



# Access Denied: Iran's Exclusionary Elections

## A Human Rights Watch Briefing Paper

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### I. Summary and Recommendations

On June 17, 2005, Iran holds its ninth presidential election, as well as mid-term elections for the seventh parliament. As in all previous elections, candidates wishing to compete in these elections must first win approval by the powerful Guardian Council, a twelve-man body accountable only to Supreme Leader Ayatollah Khamenei, an unelected figure who represents the highest political authority in the country.

As a party to the International Convention on Civil and Political Rights, Iran is obligated to allow its citizens to compete as candidates in elections without “unreasonable restrictions.” Iran’s current parliamentary and presidential election laws incorporate discriminatory criteria that restrict the participation of many candidates in the electoral process.

Furthermore, Iran's election laws grant sweeping and arbitrary powers, known as "approbatory supervision [*nizarat-e istesvabi*]," to the Guardian Council. "Approbatory supervision" allows the Guardian Council to subjectively disqualify even candidates who satisfy the discriminatory criteria stated in the election laws.

The Guardian Council has consistently approved only candidates already associated with the ruling elite, known in Iranian political jargon as the "insiders" [*khodi*]. In all previous elections, both parliamentary and presidential, "outsiders" [*gheir-khodi*] who were not part of the ruling circle, were excluded from competing.<sup>1</sup>

On May 22, the Guardian Council announced that only six of the 1,014 candidates who registered for the upcoming presidential elections were qualified to be placed on the ballot. Five of these candidates, known to adhere closely to the political views of the Guardian Council, included Tehran Mayor Mohammad Ahmadinejad, former radio and television chief Ali Larijani, former Revolutionary Guards chief Mohsen Rezai, former police chief Mohammad Bagher Qalibaf, and former president Akbar Hashemi Rafsanjani. The sixth was former parliamentary speaker Mehdi Karrubi. Although Karrubi has differed with the Guardian Council in recent years on some issues, he too has been an "insider" for the past twenty-six years.

These selections demonstrated that the Guardian Council's definition of acceptable candidates is more restrictive than ever. The Council, for instance, disqualified two well-known reformists, former minister of higher education Mostafa Moin and Vice President Mohsen Mehralizadeh. On May 23, on the instructions of Supreme Leader Ayatollah Khamenei, the Guardian Council qualified Moin and Mehralizadeh. All candidates who hold distinctly alternative political viewpoints to those of the ruling elite, including all women candidates, remained disqualified.

The Guardian Council's vetting process effectively renders Iranian elections into a two-stage process. During the first stage, the Guardian Council exercises unlimited and unchecked powers in appointing candidates who may be on the ballot. The second stage is the actual voting, in which the electorate's choices are restricted to these pre-approved candidates.

Iran is a party to the International Convention on Civil and Political Rights (ICCPR). Article 25 of ICCPR requires that "every citizen shall have the right and the opportunity,

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<sup>1</sup> *Khodi* and *gheir-khodi* literally mean "of us" and "not of us," respectively.

without any of the distinctions mentioned in article 2 and without unreasonable restrictions to vote and *to be elected* at genuine periodic elections which shall be by universal and equal suffrage and shall be held by secret ballot, guaranteeing the free expression of the will of the electors.”<sup>2</sup>

The required qualifications stated in Iran’s election laws clearly place “unreasonable restrictions” on the ability of Iranians to be elected to political office. Article 28 of the Parliamentary Election Law of 1995 states that the candidates must have “practical belief in the Islamic faith and the sacred order [*nizam-e moghadas*] of the Islamic Republic of Iran.”<sup>3</sup> It further requires them to declare their loyalty “to the progressive principle of the absolute rule of the Jurisconsult [*velayat faqih motlaqeh*].”<sup>4</sup> This doctrine is developed only in Shi`a Islam, and even among Shi`a it is far from universally accepted. It advocates dominance of religious clerics in holding supreme political powers and is the rationale for the position of the Supreme Leader. Presidential candidates must demonstrate “convinced belief in the fundamental principles of the Islamic Republic of Iran and the official religion of the country.”<sup>5</sup> The Guardian Council arbitrarily determines what constitutes “practical belief” and “convinced belief.”

