

**Flygtningenævnets baggrundsmateriale**

<b>Bilagsnr.:</b>	<b>907</b>
Land:	Iran
Kilde:	European Asylum Support Office (EASO)
Titel:	COI Query – LGBT persons in Iran
Udgivet:	3. november 2021
Optaget på baggrundsmaterialet:	20. juni 2022



## COI QUERY

**Country of Origin** IRAN, ISLAMIC REPUBLIC OF

**Main subject** [LGBT persons in Iran](#)

**Question(s)**

1. [Legislation on LGBT issues and its implementation](#)
2. [Treatment of LGBT persons by the state](#)
3. [Treatment of LGBT persons by society](#)

**Date of completion** 3 November 2021

**Query Code** Q38-2021

**Contributing EU+ COI units  
(if applicable)** N/A

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# COI QUERY RESPONSE – Iran, Islamic Republic of

## Situation of LGBT persons in Iran

### 1. Legislation on LGBT issues and its implementation

According to Human Rights Watch, the Islamic Penal Code (IPC) that was introduced in 1991<sup>1</sup> is ‘the codification of several different pieces of legislation that addresses punishment and compensation for criminal (and tortious) conduct’. According to the source, together ‘with the Code of Criminal Procedure and the Law Establishing General and Revolutionary Courts’, the 1991 IPC is ‘the primary body of procedural and substantive law related to the administration of justice on all criminal matters’.<sup>2</sup> In April 2013, the Iranian Parliament passed the new Islamic Penal Code,<sup>3</sup> which was communicated to the Government for enforcement on 29 May 2013.<sup>4</sup>

The provisions of the 2013 IPC regarding criminalisation of certain same-sex conduct can be found in Articles 233-241, which are identical to those of the 1991 IPC.<sup>5</sup> According to the 2013 IPC, some of the specific same-sex acts that are stipulated are offences punishable by *hadd*, (*hudud* offences), which is one of the four categories of punishment in the IPC, according to Article 14 (along with *qisas*, *diya*, and *ta’zir*).<sup>6</sup> According to Article 15 of the IPC 2013, ‘*hadd* is a punishment for which the grounds for, type, amount and conditions of execution are specified in holy Shari’a’.<sup>7</sup>

Sodomy and homosexual acts between men are defined in IPC as *livat*.<sup>8</sup> Articles 233 and 234 contain definition and penalties related to *livat*:

‘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.

Note 1- 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.

Note 2- *Ihsan* is defined as a status that a man is married to a permanent and pubescent wife and whilst he has been sane and pubescent has had a vaginal intercourse with the same wife while she was pubescent, and he can have an intercourse with her in the same way

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<sup>1</sup> Iran, Islamic Penal Code, 20 November 1991, [url](#)

<sup>2</sup> Human Rights Watch, Codifying Repression - An Assessment of Iran’s New Penal Code, 28 August 2012, [url](#)

<sup>3</sup> Iran, Islamic Penal Code, 21 April 2013, [url](#)

<sup>4</sup> IHR and ECPM, Annual Report On the Death Penalty in Iran 2020, 30 March 2021, [url](#), p. 24

<sup>5</sup> IRANHRDC, English Translation of Books I & II of the New Islamic Penal Code, 4 April 2014, [url](#); Iran, Islamic Penal Code, 21 April 2013, [url](#); Iran, Islamic Penal Code, 20 November 1991, [url](#)

<sup>6</sup> IRANHRDC, English Translation of Books I & II of the New Islamic Penal Code, 4 April 2014, [url](#)

<sup>7</sup> Iran, Islamic Penal Code, 21 April 2013, [url](#), Article 15, available at IRANHRDC, English Translation of Books I & II of the New Islamic Penal Code, 4 April 2014, [url](#)

<sup>8</sup> IRANHRDC, English Translation of Books I & II of the New Islamic Penal Code, 4 April 2014, [url](#)

