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IRAN: MURDER OF 20-YEAR-OLD GAY MAN HIGHLIGHTS URGENT NEED TO PROTECT LGBTI RIGHTS

The Iranian authorities must promptly conduct an independent, impartial and effective criminal investigation into the murder of 20-year-old **Alireza Fazeli Monfared**, who self-identified as a non-binary¹ gay man, in Ahvaz, Khuzestan province on 4 May 2021, and bring those responsible to account in fair trials and without recourse to the death penalty, Amnesty International said today. Investigations must examine whether the crime was motivated by hostility and prejudice on the grounds of his gender identity and sexual orientation.

Marking the International Day Against Homophobia, Biphobia, Intersex-phobia and Transphobia, the organization is renewing its calls on the Iranian authorities to repeal laws which criminalize consensual same-sex relations in Iran, including through the application of the death penalty and flogging, and which ban clothing, hairstyles, and other forms of gender expression that do not conform to strict binary gender “norms” enforced by the establishment. Amnesty International reiterates its serious concerns that these laws legitimize and act as official incitement to or justification for systematic discrimination and violence against lesbian, gay, bisexual, transgender and intersex (LGBTI) individuals in Iran, including in state custody, on the street, at school and workplace or in the home. They also result in impunity for arbitrary arrest and detention, torture and other serious human rights violations by state actors on the basis of perceived or real sexual orientation and gender identity. Such laws further foster an environment where serious injury of LGBTI individuals at the hands of non-state actors are tolerated and carried out with impunity.

Amnesty International interviewed three individuals with direct knowledge of Alireza Fazeli Monfared’s situation who had known him for months or years prior to his murder, including his partner, Khalil Abiat (Aghil), a close friend, Masih², and a consultant psychotherapist, Dr Morris Setudegan, all of whom are based outside Iran. The organization also spoke with several human rights defenders with knowledge of his case and the human rights violations and abuses that LGBTI people systematically face in Iran. The organization also reviewed voice recordings that Alireza Fazeli Monfared sent to his partner in the months prior to his horrific murder in which he expressed concerns about facing pressure in Iran because of hostility and prejudice on the grounds of his gender expression and sexual orientation.

MURDER OF ALIREZA FAZELI MONFARED

According to the individuals interviewed by Amnesty International, on 4 May 2021, Alireza Fazeli Monfared was forcibly pushed into a car by several male relatives, including a half-brother, in his hometown of Ahvaz, Khuzestan province, and driven to an unknown location.

The next day, on 5 May 2021, the male relatives telephoned Alireza Fazeli Monfared’s mother and told her they had killed him and identified the location of his body, which they said they had dumped under a tree. His friends told the organization that, based on information they received from two primary sources inside the country, he was killed through having his throat slit with a knife.

The same sources said that Alireza Fazeli Monfared’s family did not hold a funeral ceremony, as is custom in Iran. It is unclear whether this resulted from warnings by the authorities to his family against holding one after his murder received widespread media attention. Amnesty International has previously documented a pattern of the Iranian authorities instructing families of individuals who were unlawfully killed or whose deaths had taken place in custody under suspicious circumstances not to hold funeral ceremonies or other commemorations.

¹ The term non-binary denotes a gender identity and is an umbrella term for people whose identity falls outside the gender binary. Some people do not identify wholly or at all with the gender they were assigned at birth – some people consider themselves as having no gender at all.

² The individual’s last name has been withheld for their protection.

On 11 May 2021, the deputy chief of police of Khuzestan province, Yadollah Amiri, confirmed in a media interview³ that Alireza Fazeli Monfared had been murdered by having his throat cut and that his body had been handed over to his family on 9 May 2021 in accordance with legal procedures and after an autopsy had been carried out by the Legal Medicine Organization of Iran, a state forensic institute that works under mandate of the judiciary. He said that the prosecution authorities had attended the alleged crime scene to gather evidence and efforts were underway to locate the suspects, who were on the run, and arrest them.

As of 17 May 2021, Amnesty International understands that the authorities had not yet arrested any of the perpetrators, even though the identities of those reasonably suspected of having carried out his abduction and murder are known to the authorities. Given the state sanctioned discrimination and violence against LGBTI people in Iran and the prevailing climate of impunity for such human rights violations, there are concerns that Alireza Fazeli Monfared's murder may go unpunished.

