

Concluding observation Committee on Economic Social and Cultural Rights E/C.12/IRN/CO/2 para 4

Full recommendation:

The Committee recommends that the State party ensure that all the obligations of the Covenant are fully respected under all circumstances and that Constitutional provisions, in particular articles 4 and 20, are applied in a manner consistent with the provisions of the Covenant. The Committee draws the attention of the State party to its general comments No. 3 (1990) on the nature of States parties' obligations and No. 9 (1998) on the domestic application of the Covenant, and refers to the duty of States parties, regardless of their political, economic and cultural systems, to promote and protect all human rights and fundamental freedoms.

Assessment using Impact Iran human rights indicators¹

Article 4 of the Iranian Constitution states that “All civil, penal financial, economic, administrative, cultural, military, political, and other laws and regulations must be based on Islamic criteria. This principle applies absolutely and generally to all articles of the Constitution as well as to all other laws and regulations, and the wise persons of the Guardian Council are judges in this matter.”²

Article 20 of the Iranian Constitution states that “All citizens of the country, both men and women, equally enjoy the protection of the law and enjoy all human, political, economic, social, and cultural rights, in conformity with Islamic criteria.”³

According to Article 4 of the Constitution the Guardian Council of the Islamic Republic of Iran is entrusted with the definition and determination of the framework of what constitutes the “Islamic criteria” or standards. Among the 12 non-elected members of the Guardian Council, only the six male clerics directly appointed by the Supreme Leader are responsible for such task. While the aforementioned provisions supposedly safeguard the human rights of women and protect them from discrimination, such legal guarantees exist as long as they are in conformity with “Islamic criteria.” The room for interpretation allowed under the qualifications often results in provisions that discriminate or have a discriminatory impact on various grounds, including gender.

¹ ESCR.2.2.S.1; ESCR.3.S.1;
ESCR.2.2.P.2;
ESCR.2.2.O.2

² Constitution of the Islamic Republic of Iran, English translation, <https://irandataportal.syr.edu/wp-content/uploads/constitution-english-1368.pdf>

³ Constitution of the Islamic Republic of Iran, English translation, <https://irandataportal.syr.edu/wp-content/uploads/constitution-english-1368.pdf>

For example, a large number of provisions under the Iranian Civil Code are discriminatory towards women. These provisions notably include the legal age of marriage,⁴ the share of inheritance,⁵ and the right to divorce.⁶ In marriage, the Civil Code provides rights to the husband over those of the wife,⁷ notably by establishing that the position of the ‘head of the family’ is the exclusive prerogative of the husband. Under Iranian law the husband is entitled to control aspects of his wife’s life⁸ and demand that she performs her ‘duties’.⁹

Structural discriminations deeply entrenched in the Iranian legal system ultimately translate in practice to widespread discriminations against women, in all aspects of their lives, including to access the work market or public life.^{10 11} These discriminations are reflected in practice: according to the UN Women and the Inter-Parliamentary Union, Iran ranks for women’s participation in politics in 181 out of the 190 reviewed countries.¹² Additionally, while the Government reported that women’s economic participation rate “has risen from 12.4% in 2013 to 16.4% in 2018”,¹³ it remains some of the lowest in the world.

Article 3 of the Constitution of the Islamic Republic of Iran stipulates that the government “has the duty of directing all its resources” to, among other goals, “the abolition of all forms of undesirable discrimination and the provision of equitable opportunities for all, in both the material and intellectual spheres”.¹⁴ Article 19 of the Constitution stipulates that all people of Iran enjoy equal rights “whatever the ethnic group or tribe” and that “color, race, language and the like, do not bestow any privilege”.¹⁵ Sexual orientation and gender identity are omitted as protected characteristics. Additionally, Article 20 states that all citizens enjoy all “human, political, economic, social and cultural rights, in conformity with Islamic criteria”. As same sex relations are criminalized under the Iranian Islamic Penal Code,¹⁶ the “Islamic criteria” condition

⁴ Article 1041, Civil Code of the Islamic Republic of Iran. <https://iranhrdc.org/the-civil-code-of-the-islamic-republic-of-iran/>

⁵ Articles 861 to 948, Civil Code of the Islamic Republic of Iran. <https://iranhrdc.org/the-civil-code-of-the-islamic-republic-of-iran/>