[vaginal] whenever he so wishes.’<sup>9</sup>

The law differentiates between the ‘active party’, which will be sentenced to death if he has forced the sexual act, or if he ‘meets the conditions for *ihsan*’, meaning that he is ‘married to a permanent and pubescent wife’. Otherwise, the punishment is lashing. Meanwhile, ‘the “passive party” shall receive the death penalty regardless of marital status. A non-Muslim “active party” in a sexual act with a Muslim party shall also receive the death sentence’.<sup>10</sup>

Articles 235 and 236 contain the law regarding *tafkhez*, which refers to the act of ‘putting a man’s sex organ (penis) between the thighs or buttocks of another male person’. At the same time, the act of ‘penetration [of a penis into another male person’s anus] that does not reach the point of circumcision’ is also considered *tafkhez*. The *tafkhez* punishment for both active and passive parties is lashing, except when ‘the active party is a non-Muslim and the passive party is a Muslim’, in which case the active party will receive the death sentence. Coercion or *ihsan* are not relevant in this case.<sup>11</sup>

According to Article 237, ‘homosexual acts of a male person in cases other than *livat* and *tafkhez*, such as kissing or touching as a result of lust, shall be punishable by thirty-one to seventy-four lashes of *ta’zir* punishment’.<sup>12</sup> A *ta’zir* punishment is another one of the four types of punishment in the IPC 2013, and refers to ‘a punishment which does not fall under the categories of *hadd*, *qisas*, or *diya* and is determined by law for commission of prohibited acts under Shari’a or violation of state rules’.<sup>13</sup>

Same-sex between women is considered *hudud* offence and is addressed in Articles 238, 239 and 240 of the IPC.

‘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, or between a person that meets the conditions for *ihsan* and a person who does not, and also whether or not [the offender] has resorted to coercion.’<sup>14</sup>

Moreover, as pointed out in the report of organisations Iran Human Rights (IHR) and Together Against the Death Penalty (ECPM), parties found guilty on the fourth occasion may be sentenced to death ‘if “offenders” are sentenced and receive the lashing punishment on the first three occasions’.<sup>15</sup> Article 136 of the 2013 IPC regarding reoffending states: ‘Where anyone commits the same offense punishable by *hadd* three times, and each time the *hadd* punishment is executed upon him/her, the *hadd* punishment on the fourth occasion shall be the death penalty’.<sup>16</sup>

<sup>9</sup> Iran, Islamic Penal Code, 21 April 2013, [url](#), Article 234, available at IRANHRDC, English Translation of Books I & II of the New Islamic Penal Code, 4 April 2014, [url](#)

<sup>10</sup> IHR and ECPM, Annual Report On the Death Penalty in Iran 2020, 30 March 2021, [url](#), p. 25; Iran, Islamic Penal Code, 21 April 2013, [url](#), Articles 235, 236

<sup>11</sup> Iran, Islamic Penal Code, 21 April 2013, Articles 235, 346, available at IRANHRDC, English Translation of Books I & II of the New Islamic Penal Code, 4 April 2014, [url](#)

<sup>12</sup> Iran, Islamic Penal Code, 21 April 2013, Article 237, available at IRANHRDC, English Translation of Books I & II of the New Islamic Penal Code, 4 April 2014, [url](#)

<sup>13</sup> Iran, Islamic Penal Code, 21 April 2013, Article 18, available at IRANHRDC, English Translation of Books I & II of the New Islamic Penal Code, 4 April 2014, [url](#)

<sup>14</sup> Iran, Islamic Penal Code, 21 April 2013, Articles 238, 239, 240, available at IRANHRDC, English Translation of Books I & II of the New Islamic Penal Code, 4 April 2014, [url](#)

<sup>15</sup> IHR (Iran Human Rights) and ECPM (Together Against the Death Penalty), Annual Report On the Death Penalty in Iran 2020, 30 March 2021, [url](#), p. 28

