

Concluding Observation Committee on the Rights of the Child CRC/C/IRN/CO/3-4 para 64

Full recommendation

The Committee urges the State party to revise the Act on the Protection of Children and Adolescents with No Guardian or Abusive Guardians of 2012 in a way that prohibits any marriage or other sexual arrangements with an adopted child. It also recommends that the State party take all necessary measures to ensure the right of all children, especially children belonging to ethnic minorities, to grow up in a family environment. The Committee recommends that the State party take into account the Guidelines for the Alternative Care of Children, which are annexed to General Assembly resolution 64/142.

Assessment using Impact Iran indicators¹

a. Prohibiting marriage or sexual arrangement with an adopted child

In 2013, a new law on child adoption was passed that could legalize marriage between a father and his adopted daughter.² Such a marriage would be prohibited unless a court, after consulting with the state welfare organization, rules that such a marriage is in the best interest of the child though the conditions for this determination are not made clear.³

Child marriage continues to be permitted under Iranian law. The legal minimum age for marriage is 13 for girls and 15 for boys.⁴ However, children who have reached puberty can marry with parental consent and court approval.⁵ 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.⁶ Marriage before puberty is criminalized in accordance with Article 50 of the Family Protection Act⁷ and is punished under Article 646 of the Islamic Penal Code (2013).⁸

b. Ensure the right of all children, especially children belonging to ethnic minorities, to grow up in a family environment

Article 19 of Iran's constitution⁹ declares that all people of Iran enjoy equal rights, "(...) regardless of the tribe or ethnic group to which they belong." This language seemingly includes ethnic minorities in its protected population, yet it is important to note that many protections and services provided by the state may be contingent upon the individual's citizenship status. There

¹ Indicators used: CRC.19.1.S.1; CRC.20.1.S.2; CRC.20.1.P.6; CRC.20.1.O.5

² Law on the protection of children and adolescents without guardians or with irresponsible ones, Article 26, (2013)

³ 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

⁴ 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

⁵ Iran Human Rights Documentation Center

⁶ Committee on the Rights of the Child, 2016, CRC/C/IRN/CO/3-4, paras. 27-28

⁷ Universal Periodic Review, Iran, 2019, <https://undocs.org/A/HRC/43/12>

⁸ Islamic Penal Code (2013), Islamic Republic of Iran, Iran Human Rights Documentation Center

⁹ Persia Education Foundation

are many children in Iran who belong to ethnic minorities and are undocumented, and thus might not be guaranteed these protections.¹⁰ Reforms with regard to child custody have brought Iranian law further in line with Article 3(1) of the Convention, however laws on guardianship still do not take into account the best interest of the child, according to a legal review by the Centre for Supporters of Human Rights.¹¹

In cases such as divorce where child custody must be determined, Article 1169 of the Civil Code stipulates that mothers are the preferred legal custodian for children seven years of age or younger.¹² After age seven, custody transfers automatically to the father.¹³ Legal reforms issued in 2003, however, allow parents to dispute guardianship, requiring the court to render custody on the basis of the best interest of the child.¹⁴ When a child has reached the age of legal maturity,¹⁵ the court is supposed to ask for his or her opinion as part of determining what custody arrangement, and with which parent, is in the child's best interest. In this context, a girl can decide at a younger age, 9 lunar years of age, which parent she will want to live with.

It should be emphasized that custody and guardianship are mutually exclusive concepts under Iranian law. While custody can be granted to the mother of a child under the age of seven or based on the best interests of the child, the father or the paternal grandfather retains guardianship even if the mother has legal custody, with only narrow grounds to challenge guardianship.¹⁶ In most cases, in the absence of a father or paternal grandfather a mother will be granted legal guardianship.¹⁷ In other words, legal guardianship is not necessarily based on the best interests of the child and deviates from the Convention. This shortcoming is important because legal guardians, particularly for girls and adult females, must sign off on a variety of legal transactions for their wards, such as signing contracts, opening bank accounts, accessing legal remedies in court, or granting permission to travel outside the country.¹⁸

Recommendation Status:

This recommendation has **NOT** been implemented.

¹⁰ [Radio Farda](#)

¹¹ [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](#)

¹² Civil Code, art. 1169.

¹³ Ibid

¹⁴ Ibid, note 1.

¹⁵ Civil Code, art 1210.

¹⁶ [Legal and Parliamentary Deputy at the Judiciary, Note on child custody by the mother, \(accessed February 2015\)](#)

¹⁷ Ibid.

¹⁸ Ibid.