Given the extreme vulnerability of LGBTI persons to violations of the right to life in Iran and around the world, the investigation into the murder of Alireza Fazeli Monfared must consider the role of risk factors pertaining to his sexual orientation and gender identity, and employ the investigatory measures used in the investigation of hate crimes to establish the truth about the context of the murder and the motivation of the killers.⁴

Under international law, the authorities' failure to prevent, investigate, sanction and provide reparations for acts of killings, including hate-related killings of LGBTI people, would constitute in and of itself a violation of the right to life by the State, even when those who commit the killings are non-state actors.

RISK FACTORS CONNECTED TO GENDER EXPRESSION AND SEXUAL ORIENTATION

Information gathered by Amnesty International suggests that Alireza Fazeli Monfared's gender identity and sexual orientation were key risk factors in his murder.

According to informed sources interviewed by Amnesty International, Alireza Fazeli Monfared, who self-identified as a non-binary gay man, had been subjected to repeated homophobic and transphobic harassment and death threats by several of his male relatives, including his half-brothers and uncle, because he did not conform to the binary socio-cultural gender stereotypes and "norms" in Iran and socially constructed expectations of "masculinity". Amnesty International understands, from information provided by his friend and partner, that he had never reported such incidents to the police out of fear of being mocked or facing violence and prosecution at the hands of the authorities.

Alireza Fazeli Monfared's partner and a close friend of his separately told the organization that, on at least one occasion, in August 2020, the authorities had arbitrarily arrested and detained him for several days in connection with his Instagram account on which he had posted videos of himself dancing, amongst other things. Following his release, according to these informed sources, he was attacked in his home by a male relative who pulled out a gun and threatened to kill him because he said that Alireza Fazeli Monfared's arrest, and the reason for his arrest, was a source of "shame" to the family and damaged their "honour".

Alireza Fazeli Monfared's partner and friend told Amnesty International that in recent years, several male relatives had attempted to physically assault him and, on at least one occasion, around two years ago, they forcibly entered his home, but he was able to escape with the help of his mother.

Amnesty International understands from the sources interviewed that several male relatives in Alireza Fazeli Monfared's family often complained to his father about the way he expressed himself through his clothes, make-up, speech and manner, including in the videos and pictures he posted on his Instagram account.

Amnesty International has listened to several voice messages that Alireza Fazeli Monfared had sent to his partner outside Iran in March 2021 in which he had said that he felt under pressure because he did not have the freedom to freely express himself in Iranian society and that he was making plans to leave the country. The organization understands that he had been due to leave the country a few days after the date he was murdered.

According to the individuals Amnesty International interviewed, including consultant psychotherapist, Dr Morris Setudegan, whom Alireza Fazeli Monfared had consulted on LGBTI rights in European countries, including gay marriage, he had been making plans to leave Iran as he felt constricted in the country because he could not freely express his

³ Rokna News, *The murder of Alireza Fazeli in Ahvaz was honour-based*, 11 May 2021, <https://bit.ly/3uWmWDz>

⁴ UN Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions on a Gender-Sensitive Approach to Arbitrary Killings, June 2017, UN Doc. A/HRC/35/23.

gender identity and sexual orientation, had faced threats from relatives, and was forced to live a double life, all of which caused him distress and anguish.

DISCLOSURE OF SEXUAL ORIENTATION ON MILITARY EXEMPTION CARD

Amnesty International understands that two days before his murder, on 2 May 2021, Alireza Fazeli Monfared had received a military exemption card, exempting him from compulsory military service on the basis of a provision in Iran's military regulations which stipulates that individuals with "perversions that are contrary to social and military values (including sexual perversions and homosexuality) can be exempted from military service for six months or, if proven by a medical facility, permanently."