<sup>16</sup> Iran, Islamic Penal Code, 21 April 2013, [url](#), Article 136

The above-mentioned penalties can be applied to children under the age of 18. According to Article 147 of the 2013IPC, the age of majority for girls is nine lunar years (approximately 8 years and 8 months, according to the Gregorian calendar), while the age of majority for boys is 15 lunar years (approximately 14 years and 7 months, according to the Gregorian calendar).<sup>17</sup> Thus, as stated in a 2015 joint report by IHR and several other civil society organisations, ‘adolescents who are suspected of same-sex consensual relationships or children who have been raped through non-penetrative anal sex can be subjected to harsh punishments, such as executions and flogging’.<sup>18</sup>

## 2. Treatment of LGBT persons by the state

According to Amnesty International (AI) writing in 2021, ‘LGBTI people in Iran face pervasive discrimination, live in the constant fear of harassment, arrest and criminal prosecution, and remain vulnerable to violence and persecution based on their real or perceived sexual orientation and gender identity’.<sup>19</sup> Similarly, in January 2021 the Special Rapporteur on the situation of human rights in Iran, stated that ‘individuals who identify as lesbian, gay, bisexual and transgender experience human rights violations and widespread discrimination’.<sup>20</sup>

According to the Iranian Lesbian and Transgender Network (6RANG), ‘since the establishment of the Islamic Republic in 1979, state officials in Iran have consistently portrayed homosexuality as a “deviant” sexual proclivity that has a corrupting effect on society’.<sup>21</sup> In a 2016 article, researcher Simon Forbes wrote that ‘the most commonly used term in official circles and in the press in Iran relating to homosexuality is *hamjensbāzy* or *hamjensbāz* when referring to the person. The term *hamjensbāz* is also used as an abusive epithet’.<sup>22</sup> In 2019, the then Iranian Foreign Minister Mohammed Javad Zarif ‘endorsed the execution of gay people’ at a press conference in Tehran.<sup>23</sup> According to the records, ‘during 2015-2020, Iran hanged at least 6 men for “livat”’.<sup>24</sup> In 2021, the election of Ebrahim Raisi in Iran’s presidency has raised more fears at the LGBTQ community as Raisi is known for his radical religious views.<sup>25</sup> A media source points out that Ebrahim Raisi has characterized ‘same-sex relations as “nothing but savagery”’ ‘during an anti-gay tirade’ in 2014.<sup>26</sup>

As noted by non-governmental organisation Article 19, public officials are characterizing LGBTQI people as “subhuman” and “diseased” as ‘hate speech is widespread against the community’. Furthermore, the same source points out that:

‘such laws [the Iranian laws regarding same sex conduct] along with pervasive impunity for police and other state actors for their abuse and discrimination against marginalised groups

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<sup>17</sup> IHR et al., Rights of the Child in Iran Joint alternative report by civil society organizations on the implementation of the Convention on the Rights of the Child by the Islamic Republic of Iran, March 2015, [url](#), p. 11; Iran, Islamic Penal Code, 21 April 2013, [url](#), Article 147;

<sup>18</sup> IHR et al., Rights of the Child in Iran Joint alternative report by civil society organizations on the implementation of the Convention on the Rights of the Child by the Islamic Republic of Iran, March 2015, [url](#), p. 16

<sup>19</sup> AI, Iran: Murder of gay man highlights dangers of state-sanctioned abuses against LGBTI people, 17 May 2021, [url](#)

<sup>20</sup> UN Human Rights Council, Situation of human rights in the Islamic Republic of Iran, Report of the Special Rapporteur on the situation of human rights in the Islamic Republic of Iran, Javahid Rehman, 11 January 2021, [url](#), para 27, p. 10

<sup>21</sup> 6RANG, “It’s a great honor to violate homosexuals’ rights’. Official hate speech against LGBT people in Iran, December 2017, [url](#), p. 15

<sup>22</sup> Simon Forbes, The Reconstruction of Homosexuality and its Consequences in Contemporary Iran, 2016, [url](#), p. 28

<sup>23</sup> DW, Iran defends execution of gay people, 12 July 2019, [url](#)

<sup>24</sup> Sato, M. and Alexander, Ch., State-Sanctioned Killing of Sexual Minorities, Looking beyond the death penalty, February 2021, [url](#), p. 17

