

Freedom of Association for Trade Union Purposes in Iran and the ILO Standards: A Legal Analysis (Part 1)

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Abstract: Articles 26 and 27 of the Constitution of the Islamic Republic of Iran provide general conditions for the right to assemble by political parties, as well as societies and associations. These articles specify different types of associations such as societies, parties and assemblies. Based on the constitution, the freedom of trade and political association is accepted as a principle, although there are some conditions and restrictions attached to the activities of associations and political parties. This study reveals that theoretically, workers in Iran enjoy freedom of association for trade union purposes although in practice, the right is very limited. The laws in Iran are discussed herein against the background of the ILO standards. This study is the first part of a two parts discussion on freedom of association for trade union purposes in Iran.

Key words: Freedom of association, trade unions, Iran, ILO standards, political parties, laws

INTRODUCTION

Freedom of association has a unique place among basic human rights and this freedom is of utmost concern to the International Labour Organization (ILO). For this reason, the ILO has adopted several conventions pertaining to the freedom of association such as Convention No. 87 and 98. Freedom of association allows workers to give expression to their aspirations; it articulates the workers' position in the collective bargaining process and re-establishes a balance in the strength of the parties. The freedom constitutes a healthy counterweight to the power of the state by enabling labour to participate in the framing and carrying out of economic and social policies. Also, it is essential for the proper functioning of an organization like the ILO based on tripartism. In other words, cooperation is established on an equal footing among workers, employers and governments (ILO International Labour Standards, 1998). In addition, to being acknowledged as a fundamental principle in the preamble to the ILO Constitution and being reaffirmed together with the principle of freedom of expression in the Declaration of Philadelphia, freedom of association is prominent among the subjects dealt within a number of texts adopted by the International Labour Conference (ILC) (ILO International Labour Standards, 1998). Although, the ILO's statute emphasized the principle of freedom of association which recognized the right to organize association in all affairs which are not against the law for workers and employers and the Philadelphia declaration reiterated this principle until the ratification of Convention No. 87, it was not clear how to

exercise the right to establish trade unions (Swepston, 1998). Some important principles have been considered as the basics of the protection of association rights by virtue of the ratification of this convention (ILO International Labour Standards, 1998). Indeed, Convention No. 98 in 1949 completed the issue of workers' rights espoused by Convention No. 87. Against these ILO standards, this study discusses the several aspects of freedom of association for trade union purposes in Iran with emphasis on the workers' right to form trade unions and non-discrimination for union activities.

FREEDOM TO FORM TRADE UNIONS: ILO STANDARDS AND IRANIAN LAWS

Article 2 of Convention No. 87 states that workers and employers without distinction what so ever shall have the right to establish and subject only to the rules of the organization concerned to join organizations of their own choosing without previous authorization. In the view of the Committee of Freedom of Association, the establishment and recognition of guild associations and the freedom to join them are the first and the most important feature of trade union rights (ILO, 2006). Also, they are basic, fundamental and necessary characteristics of those rights. The right to freely form trade unions is stated in Article 2 of Convention No. 87. The right has three features. Firstly, workers and employers shall not face any discrimination in the enforcement of the right officially and in practice. Secondly, establishing workers' and employers' associations shall not require the

government's prior authorization. Thirdly, workers and employers shall be free to choose to join any organization (Jean, 2005). Articles 26 and 27 of the Constitution of the Islamic Republic of Iran provide general conditions for the right to assemble by political parties as well as societies and associations. These articles specify different types of associations such as societies, parties and assemblies. Based on the constitution, the freedom of trade and political association is accepted as a principle although, there are some conditions and restrictions attached to the activities of associations and political parties. For example, as part of the restrictions imposed on them, political parties must observe the general principles of the independence, freedom, national unity, Islamic standards and the basis of the Islamic Republic. It does not matter whether or not the founders of political parties and associations believe in these standards. However, they must not do anything that openly or directly violate them (Eraghi, 2002). Article 26 of the constitution states that:

The formation of parties, societies, political or professional associations as well as religious societies whether Islamic or pertaining to one of the recognized religious minorities is permitted provided they do not violate the principles of independence, freedom, national unity, the criteria of Islam or the basis of the Islamic Republic. No one may be prevented from participating in the aforementioned groups or be compelled to participate in them

And according to Article 27 of the constitution, public gatherings and marches may be freely held, provided arms are not carried and those gatherings and marches are not detrimental to the fundamental principles of Islam. But it should be noted that although, the constitution recognizes the right to form parties, societies, political or professional associations as well as religious societies, the Labour Act (1990) restricts the right to form trade unions and to conduct trade union activities only to those who are employees under that act. In addition to the right to establish Islamic associations which is mentioned in Article 130 of the Labour Act, Article 131 of that act states:

In order to implement Article 26 of the constitution of the Islamic Republic of Iran to safeguard the legitimate rights and interests and to improve the economic condition of workers and employers which entail the protection of the interests of the society, the workers, subject of this law and employers related to any vocation or industry may establish guild societies

Based on Article 131 (2), all guild associations and related units at the time of establishment shall be under the obligation to formulate their articles of association with due observance of the law; to present them to the General Assembly, get them approved by it and submit them to the Ministry of Labour and Social Affairs for registration. Although, the Labour Ministry is the only authorized government agency responsible for the registration of associations and this ministry does not regulate their statutes nevertheless, the fact that guild associations and related units have to pass through the General Assembly and the Labour Ministry, in order to get approval runs contrary to Convention No. 87. Indeed, workers and employers have to comply with the Labour Ministry's procedure in order to register their associations. Therefore, they must get the Ministry's authorization in order to establish the associations (Eraghi, 2002).

NON-DISCRIMINATION IN THE ESTABLISHMENT OF LABOUR AND EMPLOYER ORGANIZATIONS

During the discussion of the official text of Convention No. 87 at the 30th meeting of ILC, representatives in the session thought that by employing the phrase without any discrimination and distinction, they could express their aims unequivocally (ILO, 2006). The representatives felt that the convention should be set out so as to clearly reflect the essence of the principle of freedom of association. There should not be any ambiguity that the right to form trade unions shall be granted without any distinction and discrimination of any nature whether they are based on job, gender, colour, race, religious beliefs, nationality or political views for workers and employers. Therefore, the right to establish trade unions must be considered as a general principle. According to Article 9 of Convention No. 87, states may determine the extent to which the convention's guarantees for the establishment of trade unions will be extended to the police and the army (ILO, 2006). This is the only issue that can be mentioned as an exception to the provisions of the convention. According to a study by the ILC most countries have generally recognized the right to establish workers and employers organizations. Nevertheless, certain issues in the statutes or national policies of some countries evidence acts of discrimination. The Committee of Independent Experts and the Committee of Freedom of Association have continued to remind the state members concerned of the conflicts between those statutes and policies and their obligations under Convention No. 87 (Gernigon *et al.*, 2006).

Discrimination based on type of occupation: The ILO convention stipulates that all employees shall without any discrimination and distinction have the right to form associations. In short, government employees, the police, the army, civilians employed in the army, agricultural workers, airlines employees, hospital employees, people employed in management and administration jobs, entrepreneurs, self-employed workers, temporary workers, probation workers, workers in export zones and any other employees shall have the right to form associations and the right to perform trade union activities (ILO, 2006). Public sector employees who are under their own organization's special standards also have the right to organize associations in accordance with Iran's Labour Act (1990). Government employees who are covered by special rules are exempted from the Labour Act's coverage. According to Article, 188 of Iran's Labour Law Code, 1990; the individuals covered by the Civil Servants Act or other special employment laws and regulations and also the workers in family workshops whose work is performed exclusively by the employer and his spouse and blood relatives of first degree shall not be governed by the provisions of this law. Therefore, they are not workers based on the act's definition and they may not apply to establish guild associations and Islamic labour councils. On the other hand, it is true that according to Article 26 of Iran's Constitution, the right to organize guild associations is a general and common right. Therefore, legally speaking, government employees shall have the right of association activities as this is not prohibited in Iran's law. However, those employees do not have their own special association.

