

## Concluding Observations Committee on the Rights of the Child CRC/C/IRN/CO/3-4 para 82(c)

### Full recommendation:

*Ensure that unaccompanied asylum-seeking and refugee children are given guardianship, free legal assistance with immigration proceedings, and access to adequate shelter, food, health care and education*

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

In its 2019 National Report to the Universal Periodic Review, the Government of the Islamic Republic of Iran stated that “on the basis of the 6th Development Plan Act, the Government is obliged to increase child food protection, to increase protection of children with no guardian, orphans and street children (Article 78) ». The Government of the Islamic Republic of Iran also stipulated: “According to the law, all persons under the age of 18, with no or bad guardian, regardless of religion, ethnicity and nationality, shall enjoy health care, education, medical treatment, subsistence and custodian services.”<sup>2</sup> Different laws and regulations pertaining to refugees and migrants in the Islamic Republic of Iran do not refer to asylum-seeking and refugee children in particular.<sup>3</sup>

Currently, the law governing child custody in the Islamic Republic of Iran is the Law on the Protection of Orphaned and Abused Children (or Law on Protection of Children and Juveniles with no or bad guardian), adopted in 2013.<sup>4</sup> The law does not refer directly to unaccompanied asylum-seeking and refugee children yet, the listed conditions to obtain guardianship do not include Iranian citizenship. A number of articles under this law stipulate that the court shall consider the best interests of the child. However, Iranian law does not safeguard explicitly the right for unaccompanied asylum-seeking and refugee children to be given guardianship.

The Bureau for Aliens and Foreign Immigrants Affairs (BAFIA) has the responsibility for coordinating affairs relating to asylum-seeking and refugee individuals, including: protection,

<sup>1</sup> CRC.22.1.S.1; CRC.22.1.S.2; CRC.22.2.S.1; CRC.22.2.S.2

CRC.22.1.P.1; CRC.22.1.P.2;

CRC.22.1.O.1; CRC.22.1.O.2; CRC.22.1.O.3; CRC.22.1.O.4; CRC.22.2.O.1; CRC.22.2.O.2

<sup>2</sup> National Report, UPR 2019, <https://undocs.org/A/HRC/WG.6/34/IRN/1>

<sup>3</sup> Laws and regulations related to refugee and migrants in the Islamic Republic of Iran include:

Refugee Regulations adopted in 1963, available at <http://atba.ostb.ir/?part=menu&inc=menu&id=71>

Law on the entry and residence of foreign nationals in Iran, adopted in 1931, available at <https://rc.majlis.ir/fa/law/show/92268>

Implementing Regulations of the Law on the Entry and Residence of Foreign Nationals adopted in 1973 and subsequent amendments, available at <https://shenasname.ir/organs/vezarat/khareje/6815>

Regulations of the Iranian Citizenship Law approved in 1935 and subsequent amendments, available at <https://atba.alborz.ir/RContent/12V5MS3>

Marriage regulations of Iranian women with non-Iranian foreign nationals, available at <http://www.davoudabadi.ir/page/0859162/>

<sup>4</sup> Parliament of the Islamic Republic of Iran, <https://rc.majlis.ir/fa/law/show/866926>

health, education, international fundraising, *Amayesh* registration, issuance of travel permits, registration and issuance of marriage certificates, coordination with other ministries on refugee affairs, as well as official visits and coordination between all governmental departments responsible for refugee affairs.

A majority of services provided to the refugee and asylum seeking population in the Islamic Republic of Iran come from the United Nations High Commissioner for Refugees (UNHCR), which works in partnerships with BAFIA and other Governmental institutions such as the Ministry of Education, the Literacy Movement Organisation, the Ministry of Health, the State Welfare Organisation, the Technical and Vocational Training Organisation, as well as the Iran Health Insurance Organisation.<sup>5</sup>

Services and protection include legal assistance, support with regards to immigration proceedings and documentation, provision of basic needs and essential services such as health care, shelter and education.<sup>6</sup> For example, UNHCR reported that, through a collaboration with the Literacy Movement Organisation, 3,365 children and adolescents received literacy trainings in 2020.<sup>7</sup> Other examples of partnerships include UNHCR trainings of members of the Government in matters of child protection and the co-funding, together with the Ministry of Education, of the joint construction of 12 schools in refugee-hosting provinces.<sup>8</sup> There is no official and readily available information from the Iranian Government regarding the number of children who benefit from these measures and initiatives. Available data come for the most part from UNCHR.