In addition, the Guardian Council has interpreted the Presidential Election Law to disqualify all female candidates who have registered in previous presidential elections.<sup>6</sup> None of the eighty-nine women who registered their candidacy for the upcoming presidential elections were allowed to stand in the election.

Finally, the Guardian Council enjoys powers known as “approbatory supervision.” This allows Guardian Council members to disqualify even those candidates who meet the stated requirements. “Approbatory supervision” is a vaguely defined authority by which the Council can arbitrarily exclude candidates who do not hold political positions acceptable to the Council.

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<sup>2</sup> International Covenant on Civil and Political Rights, G.A. res. 2200A (XXI), 21 U.N. GAOR Supp. (No. 16) at 52, U.N. Doc. A/6316 (1966), 999 U.N.T.S. 171, signed by Iran on April 4, 1968 and ratified on June 24, 1975. Article 2.1 of ICCPR states that: “Each State Party to the present Covenant undertakes to respect and to ensure to all individuals within its territory and subject to its jurisdiction the rights recognized in the present Covenant, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.”

<sup>3</sup> Provision one of Article 28 of the Parliamentary Election law, downloaded from the Interior Ministry website: [www.moi.gov.ir/ghavanin/rules.htm](http://www.moi.gov.ir/ghavanin/rules.htm).

<sup>4</sup> Provision three of Article 28 of the Parliamentary Election Law, downloaded from the Interior Ministry website: [www.moi.gov.ir/ghavanin/rules.htm](http://www.moi.gov.ir/ghavanin/rules.htm).

<sup>5</sup> Article 115 of the Constitution. *Constitution of the Islamic Republic of Iran*. Tehran: Astan Razavi Ghods Publications, 2000.

<sup>6</sup>“Need for a new interpretation of political *rejal*,” *BBC Persian*, October 24, 2004.

Iranian election laws also discriminate on the basis of religion and religious belief. Parliamentary and presidential candidates are expected to declare their loyalty to the doctrine of absolute rule of the Jurisconsult [*velayat faqih motlajeh*]. Mohsen Kadivar, a Shi`a scholar and cleric, has identified nine distinct theories of government among Shi`a scholars; *velayat faqih motlajeh*—absolute rule—is just one of them.<sup>7</sup> Prominent Shi`a clerics, such as Ayatollah Sistani, do not subscribe to the theory of *velayat faqih* even in its most general formulation.<sup>8</sup>

The exclusionary and discriminatory nature of Iran's elections was evident during the parliamentary elections in February 2004. Then the Guardian Council disqualified 3,605 candidates representing more than forty-four percent of registered candidates nationwide.<sup>9</sup> In Tehran, the Council disqualified fifty-two percent of the candidates. In an unprecedented move, the Guardian Council disqualified eighty-seven sitting parliamentary deputies.<sup>10</sup>

In sum, Iran's election laws make meaningful participation of all Iranians in the political process impossible. Iran's elections will be meaningful and in accordance with international human rights standards only when both of these fundamental structural issues—discriminatory election laws and the Guardian Council's arbitrary powers of exclusion—are addressed.

### **Recommendations to the Government of Iran**

- Allow candidates to stand for parliamentary and presidential elections without discrimination based on gender, religious belief, political opinion, or belief.
- Revoke the Guardian Council's authority to select candidates for public office or to interfere in the election process.
- Inform candidates who are barred from standing in elections of the reasons for their disqualification in writing, which should be based on clear legal criteria instituted through a transparent process.
- Provide timely legal recourse for candidates to challenge any disqualification.

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<sup>7</sup> Mohsen Kadivar, *Nazariehay-e Dowlat dar Fiqh Shi`a*. Tehran: Nashr Ney, 2001.

<sup>8</sup> Ayatollah Sistani, an Iranian-born Shi`a scholar, is the highest ranking Shi`a cleric in Iraq, where he has lived for many decades. He enjoys a widespread following both in Iran and Iraq.

