

Concluding Observations Human Rights Committee CCPR/C/IRN/CO/3 para 29

Full recommendation

The State party should introduce legislative amendments to ensure that articles 3 and 28, sections 1 and 3, of the Majlis Elections Act are in conformity with the rights guaranteed in article 25 of the Covenant. It should also take adequate steps to guarantee that elections are conducted in a free and transparent manner, in full conformity with the Covenant, including through the establishment of an independent electoral monitoring commission. (art 25)

Assessment using Impact Iran human rights indicators¹

The Islamic Parliament Elections Law stipulates the minimum requirements for voting and candidacy in elections.² Voters must have Iranian nationality, be 18 years of age, and be “sane.”³ Candidates must have a ‘commitment to Islam and the sacred State of the Islamic Republic of Iran,’ they must have Iranian nationality, must express commitment to the constitution and the “progressive article of the Guardianship of the Islamic Jurists,” have at least a master’s degree or its equivalent, “be free from ill reputation” in the election district, “physical health to the extent of being blessed with vision, hearing and speech capabilities,” and a minimum of 30 and maximum of 75 years of age.⁴ Members of religious minorities stated in the constitution are exempted from practical commitment to Islam and must be consistent in their belief of their religion.⁵

The parliamentary election law bans from candidacy: affiliates and supporters of parties, organizations, and groups that have been considered to be illegal by competent authorities;⁶ those who have been convicted of the crime of acting against the Islamic Republic of Iran;⁷ those convicted of apostasy by competent judicial courts;⁸ those known for corruption and debauchery; sentenced to *sharia hudud* (unless their repentance has been proven); drug traffickers; drug addicts;⁹ those convicted of treason, fraud, embezzlement and bribery, and confiscating others’ property; and those convicted of financial abuse by competent judicial courts.¹⁰

¹ CCPR.25.S.1 CCPR.25.S.2 CCPR.25.S.3
CCPR.25.P.1
CCPR.25.O.1 CCPR.25.O.2.

² Article 28 of the election law.

³ Article 27 of the Islamic Parliament Elections Law

⁴ Article 28 of the Islamic Parliament Elections Law

⁵ Note of the article 28 of the Islamic Parliament Elections Law

⁶ Note 3 of the article 30 of the Islamic Parliament Elections Law

⁷ Note 4 of the article 30 of the Islamic Parliament Elections Law

⁸ Note 5 of the article 30 of the Islamic Parliament Elections Law

⁹ Notes 7 and 8 of the article 30 of the Islamic Parliament Elections Law

¹⁰ Note 11 of the article 30 of the Islamic Parliament Elections Law

According to Article 99 of the constitution, the Guardian Council is responsible for “supervising” the parliamentary and presidential elections, as well as the elections for the Assembly of Experts for Leadership.¹¹ The Guardian Council is a 12-member body for guarding the compatibility of parliamentary acts with Islamic law and the constitution.¹² Six members of the Council, selected by the supreme leader, are to be experts on Islamic jurisprudence. These six members are supposed to be just and informed of the present needs of the country and the issues of the day.¹³ The remaining six members are to be Muslim jurists in various areas of the law that are nominated by the head of judiciary and approved by the parliament.¹⁴ One of the Guardian Council’s “opinions,” from 22 May 1991, maintains that the Council’s supervision is “approbatory” and includes all administrative procedures of the elections, including the approval and disapproval of candidates’ “qualification” [competency].¹⁵

Under Iran’s Constitution and Election Law, there is no independent election commission to manage or monitor elections. Rather, the Guardian Council is responsible for supervising elections.¹⁶

During the last few decades, journalists, political activists, and politicians inside the country have expressed their concern regarding some of the overly broad qualifications of candidacy. These concerns are mainly directed at candidacy requirements including belief and practical commitment to Islam and the sacred State of the Islamic Republic of Iran, commitment to the constitution and the progressive article of the Guardianship of the Islamic Jurist (the Supreme Leader), and the arbitrary and non-transparent enforcement of these requirements for approving candidacy by the relevant governmental bodies.¹⁷ Journalists and activists have attempted to seek clarification from authorities, including the Guardian Council’s spokesperson and Tehran’s Governor on the review of candidates’ qualification, made recommendations for transparency, and called on the authorities to address issues stemming from this process, including uncertainty and doubts amongst potential candidates regarding their qualifications or lack thereof which reportedly discourages political participation.¹⁸