⁶ Article 1133, Civil Code of the Islamic Republic of Iran. <https://iranhrdc.org/the-civil-code-of-the-islamic-republic-of-iran/>

⁷ Articles 1102 to 1119, 1133 to 1142, Civil Code of the Islamic Republic of Iran. <https://iranhrdc.org/the-civil-code-of-the-islamic-republic-of-iran/>

⁸ For instance, under Article 1117 of the Civil Code of the Islamic Republic of Iran “The husband can prevent his wife from occupations or technical work which is incompatible with the family interests or the dignity of himself or his wife.” <https://iranhrdc.org/the-civil-code-of-the-islamic-republic-of-iran/>

⁹ Article 1108, Civil Code of the Islamic Republic of Iran. <https://iranhrdc.org/the-civil-code-of-the-islamic-republic-of-iran/>

¹⁰ See more: All Human Rights for All in Iran, Association for Human Rights in Kurdistan – Geneva (KMMK-G) Association for the Human Rights Of The Azerbaijani People In Iran (AHRAZ), Iran Human Rights Documentation Center (IHRDC), OutRight International, Siamak Pourzand Foundation, Small Media, Impact Iran, Submission to the Human Rights Committee, 129th session, 2020, https://tbinternet.ohchr.org/Treaties/CCPR/Shared%20Documents/IRN/INT_CCPR_NGO_IRN_42317_E.pdf

¹¹ See more: Minority Rights, https://minorityrights.org/wp-content/uploads/2019/09/MRG_CFR_Iran_EN_Sept191.pdf

¹² UN Women, <https://www.unwomen.org/-/media/headquarters/attachments/sections/library/publications/2021/women-in-politics-2021-en.pdf?la=en&vs=1305>

¹³ UPR 2019, National Report, Islamic Republic of Iran, <https://undocs.org/A/HRC/WG.6/34/IRN/1>

¹⁴ The Constitution of the Islamic Republic of Iran, English translation, <https://www.refworld.org/docid/3ae6b56710.html>

¹⁵ The Constitution of the Islamic Republic of Iran, English translation, <https://www.refworld.org/docid/3ae6b56710.html>

¹⁶ Iran Human Rights Documentation Center, <https://iranhrdc.org/denied-identity-human-rights-abuses-against-irans-lgbt-community/#2>

restricts the enjoyment of human rights for the LGBT community, including the right to work, to social security, to health and education.

The Iranian states' behavior towards lesbian, gay and bisexual individuals has been hostile and Iranian authorities publicly criticize the country's lesbian, gay and bisexual community. In 2013, Mohammad Javad Larijani, secretary of Iran's high council for human rights said that homosexuality was regarded as "an illness and malady" in the Islamic Republic of Iran.¹⁷ Negative comments from Iranian officials have been regularly and recently reported, where they used terms such as "immoral", "corrupt", "animals", "sick" or "Western" to qualify homosexual individuals.¹⁸ Such openly hostile behaviour towards the lesbian, gay and bisexual community from government officials may further impair LGBT persons' access to employment, social services, health care and education as it creates a permissive environment for the exclusion and societal stigmatization against LGBT individuals in Iran.^{19 20 21 22 23 24}

In 1986, then Supreme Leader Ayatollah Khomeini, issued a *fatwa* (a ruling or a religious decree on a point of Islamic law given by a recognized authority) permitting the acceptance of sex reassignment surgery for transgender people.²⁵ Although State recognition and support have given transgender individuals a certain level of legal legitimization, it also has reinforced the societal stigma due to the pathologisation of transgender identities: that trans persons suffer from a medical condition which requires treatment. Only those who are officially diagnosed with Gender Identity Disorder and who obtained a permit to undergo sex reassignment surgery can have their gender legally recognized by the government. Transgender individuals who do not wish, cannot or have not been medically allowed to go through sex reassignment surgery are not eligible to obtain legal recognition corresponding to their gender identity.²⁶ As a consequence, they face barriers to access higher education, employment and housing as they cannot obtain relevant legal permits without denying their sexual orientation and/or gender identity.^{27 28} Moreover, they are not eligible for social services and health assistance provided by the State for

¹⁷ The Guardian, 2013, <https://www.theguardian.com/world/iran-blog/2013/mar/14/iran-official-homosexuality-illness>