<sup>9</sup> "Forty-four percent of candidates disqualified," *Iranian Students News Agency*, January 12, 2004.

<sup>10</sup> "Interior Minister says elections not legitimate," *Iranian Students News Agency*, 31 January 2004.

## **II. Mechanisms of Exclusion**

Parliamentary and presidential elections in Iran take place in two stages. The first stage is the vetting of candidates through a qualification process conducted by the Guardian Council. Only candidates deemed qualified are allowed to campaign and to compete in the elections. In effect, the qualification procedure allows the Guardian Council to appoint the candidates running for office. The second stage involves direct ballot by the electorate to choose from among the appointed candidates.

### ***Guardian Council***

Iran's Guardian Council is a body of twelve religious jurists: the Supreme Leader appoints six of them; the other six are nominated by the Judiciary and confirmed by parliament. The Guardian Council is the most powerful non-elected body within Iran's system of governance and is effectively an extension of the unaccountable rule of the Supreme Leader. The Council's sweeping powers include interpretation of the Constitution, supervision of elections and the vetting of legislation passed by the parliament.

The Constitution defines the Guardian Council's duties. Article 94 of the Constitution requires the Council to review legislation passed by the parliament:

All legislation passed by the parliament must be sent to the Guardian Council. The Guardian Council must review it within a maximum of ten days from its receipt with a view to ensuring its compatibility with the criteria of Islam and the Constitution. If it finds the legislation incompatible, it will return it to the parliament for review. Otherwise the legislation will be deemed enforceable.

The Guardian Council frequently wields its veto power in order to control the political direction of the country and to make sure that legislation coincide with the Council's political agenda. Between 2000 and 2002 alone, the Guardian Council used its veto power over fifty times to strike down bills passed by the parliament.<sup>11</sup> In 2002, for example, the Guardian Council vetoed a bill passed by the parliament aimed at limiting the practice of torture and the use of forced confessions in criminal trials. The Council

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<sup>11</sup> "Iran parliament backs reformist bill," *BBC News*, November 10, 2002.

said the bill was against the principles of Islam because it would limit the authority of judges to adjudicate on the admissibility of confessions.<sup>12</sup>

Prior to the 2004 parliamentary elections, the Council vetoed legislation which would have curbed the Council's arbitrary power to disqualify candidates. The bill was intended to amend the election law and require the Guardian Council to reinstate all disqualified candidates unless their exclusion could be supported by legal documentation. In response to the Council's veto, lawmaker Rajabali Mazroi stated that the Council was dedicated to "imposing brazen dictatorship."<sup>13</sup>

Article 98 of the Constitution provides the Council "the authority of the interpretation of the Constitution."<sup>14</sup> The Guardian Council is also responsible for "supervising" presidential and parliamentary elections. Article 99 of the Constitution states that:

The Guardian Council has the responsibility of supervising the elections of the Assembly of Experts for Leadership, the President of the Republic, the parliament, and the direct recourse to popular opinion [*moraje' be array-e omumi*] and referenda.<sup>15</sup>

The Guardian Council is the most powerful and unaccountable body controlling the election process: the ultimate decision with regard to the candidates' qualifications belongs to the Council.

The arbitrary and discriminatory nature of disqualifications by the Guardian Council during the seventh parliamentary elections of 2004 even led election officials, as well as the Interior Ministry officials, to protest these decisions. Sayyed Mahmoud Mir Lowhi, the Interior Ministry's deputy for parliamentary affairs, said, "the Interior Ministry is gravely concerned that baseless cases have been built [by the Guardian Council] against many former parliament members and even former ministers [who registered as candidates]." He added that "the collection and analysis of information regarding the

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<sup>12</sup> "Iran: Veto on Torture Bill Condemned," Human Rights Watch, June 12, 2002.

<sup>13</sup> "Rebuff by hard-liners casts doubt on Iranian Election," Associated Press, January 26, 2004.

<sup>14</sup> *Constitution of the Islamic Republic of Iran*. Tehran: Astan Razavi Ghods Publications, 2000.

