

Concluding Observation Human Rights Committee CCPR/C/IRN/CO/3 para 27

Full recommendation:

The State party should fully guarantee the right to freedom of expression and opinion of independent media, and ensure that journalists can exercise their profession without fear of being brought before courts. The State party should release, rehabilitate and provide effective judicial redress and compensation for journalists imprisoned in contravention of articles 9 and 19 of the Covenant. The State party should also ensure that the monitoring of Internet use does not violate the rights to freedom of expression and privacy as defined in the Covenant. The Committee reminds the State party of its general comment No. 34 (2011) on article 19.

Assessment using Impact Iran human rights indicators¹

A. The Islamic Republic of Iran should fully guarantee the right to freedom of expression and opinion of independent media, and ensure that journalists can exercise their profession without fear of being brought before courts

Iranian law, including the Islamic Penal code and the press law, enables Iranian authorities to label as crime any act of criticism against the policies or practices of government institutions.²

Articles 23 and 24 of the Iranian Constitution recognize the right to freedom of thought and expression while prohibiting censorship of press.³ However, Article 24 restricts freedom of the press “when it is detrimental to the fundamental principles of Islam or the rights of the public.”⁴ The “fundamental principles of Islam” or “the rights of the public” are not explicitly defined under Iranian law which grants Iranian authorities significant discretion to restrict the right to freedom of expression, freedom of the press and media. These legal guarantees are further undermined by the criminalisation under the Islamic Penal Code of vaguely defined charges such as “violating public morals”, “sowing corruption on earth” or disturbing national security⁵, consequently largely restricting the right to freedom of expression.⁵

¹ CCPR.17.1.S.1; CCPR.17.1.S.2; CCCPR.19.1.S.1.; CCPR.19.2.S.1.; CCPR19.2.S.2; CCPR.19.2.P.2.; CCPR.19.2.P.2.; CCPR.19.2.P.3; CCPR.19.1.O.1.; CCPR.19.2.O.1.; CCPR.19.2.O.2.; CCPR.19.2.O.5.

² Article 608, 609 and 697 of Islamic Penal Code: <https://shenasname.ir/laws/4475-ghanon-mojazat>

³ The Constitution states that the press is free to express its views, unless it violates the principles of Islam and public law. The Constitution of the Islamic Republic of Iran, English translation, <<https://www.refworld.org/docid/3ae6b56710.html> >

⁴ Constitution of the Islamic Republic of Iran, English translation, <https://irandataportal.syr.edu/wp-content/uploads/constitution-english-1368.pdf>

⁵ Article 608, 609, 697 and Article 498 to 512 of Islamic Penal Code 2013 : <https://shenasname.ir/laws/4475-ghanon-mojazat>

The 1986 Press Law, amended in 2000, provides vague and broad content-based restrictions on traditional and online media. For example, news reports may only be published in pursuit of one of the five “legitimate objectives”, including “to campaign against manifestations of imperialistic culture” or “to propagate and promote genuine Islamic culture and sound ethical principles.”⁶ The law prohibits publishing content on matters, among others, relating to atheism, against the national security, dignity of interests of the State, insulting Islam or offending religious officials.⁷ It further limits the publication of material deemed critical of key political figures, including the Supreme Leader and President.⁸ The law also mentions that publications should “duly [observe] Islamic criteria and the best interests of the community”, these broad and vague conditions grant Iranian authorities with significant discretion to restrict the content of publications. On top of restrictions applied to the publication of information, the 1986 Press Law restricts the issuance of license to individuals who fulfil a number of broad and vaguely defined conditions, including “practical adherence to the constitution.”⁹

Although Article 168 of the Constitution stipulates that press crimes should be tried in the press court and before a jury, in recent years a large number of journalists have been tried in public and revolutionary courts for their media activities, notably on national security related charges.¹⁰

¹¹ Additionally, while Article 4 of the 1986 Press Law states that “No government or non-governmental authority has the right to impose pressure on the press or to censor and control the press in order to publish an article”¹², there is no readily available information indicating that government or non-government officials have been tried under this Article.