A point mentioned in one study and in the report by the international labour office on the draft of Convention No. 87 is that the granting of the right to organize guild associations must be extended to all employers and employees whether in the government sector, the private sector, the general services sector or within the group of nationalized industrial workers. Any type of discrimination or any consideration of distinction between those employed in the private and the public sectors in the enjoyment of the freedom of association would be unfair because all of them would have the ability to protect their interests through guild organizations. However, the recognition of the right to organize trade unions for government employees might not include the right to strike.

During the 50 years that have passed since the ratification of Convention No. 87, the Committee of Independent Experts and the Committee of Freedom of Association always emphasized that lack of recognition of the fundamental right for government employees would

be in conflict with the provisions of the convention (Eraghi, 1999). In some countries, the right to form associations for government employees are fully recognized, in addition to the general law of trade unions. These countries include Argentina, Australia, Italy, Belarus, Finland, Poland, Philippine, Egypt, Venezuela and India. In some other countries such as Belgium, Denmark, Japan, France, Benin and Mexico, the right is stated in laws like Public Employment Laws and in special laws. Some countries such as Panama, Singapore and Malaysia have accorded the right to some groups of government employees. Although, sometimes government employees have the right to organize an association for cultural programs, the associations are not able to defend economic and social interests. The Committee of Independent Experts believes that this situation is inconsistent with the provisions of the convention. However, there are countries which have expressly or indirectly excluded whole or small portions of government employees such as high level employees, fire fighters and prison guards from enjoying the right to form associations.

The term international employee is defined as a person that is employed in permanent employment by an international organization based on their regulations for the implementation of duties in the organization. Formation of association is one of the human rights mentioned in the International Convention on Civil and Social Rights. These associations define their employees' rights against their organizations. Therefore employees, especially those who are working on a full time basis, in an international organization and under the organization's regulations have the right to form associations. Although, formation of association for government employees has had a 60 years history in Iran with most of the associations being organized since, the birth of the oil industry, it is fair to say that no government whether the Pahlavi regime or Islamic regime has recognized them as illegal associations. Article 9 of Convention No. 87 allows members of the police and the army to be exempted from the provisions of the convention. This exemption is due to their especial responsibilities. The army in most countries is exempted from the regulations of guild associations. However, some countries such as Austria, Germany, Denmark, Sweden, Finland, Luxembourg and Norway have recognized the right of members of the army to form associations, albeit limitedly. In some cases, the prohibition is also extended to police officers. But remarkable numbers of countries have accepted that police officers have the right to establish associations just like other government employees or based on special rules. Countries in this category include Germany,

Austria, Spain, Australia, the UK, USA, Ireland, Belgium, Portugal, Denmark, New Zealand, Ivory Coast, Senegal, Sweden, France, Finland, Luxembourg, Malawi, Norway, Niger and Poland.

Furthermore, it must be noted that in the view of the Committee of Independent Experts, states may create limited exceptions to the right to form association with regard to the army and the police and this may not be contrary to the convention. Thus, according to the committee, the limitation issues regarding the army and the police must be distinguished expressly and in cases of doubts, members of the police and the army ought to be considered as civilian workers. Members of the army and the police force in Iran are not allowed to establish and join associations. Although, there is no prohibition to organize and join associations expressly in practice according to the last segment of Article 6 (2) of the Iran Army Act which states that membership and dependence of army members in political associations based on the Supreme Leader's order is utterly prohibited, they are prohibited from establishing and joining any guild associations. Civilians who are working in some army related institutions must have the right to organize associations without prior government authorization. In this case, the workers should not be treated differently from others. There is no prohibition in Iranian law of the formation of trade unions by civilian workers who are employed in army protection institutes. This is stated in Article 5 of the Labour Act and in Article 1 of the Military Act. Because civilian workers work under the protection of the Labour Act, they may establish their own associations (Ranjbari, 2010). An army staff association was established in 1993 which is called Bonyad Ta'avon Artesh. It has independent legal personality. One of its functions is to protect the lives of its members. Since, Iran's army is under the supreme leader's supervision, the association's statute provides that it the statute must be endorsed by the supreme leader. The association may indulge in commercial activities in order to improve the well being of its members.