<sup>15</sup> *Constitution of the Islamic Republic of Iran*. Tehran: Astan Razavi Ghods Publications, 2000. The Assembly of Experts for Leadership is an elected body of clerics responsible for choosing the Supreme Leader, a lifetime appointment.

candidates should pass through several levels of expertise. The disqualification process can not depend on rumors and innuendos.”<sup>16</sup>

The director of the elections bureau in Marand district of Eastern Azarbaijan province, named only as Taghavi, protested the Guardian Council’s decisions to disqualify candidates, saying, “The Guardian Council was not established so that its members can decide in place of the people and hand pick parliamentary deputies.”<sup>17</sup>

Mohammad Jahromi, the spokesperson for the central Supervision Committee, announced the reasons for disqualifications during the seventh parliamentary elections of 2004 as:

12.5 percent financial corruption, 13.5 percent moral corruption, 14.5 percent sympathy towards or membership in counter-revolutionary groups, 13.5 percent lacking belief in principles of Islam, 6.8 percent publication of untrue statements and disturbing public opinion, 15.7 percent having ill repute, 6.5 percent having acted against national security, 16.5 percent lacking belief in the Constitution.<sup>18</sup>

The Ministry of Interior’s chief counsel responded in a letter to reasons given by the Guardian Council for disqualifications:

Making libelous statements, publication of untrue statements, or propaganda against the Islamic Republic is not part of the disqualifying conditions stated in Article 30 [of the Parliamentary Election Law]...One of the reasons given for disqualifying candidates by the Guardian Council is “acting against the national security.” As long as there is no definite judicial sentence to this effect against a candidate, the candidate can not be disqualified based on unsubstantiated claims...According to the present law, the only two illegal organizations are Komoleh and the Kurdish Democratic Party. Other than these two, we do not have any other illegal organizations. Thus there is no legal basis for disqualifying candidates due to their sympathies or membership

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<sup>16</sup> “Interior Ministry worried about serious cases brought against well-known personalities,” *Iranian Labor News Agency*, December 28, 2003.

<sup>17</sup> “Taghavi says the Guardian Council’s actions beyond law and subjective,” *Tabriz News*, January 14, 2004.

<sup>18</sup> “Central Supervision Committee spokesman announces reasons for disqualifications,” *Fars News Agency*, January 9, 2004.

in other groups, except for the two noted above; the decision to disqualify candidates on such grounds is illegal.<sup>19</sup>

### **Qualification Criteria for Parliamentary Candidates**

The first step for an aspiring candidate is to register with the Interior Ministry. In conjunction with the Guardian Council, the Interior Ministry investigates the qualification of each registered candidate. According to Article 28 of the Parliamentary Election Law:<sup>20</sup>

At the time of registration, each candidate must fulfill the criteria stated below:

1. Practical belief in the Islamic faith and the sacred order [*nizam-e moghadas*] of the Islamic Republic of Iran.
2. Citizen of the Islamic Republic of Iran.
3. Declaration of loyalty to the progressive principle of the absolute rule of the Jurisconsult and to the Constitution.
4. Minimum of a high school diploma or its equivalent.
5. Absence of ill repute in the election district.
6. Physical health to the extent of possessing the blessings of sight, hearing, and faculty of speech.
7. Between thirty and seventy-five years of age.

The investigation into the candidate's background begins with the Interior Ministry and the Guardian Council requesting information from various government agencies:

After obtaining details of each volunteer [candidate], the Interior Ministry and the Guardian Council will compile a complete list on a daily basis and will send it to the Intelligence Ministry, the Public Prosecutor, the Bureau of Registry (*Sazeman-e Sabt-e Ahval*), the Bureau of Identity Verification (*Edareh Tashkhis Horiaat*), and the International Police in order to study their background and in relation to fulfilling

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<sup>19</sup> "Interior Ministry's Chief Council responds to disqualifications," *Iranian Students News Agency*, February 2, 2004. Komoleh and the Kurdish Democratic Party are Kurdish political parties that have waged armed resistance against the government.