Despite these measures, reportedly unaccompanied children who travel to Iran do not have guardianship or sufficient access to asylum and assistance with basic necessities such as shelter, education and food. According to the Human Rights Watch's submission to the Committee on the Rights of the Child in 2015, child migrants and refugees "are often kept in rooms with unrelated adults, sometimes beaten or otherwise abused by police or transit detention facility guards, given inadequate food and no education during their stay, and often forced to pay fees in order to leave the detention facilities." The report states that none of the unaccompanied child migrants and refugees interviewed for the report were given guardianship and were not provided free legal assistance.<sup>9</sup>

There is no readily available information that might indicate the existence of a process or mechanism for asylum-seeking or refugee children to file complaints of violations of their human rights, notably with regards to the absence of guardianship for unaccompanied children or

<sup>5</sup> UNHCR, <https://reporting.unhcr.org/sites/default/files/UNHCR%20Iran%20Fact%20Sheet%20-%20Apr-Jun%202020.pdf>

<sup>6</sup> UNHCR, <https://reporting.unhcr.org/node/2527?y=2020#year>

<sup>7</sup> UNHCR, <https://reporting.unhcr.org/sites/default/files/UNHCR%20Iran%20Fact%20Sheet%20-%20Apr-Jun%202020.pdf>

<sup>8</sup> UNHCR, <https://reporting.unhcr.org/node/2527?y=2020#year>

<sup>9</sup> Human Rights Watch, <https://www.hrw.org/news/2015/03/13/iran-submission-committee-rights-child>

access to free legal assistance with immigration proceedings. There is no independent National Human Rights Institution habilitated to receive and address complaints from children in the Islamic Republic of Iran. Additionally, there is no readily available information that might indicate the existence of trainings on child protection and the best interest of the child for staff and state officials involved in immigration proceedings.

According to its National Report to the Universal Periodic Review in 2019, the Government of the Islamic Republic of Iran has engaged in steps to improve access to health to its refugee population notably by extending its Social Security Insurance coverage. In 2019, the Government ensured that “All refugee children with disabilities have been covered by health insurance in cooperation with the office of UNHCR”. The Government also reported that “Iran has provided refugees and asylum seekers with appropriate extensive resources in the field of education, health care, livelihood, housing”. The Government stipulated that “disadvantaged refugee and immigrant children are under the cover of free welfare services”, and that the State provided “financial and executive support for humanitarian and promotional activities of the NGOs”. Additionally, and according to the aforementioned report, NGOs were “providing health, educational and livelihoods and other supports to displaced people”. However, there is no readily available information that might indicate the number of refugee and asylum-seeking children who have benefitted from such measures.<sup>10</sup> Measures presented by the Government did not mention guardianship or access to free legal assistance with immigration proceedings.

It is important to note that the Islamic Republic of Iran hosts one of the largest and most protracted urban refugee populations in the world, while international assistance has been limited and unilateral sanctions a significant economic burden. Regardless, however, the Iranian legal framework lacks protective safeguards vis-à-vis the rights of its asylum-seeking and refugee children. Additionally, the dearth of available, official and disaggregated data regarding the refugee and asylum-seeking population in the Islamic Republic of Iran makes it particularly difficult to assess precisely to what extent Governmental efforts have ensured that unaccompanied asylum-seeking and refugee children are given guardianship, free legal assistance with immigration proceedings, and access to adequate shelter, food, health care and education. Consequently, assessments as to whether governmental measures have addressed the issues raised in the reports of human rights violations aforementioned are greatly hindered. It is also important to reiterate that refugee and asylum-seeking children lack access to a mechanism habilitated to receive complaints address them, notably with regards to violations of the rights of the child in immigration proceedings.

Recommendation Status:

This recommendation has been **PARTIALLY** implemented.

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<sup>10</sup> National Report, UPR 2019, <https://undocs.org/A/HRC/WG.6/34/IRN/1>