

## Concluding Observations Committee on the Rights of the Child CRC/C/IRN/CO/3-4 para 10

### Full recommendation:

*The Committee, in line with its previous recommendation (CRC/C/15/Add.254, para. 7) and in the light of the Vienna Declaration and Programme of Action of 1993, urges the State party to review the general nature of its reservation and encourages the State party to withdraw it in a clear timeframe. The Committee recommends that the State party bring its domestic laws and regulations into compliance with the Convention and ensure that the provisions of the Convention prevail whenever there is a conflict with the domestic law.*

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

#### A. Urges the State party to review the general nature of its reservation and encourages the State party to withdraw it in a clear timeframe

According to Article 19 of the Vienna Convention on the Law of Treaties, which entered into force on 27 January 1980, « A State may, when signing, ratifying, accepting, approving or acceding to a treaty, [may] formulate a reservation unless: [...] the reservation is incompatible with the object and purpose of the treaty.”

According to Article 9 of the Islamic Republic of Iran’s Civil Code, any ratified international instrument, which includes the Convention of the Rights of the Child (CRC), should have the force of law and thus should be enforceable in the national courts and impact the larger legal framework.<sup>2</sup> The Islamic Republic of Iran has, however, included a reservation to the Convention, which states that: “The Government of the Islamic Republic of Iran reserves the right not to apply any provisions or articles of the Convention that are incompatible with Islamic Laws and the internal legislation in effect.”<sup>3</sup>

In 2005, the Committee of the Rights of the Child found that Iran’s broad and imprecise reservation does not meet the necessary requirements for reservations, as it in effect negates many provisions of the Convention and undermines the object and purpose of the treaty.<sup>4</sup> As of February 2020, the Islamic Republic of Iran has not reviewed nor withdrawn its general reservation to the CRC.

<sup>1</sup> CRC.19.1.S; ESCR.3.S.1; CCPR.14.1.S.1; CRC.37.1.S.1

<sup>2</sup> [Civil Code of the Islamic Republic of Iran \(“Civil Code”\), art. 9 \(1981, amended 1991, 2006\)](#)

<sup>3</sup> [Reservation of the Islamic Republic of Iran to the Convention on the Rights of the Child, issued upon ratification \(13 July 1994\)](#)

<sup>4</sup> [UN Committee on the Rights of the Child, Consideration of the Report submitted, \(31 March 2005\), CRC/C/15/Add.254, paras. 6-7](#)

**B. Bring its domestic laws and regulations into compliance with the Convention and ensure that the provisions of the Convention prevail whenever there is a conflict with the domestic law**

The legislation passed by Iran's Parliament in order to ratify the Convention on the Rights of the Child echoes the Government's reservation and only adopts the Convention into Iran's legal framework, "provided that if at any time or for any reason its content should contradict domestic laws or Islamic standards, the Islamic Republic of Iran is not obligated to adhere to it."<sup>5</sup> In other words, the Convention is limited by uncodified interpretive Islamic law and is also subservient to and superseded by other national laws.<sup>6</sup>

The Iranian Islamic Penal Code (2013) is largely based on the Government's interpretation of Islamic *Sharia* precepts and contains provisions which directly discriminate between girls and boys under the criminal justice system. One of the most telling examples is the age of criminal responsibility, which is set at nine lunar years for girls (equivalent to eight years, nine months in solar years) and fifteen lunar years for boys (equivalent of fourteen years, seven months in solar years).<sup>7</sup> The Islamic Republic of Iran has not increased the age of criminal responsibility for girls nor does it seem that the Government has been considering such a change.

Child marriage continues to be permitted under Iranian law, yet the minimum age of marriage is different based on gender. The legal minimum age for marriage is 13 years old for girls and 15 years old for boys.<sup>8</sup> However, children who have reached puberty can marry with parental consent and court approval.<sup>9</sup> The predefined age of puberty under the Islamic Republic of Iran, and the age of legal majority, is 9 lunar years for girls and 15 lunar years for boys.<sup>10</sup> Marriage before puberty is criminalised in accordance with Article 50 of the Family Protection Act<sup>11</sup> and is punished under Article 646 of the Islamic Penal Code (2013).<sup>12</sup> A bill that could potentially include the prohibition of forced and early marriage for girls under 18<sup>13</sup> was under the Iranian Parliament's review as of February 2021.