<sup>20</sup> Available from the Interior Ministry website: [www.moi.gov.ir/ghavanin/rules.htm](http://www.moi.gov.ir/ghavanin/rules.htm).

conditions stated in this law. The above authorities [Intelligence Ministry, the Public Prosecutor, the Bureau of Registry, the Bureau of Identity Verification and the International Police] are responsible to provide the results of their investigation along with relevant documents to the Interior Ministry and the Guardian Council within five days.<sup>21</sup>

In each electoral district, the Interior Ministry forms an executive committee within six days of the start of the registration period.<sup>22</sup> These local executive committees report to a provincial executive committee that itself operates under the authority of a central Executive Committee in Tehran. Prior to the start of the election period, the Guardian Council appoints a parallel set of “supervision committees.” These committees are also arranged in a vertical structure, with a central Supervision Committee in Tehran overseeing a provincial supervision committee that in turn controls local supervision committees in each district.

The Interior Ministry forwards the information on each candidate from the above-mentioned government agencies to the local executive committees. The local executive committees also investigate the candidate’s background in his or her neighborhood and make a recommendation regarding the candidate’s qualification. The local supervision committees assess these recommendations while undertaking their own parallel investigations. The local supervision committees pass their findings and decisions to the provincial and central supervision committees. The Guardian Council takes the final decision with regard to each candidate’s qualification. In case of differences between the recommendation of the central Executive Committee and that of the Supervision Committee, the Guardian Council is the ultimate arbitrator:

The Guardian Council announces its final decision regarding the confirmation or rejection of each volunteer’s qualification to the Interior Ministry twenty days after the central Supervision Committee has declared its definitive viewpoint.<sup>23</sup>

## ***Approbatory Supervision***

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<sup>21</sup> Article 48 of the Parliamentary Election law, downloaded from the Interior Ministry website: [www.moi.gov.ir/ghavanin/rules.htm](http://www.moi.gov.ir/ghavanin/rules.htm).

<sup>22</sup> Candidates have a seven day period to register with the Interior Ministry. This period is announced publicly by the interior Ministry during each election.

<sup>23</sup> Article 52, Amendment 3 of the Parliamentary Election law, downloaded from the Interior Ministry website: [www.moi.gov.ir/ghavanin/rules.htm](http://www.moi.gov.ir/ghavanin/rules.htm).

“Approbatory supervision,” which applies to parliamentary candidates, is the most arbitrary and intrusive mechanism exerted by the Guardian Council over the election process. The Parliamentary Election Law gives the Guardian Council absolute powers of supervision over all aspects of the election process. Article 3 of the law states:

The Guardian Council has the responsibility of supervision of the parliamentary [*majlis shorray-e Islami*] elections. This supervision is approbatory, general, and applicable to every phase of all matters related to the elections.<sup>24</sup>

“Approbatory supervision” is an arbitrary and vaguely defined authority. The Guardian Council can disqualify candidates even if they fulfill all qualifications specified in the Parliamentary Election Law. In essence, “approbatory supervision” allows the Guardian Council to ignore or overrule the entire qualification process outlined in the election law.

Mohsen Sazegara, an Iranian dissident who was disqualified as a presidential candidate in 2001, considers “approbatory supervision” as the ultimate means for the Guardian Council to control the election process and effectively to choose who becomes a candidate. He told Human Rights Watch:

According to the Guardian Council’s interpretation, “approbatory supervision” allows the Council’s members to decide what is expedient in their view and, based on this subjective notion, they give their blessing to qualified candidates. Thus the Guardian Council’s oversight is not just based on the legal code defining the criteria for candidacy. A candidate could fulfill all these conditions and still be disqualified based on the Council’s notion of expediency.<sup>25</sup>

Sazegara further considers the Guardian Council’s decisions as a reflection and extension of the Supreme Leader Ayatollah Khamenei’s power.

The Guardian Council is appointed by the Leader. What happens in practice is that the candidates are vetted through the supervision of the Leader before they are introduced to the public. We witnessed this

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<sup>24</sup> Article 3 of the Parliamentary Election law, downloaded from the Interior Ministry website: [www.moi.gov.ir/ghavanin/rules.htm](http://www.moi.gov.ir/ghavanin/rules.htm).