<sup>25</sup> New Europe, Under Ebrahim Raisi, Iran’s LGBTQ community fears the worst, 2 September 2021, [url](#); Washington Blade, New Iran government leaves country’s LGBTQ community hopeless, 16 August 2021, [url](#)

<sup>26</sup> Jerusalem Post (The), Iran president Raisi said homosexuality is ‘nothing but savagery’, 25 August 2021, [url](#)

and dissenting voices, provide for a limited space for protection for the LGBTQI community, and perpetuates a culture of homophobia and transphobia and impunity for discrimination and abuse against LGBTQI people'.<sup>27</sup>

In its letter to the Dutch government regarding its asylum policy for Iranian LGBTQI, the 6RANG Network stated that:

'Iranian officials continue to systematically persecute and harass these groups by violent reprisals, penalising them on the basis of specific provisions of the penal code or by bringing broad and vaguely defined national security charges and inciting hatred against them. Moreover, such cases are heard and decided with complete disregard of internationally recognised due process and fair trial standards'.<sup>28</sup>

Writing in its 2021 Annual Report, the United States Commission on International Religious Freedom (USCIRF) stated that Iran 'invokes its interpretation of Shari'a to justify religious freedom violations against the lesbian, gay, bisexual, transgender, and intersex (LGBTI) community and actively executes LGBTI people for their sexual identity'.<sup>29</sup>

The 2020 report on Human Rights Practices by the U.S Department of State (USDOS) noted on the concerns of LGBTI activists who supported that 'the government executed LGBTI individuals under the pretext of more severe, and possibly specious, criminal charges such as rape'<sup>30</sup> or kidnapping<sup>31</sup>.

Furthermore, 'security forces harassed, arrested, and detained individuals they suspected of being LGBTI'.<sup>32</sup> According to Freedom House, although LGBT people face harassment and discrimination, such incidents are underreported because of the criminalisation of same-sex relations.<sup>33</sup>

With regards to surveillance, in its 2020 report, USDOS highlighted that in some cases, security forces raided houses and monitored internet sites for information on LGBTI persons'.<sup>34</sup> According to a 2021 joint study by the Open Observatory of Network Interference (OONI) and others, there were 75 LGBTIQ unique URLs blocked in Iran at least once during the period 1 June 2016-31 July 2020. The same source highlighted that 'blocked URLs in Iran include many human rights, cultural, and news websites covering LGBTIQ-related topics. Many blogging platforms are also blocked', making the discussion of such topics impossible. Moreover, 'the passing of the Computer Crimes Law' has 'significantly expanded state surveillance and censorship powers', making it easier to target LGBTIQ persons 'in the form of surveillance and harassment'. The source further underlined the use of 'Entrapment through dating apps' as a 'persistent concern'.<sup>35</sup>

Furthermore, gay men are excluded from the compulsory military service under the category of "mental illness" as it is considered of having "'perversions" that are contrary to social and military values'. The exception can be given from 6 months to permanently – if it is proven by medical facility. Many gay men seek exception from the military service in order to avoid 'the risk of violence and discrimination'.<sup>36</sup>

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<sup>27</sup> Article 19, Iran: Horrific killing of Alireza Fazeli-Monfared shines light on brutal repression of LGBTQ people, 12 May 2021, [url](#)

<sup>28</sup> 6RANG, 6RANG letter to Dutch Government regarding its asylum policy for Iranian LGBTQI, February 2020, [url](#)

<sup>29</sup> USCIRF, IRAN, Key Findings, April 2021, [url](#), p.26

<sup>30</sup> USDOS, 2020 Country Reports on Human Rights Practices: Islamic Republic of Iran, 30 March 2021, [url](#), p. 56

<sup>31</sup> Daily Mail, Iran hangs man for violating anti-gay laws and kidnapping two 15-year-old boys, 28 January 2019, [url](#)