People employed in management and supervisory jobs:

Persons who are in senior management and have the power to formulate policy may be prohibited from joining trade unions which are considered as workers' representatives. However, the limitation must be partial and the persons should be able to establish their own organizations. This would not be contrary to the convention as long as the following terms are observed. First, the people must have the right to form associations for the protection of their own interests. Second, the

above prohibition must not be interpreted widely in such a way as to cause the privatization of the association's membership. In addition the word, management should be interpreted to mean those who play managerial roles that is to say, employer representatives rather than employee representatives. Members of the management staff in Iran are able to perform trade union activities by virtue of Article 4 of the Islamic Labour Councils Elections By-Law which states that only the main and alternate members of the board of directors, the managing director and his deputy as well as sectional heads are prohibited from engaging in trade union activities. Article 1 of the Law for the Formation of Islamic Labour Councils stipulates that units with at least 35 Labour Act-protected workers may establish an association. Also, Article 2 of the By-Law for the regulation of the establishment and enumeration of the powers and functions of guild and other associations which are subject to the labour act states that:

The units must have >10 worker workshops with at least 50 workers in their guild in order to be able to organize worker guild associations. Thus, worker workshops which are less than the mentioned quorum are not able to maintain trade union activities. Temporary workers will not be counted for the purposes of attaining a quorum. Employees of big governmental companies are excluded from establishing Islamic Labour Councils. Nevertheless, that does not mean that temporary workers do not have the right to organize associations (Baratinia, 2003)

Self-employed workers and self-employed: Based on the ILO's principle of freedom of association, all workers except members of the police and the army must have the right to establish or join trade unions. Nevertheless, worker-employer relation is not a condition for the enjoyment of this right. For example, although for workers employed in the agricultural sector or self-employed workers there is no worker-employer relation, those workers have the right to establish or join trade unions (ILO International Labour Standards, 2006). Under Chapter 3 of Iran's Labour Act, a worker-employer relation or the subordination of a worker to an employer is a compulsory requirement for workers to have the right to establish trade unions. Hence, strictly speaking, self-employed workers are not allowed to organize trade unions. Nevertheless, under the Guild System Act (1980), these workers are known as guild members and the law allows them to form guild region unions in every city. However, the right to form trade union for self-employed workers was clearly expressed in the defunct Labour Act of 1958, (Article 4 of Labour Act, 1958).

Workers in export free zones: Workers in free trade zones of export that are free from any discrimination ought to be able to use their rights of freedom of association as mentioned in freedom of association's conventions. The Committee of Independent Experts has also emphasized this point. Equally, it has been reaffirmed in part 4 of the ILOT ripartite Declaration of Principles Concerning Multinational Enterprises and Social Policy, adopted by the director of International Labour Office in November, 1977 which is to the effect that where governments of host countries offer special incentives to attract foreign investment, these incentives should not include any limitation of the workers freedom of association or the right to organize and bargain collectively (ILO, 2006). Free trade-industrial zones in Iran, based on Article 51 of regulations on the employment of human resources, insurance and social security in the free zones of the Islamic Republic of Iran are under obligation to observe the ILO conventions and recommendations. Article 51 states; the conventions and resolutions of the International Labour Organization shall be binding in the free zones. However, according to ILO's website although, Iran has ratified 13 ILO conventions including five of the eight so-called core conventions (covering the elimination of forced labour, child labour and discrimination), it has not ratified Convention No. 87. Nonetheless, Iranian law obliges employers to pay due regard to the ILO standards as well as to the right to organize and join trade unions for workers in the zones. In other words, the law proposes some difference between workers who are working in other parts of Iran and those in the free trade-industrial zones as the former do not have the rights guaranteed by the ILO standards, especially the freedom of association as provided in Convention No. 87. Some researchers believe that the law has omitted Article 131 of the Labour Act (1990) and therefore, it is not allowed to create and nurture trade unions and guild associations in the zones.

