretation of Islam that does not acknowledge same-sex desire as a permanent state. Therefore, Iranian men who have sex with men (MSM) or women who have sex with women (WSW) are penalized for their actions (Cole, 2006). The Iranian penal code punishes men with death and women with flogging for same-sex sexual relations (Human Rights Watch, 2010; Oldershausen, 2012).

Trans-identified individuals are not specifically addressed in the Quran (The Safra Project, 2014). Historical discussions speak to a varied religious discourse, with many followers of the faith choosing to accept trans-identity as normal within Islam (Safra Project, 2014). In 1967, Khomeini published a religious *fiqh*, or Islamic jurisprudence that prescribes guidance based on historical experiences, in his *Tabrir al-wasilah*, which validated the rights of trans-identified persons to pursue GCS. Khomeini's progressive *fiqh* proclaimed that the "prima facie, or *al-zahrir*, view is contrary to prohibiting the changing sex by operation" (Khomeini 1968, p. 753-5). *Tabrir al-wasilah* was a philosophically important document primarily to Khomeini's followers at its time of publication, but it later advanced into national policy when Khomeini became the Supreme Leader of Iran.

### **How a Fatwa Became a National Policy**

The impact of the Iranian Revolution of 1979 on the landscape of Iranian society cannot be overstated. It introduced a series of legal and cultural norms that differed from those of the previous – largely secular – monarchy. During this early period, Iranian society underwent a wave of "cultural purification"<sup>6</sup> (Najmabadi,

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<sup>5</sup> The unethical nature of same-sex relations arguably reverts to the Old Testament story of Lot in which God condemned men having sex with men (Safra Project, 2014).

<sup>6</sup> Iran saw a process of Islamification of state institution, which aimed to rid the nation of the Western influence that had modernized the nation for most of the 20<sup>th</sup> century.

2011). Some of the most profound facets of this period of Islamification related to Islamic ethics and ideology. Such reforms included an overhaul of the education system in order to accelerate ideological changes, women becoming legally obligated to cover their hair as a symbol of morality and modesty, and sexual minorities, including trans-identified individuals for a short period, becoming criminalized under Islamic law (Paivandi, 2008; Human Rights Watch, 2010).

Trans-identified activists confronted the newly institutionalized rejection of trans-identity during the period of “cultural purification” (Paivandi, 2008). Similar to the regime, they underwent a process of Islamification that painted their cause with the color green, the color of Islam (Najmabadi, 2011). As they advocated for acceptance in the new Islamic regime, they reminded the Supreme Leader Khomeini of his own thinking pertaining to the subject that he had published in the *Tabrir al-Wasilah*, especially with regard to an individual’s right to live in harmony with his or her gender identification. Their advocacy eventually resulted in Ayatollah Khomeini’s 1987 fatwa, issued on the premise that individuals have certain religious and civic duties they are obliged to perform according to their gender and sex. Ultimately, this confirmed that GCS is permitted on a policy level within an Iranian interpretation of Islam.

Critical to this fatwa was an understanding that Iran enforces gender segregation in many public and private places. Furthermore, conformity to one’s identified sex is imperative for participation in many aspects of daily life, such as entering a mosque, sitting in a classroom, dressing in the morning, and even marriage (Shakerifar, 2011; Tait, 2009). Individuals can be penalized if state-monitored conformity to gender norms is not met; public humiliation and incarceration are common reprisals. Thus, by allowing individuals to change their anatomy in accordance with their internal gender identity, Khomeini’s fatwa sought to reconcile conflicts between gender, sex, and expectations for public behavior.

For Molkara, Khomeini’s fatwa validated her ability to identify with her body and identified gender, her right to a free and peaceful social and public life, and her right to practice her faith in accordance with her gender presentation. Globally, the fatwa paved the way for Iran to eventually have one of the highest rates of GCS, second only to Thailand (Human Rights Campaign, 2013; Nelson, 2009). Due to the legality and affordability of GCS in Iran, many trans-identified individuals from European and Arab nations still come to Tehran for the surgical procedure.