<sup>32</sup> USDOS, 2020 Country Reports on Human Rights Practices: Islamic Republic of Iran, 30 March 2021, [url](#), p. 57

<sup>33</sup> Freedom House, Freedom in the World 2021- Iran, 3 March 2021, [url](#)

<sup>34</sup> USDOS, 2020 Country Reports on Human Rights Practices: Islamic Republic of Iran, 30 March 2021, [url](#), p. 57

<sup>35</sup> OONI et al., NO ACCESS, LGBTIQ Website Censorship in Six Countries, 2021, [url](#), pp. 8, 9

<sup>36</sup> AI, Iran: Murder of 20-year-old gay man highlights urgent need to protect LGBTI rights, 17 May 2021, [url](#), p.3



While the Iranian State criminalises any kind of homosexuality<sup>37</sup>, transgender people are recognized to have 'Gender Identity Disorder (GID)' that need treatment (medical and psychiatric) which 'can be facilitated [the treatment] by the state'.<sup>38</sup> Specifically, 'the Iranian government doesn't recognize being trans as a category per se, rather they see trans individuals as people with psychosexual problems, and so provide them with a medical solution' as an expert analysed at the Quartz, a journalist media source.<sup>39</sup> LGBT people are sometimes forced to proceed to gender reassignment<sup>40</sup> which creates various psychological problems due to the lack of information on such issues.<sup>41</sup>

The observations of the Committee on the Rights of the Child, for Iran, referenced that LGBT children were subjected to electric shocks and the administration of hormones and strong psychoactive medications.<sup>42</sup> According to 6RANG's 2018 findings, based on a study of 11 medical centres, counselling clinics and private clinics, five of which were located in Tehran, 'polyclinics, institutions and private clinics, that have listed counselling to LGBTI people as one of the areas of their expertise' considered homosexuality 'to be a disease or sexual deviation.' Subsequently, these institutions 'have made a business by alleging in their advertisements that they can cure this disease'. The methods involving so-called 'reparative therapies', for instance 'electric shock therapy to hands and genitalia, prescribing psychoactive medication, hypnosis, [coercive] masturbation to pictures of the opposite sex, etc.', were reportedly showing an increase.<sup>43</sup> The 2020 USDOS report confirmed that 'the authorities pressured LGBTI persons to undergo gender reassignment surgery'.<sup>44</sup>

### 3. Treatment of LGBT persons by society

According to researcher Kameel Ahmady writing in 2019, 'Iran is a traditional society that operates on a basic premise that homosexuality is an abnormality'. Moreover, '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'. Referring to bisexual persons, the same source points out that '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'.<sup>45</sup>

A 2020 report by DFAT quoted local sources, who stated that while younger Iranians were becoming more tolerant, 'homosexuality is not openly discussed and gay people face severe discrimination. This includes abuse and harassment from family members, work colleagues, religious figures, and school and community leaders'.<sup>46</sup>

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<sup>37</sup> Iran, Islamic Penal Code, 20 November 1991, [url](#); 6RANG, 6RANG letter to Dutch Government regarding its asylum policy for Iranian LGBTIQI, February 2020, [url](#); FIDH and LDDHI, No One is Spared, The widespread use of the death penalty in Iran, October 2020, [url](#), p. 26

<sup>38</sup> Justice for Iran, Medicalisation of sexual orientation and gender identity, 7 October 2014, [url](#)

<sup>39</sup> Quartz, "Everyone treated me like a saint"—In Iran, there's only one way to survive as a transgender person, 28 April 2017, [url](#)

<sup>40</sup> BBC, The gay people pushed to change their gender, 5 November 2014, [url](#); Economist (The), Why Iran is a hub for sex-reassignment, 6 April 2019, [url](#); DW, The difficulties of being gay in Iran, 26 February 2021, [url](#)

<sup>41</sup> BBC, The gay people pushed to change their gender, 5 November 2014, [url](#); DW, The difficulties of being gay in Iran, 26 February 2021, [url](#)