<sup>25</sup> Human Rights Watch interview with Mohsen Sazegara, April 11, 2005.

reality in the February 2004 parliamentary elections where more than three thousand candidates were summarily disqualified by the Guardian Council and due to the Leader's discretion.<sup>26</sup>

Mehrangiz Kar, a prominent Iranian lawyer and human rights defender, also characterized the “approbatory supervision” powers of the Guardian Council as a major impediment in free and fair participation of all Iranians to become candidates in elections. She told Human Rights Watch:

The Guardian Council's decisions are based upon its own political and factional leanings. The existence of “approbatory supervision” makes it impossible for Iranians from differing political viewpoints to participate in the political process.<sup>27</sup>

### ***Qualification Criteria for Presidential Elections***

As with the parliamentary elections, persons wishing to stand as candidates in the presidential election are subject to a stringent qualification process controlled by the Guardian Council.

Article 115 of the Constitution describes the requirements for the presidential candidates:

The President must be elected from among religious and political personalities [*rjał*] possessing the following qualifications: Iranian origin; Iranian nationality; administrative capacity and resourcefulness; a good past-record; trustworthiness and piety; convinced belief in the fundamental principles of the Islamic Republic of Iran and the official religion of the country.<sup>28</sup>

The vetting of presidential candidates rests with the Guardian Council, according to article 118 of the Constitution:

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<sup>26</sup> Ibid.

<sup>27</sup> Human Rights Watch interview with Mehrangiz Kar, April 11, 2005.

<sup>28</sup> *Constitution of the Islamic Republic of Iran*. Tehran: Astan Razavi Ghods Publications, 2000. According to Article 12 of the Constitution: “The official religion of Iran is Islam and the Twelver Ja'fari school, and this principle will remain eternally immutable.”

Responsibility for the supervision of the election of the President lies with the Guardian Council, as stipulated in Article 99.<sup>29</sup>

In addition to the Guardian Council, the Supreme Leader must also explicitly approve the candidacy of presidential aspirants, except in the case of an incumbent president running for reelection.<sup>30</sup>

### **III. Human Rights Violations**

Iran is a party to the International Convention on the Civil and Political Rights (ICCPR). Article 25 of ICCPR requires that “every citizen shall have the right and the opportunity, without any of the distinctions mentioned in article 2 and without unreasonable restrictions to vote *and to be elected* at genuine periodic elections which shall be by universal and equal suffrage and shall be held by secret ballot, guaranteeing the free expression of the will of the electors.” Iran’s election laws and the role of the Guardian Council in disqualifying candidates restrict the majority of its citizens’ right to be elected, thus violating the ICCPR. The various aspects of this violation are discussed below.

#### ***Gender Discrimination***

According to Article 115 of the Iranian Constitution, a presidential candidate must be from among “the well-known religious and political personalities [*rejalRejal* is originally Arabic and means men. Since Farsi is a gender-neutral language, it is not clear whether this phrase is intended to restrict presidential candidates to males or to encompass both male and female candidates.

In practice, the Guardian Council has interpreted *rejal* to refer solely to male candidates. The Council’s spokesman, Gholamhussein Ilham, on October 23, 2004, stated this interpretation publicly.<sup>31</sup> The Council has consistently rejected all female candidates who registered to compete in previous presidential elections. During the 1997 presidential elections, Azam Taleghani, a well-known political and social activist, was disqualified

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<sup>29</sup> Ibid.

<sup>30</sup> According to Article 110: “The suitability of candidates for the presidency of the Republic, with respect to the qualifications specified in the Constitution, must be confirmed before elections take place by the Guardian Council; and, in the case of the first term [Presidency], by the Supreme Leader.”

<sup>31</sup> “Need for a new interpretation of political *rejal*,” BBC Persian, October 24, 2004.

from becoming a candidate. In the presidential elections of 2001, forty-seven women registered, but were all disqualified by the Guardian Council.