The Islamic Republic of Iran has not fully guaranteed the right to freedom of expression and opinion of independent media and ensured that journalists can exercise their profession without fear of being brought before courts.

B. The Islamic Republic of Iran should release, rehabilitate and provide effective judicial redress and compensation for journalists imprisoned in contravention of articles 9 and 19 of the Covenant

⁶ The Press law: <https://shenasname.ir/organs/vezarat/ershada/344>

⁷ See more: Article 19, <https://www.article19.org/data/files/medialibrary/2921/12-01-30-FINAL-iran-WEB%5B4%5D.pdf>

⁸ The Press law: <https://shenasname.ir/organs/vezarat/ershada/344>

⁹ Chapter 5 (Articles 8-22) The Press law: <https://shenasname.ir/organs/vezarat/ershada/344>

¹⁰ Amnesty International, <https://www.amnestyusa.org/press-releases/prison-and-flogging-sentences-for-seven-journalists-and-activists-disgraceful-injustice/>

¹¹ Small Media, Digital Rights in Iran, UPR Submission, Session 34 : <https://uprdoc.ohchr.org/uprweb/downloadfile.aspx?filename=6980&file=EnglishTranslation> >

¹² Those who violate Article 4 will be sentenced to up to two years’ dismissal from office or to a permanent dismissal from public service if their violations are repeated.

The Iranian legal framework, as described above, leads to a generalization of the criminalisation of dissent and criticism against Iran and enables the Iranian authorities' censorship and mass surveillance campaign, both on and offline. Iranian authorities target journalists and writers with harassment, arbitrary arrests, detentions and imprisonments solely for performing their work.^{13 14} Iran is one of the countries with the highest number of journalists in prison, illustrating its repression of the freedom of the press.¹⁹

In light of the above, the Islamic Republic of Iran has not rehabilitated and provided effective judicial redress and compensation for journalists imprisoned in contravention of Article 9 and Article 19 of the Covenant.

C. The Islamic Republic of Iran should ensure that the monitoring of Internet use does not violate the rights to freedom of expression and privacy as defined in the Covenant.

Restrictions on freedom of expression and the free communication of information and ideas extend online. For instance, the Criminal Cyber Law criminalizes the publication of information considered against Islamic tenets or the Constitution, to be disrupting public or national security, to be offending public morality and chastity or amounting to propaganda against the State.^{20 21}

¹³ Committee to Protect Journalists, <https://cpj.org/2020/06/at-least-5-journalists-sentenced-to-jail-in-iran-since-early-june/> and <https://cpj.org/2020/08/iranian-journalist-kayvan-samimi-begins-3-year-jail-term-over-protest-coverage/> and <https://cpj.org/2020/09/mohammad-mosaed-cpj-2020-awardee-sentenced-to-more-than-4-years-in-jail-in-iran/> ; <https://cpj.org/2020/09/iranian-journalist-nada-sabouri-begins-3-5-year-jail-term-in-2014-protest-case/> ; <https://cpj.org/2020/09/iranian-journalist-khosrow-sadeghi-borojeni-begins-7-year-jail-term/>

¹⁴ Center for Human Rights in Iran, <https://iranhumanrights.org/2020/10/prominent-iranian-writers-sent-to-prison-for-peaceful-dissent/>

¹⁵ The Guardian, www.theguardian.com/world/2020/jun/30/iran-sentences-journalist-ruhollah-zam-to-death

¹⁶ Iran Human Rights, www.iranhr.net/en/articles/4301/

¹⁷ Amnesty International, <https://www.amnesty.org/en/latest/news/2020/07/iran-two-kurds-executed-amid-increasing-use-of-death-penalty-as-weapon-of-repression/>

¹⁸ HRANA <<https://www.en-hrana.org/journalist-masoud-kazemi-arrested/>>; <<https://www.en-hrana.org/journalists-death-attributed-to-travel-and-healthcare-restrictions/>>

¹⁹ <https://cpj.org/mideast/iran/>

²⁰ See more: Article 19, <https://www.article19.org/data/files/medialibrary/2921/12-01-30-FINAL-iran-WEB%5B4%5D.pdf>

²¹ See also: Volunteer Activists, <https://volunteeractivists.nl/en/wp-content/uploads/2018/10/Civil-Society-in-Iran-and-its-Future-Prospects-pdf.pdf>

The Cyber Criminal Code Committee²² decides which websites shall be filtered or shutdown altogether.^{23 24}

In addition, the 2010 Computer Crimes Law remains the most recent piece of legislation, extending restrictions on freedom of expression to the online sphere, including through vague and broad crimes such as “dissemination of lies” and the criminalization of what is deemed to offend “public morality and chastity”.