¹¹ Article 99 of the Constitution of the Islamic Republic of Iran, English translation, <https://irandataportal.syr.edu/wp-content/uploads/constitution-english-1368.pdf>

Article 91 of the Constitution of the Islamic Republic of Iran, English translation, <https://irandataportal.syr.edu/wp-content/uploads/constitution-english-1368.pdf>

¹³ Article 91 of the Constitution of the Islamic Republic of Iran, English translation, <https://irandataportal.syr.edu/wp-content/uploads/constitution-english-1368.pdf>

¹⁴ Articles 91 of the Constitution of the Islamic Republic of Iran, English translation, <https://irandataportal.syr.edu/wp-content/uploads/constitution-english-1368.pdf>

¹⁵ The Guardian Council opinion about article 99 of the constitution: <<http://nazarat.shora-rc.ir/Forms/firmMatn.aspx?id00=IxVuRJARSrk=&TN=/XG7FYxY/yd2hSO3SoFiUGK8U51VruQ4csaqpt/F9Oo=&MN=csaqpt/F9Oo=&id=3NFgB5CdAsk=&tablename02=/XG7FYxY/yd2hSO3SoFiUBDhmJI8yPJ0>> (Persian)

¹⁶ Article 99 of the Constitution of the Islamic Republic of Iran, English translation, <https://irandataportal.syr.edu/wp-content/uploads/constitution-english-1368.pdf>

¹⁷ <<https://www.plus.irna.ir/news/83638282/>> (Persian)

¹⁸ <www.irna.ir/news/83646542/> (Persian)

There have been numerous reports that the Guardian Council did not provide any substantiated reasons for disqualifying many of the parliamentary candidates, and that the confirmation of qualifications was arbitrary and inappropriate.¹⁹ As a party to the International Covenant on Civil and Political Rights (ICCPR), Iran is obligated to allow its citizens equal opportunity to compete as candidates in elections without being subject to “unreasonable restrictions.” The ICCPR requires elections to guarantee the “free expression of the will of the electors”²⁰ and no distinction may be made as to the enjoyment of rights afforded by Article 25 on the basis of, *inter alia*, religion, political or other opinion or status.²¹

Women face resistance in political participation from the Guardian Council, which has a record of disqualifying female and reformist candidates arbitrarily. As of the time of writing, the last Parliamentary elections were held in 208 precincts, for 290 seats on 21 February 21st 2020. During this election, a total of 16,033 candidates were registered, 12% of whom were women. During the review of qualifications by in the Executive Boards, a total of 13,849 candidates were approved, of whom about 91% were registered.²² Out of the registered candidates, the Supervisory Board and the Council of Guardians approved 7,157 individuals who were allowed to run. Of these, only 782 are women.²³ Prior to parliamentary elections in 2016, the Guardian Council “disqualified 98 per cent of female candidates in the major city of Shiraz, 20 out of 24 female candidates in Markazi, and all the female candidates in the large port city of Abadan.”²⁴ Women who attempt to run in the presidential election are usually disqualified by the Guardian Council and therefore ineligible to run. In the 2017 presidential election, 137 female candidates registered, and all were disqualified by the Guardian Council.²⁵

The Guardian Council vetted out most of the “reformist” and “opposition” candidates around the country.²⁶ As a result of these disqualifications, the coalition of “reformist” groups and activists were not able to run for at least 208 of the 290 seats in parliament, yet still won some seats.^{27 28} About 160 of the seats were filled by conservative candidates with little to no competition due to the disqualification of most candidates from other political camps.

A candidate can appeal their disqualification to the Guardian Council in writing.²⁹ If the Central Supervisory Board disqualifies a candidate that had been approved by the voting district’s

¹⁹ < <https://www.plus.irna.ir/news/83638282/> > (Persian)

²⁰ International Covenant on Civil and Political Rights < <https://www.ohchr.org/en/professionalinterest/pages/ccpr.aspx> >

²¹ Human Rights Committee General Comment No. 25 (CCPR/C/21/Rev.1/Add.7)

²² IRNA: < www.irna.ir/news/83599847/ > (Persian)

²³ The full list of candidates: < <https://www.moi.ir/fa/اخبار/133325> > (Persian)

²⁴ Minority Rights Group https://minorityrights.org/wp-content/uploads/2019/09/MRG_CFR_Iran_EN_Sept191.pdf at 12

²⁵ Minority Rights Group https://minorityrights.org/wp-content/uploads/2019/09/MRG_CFR_Iran_EN_Sept191.pdf at 13.