¹⁸ Iranian Lesbian & Transgender Network (6Rang), 2017, <http://6rang.org/english/wp-content/uploads/2017/12/Official-Hate-Speech-against-LGBT-People-in-Iran.pdf>

¹⁹ Iran Human Rights Documentation Center, <https://iranhrdc.org/denied-identity-human-rights-abuses-against-irans-lgbt-community/#2>

²⁰ Iranian Lesbian & Transgender Network (6Rang), 2015, https://tbinternet.ohchr.org/Treaties/CRC/Shared%20Documents/IRN/INT_CRC_NGO_IRN_19808_E.pdf

²¹ OutRight International, 2016, https://outrightinternational.org/sites/default/files/OutRightLesbianReport.pdf?_ga=2.78516692.1992181521.1595330838-780871412.1595330838

²² Iranian Lesbian & Transgender Network (6Rang), 2015, https://tbinternet.ohchr.org/Treaties/CRC/Shared%20Documents/IRN/INT_CRC_NGO_IRN_19808_E.pdf

²³ Committee on the Rights of the Child, 2016, https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CRC/C/IRN/CO/3-4&Lang=En

²⁴ Small Media, 2018, https://smallmedia.org.uk/media/projects/files/BreakingTheSilence_2018.pdf

²⁵ Outright International, 2016, <https://outrightinternational.org/sites/default/files/OutRightTransReport.pdf>

²⁶ Outright International, 2016, <https://outrightinternational.org/sites/default/files/OutRightTransReport.pdf>

²⁷ Outright International, 2016, <https://outrightinternational.org/sites/default/files/OutRightTransReport.pdf>

²⁸ Iranian Railroad for Queer Refugees (IRQR), 2018, <https://irqr.net/wp-content/uploads/2018/09/IQW-Report.pdf>

recognized transgender individuals. Additionally, gender segregation is enforced in some instances in higher education, restricting access of non-recognised transgender individuals and contributing to the risk of harassment and bullying.^{29 30 31} Even with state recognition, transgender individuals suffer from social stigma, impacting their opportunity to seek and obtain employment.³²

The Iranian legal framework does not protect adequately the rights of individuals from religious and ethnic minorities. Article 14 of the Constitution of the Islamic Republic of Iran sets out that the government and Muslims in Iran are “duty-bound to treat non-Muslims in conformity with ethical norms and the principles of Islamic justice and equity, and to respect their citizen rights.” Additionally, although Article 19 of the Constitution protects the equal rights of “ethnic group or tribe” regardless of “color, race, language, and the like” it omits an explicit provision recognizing religion or belief as a protected characteristic against discrimination.³³ Article 23 of the Constitution stipulates that “the investigation of individuals’ beliefs is forbidden, and no one may be molested or taken to task simply for holding a certain belief.”³⁴

These protections, however, only apply to those “who refrain from engaging in conspiracy or activity against Islam and the Islamic Republic of Iran.”³⁵

The Constitution of the Islamic Republic of Iran names the Twelver *Ja’fari* School of Shia Islam as the state religion. Only Muslim minorities (including Sunnis), Zoroastrian, Jewish and Christian Iranians are recognized under the Constitution.³⁶ Many elements of Iran’s domestic legal framework discriminate between *Shia* Muslims, Muslim and non-Muslim minorities, including also recognized minorities. According to the Constitution of the Islamic Republic of Iran, candidates for the presidency must follow the official religion of the State, as well as for members of the Assembly of Experts, the Guardian Council or the Expediency Council, excluding Muslim and non-Muslim minorities from holding high governmental positions.³⁷ Further, Article 881 of the Civil Code bars non-Muslims from inheriting property from Muslims. A new rule proclaimed in January 2020, will only allow citizens to register as one of

²⁹ OutRight International, 2016, <https://outrightinternational.org/sites/default/files/OutRightTransReport.pdf>

³⁰ Human Rights Watch, 2012, <https://www.hrw.org/news/2012/09/22/iran-ensure-equal-access-higher-education>

³¹ Iranian Lesbian & Transgender Network (6Rang), 2015,

https://tbinternet.ohchr.org/Treaties/CRC/Shared%20Documents/IRN/INT_CRC_NGO_IRN_19808_E.pdf

