

Violations of Economic, Social and Cultural Rights
in the Islamic Republic of Iran
(Women - Afghan Refugees and Migrants - Ahwazi Arab Minorities)

A Brief Submitted to the Committee on Economic, Social, and Cultural Rights
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By:

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This submission, presented to the Committee on Economic, Social, and Cultural Rights on the occasion of its 50th Session (29 April – 17 May 2013), provides a brief summary of the violations of economic, social and cultural rights of women, Afghan refugees, and Ahwazi Arab minority in the Islamic Republic while focusing primarily on issues in relation to which the replies of the Islamic Republic of Iran to the Committee's List of Issues present incomplete or inaccurate information

I. Women

Equal Right to Work (Articles 2, 3, 6)

Under Article 15 of the Family Protection Law of 1967, a husband can, with the approval of Court, prohibit his wife from entering occupations deemed incompatible with family interests or the dignity of him or his wife. In its submission, the Islamic Republic claims that women may equally request the Court to prohibit their husbands from adopting occupations incompatible with family interests. The government fails to note, however, that women must prove that a prohibition order in this case does not interfere with the livelihood of the family. More importantly, the government appears oblivious to the fact that women rarely, if ever, bring such applications given the breadwinner status of men in society. Iran must address and remove all the barriers, in law and fact, which hinder and prohibit women from equal enjoyment of the right to work.

Forced Marriage and Sexual Abuse of the Girl Child (Article 10)

Under Iranian civil law, the legal age of marriage in Iran is 13 for girls and 15 for boys. However, the same Act allows girls below 13 and boys below 15 to be wed with the consent of their father and the permission of Court. There are troubling reports that Iranian parliament's legal affairs committee is pushing to lower the legal age of marriage for girls to 9.

Hundreds of girls below the age of 10 are forced into marriage in Iran every year and the trend is increasing at an alarming rate. According to recent data released by Iran's Association of Children's Rights, 449 girls were married in 2009 before reaching the age of 10 and as many as 716 girls were married under the age of 10 in 2010, a 59 percent spike in one year. Just in the province of Hamedan, government statistics speak of the marriage of 1773 of children between the ages of 10 and 14.

These young brides rarely continue their education, and consequently have no choice but to completely depend upon their husbands' earnings. The life expectancy of these girls is cut exceedingly short, given the high mortality rate from childbirth injuries. Girls younger than 15 years old are five times more likely to die in childbirth. Should this worrying trend continue, child protection

experts warn of a surge in mental illness, suicides, teenage runaways and girls turning to sex work.

Marital Rape Through the Requirement of *Tamkin* (Articles 2, 3 and 10)

The replies of the Islamic Republic of Iran in paragraph 39 of its submission demonstrate the refusal of the government to take a firm stance against marital rape. Iran has not only failed to criminalize marital rape but also placed in its Civil Code the requirement of *Tamkin* or obedience for women, which includes a wife's duty to fulfill the sexual desires of her husband at all times. Women's failure to meet this requirement constitutes *Nushuz*, which disqualifies them for maintenance rights.

Provisions of *Tamkin* also require that women stay at their husband's place of residence despite facing domestic acts of violence. This is unless and until they can prove to a judge that the violence faced by them poses a significant risk of bodily harm (Article 115 Civil Code).

Women's Equal Access to Inheritance (Articles 2, 3, 11)

Justice for Iran regrets that the replies of the Islamic Republic of Iran to the Committee's list of issues engage in highly distorted logic to rationalize/shield the State's *de jure* discrimination against women in relation to equal access to inheritance.

The reality remains that sons' share of inheritance is twice as much as that of daughters and wives' share of inheritance is half that of husbands (Article 907 Civil Code). Furthermore, a wife may never inherit more than a quarter of the assets of her deceased husband, even when there is no child or other inheritors (the rest belongs to the State) while a similarly situated husband inherits all the assets of his deceased wife (Article 949 Civil Code)

The exceptional cases that are mentioned by the government in support of the claim that women may take equal or more inheritance than men are based on a twisted kind of reasoning because the difference in the share of men and women in these cases derives not from gender but from the immediacy of familial relationship.

Access to Methods of Birth Control (Article 12)

On August 1 2012, Iranian Minister of Health and Medical Education then Marzieh Vahid Dastjerdi announced that "The country' budget for the population control program has been fully eliminated and such a project no longer exists in the health ministry." This move was preceded by the warnings of Iran's Supreme Leader about Iran's rapidly aging population and his calls on women to procreate and have more children. Ayatollah Ali Khamenei stressed that Iran's population must increase to 150 millions and measures in the area of population control must be taken only after Iran passes the population threshold set by him.