### **Continuing LGBT Marginalization**

From the outside looking in, Iran’s acceptance and accommodations speak to “progress for transgender people in Iran” (Gender Across Borders, 2009). The progress in policy, however, has not fully carried through to the social experience of trans-identified individuals. The experiences of the trans-identified population and larger queer communities are often conflated, and LGB-identified individuals are pulled into the social complications that trans-identified individuals face. Although Iranian religio-jurisprudence has initiated a progressive legal reality for trans-identified individuals, legal barriers against same-sex desire remain. As it does for trans-identified individuals, the greater social environment creates further obstacles for gay and lesbian-identified individuals, regardless of the legal rights afforded either.

One area in which this can be seen is military service. Obligatory service in the military opens many doors for Iranian men, especially with the accrual of a document card. Upon completion of service, men are given a card that grants them many privileges, including the ability to qualify for a passport, officially buy or sell goods, participate in public sector activities, and gain employment with the government (Samimi, 2013). 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 exemption from the military from “mental disorders clause” (Section 33.8) to the “glandular disorders clause” (Section 30) (Najmabadi, 2011, p.2). This

has, in theory, reduced the amount of discrimination trans-identified men receive when seeking employment as a more socially-permissible exemption is clearly displayed on their identification. Gay-identified men and MSM, however, must still abide by the “mental disorder clause,” which categorizes them as “moral and sexual deviants” (HRW, 2010, p.24). For them, a card is stamped with the words “sexual deviant” or “behavioral disorder” as a “red-exemption,”<sup>7</sup> stigmatizing labels that render the person virtually unemployable (HRW, 2010, p.24).

The resulting policy remains a topic that is constantly evolving, with many state leaders continuing to weigh in. Today, Hasatoleslam Kariminia, the cleric responsible for the bureaucratic administration of gender confirmation procedures, states, “the right of transsexuals to change their gender is a human right” (Human Rights Watch, 2010). The rights of lesbian, gay, and bi-sexually-identified individuals, however, are another story, as their experiences remain tied to those of trans-identified individuals.

### **The Consequences of GCS for LGB and Trans-identified Individuals**

In an environment in which same-sex conduct is criminalized and GCS is state-sanctioned, human rights experts have expressed concern that members of Iran’s LGBT communities are being incentivized to undergo surgery to attain a certain level of social acceptability and recognition (HRW, 2010). Najmabadi explains, “[f]or 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 religio-legally sanctioned option for heteronormalizing people with same-sex desires or practices” (Oldershausen, 2012). Progressive policies towards trans-identified persons are simultaneously capturing other sexual minorities in a harmful web of social and legal isolation, institutional violence, coercion, and oppression.

A certification available to trans-identified individuals from the Legal Medicine Organization of Iran opens many doors for trans-identified persons, including authorization for GCS, hormonal procedures, state-provided health insurance, social work support, financial assistance in the form of subsidies for housing and sexual reassignment surgery, exemption from obligatory military service, issuance of new identification records, and the ability to legally wear clothing associated with one’s gender identity (Najmabadi, 2011). These doors remain shut without surgery and certification. Obtaining the rights afforded by this surgery is critical to survival in Iran.

Nevertheless, policy has not alleviated the fear of social stigmatization and communal discrimination that individuals who have undergone transition harbor. As one 25-year-old trans-woman from Tehran explained, “[i]n Iran being a transsexual means having no place, no identity, and being treated like a whore. Even if one had a sex change, it’s the same” (HRW, 2010). Trans-identified individuals experience trauma when they are rejected from their families, are victimized by sexual and gender-based violence, and are unable to hold steady employment due to their gender identity. These factors render such individuals particularly vulnerable to social and state-sanctioned abuse, and can expose them to risk for poverty, homelessness, substance abuse<sup>8</sup>, HIV<sup>9</sup> and other sexually transmitted diseases, and engagement in sex work that similarly heightens these risks

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<sup>7</sup> “Red-exemptions” refer to the physical color of the card exemptions from obligatory service due to sexual orientation used to be printed on previously (Samimi, 2011). Section 33 clauses are still viewed as “red-exemptions,” although this no longer has any link to the color of the documentation card (HRW, 2010, p. 24).