<sup>42</sup> UN Committee on the Rights of the Child, Concluding observations on the combined third and fourth periodic reports of the Islamic Republic of Iran, 14 March 2016, [url](#), p. 10

<sup>43</sup> 6RANG, Reparative Therapies on Gays and Lesbians through Cruel, Inhumane and Humiliating Treatments Has Increased in Iran, 17 May 2018, [url](#)

<sup>44</sup> USDOS, 2020 Country Reports on Human Rights Practices: Islamic Republic of Iran, 30 March 2021, [url](#), p. 58

<sup>45</sup> Ahmady, K., LGBT in Iran- The Homophobic Law and Social System in Iran, 2019, [url](#)

<sup>46</sup> DFAT, Country Information Report Iran, 14 April 2020, [url](#), p. 54



In May 2021, Article 19 stated that the criminalisation of various aspects of the life of LGBTQI people 'leaves individuals belonging to the LGBTQI community at risk of violence, hate crimes and discrimination both at the hands of state actors as well as non-state actors who can act with impunity'.<sup>47</sup> A similar view was taken by USCIRF in an August 2021 report, stating that LGBTI people found themselves 'in grave danger from both state and societal actors'.<sup>48</sup>

The treatment of LGBT people has also affected migration, as 'hundreds of lesbian, gay, bisexual and transgender Iranians' had to flee their country because of the discrimination and harassment they face in Iran<sup>49</sup>. According to a February 2021 report by DW, the 'level of social "ostracism" gays face in Iran is enormous', and their 'only recourse is often political asylum'.<sup>50</sup>

On 4 May 2021, a young non-binary gay man was reportedly abducted and killed by 'several male relatives in his hometown of Ahvaz, Khuzestan province, according to a report by Amnesty International quoting friends of the victim. The same source stated that the victim had 'faced years of homophobic and transphobic harassment and death threats by several male relatives because he did not conform to the binary socio-cultural gender stereotypes and "norms" in Iran', but was afraid to report the incidents to the police 'out of a fear of facing violence and prosecution at the hands of the authorities'.<sup>51</sup> As reported by various sources, the murder occurred after the young man had received an exemption card from the military service.<sup>52</sup> The murder was described by 6Rang as an 'honour killing'.<sup>53</sup> According to researchers Mai Sato and Christopher Alexander, 'honour killings are often carried out by family or community members for bringing shame or dishonour on a family'.<sup>54</sup> Moreover, the same sources highlighted the 'the existence of numerous reports of honour killings against sexual and gender minorities in Iran', while quoting interviewees who stated that 'such [honour] killings are particularly rife in rural areas'. The fact that such violent incidents 'received very little media attention in Iran' showed, according to Sato and Alexander, the 'normalisation of violence within families and towards sexual minorities' in Iran.<sup>55</sup>

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<sup>47</sup> Article 19, Horrific killing of Alireza Fazeli-Monfared shines light on brutal repression of LGBTQ people, 12 May 2021, [url](#)

<sup>48</sup> USCIRF, Religious Freedom Conditions in Iran, August 2021, [url](#), p. 1

<sup>49</sup> VOA, LGBT People Fleeing Harassment in Iran Find Life No Easier in Turkey, 16 April 2021, [url](#)

<sup>50</sup> DW, The difficulties of being gay in Iran, 26 February 2021, [url](#)

<sup>51</sup> AI, Iran: Murder of gay man highlights dangers of state-sanctioned abuses against LGBTI people, 17 May 2021, [url](#)

<sup>52</sup> Germany, BAMF, Briefing Notes, Group 62 – Information Centre for Asylum and Migration, 10 May 2021, [url](#), p. 5; CNN, A card exempted a gay man from serving in Iran's military. It may have cost him his life, 15 May 2021, [url](#)

<sup>53</sup> NBC News, Gay Iranian man dead in alleged 'honor killing,' rights group says, 11 May 2021, [url](#)

<sup>54</sup> Sato, M. and Alexander, Ch., When the State Kills: Persecution of Sexual Minorities, 17 June 2021, in Australian Institute of International Affairs, [url](#)

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