

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

### Full recommendation

*The Committee recommends that the State party ensure full compliance of the *gozinesh* process with the standards under the Covenant, and thus ensure that employment is not made conditional upon political opinion, previous political affiliation or support, or religious affiliation.*

### Assessment using Impact Iran human rights indicators<sup>1</sup>

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”.<sup>2</sup> However, the Constitution omits an explicit provision recognizing religion or belief as a protected characteristic. 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”.<sup>3</sup> Additionally, 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”.<sup>4</sup> As a result, as freedom of religion or belief is not legally protected under Iranian legislation and as the enjoyment of economic, social and cultural rights “in conformity with Islamic criteria” is a conditional guarantee, religious and ethnic minorities’ rights are not adequately protected under the Iranian legal framework. Notably, members of minorities face serious hurdles in accessing public sector employment due to the *gozinesh* process.<sup>5</sup>

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.<sup>6</sup> 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.”<sup>7</sup> Not only is *gozinesh* in

<sup>1</sup> ESCR.6.1.S.2; ESCR.6.1.P.1; ESCR.6.1.O.3;

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

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

<sup>4</sup> The Constitution of the Islamic Republic of Iran, English translation, <https://irandataportal.syr.edu/wp-content/uploads/constitution-english-1368.pdf>

<sup>5</sup> See <http://rc.majlis.ir/fa/law/show/92541> (in Persian).

<sup>6</sup> Amnesty International, 2012, [https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/)

<sup>7</sup> 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>

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.<sup>8</sup> Members of religious and ethnic minorities have reportedly been the target of denial of employment in the Islamic Republic of Iran.<sup>9</sup> For example, members of the Yarsan community reported the denial of public sector jobs through the application of *gozinesh* requirements.<sup>10 11</sup> Members of the *Baha'i* faith have been reportedly barred from employment in the public sector.<sup>12</sup>

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”.<sup>13</sup> The same year, President Hassan Rouhani issued a Charter on Citizen’s Rights, a Government-endorsed declaration providing guidance for the implementation of the principles, norms and laws stipulated in the Constitution.<sup>14</sup> 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 unrecognized minority communities.”<sup>15</sup>

The Special Rapporteur on the situation of human rights in the Islamic Republic of Iran stated that “the *gozinesh* requirements are a violation of the International Covenant on Civil and Political Rights, the International Convention of the Elimination of All Forms of Racial Discrimination and the International Covenant on Economic, Social and Cultural Rights.”<sup>16</sup> In its General Comment No.18, the Committee on Economic, Social and Cultural Rights stipulates that the Covenant “prohibits any discrimination in access to and maintenance of employment” on grounds including race, religion, political or other opinion, national or social origin or civil, political, social or other status, “which has the intention or effect of impairing or nullifying exercise of the right to work on a basis of equality”.<sup>17</sup> The Committee adds that it is a core obligation to State parties “to avoid any measure that results in discrimination and unequal treatment in the private and public sectors of disadvantaged and marginalized

<sup>8</sup> 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>

<sup>9</sup> 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>

<sup>10</sup> 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>

<sup>11</sup> Center for Human Rights in Iran, [www.iranhumanrights.org/2017/05/most-yarsani-religious-minority-candidates-disqualified-from-irans-2017-councils-elections/](http://www.iranhumanrights.org/2017/05/most-yarsani-religious-minority-candidates-disqualified-from-irans-2017-councils-elections/)

<sup>12</sup> Baha’i International Community, Submission to the Universal Periodic Review of Iran, 2019, <https://undocs.org/A/HRC/WG.6/34/IRN/3>

<sup>13</sup> 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>

<sup>14</sup> Report of the Working Group on the Universal Periodic Review Islamic Republic of Iran, 27 December 2019, <https://undocs.org/A/HRC/43/12>

<sup>15</sup> 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>

<sup>16</sup> 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>

<sup>17</sup> General Comment No. 18: The Right to Work (Art. 6 of the Covenant) <https://www.refworld.org/docid/4415453b4.html>

individuals and groups”.<sup>18</sup> The *gozinesh* process, as it is practiced currently in the Islamic Republic of Iran, makes employment conditional on discriminatory grounds, and therefore is inconsistent with Article 6 of the Convention.

Recommendation Status:

This recommendation has **NOT** been implemented.

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<sup>18</sup> General Comment No. 18: The Right to Work (Art. 6 of the Covenant) <https://www.refworld.org/docid/4415453b4.html>