<sup>8</sup> Iran has the highest opium and heroin addiction per capita in the world, with an estimated 200,000 to 300,000 people who inject drugs (PWID). Nearly one in seventeen Iranians are addicted to some form of opiate (Razzaghi, 2006, p.2).

<sup>9</sup> Two-thirds of Iran’s 96,000 HIV+ individuals are intravenous drug users, with the highest concentration in Tehran (Razzaghi, 2006, p.2).

(Melendez, Bonem, & Sember, 2006). These harsh social realities often spill over into the lives of LGB-identified Iranians.

Many employers openly discriminate against people they deem as queer, rendering trans-identified individuals with little financial means. As sex work can be conducted legally in Iran through the Shi'a notion of a temporary marriage,<sup>10</sup> participation in sex work is common and protected. For a trans-identified person who has undergone GCS, it is legal to have a temporary marriage conducted as often as once per hour because there is no chance of pregnancy necessitating future parental responsibilities on the part of the soliciting party (Eshaghian, 2008). This religio-legal loophole gives Iran the appearance of a sweepingly liberal state, which belies reality.

### **Heart of a Lion**

A cross-sectional study conducted of all GCS performed in Iran from 2002 to 2009 indicates that, in proportion to the nation's total population, the number of female-to-male transitions in Iran exceeds the international average (Ahmadzad et al., 2011). This finding must be contextualized within a patriarchal socio-cultural framework. In pre-modern Iran, women who wore men's clothing to battle for the country or participate in protests were seen as powerful and worthy of honor (Najmabadi, 2005) and as having "the strength or heart of a lion" (Carter, 2011, p. 815). Likewise, women who transition into men gain a myriad of gendered rights. The new gendered responsibilities contribute to the old cultural myths of strength and righteousness of the motherland (Carter, 2011). This is why women who transition into men have an arguably easier time in Iranian society, and perhaps why there is an exceptionally high rate of female-to-male transitions in Iran.

Conversely, men who transition into women lose many legal rights and social privileges, often finding themselves further ostracized. In patriarchal Iran, it is seemingly unimaginable to empathize with intentionally abandoning the rights attributed to men, as doing so may indicate weakness. In one case, due to the heightened estrangement she felt after GCS, a trans-identified woman expressed the desire to either have the surgery reversed, or commit suicide (Carter, 2011).

### **Policy Recommendations**

In order to complement the strides Iran has taken to protect trans-identified individuals through policy, further policy recommendations must address the religious and political abandonment as well as the social stigma present for other sexual minorities. These proposed policy changes encompass a series of inclusive measures to alter the legal, social, and economic landscape for the entire LGBT community. This includes encouraging Iran to fully embrace all articles of the Universal Declaration of Human Rights— to which it is a signatory— and other relevant conventions (UN, 1948).

Iran must enact policies that value the inherent dignity of all citizens by abolishing laws that criminalize sex outside of marriage and same-sex conduct, sanction arrests under morality laws, and codify such punishments as execution and torture. Reforms will also need to include the perpetuation of harm-reductionist approach in policing tactics towards people who use drugs, sex workers, and the homeless. Recently, the United Nations Office on Drugs and Crime hailed Iran for being a regional leader in the field of harm reduction (UNODC, 2014; Tanner, 2013). This harm-reductionist approach must continue.

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<sup>10</sup> Temporary marriages can last from several hours to many years (HRW, 2010, 82). Sigeh is a pre-Islamic contract traditionally used by Arab tribes during long-distance trade (View from outside Iran, 2006). Sigeh is not validated by many branches of Islam.