This shift in policy will deeply affect the right to health and other social and economic rights of women, particularly in poor rural areas, considering that family planning and contraception were among the services provided for free by the country's primary health care system. Iran's policy shift will severely undermine the noted successes of Iran in reducing fertility rates and realizing the reproductive rights of women. Social scientists and health professionals expect that this shift will result in increased maternal mortality rates and more instances of resort, by young marginalized women, to unsafe abortion, often self-induced or obtained clandestinely.

Access to Higher Education (articles 2, 3, 6 and 13)

In recent years, the Iranian government has moved to increasingly restrict the enjoyment, by women, of the right to higher education. These restrictions include bans on women enrolment in approximately 14 fields of study ranging from petroleum and mechanical engineering (water, gas and installations) to emergency medical technology and religious studies, and placement of quotas that severely limit the percentage of women students in such fields of study as social sciences, mine, material, agricultural and civil engineering, physics and mathematics, and digital arts.

Additionally, as part of a coordinated campaign of gender segregation, universities have divided the admittance of women and men among themselves and across provinces. As a result, women interested in certain fields of studies have lost access to their provincial universities and been forced to move to another province, which may prove inconvenient if not impossible due to family and cultural resections limiting women's freedom of movement.

It is needless to stress that this organized assault on women's right to higher education diminishes the realization of women's right to work and worsens the already troubling gender imbalance in the labour market.

II. Afghan Refugees and Migrants (articles 2, 3, 6, 11, 12, 13)

Justice for Iran is deeply concerned that the ground of Afghan nationality is being increasingly relied upon by Iran to bar access to Covenant rights. Contrary to the replies of the government to the Committee's list of issues, undocumented Afghan children are legally barred from receiving any form of education and health care (whether public or private) while documented Afghan children have to pay high amounts of tuitions in order to enrol in primary school and purchase private health insurance. The government's definition of undocumented children encompasses children of undocumented Afghan families born and raised in Iran as well as the 32000 to one million children whose mother is Iranian and father Afghan.

Of grave concern to Justice for Iran is also the government's 'clean up operations' whereby large number of Iranian provinces are being declared 'Afghan free' and hundreds of Afghan families are being forcefully evicted and uprooted from their places of residence and removed to a select number cities where settlement of Afghans remains permitted. At times, evicted individuals have been placed in remote camps with severe living conditions and no prospect of employment or education.

Iran must reverse its discriminatory policies toward persons of Afghan nationality, which are *prima facie* incompatible with the requirements of the Covenant, and recognize the right of everyone including Afghan non-nationals, to an adequate standard of living, including adequate food, housing, education, essential health care and primary education, regardless of legal status and documentation.

III. Ahwazi Arab Minority (articles 2, 13 and 15)

Iran's Ahwazi Arab minority in the Southern province of Khuzestan are systematically prevented from developing their cultural and linguistic right. The use of Arabic is not allowed in school even though Arabic is the mother tongue of a large number of children in the province of Khuzestan. This has contributed to disproportionately high drop out rate among Arab students at all levels of education.

Contrary to the claims of the government, members of the Arab minority are also yet to receive licenses and permits to publish an independent Arabic newspaper, magazine or other periodical.

In 2005, Iran ordered the closure of a cultural institute, named Al-Hiwar (Dialogue), which aimed to introduce young Arabs to their language, literature and culture. Members of the institute were subsequently subjected to continued persecution, leading, in 2010, to the arrest of 15 co-funders. The arrestees, who were mostly teachers, have been accused of terrorism and subjected to severe acts of physical and mental torture to confess to engagement in armed activities. Of these arrestees, five have received a death sentence and the Supreme Court upheld the sentences in January 2013.

There are also numerous reports of *de facto* discrimination against members of the Arab minority who manifest their cultural identity individually or in association with others through clothing, language, rites and ceremonies. Iran is yet to adopt a general anti-discrimination act, in particular with regard to discriminated and marginalized ethnic and religion groups, including Ahwazi Arabs.

In conclusion, it must be mentioned that the map of regions with high percentages of Arabs overlaps almost completely with the map of areas of extreme poverty. Inadequate resource allocation, poor participation of Arabs, improper community consultation mechanisms, and lack of targeted special measures may be identified as areas where Iran has to address in order to ensure that Arabs are guaranteed full and equal enjoyment of their economic and social rights.

Iran must recognize the linguistic and cultural right of Ahwazi Arabs in law and fact, and enact comprehensive anti-discrimination legislation, forbidding discrimination on all grounds including ethnicity and language and providing appropriate civil as well as criminal penalties for acts of public and private discrimination.