This exemption clause for gay, transgender and gender non-conforming individuals is listed under section 5 (7) of the military regulations, under the category of "mental illnesses". Alireza Fazeli Monfared's exemption card references clause 5 (7) as the reason for the exemption, revealing to anyone who views the card and is aware of the relevant provisions in Iran's military regulations that the individual has been exempted on the basis of their gender identity or sexual orientation. Such non-consensual disclosure of sexual orientation and gender identity is a breach of the right to privacy and puts gay, transgender and gender non-conforming individuals in Iran at risk of violence and discrimination.

While this provision is discriminatory and degrading towards gay, transgender and other gender non-conforming persons, and treats homosexuality as a form of mental illness or psychopathology in spite of clear statements to the contrary from various psychiatry bodies across the world and the World Health Organization,⁵ it is commonly used by gay, transgender and gender non-conforming persons in Iran to seek an exemption from compulsory military service to protect themselves from homophobic and transphobic abuses prevalent in military settings.

According to informed sources, Alireza Fazeli Monfared had served several weeks of military service when he turned 18 before applying for an exemption card because of the abuse he received from the other conscripts in connection with his gender expression. The organization understands that he had made complaints to officials in the army but had received no support.

Alireza Fazeli Monfared's partner, Khalil Abiat (Aghil) who is an Iranian asylum seeker based in Turkey and had been expecting his arrival later in May 2021, told Amnesty International that two days before his murder, Alireza Fazeli Monfared had expressed concern that the envelope containing his exemption card may have been viewed by others:

"On Sunday [2 May 2021] Alireza called me. He was very happy and said that his exemption card had finally arrived. But he said: 'I think the envelope has been opened. When I was opening it, I felt that it had been opened [before me] and resealed.' He said that he had many dreams. He wanted to live a free life, wear the clothes and make-up that he wanted. He wanted to do modelling and become a make-up artist."

Given that several male relatives had in the past threatened to kill Alireza Fazeli Monfared and attempted to physically assault him because of his gender expression, some Iranian LGBTI human rights activists suspect that the indication on his exemption card pointing to his sexual orientation may have come to the attention of his relatives and triggered or aggravated the risks that led to his murder.

According to information received from Iranian gay men and reports by human rights groups,⁶ in seeking exemption from military service on the basis of their sexual orientation or gender identity, gay, transgender and gender non-conforming individuals are generally forced to undergo humiliating and degrading physical and psychological tests, including anal examinations, which amount to torture, as well as interrogations by officials during which they are forced to answer intimate questions about their gender and sexuality such as their preferences for sexual positions.

HUMAN RIGHTS VIOLATIONS AGAINST LGBTI PEOPLE

The horrific murder of Alireza Fazeli Monfared after years of harassment and death threats by several of his male relatives has shed light, yet again, on how the criminalization of LGBTI people in Iran perpetuates systemic and social violence and discrimination against them,⁷ and highlights the urgent need for legal and policy changes that must start with the

⁵ The American Psychiatric Association removed homosexuality as a disorder from the "Sexual Deviancy" section of the Diagnostic and Statistical Manual of Mental Disorders in 1973 (2nd edition). In 1992, the World Health Organization replaced its categorization of homosexuality as a mental illness. Several states then followed suit.

⁶ Human Rights Watch, "We Are a Buried Generation": *Discrimination and Violence against Sexual Minorities in Iran*, December 2010, <https://www.hrw.org/report/2010/12/15/we-are-buried-generation/discrimination-and-violence-against-sexual-minorities>; 6Rang, *Confessing to having same-sex relations is the new norm for military service exemptions in Iran*, <https://6rang.org/english/2261/>

⁷ According to a 2020 report published by the UK-based human rights organization 6Rang (Iranian Lesbian and Transgender Network), LGBTI individuals in Iran experience high levels of violence by both state and non-state actors. Of the 230 individuals the organization surveyed, 15% had been victims of sexual violence at school or university, 30% had been victims of sexual violence by their peers, and nearly half were victims of sexual violence in public spaces. Of the participants, 68% indicated that upon

decriminalization of same-sex sexual conduct and gender non-conformity, and the adoption of legislation to respect and protect the human rights of LGBTI people.