³² OutRight International, 2016, <https://outrightinternational.org/sites/default/files/OutRightTransReport.pdf>

³³ The Constitution of the Islamic Republic of Iran, English translation, <https://irandaportal.syr.edu/wp-content/uploads/constitution-english-1368.pdf>

³⁴ The Constitution of the Islamic Republic of Iran, English translation, <https://irandaportal.syr.edu/wp-content/uploads/constitution-english-1368.pdf>

³⁵ Article 14, The Constitution of the Islamic Republic of Iran, English translation, <https://irandaportal.syr.edu/wp-content/uploads/constitution-english-1368.pdf>

³⁶ Articles 12 and 13 of the Constitution of the Islamic Republic of Iran, English translation, <https://irandaportal.syr.edu/wp-content/uploads/constitution-english-1368.pdf>

³⁷ The Constitution of the Islamic Republic of Iran, English translation, <https://irandaportal.syr.edu/wp-content/uploads/constitution-english-1368.pdf>

the country's recognized religions to the state-issued National Identity Card—which is required for almost all government and other transactions.³⁸

The lack of legal safeguards enables the Iranian authorities to restrict the rights of members belonging to religious minorities and even to criminalize a wide range of their peaceful activities. Reports have shown that religious minorities in the Islamic Republic of Iran face human rights violations such as arbitrary deprivation of life and extrajudicial executions, a disproportionate number of executions on national security-related charges; arbitrary arrests and detention in connection with range of peaceful activities, incitement to hatred, forced closure of businesses and discriminatory practices and denial of employment and restrictions on access to education and other basic services.³⁹

Article 19 of the Constitution guarantees that all people enjoy equal rights, “whatever the ethnic group or tribe to which they belong” and that “color, race, language, and the like, do not bestow any privilege.”⁴⁰ Article 20 of the constitution states that “All citizens of the country, both men and women, equally enjoy the protection of the law and enjoy all human, political, economic, social, and cultural rights, in conformity with Islamic criteria.” Yet, Arabs, Azerbaijani Turks, Balochis and Kurds face targeted discriminations on the basis of their identity and are generally sidelined from general public services, including education and health care.

For instance, the use of minority languages is effectively restricted under the Constitution, notably in school where the teaching of a minority language is only permitted for literature classes. The Special Rapporteur on the human rights situation in the Islamic Republic of Iran raised concerns about reports of Kurdish, Ahwazi Arab and Azerbaijani-Turk (or Azeri-Turk) lacking access to education in their mother tongues.^{41 42} These concerns were echoed by the U.N Secretary General,^{43 44 45} noting reports indicating that members of ethno-linguistic minorities, including the Azeri community as well as Arabs, were being denied the opportunity to teach their

³⁸ Center for Human Rights in Iran, <https://www.iranhumanrights.org/2020/01/bahais-unrecognized-minorities-in-iran-must-now-hide-religion-to-obtain-government-id/>

³⁹ Report of the Special Rapporteur on the situation of human rights in the Islamic Republic of Iran, 18 July 2019, <https://undocs.org/Home/Mobile?FinalSymbol=A%2F74%2F188&Language=E&DeviceType=Desktop>

⁴⁰ The Constitution of the Islamic Republic of Iran, English translation, <https://irandataportal.syr.edu/wp-content/uploads/constitution-english-1368.pdf>

⁴¹ Report of the Special Rapporteur on the situation of human rights in the Islamic Republic of Iran, January 2020, https://www.ohchr.org/Documents/Countries/IR/Report_of_the_Special_Rapporteur_on_the_situation_of_human_rights_in_the_Islamic_Republic_of_IranA4361.pdf

⁴² See more : Association for the human rights of the Azerbaijani people in Iran, https://tbinternet.ohchr.org/Treaties/CRC/Shared%20Documents/IRN/INT_CRC_NGO_IRN_19735_E.pdf

⁴³ IRNA News, www.irna.ir/news/83404283/ (in Farsi).