The Iranian legal framework enables Iranian authorities to restrict severely freedom of expression and the right to information online. In 2018, Iran’s Cyber Police announced that since its foundation in 2010, it had arrested 74,917 people because of their online activities.²⁵ This number includes many individuals, such as bloggers and other social media personalities. Iranian authorities regularly block or restrict access to websites and social media platforms, in particular those sharing information on the situation of marginalized communities or political prisoners.²⁶ Social networking platforms, including Twitter, Facebook, YouTube, and Google, and blog-hosting platforms, such as WordPress, Blogspot, and Blogger, are also blocked in Iran.²⁷ The Government blocked the messaging application Telegram in 2018,²⁸ with an estimated 40 million monthly users,²⁹ and a number of its administrators have been arrested and charged with encouraging protests, “disturbing public opinion” and/or “promoting homosexuality”.³⁰ During the 2019 November protests, the Government ordered a country-wide internet shutdown, impairing media coverage and the possibility to document acts of violence in real time.³¹

With regards to the right to privacy in the Islamic Republic of Iran, Article 22 of the Constitution stipulates: “The dignity, life, property, rights, residence, and occupation of the individual are

²² “The Cyber Criminal Code Committee consists of the following Ministers: Education, Communication and Digital Information, Judiciary, Intelligence, Culture and Islamic Guidance, Science and Research, as well as Islamic Propaganda Organization, the head of IRIB (Iran’s Broadcasting Company), the Police Force Chief, a representative of Parliament (delegated by the legal and judiciary committees of Parliament) and an expert on digital and internet sciences (also delegated by Parliament).” See more: <https://volunteeractivists.nl/en/wp-content/uploads/2018/10/Civil-Society-in-Iran-and-its-Future-Prospects-pdf.pdf>

²³ The Committee has a list of filtered online items on the Iran’s Cyber Police’s website.

²⁴ Small Media, Digital Rights in Iran, UPR Submission, Session 34 : <https://uprdoc.ohchr.org/uprweb/downloadfile.aspx?filename=6980&file=EnglishTranslation> >

²⁵ Small Media, Digital Rights in Iran, UPR Submission, Session 34 : <https://uprdoc.ohchr.org/uprweb/downloadfile.aspx?filename=6980&file=EnglishTranslation> >

²⁶ Small Media, Digital Rights in Iran, UPR Submission, Session 34 : <https://uprdoc.ohchr.org/uprweb/downloadfile.aspx?filename=6980&file=EnglishTranslation> >

²⁷ Small Media, Digital Rights in Iran, UPR Submission, Session 34 : <https://uprdoc.ohchr.org/uprweb/downloadfile.aspx?filename=6980&file=EnglishTranslation> >

²⁸ Human Rights Watch, <https://www.hrw.org/news/2018/05/02/iran-assault-access-information>

²⁹ Small Media, Digital Rights in Iran, UPR Submission, Session 34 : <https://uprdoc.ohchr.org/uprweb/downloadfile.aspx?filename=6980&file=EnglishTranslation> >

³⁰ Small Media, Digital Rights in Iran, UPR Submission, Session 34 : <https://uprdoc.ohchr.org/uprweb/downloadfile.aspx?filename=6980&file=EnglishTranslation> >

³¹ See more: Article 19, <https://www.article19.org/wp-content/uploads/2020/09/TTN-report-2020.pdf>

inviolable, except in cases sanctioned by law.”³² Additionally Article 47 states “Private ownership, legitimately acquired, is to be respected.” Although several pieces of legislation include data protection provisions, there is no comprehensive legislation specifically safeguarding the right to privacy and data protection under Iranian law. Such legislative gap has granted the Iranian government with significant leeway to arbitrarily control its Internet infrastructure.