OTHER MOTIVATIONS OF DISCRIMINATION AND DIFFERENCES

The right to establish trade unions freely is restricted by factors such as race, nationality, personal beliefs, political interests and gender amongst others. These factors are incompatible with the provisions of Convention No. 87.

Race: In recent times and especially after the political reforms in South Africa, it is difficult and unacceptable for any country to seek to restrict the right of its workers to join trade unions based on racial considerations. In

addition, some countries have statutory laws which expressly prohibit racial segregation. For instance, countries such as Argentina, El-Salvador, China and Japan have laws which stipulate that no worker can be prohibited from joining a trade union based on his or her racial background. Those laws also provide that the establishment of associations which aim to limit human rights based on race is prohibited. Similarly, it is forbidden for workers' unions to discriminate against their members on racial grounds or accord them unequal rights on such grounds. Ancient documents found in the treasury at Persepolis in Iran and translated by Professor George G. Cameron, reveal an amazing array of regulations concerning wages for work done, modes of payment, labour exchange and the like. In these treasury documents which are really pay sheets for the building of Persepolis, it is quite evident that payment for different classes of workers such as skilled and unskilled labourers, women and children were strictly regulated. They even had severance pay and unemployment benefits where a labourer would receive about 3 months of wages and benefits upon his or her termination (Badiozamani, 2005). The constitution of the Islamic Republic of Iran has condemned all forms of discrimination. It has enacted equal individual rights into law. Article 19 of the constitution states that all people of Iran whatever the ethnic group or tribe to which they belong, enjoy equal rights and colour, race, language and the like do not bestow any privilege. Furthermore, part 9 of Article 3 of the constitution declares that Iran's government is obliged to abolish all forms of undesirable discrimination and ensure the provision of equitable opportunities for all, in both material and intellectual spheres. Therefore, based on the constitutional provisions there is no form of segregation in the establishment of workers' associations and in the carrying on of their activities.

Nationality: A group of ILO countries have provisions in their statutory laws which to varying degrees place limitations on trade union rights on grounds of nationality. Some of those countries such as Thailand and Algeria, allow only their citizens to establish and join trade unions. Others provide that a certain percentage of trade union members must be elected from amongst their own citizens. For example in Colombia, two-thirds of union members must be Colombian citizens whilst in Panama, 75% of union members must be from Panama. According to the local laws of some ILO countries, membership in trade unions is dependent on certain conditions. For instance in Iran, Article 2 of The Law for the Formation of Islamic Labour Councils requires that anyone who wants to be a council member must have Iranian nationality. In

other words, candidates who are vying for council membership must be Iranians. According to Article 4 of the By-Laws of the Islamic Labour Councils Elections, the nationality requirement also extends to the electorate. Thus, candidates and voters in the council elections must be Iranians. The Iranian nationality requirement is also stipulated for candidates and voters in elections to the Guild associations as well as for the election of workers' representatives. The Committee of Independent Experts has already mentioned in its report that limitations based on nationality may deprive immigrant workers of their union rights and therefore can prevent or disable them from protecting their professional interests. The disability of those workers will be considered a form of discrimination based on nationality and hence, contrary to Convention No. 87.

Gender, family situation and age: The Labour Act (1982) makes female employment conditional on the consent of the husband unless a woman was in employment prior to marriage and the prospective husband had agreed with the continuation of her employment (Alizadeh). In addition, the law for the formation of Islamic Labour Councils stipulates a minimum age of 22 years for candidates aspiring to be council members. Some researchers also believe that there is more discrimination in Iranian law against women. Women in the civil service who had a senior decision-making position were soon purged or given early retirement after the revolution. Women working in factories were dismissed or were encouraged to quiet their job after the revolution.