⁴⁴ Report of the U.N. Secretary General, January 2020, https://www.ohchr.org/Documents/Countries/IR/Report_of_the_Secretary-General_on_the_situation_of_human_rights_in_the_Islamic_Republic_of_IranA4320.pdf

⁴⁵ Report of the U.N. Secretary General, January 2020, https://www.ohchr.org/Documents/Countries/IR/Report_of_the_Secretary-General_on_the_situation_of_human_rights_in_the_Islamic_Republic_of_IranA4320.pdf

language in schools.⁴⁶ The reported state-imposed ban on Azeri-Turkish being taught in school would go some way in explaining such struggle.⁴⁷ The Ministry of Education has reportedly circulated reminders to teachers and school administrators that the use of Kurdish and Turkish languages inside public schools is forbidden.⁴⁸ Furthermore, Kurdish language teachers have been facing harassment and persecution.⁴⁹

Members of ethnic and religious minorities face discriminations to access employment in the public sector. Employment in the public sector is based on the practice of *gozinesh*, a mandatory screening process set forth in the Selection Law based on Religious and Ethical Standard of 1995.⁵⁰ As described by the Special Rapporteur on the situation of human rights in the Islamic Republic of Iran, the process “involves investigations conducted by the Supreme Selection Council and the Ministry of Intelligence into the acceptability of an applicant’s beliefs, previous political opinions and affiliations” and is intended to ensure that applicants “adhere to and have knowledge of Islam, follow the theory of *Velayat-e-faqih* (rule of an Islamic jurist under Shi’ite Islam) and are loyal to the Islamic Republic of Iran.”⁵¹ Not only is *gozinesh* in contradiction of Article 23 of the Constitution, it also bars minorities or anyone who are unable or unwilling to accept these requirements from seeking employment in the public sector.⁵² Members of religious and ethnic minorities have reportedly been the target of denial of employment in the Islamic Republic of Iran.⁵³ For example, members of the Yarsan community reported the denial of public sector jobs through the application of *gozinesh* requirements.⁵⁴ Members of the *Baha’i* faith have been reportedly barred from employment in the public sector.⁵⁵

Members of the Baloch minority, estimated to be between 2 and 3 million,⁵⁷ speak the Baluchi language with a majority being Sunni Muslim. Arabs in Iran represent up to 5 million individuals

⁴⁶ Report of the U.N. Secretary General, August 2019, <https://undocs.org/en/A/74/273>

⁴⁷ Center for Human Rights in Iran, <https://iranhumanrights.org/2019/03/irans-intelligence-ministry-slaps-azeri-rights-activist-with-new-charges-claim-hes-organizing-protests-from-prison/>

⁴⁸ Minority Groups, <https://minorityrights.org/wp-content/uploads/2018/03/Rights-Denied-Violations-against-ethnic-and-religious-minorities-in-Iran.pdf>

⁴⁹ Joint submission to the Human Rights Committee from All Human Rights for All in Iran, Association for Human Rights in Kurdistan – Geneva, Association for the Human Rights of the Azerbaijani People in Iran, Iran Human Rights Documentation Center, OutRight International, Siamak Pourzand Foundation, Small Media, Impact Iran, 2020, https://tbinternet.ohchr.org/Treaties/CCPR/Shared%20Documents/IRN/INT_CCPR_NGO_IRN_42317_E.pdf

⁵⁰ Amnesty International, 2012, https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/

⁵¹ Report of the Special Rapporteur on the situation of human rights in the Islamic Republic of Iran, 18 July 2019, <https://documents-dds-ny.un.org/doc/UNDOC/GEN/N19/222/62/PDF/N1922262.pdf?OpenElement>

⁵² Report of the Special Rapporteur on the situation of human rights in the Islamic Republic of Iran, 18 July 2019, <https://documents-dds-ny.un.org/doc/UNDOC/GEN/N19/222/62/PDF/N1922262.pdf?OpenElement>

⁵³ Report of the Special Rapporteur on the situation of human rights in the Islamic Republic of Iran, 18 July 2019, <https://documents-dds-ny.un.org/doc/UNDOC/GEN/N19/222/62/PDF/N1922262.pdf?OpenElement>

⁵⁴ Report of the Special Rapporteur on the situation of human rights in the Islamic Republic of Iran, 18 July 2019, <https://documents-dds-ny.un.org/doc/UNDOC/GEN/N19/222/62/PDF/N1922262.pdf?OpenElement>

⁵⁵ Center for Human Rights in Iran, www.iranhumanrights.org/2017/05/most-varsani-religious-minority-candidates-disqualified-from-irans-2017-councils-elections/