In addition, Iran must demonstrate a commitment to protecting— rather than criminalizing— victims of gender and sex-based violence. By facilitating a cultural environment that does not condone the harassment and persecution of sexual minorities, Iranian society may also move towards becoming a freer and more open community both for trans-identified individuals who have a degree of policy protection and for gay, lesbian, and bisexually-identified individuals who do not.

### **Role of Social Workers in Future Reforms**

Social work education was introduced to Iran in 1958 by a U.S.-trained Iranian social worker (Iran Association of Social Workers, 2014). Social work currently holds an established role in post-revolutionary Iran, advocating for public health as a social justice issue (Hansen, 2012). In 1981, the State Welfare Organization was founded as an overarching agency responsible for “prevention, rehabilitation, social participation, and social affairs” (Padyab & Ghazinour, 2013, p. 807). Iranian social work training prioritizes empathy, compromise, positive communication skills, peaceful intervention, and social change (Padyab & Ghazinour, 2013). Like their colleagues around the world, Iranian social workers aim to meet the needs of and enhance the wellbeing of all individuals as classified in the ethics of the International Federation of Social Workers, the Iran Association of Social Workers, and the National Association of Social Workers alike (National Association of Social Work, 2008).

Currently, a trans-identified individual pursuing GCS in Iran receives social work support from the same government departments that provide medical expense subsidies, national health insurance, and housing assistance (Najmabadi, 2011, p. 8). Social workers assist patients in navigating the “labyrinth of cognition and change” surrounding state-sanctioned transition (Najmabadi, 2011, p.6). They are instrumental in helping patients obtain diagnoses, acquire permits to dress in accordance with their gender identity, navigate the bureaucratic path to GCS, and recover from surgery safely (Eshaghian, 2008). Social workers and naturally, through extension, peer advocates, provide support in ways that complement Iranian cultural traditions by reaching out to elders or encouraging trans-identified individuals to cultivate the support of family members prior to undergoing GCS (Najmabadi, 2011). At a policy level, social workers should continue to take responsibility for ushering in the changes brought forth through the recent publication of The Diagnostic and Statistical Manual of Mental Disorders V in a culturally appropriate way.

Given the societal and familial stigma attached to persons who have undergone GCS, the role of social workers must reach beyond simply connecting people to services. There is little literature focusing on the role of social workers within the trans-identified community. Future research must enable social workers to help trans-identified individuals find sustainable employment and cultivate family support, ensure the safety of those with unsupportive families or communities, connect individuals with legal support if necessary, and fulfill the mental health needs of their clients.

Social workers have a similar obligation to the larger queer community in Iran. They hold a unique and progressive position within the government that affords them the ability to catalyze change in entrenched attitudes and beliefs that marginalize and repress the LGB community. Social workers must capitalize on the reality that progress is in the hands of Iran’s disproportionately young population that is open to confronting historical and social norms. It is imperative that social workers educate the youth and have them serve as advocates for change when confronting policymakers, uniting LGBTQ allies and advocates, and enhancing religio-political belief systems to include space and rights for gay and lesbian Iranians.

### **Conclusion**

For Maryam Molkara, Iran’s strides towards institutionally validating trans-identity have arguably provided with her safety, purpose, and hope. Nearly fifty years of advocacy within a unique religio-political space and time have resulted in exceptional policies for trans-identified persons in Iran. The evolution of

these progressive policies is immensely laudable and must be appreciated on a global stage. Still, the unintended consequences these have for gay, lesbian, and bi-sexual identified individuals through heightened stigma and the resulting “sex change or die” vacuum must not go unchanged. Further, the social realities for the entire LGBT community leave much to be desired. Victories for trans-identified individuals in Iran cannot be embraced as a victory for all sexual minorities. With the continued strength, organization, and perseverance exemplified by Molkara, however, Iran can one day develop into a safe and open place for all.

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