²⁶ < <https://modara.ir/?p=99015> > (Persian)

²⁷ Hamshahri Newspaper < www.hamshahrionline.ir/news/483992/ > (Persian)

²⁸ Hamshahri Newspaper < www.hamshahrionline.ir/news/484127/ > (Persian)

²⁹ Article 52, note 2, of the Islamic Parliament Elections Law

Executive Board, the candidate could submit their objection to the Guardian Council, which will announce its definite opinion to the Interior Ministry on the approval or rejection of the candidate's qualification 20 days after the release of the opinion of the Central Supervisory Board.³⁰

In cases when the reports and complaints received by the Guardian Council makes it evident that members of the Supervisory Board have violated the laws and regulations, the Guardian Council is, in theory, obligated to act lawfully in proportion to the violation committed.³¹

In practice, this means the Guardian Council is the sole party responsibility for investigating its own alleged wrongdoing and that of its subordinate bodies, which violates the principle of impartiality in monitoring the elections.³² Although Chapter 8 of the Islamic Parliament Elections Law specifies a mechanism for reviewing complaints, it is an inefficient mechanism because it is itself part of the electoral process. In recent years, steps have been taken to amend some articles of the Election Law, including those mentioned in the recommendation, yet to date the Guardian Council has approved none of these proposed changes.

There are reasons to question the veracity of the Iranian government's election figures, which do not always add up, for example there were major discrepancies in Iran's 9th Presidential Elections won by Mahmoud Ahmadinejad.³³ In addition, the Revolutionary Guards has become more involved in controlling the political process including by allegedly interfering with voting stations during presidential elections, raising fears of undue influence.³⁴

Iranian Election Law further prohibits disrupting the elections, including by protest, and publishing content with the intent of encouraging boycotts or reducing voter participation is prohibited. The publication and propagation of "anti-revolutionary and enemy group views," of libel or satire, or any insulting content against the elections on the Internet is against the law. The use of images of females as a "tool" in campaign ads and/or the depiction of women in campaign advertisements that do not observe Islamic values under the law is also strictly prohibited.³⁵ On April 25, 2009 Maryam Malek was arrested and charged with "propaganda against the system" under these laws in connection with her activities with the Campaign for Equality.³⁶ Article 25 ICCPR recognises that citizens "also take part in the conduct of public affairs by exerting influence through public debate and dialogue [or] their capacity to organize themselves."³⁷ Thereby, laws that interfere with the right to freedom of expression and freedom of assembly

³⁰ Article 52 of the Islamic Parliament Elections Law

³¹ Article 54 of the Islamic Parliament Elections Law

³² See Article 52, 54, and Chapter Eight of the Islamic Parliament Elections Law. <https://www.iranrights.org/library/document/2098/iran-fair-vote-impossible>

³³ Bill Sami'i, "Iran: Do The Presidential Vote Numbers Really Add Up?" Radio Liberty, 30 June 2005.

³⁴ <http://www.cnn.com/2005/WORLD/meast/06/25/iran.claim/index.html>

³⁵ Islamic Election Law, art. 64-66.

³⁶ Amnesty International, <http://www.amnesty.org/en/library/info/MDE13/039/2009/en>

³⁷ Human Rights Committee General Comment No. 25 (CCPR/C/21/Rev.1/Add.7), para 8

during election time by definition also interfere with the enjoyment of rights afforded by Article 25.

The Parties Law regulates the activities of all political parties, trade associations, religious parties, and any other groups “established by real persons believing in certain essential policies and ideals and whose objectives... are related to the administration of the state and general policies of the Islamic Republic of Iran.”³⁸ Iran’s prohibition on contacts that are harmful to freedom or national unity is too broad. Freedom and national unity in this context may carry many meanings and are not sufficiently objective to prevent misuse by governmental officials.

Recommendation Status:

This recommendation has **NOT** been implemented.

³⁸ Iran Political Parties Law and Relevant Executive Regulations, Art. 1.