Article 20 of the constitution specified that men and women enjoy equal protection under the law in keeping with Islamic principles. The terminology in keeping with Islamic principles as mentioned earlier was not defined. However, it was interpreted at the time to indicate that Islam bars women from serving in certain profession including as judges and from leadership positions. The theological reasoning behind this interpretation is that there are natural differences between the sexes. Gender relation is an important aspect of inequality in power relation that is social stratification.

In the vast scholarly studies and debates that exist on the problem of gender under the rule of the Islamic Republic of Iran, a comprehensive empirical study of class, gender, employment, the measurement of the extent of exclusion of women from the labour market and employment segregation in Iran is still lacking.

Political activities and depend to political groups: According to a comprehensive study conducted by the International Labour Office on the implementation of

Convention No. 87, political beliefs or political affiliations unlike the other factors already discussed are hardly serious constraints on the right to organize trade unions. The laws of some countries such as Argentina and the Dominican Republic have expressly prohibited all forms of limitation and discrimination based on political beliefs, in the exercise of the right to establish trade unions. However in other countries such as the Philippines, the law does not allow workers who have political affiliations to hold office. This means that the law places some limitation on the ability of workers who have political affiliations to form unions. A cursory look at Iranian regulations may suggest that there is no discrimination on grounds of political beliefs regarding participation in union activities. However, there is a special article in the law for the Formation of Islamic Labour Councils which provides that council aspirants must not have any affiliation with political parties, other trade unions or workers organizations, illegal groups, the former regime or groups which are opposed to the Islamic Republic of Iran. The ILO Independent Experts Committee has expressed the view that limitations on or prohibitions of membership in trade unions due to political beliefs or individual political activities except violent or armed activities by any law would be contrary to Convention No. 87 (Eraghi and Kar, 2003).

NO REQUIREMENT OF PREVIOUS AUTHORIZATION TO ESTABLISH LABOUR AND EMPLOYER ORGANIZATIONS

According to Article 2 of Convention No. 87, workers and employers shall have the right to establish and subject only to the rules of the organization concerned to join organizations of their own choosing without previous authorization. One of the issues that have been emphasized in Article 2 of the convention is that there should be no requirement of prior authorization to be able to carry on union activities. This is because to require workers to obtain prior authorization in order to be able to establish their organizations would rob the principle of freedom of association of its true meaning. Usually, the requirement of prior authorization manifests in two forms. First, a prospective union needs to have a preliminary authorization by the state allowing it to commence the process of being registered and recognised as a trade union. Thereafter, it must then seek and obtain the formal recognition of the state as a trade union as well as the state's approval of its adopted constitution. It should be noted however that whilst these prior authorization requirements are incompatible with Convention No. 87, it does not mean that those who are applying to register

trade or workers associations should not comply with them or with other registration formalities stipulated by the government. However, governments are not allowed to apply these registration formalities in such a way as to obstruct the establishment of trade unions.

Previous authorization to perform union activities in workers' association: Workers may apply to organize three types of workers organizations in Iran. These are the Islamic Labour Councils, the Guild associations and the Islamic societies. There are major differences amongst these organizations. Basically, the Islamic Labour Councils are formed by the Ministry of Labour and Social Affairs. In addition, employers can prevent workers from forming such associations. It must be noted that no other workers organization can be set up in a workplace if an Islamic society known as Islamic Shora or Shoraya Eslami already exists.

The Islamic labour councils: These councils are formed by the Ministry of Labour and Social Affairs pursuant to Article 15 of the law for the Formation of Islamic Labour Councils (1985) which states that the Ministry of Labour and Social Affairs is obliged to form the Islamic Labour Councils in units which have >35 permanent employees. Also, Article 1 of the By-Laws of the Islamic Labour Council's Election (1985) explicitly makes reference to the Islamic Labour Councils formed by the Ministry of Labour and Social Affairs. Similar references can be found in several other rules, albeit in different ways. It is clear, therefore that the formation of the councils in workplaces is dependent on the consent of the Ministry of Labour and Social Affairs. In order to establish an Islamic Labour Council, employer's consent is needed. Nevertheless, this requirement is not explicitly mentioned in the law for the Formation of Islamic Labour Councils (1985) or in the relevant by-laws. But according to Article 1 of the law for the Formation Islamic Labour Councils, in order for a council to be established, a management representative must be in attendance. Hence, it can be said that workers need the consent of their employers in order to form the councils in their workplaces.