Iran's 2013 Islamic Penal Code contains numerous provisions that criminalize consensual same-sex sexual conduct between adults, as well as between children,⁸ prescribing judicial corporal punishments, such as flogging, which constitute torture, and the death penalty, the ultimate cruel, inhuman and degrading punishment. The Code criminalizes *lavat* ("male-male anal penetration") with penalties ranging from flogging to the death penalty. If no penetration occurs between the partners, individuals may be convicted of the "crime" of *tafkhiz* defined as the "placing of a man's sexual organ between another man's thighs or buttocks" (Article 235). The punishment for *tafkhiz* is 100 lashes but conviction for a fourth time is punishable by death, as per Articles 136 and 236 of the 2013 Islamic Penal Code.

Sexual acts between two women are criminalized under *mosahegheh*, which is defined, under Article 238 of the 2013 Islamic Penal Code, as when a woman "places her sexual organ on another woman's sexual organ". The punishments of *mosahegheh* are similar to those prescribed for *tafkhiz*.

Article 237 of the 2013 Islamic Penal Code prescribes the punishment of between 31 to 74 lashes for "homosexuality of the male human [shown through] sexual conduct that falls short of *lavat* and *tafkhiz* such as kissing or lustful touching". Note 1 to Article 237 provides that the article equally applies to "the female human".

Iranian criminal law also penalizes individuals who do not conform to stereotypical norms of "femininity" and "masculinity", in violation of the rights to non-discrimination, privacy, freedom of belief and religion, freedom of expression, and protection from arbitrary arrests and detention, torture and other ill-treatment.

Article 638 of the 1996 Islamic Penal Code concerning *ta'zir* crimes⁹ subjects any conduct in public deemed "religiously forbidden" (*haram*) or otherwise "offensive to public decency" to imprisonment of between 10 days to two months and/or flogging of up to 74 lashes. A note to Article 638 further imposes compulsory veiling on women and girls over the age of nine, and makes women and girls who fail to cover their head and comply with a strict Islamic dress code in public liable to imprisonment and/or fines. These provisions put women who may wish to wear items of clothing and accessories stereotypically regarded as "masculine" and men who wish to wear make-up and display expressions and behaviors stereotypically regarded as "feminine" at increased risk of discrimination, harassment, arbitrary arrest and detention, torture and other ill-treatment.

Currently, if LGBTI individuals in Iran wish to adopt, without being criminalized, a gender presentation not matching the stereotypical expectations associated with their biological sex, their only option is to apply for a legal sex change. This would involve undergoing gender confirmation surgery, as well as sterilization, and obtaining identity documents matching their preferred gender identity, which then legally changes their sex. Non-binary and other gender non-conforming individuals who cannot or do not wish to undergo gender confirmation surgery, change their legal sex or choose between the binary gender categories of man and woman are at a constant risk of criminalization. They also experience discrimination in access to education, employment, health care and public services because the Islamic Republic system in Iran heavily enforces gender segregation across a wide range of institutions and public spaces, and imposes strict dress codes for men and women.

The Iranian authorities continue to resort to the laws criminalizing same-sex sexual relations and gender non-conformity to persecute individuals on account of their actual or perceived sexual orientation, gender identity and gender expression, including by invading the private residences of individuals alleged to be engaging in homosexuality or "cross-dressing".¹⁰

experiencing violence, they "rarely" or "never" had sought or would seek assistance from the authorities. More than 19% of the participants had been victims of violence and abuse by the police or the judiciary. Twenty-nine people reported being arrested by the police because of their diverse sexual orientation or gender identity; after arrest, more than 28% of them had experienced physical and verbal violence and 13% of them experienced sexual violence. See: 6Rang, *Hidden Wounds: A Research Report on Violence Against LGBTI in Iran*, September 2020, <https://6rang.org/english/2681/>

⁸ Iran's Islamic Penal Code sets the age of adult criminal responsibility at 9 lunar years for girls and 15 lunar years for boys for crimes that fall in the categories of *hadd* (crimes that have fixed definitions and punishments under Shari'a law) and crimes punishable by "retribution-in-kind" (*qesas*). Children convicted of such crimes are subject to the same penalties as adults including flogging and the death penalty. However, for *hadd* and *qesas* crimes punishable by the death penalty, Article 91 of the Islamic Penal Code grants judges discretionary power to replace the death penalty with an alternative punishment if they conclude that the child did not comprehend the nature of the crime or its consequences or that the child's "mental growth and maturity" (*roshd va kamal-e aghlil*) at the time of the crime was in doubt.