⁵⁶ Baha’i International Community, Submission to the Universal Periodic Review of Iran, 2019, <https://undocs.org/A/HRC/WG.6/34/IRN/3>

⁵⁷ Taheri, A., *The Baloch in Post Islamic Revolution Iran: A Political Study*, University of Pune 2012, p. 24.

in Iran,⁵⁸ a significant minority being Sunni Muslim. Similarly, Kurds, estimated between 8 and 10 million⁵⁹ have a majority Sunni Muslim and include a minority Yarsanis.⁶⁰ As a consequence, these communities face intersectional discrimination, based on their ethnicity and language as well as religion.

While it is technically possible to file discrimination complaints with the Administration of Justice Court, the Article 90 Commission in the parliament, and the Oversight Bodies for the exercise of Citizenship Rights in the country's provincial courts, there is no evidence that judicial actions are taken in response to complaints.⁶¹ Hate crimes, such as motivated killings and desecration of cemeteries, particularly against *Baha'is*, have not been investigated by the Iranian authorities.^{62 63}

In 2016, the Iranian High Council for Human Rights issued a booklet entitled “Some measures taken by the Islamic Republic of Iran on demands of ethnic groups, religious minorities and sects”.⁶⁴ The same year, President Hassan Rouhani issued a Charter on Citizens' Rights, a government-endorsed declaration providing guidance for the implementation of the principles, norms and laws stipulated in the Constitution.⁶⁵ In 2019, the Special Rapporteur on the situation of human rights in the Islamic Republic of Iran, despite noting that measures have been taken to improve the situation of minorities, said that they “do not alter the fundamentally discriminatory nature of the Constitution, legislation and Islamic Penal Code of the Islamic Republic of Iran, in particular in relation to the country's unrecognised minority communities.”⁶⁶

In light of the above the Islamic Republic of Iran has not ensured that articles 4 and 20 of the Constitution are applied in a manner consistent with the provisions of the Covenant on Economic Social and Cultural Rights.

⁵⁸ Human Rights Watch, <https://www.hrw.org/news/2015/04/29/iran-sweeping-arrests-ahwazi-arab-activists>

⁵⁹ UNPO, <https://unpo.org/members/7882>

⁶⁰ Minority Rights Group, <https://minorityrights.org/wp-content/uploads/2018/03/Rights-Denied-Violations-against-ethnic-and-religious-minorities-in-Iran.pdf>

⁶¹ Joint submission to the Human Rights Committee from All Human Rights for All in Iran, Association for Human Rights in Kurdistan – Geneva, Association for the Human Rights of the Azerbaijani People in Iran, Iran Human Rights Documentation Center, OutRight International, Siamak Pourzand Foundation, Small Media, Impact Iran, 2020, https://tbinternet.ohchr.org/Treaties/CCPR/Shared%20Documents/IRN/INT_CCPR_NGO_IRN_42317_E.pdf

⁶² Joint submission to the Human Rights Committee from All Human Rights for All in Iran, Association for Human Rights in Kurdistan – Geneva, Association for the Human Rights of the Azerbaijani People in Iran, Iran Human Rights Documentation Center, OutRight International, Siamak Pourzand Foundation, Small Media, Impact Iran, 2020, https://tbinternet.ohchr.org/Treaties/CCPR/Shared%20Documents/IRN/INT_CCPR_NGO_IRN_42317_E.pdf

⁶³ Report of the Special Rapporteur on the situation of human rights in the Islamic Republic of Iran, 18 July 2019, <https://undocs.org/pdf?symbol=en/A/74/188>

⁶⁴ Report of the Special Rapporteur on the situation of human rights in the Islamic Republic of Iran, 18 July 2019, <https://undocs.org/pdf?symbol=en/A/74/188>

⁶⁵ Report of the Working Group on the Universal Periodic Review Islamic Republic of Iran, 27 December 2019, <https://undocs.org/A/HRC/43/12>

⁶⁶ Report of the Special Rapporteur on the situation of human rights in the Islamic Republic of Iran, 18 July 2019, <https://documents-dds-ny.un.org/doc/UNDOC/GEN/N19/222/62/PDF/N1922262.pdf?OpenElement>

Recommendation Status:

This recommendation has **NOT** been implemented.