For the upcoming presidential election of June 2005, eighty-nine women, including Taleghani, registered their candidacy. None of them were approved by the Guardian Council.

Shirin Ebadi, the 2003 Noble Peace Prize winner, considers this interpretation as fundamentally flawed. “To deprive half of the country’s population from obtaining the important post of the presidency is a sign of unjust discrimination,” she said.<sup>32</sup>

Hamideh Edalat was the leader of the Women’s Caucus [*fraction zanan*] in the sixth parliament, from 2001 to 2004. She believes excluding women from seeking the presidency is unacceptable:

Such an interpretation questions many social values and meanings because it automatically eliminates half of the society from the political arena. It will make women wonder if part of the government is just using their votes as a tool if they can so easily take away the women’s right to assume high positions. Presently, there are women in our society who can become presidential candidates and the system [*haakemia*] should allow the people to decide if they want their president to be a man or a woman. With this [Guardian Council] interpretation of the word *rejal*, women have been deprived of their indisputable right.<sup>33</sup>

### ***Discrimination Based on Political Opinion and Belief***

Iranian election laws explicitly discriminate against candidates who do not hold the beliefs and opinions of those currently holding power. Article 28 of the Parliamentary Election Law requires the candidates to have “practical belief in the Islamic faith and the sacred order of the Islamic Republic of Iran.”<sup>34</sup> The same article demands of the candidates a “declaration of loyalty to the progressive principle of the absolute rule of the Jurisconsult and to the Constitution.” The Guardian Council has used both of these requirements to disqualify candidates.

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<sup>32</sup> Iranian Labor News Agency, January 3, 2005.

<sup>33</sup> Iranian Students News Agency, October 25, 2004.

<sup>34</sup> Available from the Interior Ministry website: [www.moi.gov.ir/ghavanin/rules.htm](http://www.moi.gov.ir/ghavanin/rules.htm)

Mehrangiz Kar told Human Rights Watch:

Provisions of Article 28 prevent people from having their candidates compete in elections. The right to become a candidate is restricted to those who hold political viewpoints similar to those of the Guardian Council. How can we talk about the people's right to self-governance when people holding viewpoints critical of the government [*digarandishan*] are excluded from participating in the executive and legislative decision-making process?<sup>35</sup>

Saeed Razavi Faqih, a prominent reformist, experienced this forms of discrimination during his four attempts to compete in parliamentary elections. He told Human Rights Watch:

I first registered for the fifth parliamentary elections in 1996, from Dorud district in Lorestan Province. The local executive committee disqualified me from the electoral competition. I lodged a protest with them and it was referred to the executive committee at the provincial level. They also rejected my application. I attempted to become a candidate again for the sixth parliamentary elections in 2000, from the same district. This time the local executive committees qualified me, although with much difficulty. The mayor of Dorud personally told me that it was difficult to approve of my candidacy. He said since objections against my candidacy were baseless, the local executive committee decided to qualify me. But the Guardian Council sent a letter to the local executive committee disqualifying me. According to this letter the reasons given for my disqualification included association with opposition groups, lacking belief in absolute rule of the Jurisconsult, and lack of belief in the Constitution. I tried again during the mid-term elections in 2001, and the Guardian Council rejected my candidacy for the same reasons. I tried yet again during the seventh parliamentary elections in 2004. Again the Guardian Council disqualified me, and gave an additional reason: "Lack of practical belief in Islam and having ill repute."<sup>36</sup>

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<sup>35</sup> Human Rights Watch interview with Mehrangiz Kar, April 11, 2005.

<sup>36</sup> Human Rights Watch interview with Saeed Razavi Faqih, April 13, 2005.