Article 10 of the Cyber Crime Law criminalises “concealing data, changing passwords, and/or encoding data that could deny access of authorised individuals to data, computer and telecommunication systems.” The article is framed in such a broad way as to essentially criminalise any technologies or practices that obstruct state authorities’ ability to access data, including encryption.

Draft legislation such as “Managing Social Messaging Apps”, (also referred to as the Social Media Organisation Bill in this submission) which is under review by the Parliamentary Cultural Committee, if passed in its current form, threatens to grant further control of Iran’s internet infrastructure to security forces, and can also enforce the use of domestic messaging apps which lack privacy and data protections, and which are particularly prone to government surveillance.³³

The Iranian government has so far failed to implement comprehensive data protection in line with international standards. Despite an attempt made through the introduction of the “Data Protection and Online Privacy Bill” in 2018, the bill has so far failed to progress beyond the Cabinet and is effectively dormant. In its current form, the proposed legislation fails to establish adequate protections for online privacy or data protection.³⁴ The draft law mandates enforced data localisation (Article 38), in line with the National Information Network (NIN) project, which means there are no privacy provisions (as per Article 10 of the CCL) and it is subject to abuse from the Iranian authorities looking to prosecute journalists, human rights defenders, minorities, and other vulnerable identities. Other key concerns include the fact that the Draft Act protects only the data rights of Iranian citizens and fails to explicitly include journalistic, artistic, literary or other cultural exemptions, or protect the right to information.³⁵

The current legislative data protection and online privacy vacuum means that legal protections and defences are not available to those arrested or detained for their online activities, or for those impacted by data and privacy breaches.

³² Constitution of the Islamic Republic of Iran, English translation, <https://irandataportal.syr.edu/wp-content/uploads/constitution-english-1368.pdf>

³³ “Iran’s “Managing Social Messaging Apps” Bill Returns to Parliament”, Small Media, 1 April 2020.

<https://medium.com/filterwatch/iransmanaging-social-messaging-apps-bill-returns-to-parliament-b0a98c18463f>

³⁴ See page 27 of “Bills, Bills, Bills — Upcoming Policy Challenges in Iran”, Small Media, 9 April 2019.

https://smallmedia.org.uk/media/articles/files/Filterwatch_BillsBillsBills19.pdf

³⁵ “Iran: Personal Data Protection and Safeguarding Draft Act,” ARTICLE19, 27 June 2019.

<https://www.article19.org/resources/iran-dataprotection-draft-act/>

Additionally, in October 2019, Iran's top internet policy-making body, the Supreme Council for Cyberspace, passed the 'Valid Identity System in Cyberspace' resolution, which outlines its future plans to require all online interactions between two entities to be traceable and conducted using a valid form of ID. Such a policy threatens to undermine user privacy online, and if implemented fully would effectively bring an end to online anonymity.³⁶

Despite the existence of several mechanisms that ostensibly accept complaints regarding violations of citizens' rights, such as the Article 90 Commission of the parliament (established based on Article 90 of the Constitution, offering a mechanism to citizens to file complaint against any of the three branches of power) and the Oversight Bodies for the exercise of Citizenship Rights in the country's provincial courts, there is no evidence to suggest that complaints to these bodies are independently reviewed and investigated.³⁷ Additionally, as the aforementioned restrictions on otherwise protected activities under international law are enshrined into Iranian law, opportunities to seek justice are particularly limited.

In light of the above, the Islamic Republic of Iran has not ensured that the monitoring of Internet use does not violate the rights to freedom of expression and privacy as defined in the Covenant.

Recommendation Status:

This recommendation has **NOT** been implemented

³⁶ Small Media, 'Filterwatch October 2019', 15 November 2019, available at: <https://medium.com/filterwatch/filterwatch-october-2019-d671d23e52c>

³⁷ Joint submission to the Human Rights Committee, Abdorrahman Center, Iran Human Rights Documentation Center (IHRDC), Impact Iran and Human Rights Activists in Iran, 2020, https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=INT%2fCCPR%2fICS%2fIRN%2f42313&Lang=en