Articles 19 and 34 of the Convention on the Rights of the Child states that sexual exploitation of children in any scenario must be prevented, including while in the care of a parent or a guardian.

<sup>5</sup> [The Law Allowing Accession of the Islamic Republic of Iran to the Convention on the Rights of the Child \("NBCRC Law"\), \(20 February 1994\)](#)

<sup>6</sup> [See more: NGO Joint submission to the Committee on the Rights of the Child, 2016](#)

<sup>7</sup> [Criminal responsibility, Articles 140, 146 and 147 of the Islamic Penal Code, 2013](#)

<sup>8</sup> [Article 1041 of the Civil Code as amended up until December 2000, NGO Impact Iran Coalition, Joint Submission to the Committee on the Rights of the Child, 2016.](#)

<sup>9</sup> [Iran Human Rights Documentation Center](#)

<sup>10</sup> [Committee on the Rights of the Child, 2016, CRC/C/IRN/CO/3-4, paras. 27–28](#)

<sup>11</sup> [Universal Periodic Review, Iran, 2019](#)

<sup>12</sup> [Islamic Penal Code \(2013\), Islamic Republic of Iran, Iran Human Rights Documentation Center](#)

<sup>13</sup> <https://www.justice.gov/eoir/page/file/1203136/download>; Iran Newspaper, 'Hamsari ke zendegi nemikonad amma mamnou'ol khorouj mikonad [A spouse who doesn't live but bans me from leaving the country], 4 October 2015,

This includes any type of coercion or inducement of a child to engage in unlawful sexual activity. Furthermore, child marriage is regarded by human rights activists as conducive to (if not a form of) sexual abuse.<sup>14</sup> A recent law on child adoption, passed in 2013, legalised the marriage between a father and his adopted daughter.<sup>15</sup> Such a marriage would be prohibited unless a court, after consulting with the State Welfare Organisation, rules that such a marriage is in the best interest of the child, though the conditions for this determination are not made clear.<sup>16</sup>

The Iranian legislation prohibits employment of children younger than 15 years old. Employers are allowed to hire children above the age of 15 as juvenile laborers or young workers as long as these adolescents undergo medical exams carried by the Ministry of Labour. However, such medical exams are to be retaken regularly and juveniles are prohibited from being employed in hazardous professions or performing hard labour. Despite these provisions, businesses with fewer than 10 employees are exempt from certain legal obligations such as maximum hour requirements, pay disability benefit for workplace injuries or mandatory regular medical testing for juvenile laborers. Such exemptions have been considered by the Committee on the Rights of the Child as increasing the risk of economic exploitation of children. Additionally, Iranian child labour law does not cover domestic work and permits children to work in agriculture and in some small businesses from the age of 12.

Article 1179 of the Civil Code allows for the ‘reasonable punishment of children’, which may include corporal punishment in the context of child-rearing and education.<sup>17</sup> The previous version of the Islamic Penal Code (as amended up to 2012) provided for the right of parents or guardians to impose corporal punishment on their children under Article 49 and 59. Such provisions now appear under Article 158 of the 2013 Islamic Penal Code, which allows for the chastisement of children by parents or guardians within customary and religious limits.<sup>18</sup> Article 7 of the previous Law on Protection of Children (2002), prohibited “all kinds of abuse leading to physical, mental or moral damage to the child endangering their physical or mental health” (Article 2) but excluded from this protection actions taken under Article 59 of the Penal Code and Article 1179 of the Civil Code (Article 7).<sup>19</sup> On June 7, 2020, the Guardian Council approved a bill amending the Law on Protection of Children which, while including new penalties for certain acts that harm children and adolescents’ physical and mental health, does not explicitly prohibit corporal punishment on children.<sup>20</sup> Iranian law therefore remains in violation of international law as the Human Rights Committee has stated that the prohibition

