

Elections in Iran: Denial of the Right to Participate in Public Affairs and International Treaty Obligations

ELECTORAL PROCESS in Iran infringes upon the right to political participation

The Iranian Constitution and domestic laws and regulations governing critical aspects of the electoral process do not comply with well-established legal principles related to political participation. The right to political participation under Article 25 of the International Covenant on Civil and Political Rights (ICCPR) contains three main parts: (i) non-discrimination [introductory paragraph]; (ii) the right to participate in public affairs [sub-section (a)]; and (iii) the right to free and fair elections [sub-section (b)].

SUPREME LEADER is not fairly and independently elected in accordance with public will

The Office of the Supreme Leader exercises broad public authority, both in law and practice. The Supreme Leader's position is legitimated by the principle of *Velayet-e Faqih* (guardianship of the Islamic jurist), which underpins the Iranian Constitution, but not through public will. This is due to discriminatory qualification requirements, a lack of public accountability, and a defective circular appointment process: the political composition of the Assembly of Experts, tasked with appointing and monitoring the Supreme Leader, is predetermined by the Guardian Council, who are themselves appointed by the Supreme Leader.

- This amounts to a violation of ICCPR Art. 25(a), which requires that the exercise of State authority be based on the sovereignty of the people. Any State organ exercising public affairs autonomously and independently of the legislature must be directly or indirectly elected.
- Iranian elections also fail to meet the requirement under ICCPR Art. 25(b) that elections be periodic, accountable and of democratic legitimacy.

DISCRIMINATION in the selection of political candidates

Provisions related to candidacies for public office contravene the principle of non-discrimination enshrined in the introductory paragraph of ICCPR Art. 25, which refers to the general principle contained in Article 2:

- Under the Iranian Constitution, there is a requirement that candidates standing for the Presidency have 'faith and loyalty to the official religion of the country' and belief in 'the fundamental principles of the Islamic Republic of Iran' (Art. 115).
- Within the Penal code there are vaguely worded provisions, which discriminate against religious, and political minorities. Similar domestic legislation exists in relation to other political offices. These requirements discriminate against religious and political minorities (Arts. 498-500, 513-514, 609, 698).
- The Arabic word *rejal* within the Iranian Constitution may be understood literally as 'men', or also read to refer to 'credible personalities' (Arts. 115).
- The Assembly of Experts has failed to provide guidance on the term's definition, thereby omitting to ensure the inclusion of women candidates. As a result, no single woman has been admitted as a candidate to run for any Presidential election.

POLITICAL PARTIES are suppressed

Under the Iranian Constitution (Art. 26), and the proposed Parties and Associations Law Reform Bill (Art. 24(b)) there are prohibitions on individuals from joining groups or political parties acting 'against Islamic criteria' or 'against the Islamic Republic'. These vague restrictions, together with the ill-defined 'crimes against security' in the Penal Code, have resulted in suppression of political parties through arrests of opposition members and the suspension or banning of opposition parties.

- Laws and the resulting practice, whereby candidates with alternative political views are prevented from standing for election, violate the right to participate in public affairs, as enshrined generally in ICCPR Art. 25(a) and elaborated on in Art. 25(b).
- They also violate the right to freedom of association under ICCPR Art. 22. Restrictions on the right to stand for election must be justifiable on objective and reasonable criteria.

ARBITRARY DISQUALIFICATION of political candidates

- Under the Constitution Guardian Council is granted broad powers to disqualify candidates for the presidency, parliament, parliament and Assembly of Experts (Arts. 99 and 110(9)).
- Under the Law on Assembly of Experts Elections, the Law on Islamic Consultative Assembly Elections and the Law on Presidential Elections the eligibility criteria is vague and, enabling arbitrary disqualifications.
- The Presidential electoral process under the Law on Presidential Elections enables disqualifications without reasonable assessment. It lacks transparency, accountability and the possibility of review, which is required by ICCPR Art. 25(b).