One of the other forms of previous authorization occurs at the beginning of the establishment of an Islamic Labour Council. Normally, a council cannot legally carry on its activities unless it is initially conferred with the status of legal personality by the Ministry of Labour and Social Affairs and the conferment of legal personality will only occur following the registration of the relevant council with the Ministry of Labour and Social Affairs. In other words, the councils will be considered as legal persons, only after registration with the Ministry of Labour and Social Affairs. In this connection, Article 20

of the By-Laws of Islamic Labour Election provides that an Islamic Labour Council shall have legal personality after registration in the Ministry of Labour and Social Affairs and its period of validity is only 2 years. Under the By-Laws if the ministry refuses to register a council that council will not have a legal personality and its activities would be illegal. As the By-Laws are made by the Ministry of Labour and Social Affairs, the ministry may make changes to them at anytime and in whatever manner it deems fit.

The Guild associations: There are also problems of previous authorization with regard to Guild associations although, these are not exactly the same as those explained above in relation to Islamic Labour Councils. For instance, unlike the Law for the Formation of Islamic Labour Councils which expressly stipulates registration as a requirement, the registration of Guild associations is not required explicitly by the law for the formation of Guild associations. However, Articles 16 and 18 of the By-Laws of Guild associations provide that the registration (emphasis provided) of two different types of associations for example, a Guild association and other related trade unions under the same name is not allowed. Furthermore, according to Articles 15 and 19 of the said By-Laws after the dissolution of a workers or an employers Guild association, its registration with the Ministry of Labour and Social Affairs will be repealed. In addition, both articles state that the registration of a Guild association shall be done by the Ministry of Labour and Social Affairs. Another crucial difference in the nature of the problems of previous authorization associated with Islamic Labour Councils and Guild associations lies in the fact that unlike in the case of the Islamic Labour Councils there is no requirement of consent from the government or an employer in order to form Guild associations or other related trade unions.

As can be seen from the above provisions, there is no indication of what steps an Islamic Labour Council or a Guild association can adopt in the event that the Ministry of Labour and Social Affairs does anything that obstructs its effort to obtain registration. Those provisions can enable administrative authorities to stop or obstruct union activities in cases where they consider such activities to be against public security. This may lead to the abuse of the right to establish trade unions by the authorities. Thus, the refusal to register must be reviewed by an independent body such as the courts. In this respect, the ministry's decisions ought to be contestable in the courts. Otherwise, the government might exploit these loopholes and ambiguities to give a perverse interpretation to the above provisions. Nevertheless, the law for the formation of Guild

associations is closer to Article 2 of Convention No. 87, particularly when compared to the law for formation of Islamic Labour Councils.

Workers' representatives: Although, the law of workers' representatives does not mention any need to obtain an employer's consent, candidates are required to announce their candidature to the Ministry of Labour and Social Affairs and under Article 4 of the law to elect workers representatives, the ministry is required to inform the workers and the management about the candidature of the relevant workers. According to Articles 6 and 7, it is the duty of the ministry to assess the qualifications of the candidates and to hold elections. Again, it is important to note that the laws do not provide for what would happen if the ministry fails to perform its functions. Thus, this omission could be construed as amounting to a requirement of previous authorization.

CONCLUSION

From the foregoing discussion, it is revealed that Iranian laws to a large extent could not observe the ILO standards. The ILO standards on freedom of association are considered idealistic and many developing countries including Iran could not follow them. However in Iran, there exist labour organisations or trade unions although their freedom is subject to much limitation within the political nature of such country. Iranian laws allowed the formation of trade unions but government patronage on the unions is very strong.

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