<sup>14</sup> [Persia Education Foundation](#)

<sup>15</sup> [Law on the protection of children and adolescents without guardians or with irresponsible ones, Article 26, \(2013\)](#)

<sup>16</sup> [Impact Iran submission to the Committee on the Rights of the Child, review of the 3rd and 4th periodic reports of the Islamic Republic of Iran](#)

<sup>17</sup> [Article 1179 of the Civil Code of the Islamic Republic of Iran as referenced by the Committee on the Rights of the Child \(CRC\), CRC/C/IRN/CO/3-4, 14 March 2016](#)

<sup>18</sup> [Islamic Penal Code \(2013\), English translation, Iran Human Rights Documentation Center](#)

<sup>19</sup> [Law on Protection of Children and Adolescents \(2002\) as referenced in “Country Report of Iran”, Global Initiative to End All Corporal Punishment of Children](#)

<sup>20</sup> [Human Rights Watch](#)

under Article 7 of the ICCPR extends to “corporal punishment, including excessive chastisement ordered as punishment for a crime or as an educative or disciplinary measure”.<sup>21</sup>

The Iranian government passed a new law in 2020 that would allow for the granting of citizenship to children born of an Iranian mother and a foreign father.<sup>22</sup> The law, aptly called “Granting Citizenship to Children Resulting from Marriage Between Iranian Women and Non-Iranian Men” was finally sent for implementation to the relevant agencies by the Vice-President of Iran, Es’haq Jahangiri, on June 3<sup>rd</sup>, 2020. Until this date, Article 976 of the Iranian Civil Code of 2015 mandated that only children born of Iranian fathers would be granted citizenship. The new law was introduced in 2015 in Parliament, yet it was sent back to this body of government twice for amendment before it was approved by the Guardian Council on October 2<sup>nd</sup>, 2019.<sup>23</sup> Despite the apparent improvements brought about by this law, rights organisations have highlighted its myriad shortcomings, namely the fact that Iranian women are still required to apply for their children to be granted citizenship, whilst children of Iranian men are granted nationality by default.<sup>24</sup> Furthermore, the law requires that applications submitted by women must still be approved by the Intelligence Ministry as well as the intelligence branch of the Islamic Revolutionary Guards Corps (IRGC), who are in charge of deciding whether the case presents so-called “security issues”, a provision that can be arbitrarily employed to deny such applications.<sup>25</sup>

Due to the fact that this new law has been put into circulation fairly recently, there aren’t any statistical figures to demonstrate its effectiveness.<sup>26</sup> Regardless, it is expected to contribute to granting citizenship to around 500,000 children (mostly children of Afghan refugees and Iranian women) who had, until now, been deprived of a legal avenue for obtaining an Iranian birth certificate.

The Islamic Republic of Iran has not brought its domestic laws and regulations into compliance with the Convention and has not ensured that the provisions of the Convention prevail whenever there is a conflict with the domestic law.<sup>27</sup>

Recommendation Status:

This recommendation has **NOT** been implemented.

<sup>21</sup> [UN Human Rights Committee \(HRC\), CCPR General Comment No. 20: Article 7 \(Prohibition of Torture, or Other Cruel, Inhuman or Degrading Treatment or Punishment\), 10 March 1992, available at](#)

<sup>22</sup> [Radio Farda](#)

<sup>23</sup> [ISNA](#)

<sup>24</sup> <https://www.hrw.org/news/2019/10/03/reforms-will-grant-nationality-children-iranian-women>

<sup>25</sup> Ibid.

<sup>26</sup> [ISNA](#)

<sup>27</sup> [For more, please see: Impact Iran submission to the Committee on the Rights of the Child, review of the 3rd and 4th periodic reports of the Islamic Republic of Iran](#)