⁹ The Islamic Penal Code of Iran consists of five parts. The first four parts are contained in a piece of legislation that was adopted in 2013 and concerns general principles, *hadd* crimes (crimes that have fixed definitions and punishments under Shari'a law and crimes punishable by "retribution-in-kind" (*qesas*) and/or "blood money" (*diyah*)). The fifth part is retained in a piece of legislation from 1996, which is still in effect and concerns *ta'zir* crimes (crimes that do not have a pre-determined definition and punishment under Shari'a law).

¹⁰ Justice for Iran, *Diagnosing Identities, Wounding-Bodies*, June 2014, <https://justice4iran.org/9226/>; Human Rights Watch, "We Are a Buried Generation": Discrimination and Violence against Sexual Minorities in Iran, December 2010; <https://www.hrw.org/report/2010/12/15/we-are-buried-generation/discrimination-and-violence-against-sexual-minorities>; The Guardian, *Iran arrests 'network of homosexuals and satanists' at birthday party*, October 2013, <https://www.theguardian.com/world/2013/oct/10/iran-arrests-network-homosexual-satanists>; OutRight Action International has a number of reports on these issues on the Iran page of its website: <https://outrightinternational.org/region/islamic-republic-iran>

The impact of such laws, however, reaches far beyond the constant risk of arbitrary arrest and detention, torture and other ill-treatment in custody and criminal prosecution and sentencing. The laws also foster societal violence and discrimination against LGBTI people and create a climate of impunity for homophobic and transphobic hate crimes as well as harassment and intimidation by family members, colleagues, schoolmates, teachers, neighbours and members of the public. LGBTI people are deprived of access to justice and reparations for such crimes and abuses because Iran's legal system offers them no protection and criminalizes them instead.

Further serious concerns related to the human rights situation of LGBTI people in Iran include the practices of "conversion therapy" aimed at eliminating homosexuality and gender non-conformity. These have involved, among other abusive practices, the administration of electric shocks, hormones and strong psychoactive medications, including against children experiencing gender non-conformity and same-sex attraction.¹¹ Official bans on comprehensive, accurate and age-appropriate information regarding human sexuality, coupled with the promotion of hate speech from public officials,¹² has resulted in a lack of knowledge about issues related to sexual orientation and gender identity, including among health-care professionals, and the prevalence of "conversion therapies" in medical and counselling settings in Iran. This is while international experts including the UN Independent Expert on sexual orientation and gender identity have called for a global ban on such practices, warning that they are inherently discriminatory, cruel, inhuman and degrading and that, depending on the severity or physical or mental pain and suffering inflicted to the victim, they may also amount to torture.¹³

LAWS FACILITATING SO-CALLED "HONOUR" KILLINGS

In his January 2021 report to the UN Human Rights Council, the UN Special Rapporteur on the situation of human rights in Iran stated that "honour" killings remain widespread in Iran, yet such crimes are underreported. He stated that it is estimated that between 375 to 450 "honour" killings occur annually in Iran¹⁴ and expressed alarm at laws that exonerate perpetrators or reduce punishment for such crimes, noting the failure of these laws to protect victims and punish perpetrators.

There are multiple provisions in Iran's 2013 Islamic Penal Code which facilitate or contribute to the commission of so-called "honour" killings in Iran, and, thereby, place girls and women and LGTBI persons at increased risk of violations of the right to life.

Article 301 of the 2013 Islamic Penal Code exempts men who kill their children and grandchildren from "retribution-in-kind" (*qesas*), which is the punishment provided for murder under Iranian law. The 2013 Islamic Penal Code does not provide what alternative sentences the perpetrator shall receive in such circumstances, but it is possible for the prosecution authorities to rely on Article 612 of the 1996 Islamic Penal Code concerning *ta'zir* crimes¹⁵ to seek a prison sentence of between three and 10 years in prison on the basis that the perpetrator's conduct caused "disruption in order and security" or stirred "fears" that he or others may commit it again.