Razavi Faqih said that the Guardian Council's real reasons were his political opinions and beliefs:

The Guardian Council has never used any legal benchmarks for making its decisions. Its decisions are rather based on reports and files on the candidate's political speeches, writings, and opinions. I am certain that its decisions are completely of political nature.<sup>37</sup>

Mohsen Sazegara registered as a candidate in the presidential election of 2001, but was disqualified by the Guardian Council. He also believes that his disqualification was stemmed solely from his political opinions and beliefs. He told Human Rights Watch:

My candidacy fulfilled all of the requirements stated in the presidential election law. Yet the Guardian Council disqualified me. In general, any candidate whose political positions, speeches, and writings are not congruent with the wishes of the Guardian Council and the Supreme Leader will be disqualified. This was the reason for my own disqualification.<sup>38</sup>

The Guardian Council's discriminatory and arbitrary disqualification of candidates was on stark display during the parliamentary elections of 2004. During these elections, Karim Abedi, director of elections bureau in Eastern Azarbaijan province, said that:

The Guardian Council's supervision committees, in a calculated move that was completely political and factional, resorted to mass disqualification of candidates. These mass disqualifications indicate that the Guardian Council's supervision committees have no belief in people's votes and are willing to reject the popular vote by using disqualification of candidates. The decisions of the supervision committees are completely of a political nature and are designed to allow only candidates belonging to a particular faction to stand in elections.<sup>39</sup>

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<sup>37</sup> Ibid.

<sup>38</sup> Human Rights Watch interview with Mohsen Sazegara, April 11, 2005.

<sup>39</sup> "Political Deputy of Eastern Azarbaijan says 176 candidates have been disqualified," *Tabriz News*, January 16, 2004.

Abedi said that 176 people, representing forty-five percent of registered candidates in his province, were disqualified due to their supposed “lack of practical belief in Islam and the system” and due to their association with various organizations and groups.

Mehrangiz Kar compared the Guardian Council’s disqualification of candidates to a modern Inquisition.<sup>40</sup> This view was widely held in Iran during the seventh parliamentary elections. In defense of its policies, Mohammad Jahromi, the spokesperson for the central Supervision Committee, said that “this method is not an Inquisition, but a rational decision on who is qualified to be trusted with important tasks.”<sup>41</sup>

Ahmad Nateq Nuri, deputy leader of the Conservative faction in the sixth parliament, justified the majority of disqualifications during the seventh parliamentary elections in 2004 as necessary to prevent the formation of a secular government.<sup>42</sup>

### ***Discrimination Based on Religious Belief***

Iranian election laws require that the candidates for the parliament declare their loyalty to the religious doctrine of the absolute rule of the Jurisconsult [*velayat faqih molafeh*], a Shi`a doctrine that underpins Iran’s system of government. It espouses a system of governance in which a religious leader [*faqih*] is the highest authority, the Supreme Leader.

Presidential candidates are required to demonstrate “convinced belief in the fundamental principles of the Islamic Republic of Iran and the official religion of the country.”

These laws discriminate against candidates based on religious beliefs. They discriminate against non-Muslims and Sunni Muslims, as well as many Shi`a who do not accept this doctrine. Mohsen Sazegara told Human Rights Watch:

If you are a follower of Ayatollah Sistani or of the deceased Ayatollah Khoei, then you are discriminated against. Indeed, the majority of Shi`a

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<sup>40</sup> Human Rights Watch interview with Mehrangiz Kar, April 11, 2005.

<sup>41</sup> “So far 2033 candidates disqualified,” *Iranian Students News Agency*, January 11, 2004.

<sup>42</sup> “Ahmad Nateq Nuri says disqualifications are to prevent secular government,” *Iranian Labor News Agency*, January 18, 2004.

clerical leaders do not espouse the doctrine of *velayat faqih*. There are very few of them who approve of this doctrine.<sup>43</sup>

Mohsen Kadivar, an Iranian Shi'a scholar and cleric, conducted extensive research into the history of *velayat faqih* doctrine. He discussed nine variations of the theory of government among the Shi'a scholars—the absolutist version of *velayat faqih* favored by Iran's rulers being just one of them.<sup>44</sup>

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<sup>43</sup> Human Rights Watch interview with Mohsen Sazegara, April 11, 2004.

<sup>44</sup> Mohsen Kadivar, *Nazariehay-e Dowlat dar Fiqh Shi'a*. Tehran: Nashr Ney, 2001.