Article 302 of the 2013 Islamic Penal Code exempts any perpetrator of murder from "retribution-in-kind" (*qesas*) and the payment of "blood money" (*diyah*) if they establish that the murder victim had committed a *hadd* crime (crimes that have fixed definitions and punishments under Shari'a law and are considered to be against God) punishable by the death penalty; the "crimes" related to consensual same-sex relations described above as well as adultery and certain sexual conduct outside marriage fall within the scope of this provision. Again, the 2013 Islamic Penal Code does not provide what alternative sentences the perpetrator shall receive in such circumstances, but they may eventually receive a prison sentence of between three and 10 years in prison on the basis of Article 612 of the 1996 Islamic Penal Code.

Article 303 of the 2013 Islamic Penal Code provides that even when the murder victim is not proven to have committed a *hadd* crime, if the perpetrator establishes that he "falsely" killed the victim on the basis of a belief that the victim had

¹¹ UN Human Rights Council, Special Rapporteur on the situation of human rights in the Islamic Republic of Iran, *Statement by the Special Rapporteur at the forty-sixth session of the Human Rights Council - Item 4*, March 2021, <https://www.ohchr.org/EN/HRBodies/HRC/Pages/NewsDetail.aspx?NewsID=26869&LangID=E>

¹² UN Office of the High Commissioner for Human Rights, Special Rapporteur on the situation of human rights in the Islamic Republic of Iran, *Statement by the Special Rapporteur at the forty-sixth session of the Human Rights Council - Item 4*, March 2021, <https://www.ohchr.org/EN/HRBodies/HRC/Pages/NewsDetail.aspx?NewsID=26869&LangID=E>; 6Rang, "It's a great honor to violate homosexuals' rights": Official hate speech against LGBT people in Iran, December 2017, <https://6rang.org/english/wp-content/uploads/2017/12/Official-Hate-Speech-against-LGBT-People-in-Iran.pdf>

¹³ UN Human Rights Council, UN Independent Expert on sexual orientation and gender identity, 'Conversion therapy' can amount to torture and should be banned says UN expert, July 2020, https://www.ohchr.org/EN/NewsEvents/Pages/ConversionTherapy_and_HR.aspx

¹⁴ UN Human Rights Council, Report of the Special Rapporteur on the situation of human rights in Iran, January 2021, UN Doc. A/HRC/46/50, <https://undocs.org/en/A/hrc/46/50>

¹⁵ The Islamic Penal Code of Iran consists of five parts. The first four parts are contained in a piece of legislation that was adopted in 2013 and concerns general principles, *hadd* crimes (crimes that have fixed definitions and punishments under Shari'a law and crimes punishable by "retribution-in-kind" (*qesas*) and/or "blood money" (*diyah*)). The fifth part is retained in a piece of legislation from 1996, which is still in effect and concerns *ta'zir* crimes (crimes that do not have a pre-determined definition and punishment under Shari'a law).

committed a *hadd* crime, the perpetrator would still be exempt from “retribution-in-kind” (*qesas*) and would only be required to pay “blood money” (*diyah*) and serve between three to 10 years in prison, as per Article 612 of the 1996 Islamic Penal Code.

Amnesty International opposes the death penalty in all circumstances, but is alarmed that Iranian criminal law exonerates or reduces the punishment for killings that are effectively related to the defence of “honour”, thereby justifying and normalizing violence against women, girls, and LGBTI persons engaging in conduct deemed as “religiously forbidden” (*haram*) and constituting a “crime against God”.

States have a positive duty to take appropriate measures and exercise due diligence to prevent, punish, investigate and redress the harm of hate crimes committed by private actors.

The Iranian authorities must immediately reform these laws to ensure that penalties are applied without discrimination and that they are proportionate to the severity of the crime, without resort to the death penalty. Demonstrated hostility or prejudice on the basis of protected characteristics such as gender, sexual orientation and gender identity must be considered when investigating crimes.

The Iranian authorities must comprehensively address hate crimes on all grounds by adopting legislation to prohibit them. Such legislation should explicitly tackle hate crimes perpetrated on grounds of sexual orientation and gender identity, which are prohibited grounds of discrimination under international human rights law.