

Special Rapporteur on the situation of human rights in the Islamic Republic of Iran A/67/369 para 77

Full recommendation:

Furthermore, the Special Rapporteur again emphasizes the need to explicitly define actions that constitute crimes against national security, and encourages the Government to guarantee the space for public criticism or advocacy through peaceful activities that are protected by international law. He calls on the Government to ensure that restrictions on freedom of expression and the right to information are “content-specific”, as called for by the Human Rights Committee in its General Comment 34 on article 19.

Assessment using Impact Iran human rights indicators¹

While Article 27 of the Constitution ostensibly protects the right to freedom of peaceful assembly, the guarantee falls short of international standards set out in the International Covenant on Civil and Political Rights (ICCPR) by requiring that participants are not “in violation of the fundamental principles of Islam.” There is no clear definition or criteria that define what can be considered “fundamental principles of Islam.” Under Article 2 of the Law on Political Crimes, adopted in 2016, participation in an unauthorized assembly, even if it is peaceful, can effectively be considered a political offence.² Unauthorised assemblies had previously been prohibited under the 1981 Law on the Activities of Parties, Populations and Political and Trade Unions and Islamic Associations or Recognised Religious Minorities.³ Those participating in peaceful unauthorised assemblies are often charged and sentenced to prison terms under Article 610 of the Islamic Penal Code⁴ which criminalises acts of collusion and conspiracy of two or more individuals to “commit crimes against the national or foreign security of the country or prepare the facilities to commit the aforementioned crimes.”⁵

The right to freedom of expression, recognised under Article 24 of the Constitution is similarly undermined by vague qualifications, such as being “deemed harmful to the principles of Islam or the rights of the public.” Article 40 further allows for restrictions of rights, including peaceful assembly, if their exercise is deemed “injurious to others” or “detrimental to public interests.” Similar provisions restrict the right to freedom of expression online through the criminalization

¹ CCPR.19.1.S.1; CCPR.19.2.S.1; CCPR.21.1.S.1; CCPR.22.1.S.1; CCPR.21.1.P.2; CCPR.21.1.O.2; CCPR.21.1.O.3; CCPR.22.1.O.2;

² The 2016 Law on Political Crimes, available at: <https://rc.majlis.ir/fa/law/show/968421>

³ The 1981 Law on the Activities of Parties, Populations and Political and Trade Unions and Islamic Associations or Recognised Religious Minorities, available at: <https://rc.majlis.ir/fa/law/show/90226>

⁴ The new Islamic Penal Code was introduced in 2013 for an experimental period of five years and was revised in 2016. See the most updated version of the Islamic Penal Code here on the website of the Iranian parliament: http://rc.majlis.ir/fa/law/print_version/845048

⁵ Islamic Penal Code (2013), English translation, Iran Human Rights Documentation Center, <https://iranhrdc.org/islamic-penal-code-of-the-islamic-republic-of-iran-book-five/>

of vaguely worded offences such as the “dissemination of lies” and what is deemed to offend “public morality and chastity.”⁶

The revised version of the Islamic Penal Code,⁷ adopted in 2013, maintains numerous provisions which criminalise the exercise of the right to freedom of expression, association and peaceful assembly, in contravention of international human rights law and standards. To name a few, under the Penal Code, the establishment or leadership of a group that “aims to perturb the security of the country” is criminalized,⁸ as well as a variety of acts considered as propaganda⁹ or conspiracy against the state (which has been interpreted to include peaceful protests).¹⁰ Encouragement to “violate public morals”¹¹ as well as satire are also penalized.¹² Similar vaguely worded provisions punish acts such as swearing at¹³ or insulting¹⁴ “the Great Prophet of Islam” as well as “sowing corruption on earth”¹⁵ with the death penalty.

Similarly, the right to information is overbroadly restricted in the Islamic Republic of Iran. The 1986 Press Law, amended in 2000, provides content-based restrictions on traditional and online media. 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.” 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.¹⁶

In 2009, the Islamic Republic of Iran adopted the Publication and Free Access to Information Act,¹⁷ which partially recognises the right to access information as guaranteed under international law.¹⁸ The Act, however, suffers from shortcomings, including broad exemptions which undermine its effectiveness. Some of the Act’s shortcomings include restrictions on the publication of information that is deemed to cause disgrace or contravenes public decency or promotes vice (Article 17). Additionally, the Act fails to establish a clear appeal mechanism and the oversight body predicted under its provisions reportedly lacks independence. Chapter Five of the Act creates the Commission for Free Publication and Access to Information with a Secretariat to provide oversight and act as an appeals mechanism, however the Commission is

⁶ “Islamic Republic of Iran: Computer Crimes Law,” ARTICLE19, 2012. <https://bit.ly/1RecP6R>

⁷ The Islamic Penal Code available at: http://rc.majlis.ir/fa/law/print_version/845048

⁸ Article 498 Islamic Penal Code 2013, <https://iranhrdc.org/islamic-penal-code-of-the-islamic-republic-of-iran-book-five/>

⁹ Article 500 Islamic Penal Code 2013, <https://iranhrdc.org/islamic-penal-code-of-the-islamic-republic-of-iran-book-five/>

¹⁰ Article 610 Islamic Penal Code 2013, <https://iranhrdc.org/islamic-penal-code-of-the-islamic-republic-of-iran-book-five/>

¹¹ Article 639 Islamic Penal Code 2013, <https://iranhrdc.org/islamic-penal-code-of-the-islamic-republic-of-iran-book-five/>

¹² Article 700 Islamic Penal Code 2013, <https://iranhrdc.org/islamic-penal-code-of-the-islamic-republic-of-iran-book-five/>

¹³ Article 262 Islamic Penal Code 2013, <https://iranhrdc.org/english-translation-of-books-i-ii-of-the-new-islamic-penal-code/>

¹⁴ Article 513 Islamic Penal Code 2013, <https://iranhrdc.org/islamic-penal-code-of-the-islamic-republic-of-iran-book-five/>

¹⁵ Article 286 Islamic Penal Code 2013

¹⁶ See more: Article 19, <https://www.article19.org/data/files/medialibrary/2921/12-01-30-FINAL-iran-WEB%5B4%5D.pdf>

¹⁷ Iran: Review of the Publication and Free Access to Information Act 2009”, ARTICLE 19, September 2017, available at: <https://www.article19.org/resources/iran-review-of-the-publication-and-free-access-to-information-act-2009-2/>

¹⁸ UN Human Rights Committee, General Comment No. 34 Article 19: Freedoms of opinion and expression, (2011), paras, 18 & 19, available at: <http://www.refworld.org/pdfid/4ed34b562.pdf>

not independent: its members are all senior government officials representing powerful public bodies, many of which have little or no commitment to transparency.^{19 20 21}

Restrictions on the free communication of information and ideas extend online. For instance, the Criminal Cyber Law criminalises the publication of information considered against Islamic tenets or the Constitution's, to be disrupting public or national security or to amount to propaganda against the State.^{22 23} The Cyber Criminal Code Committee²⁴ decides on which websites shall be filtered or shutdown altogether.²⁵

Such restrictive legal provisions grant Iranian authorities' significant discretion to impose overbroad and vague restrictions on individuals' rights to freedom of expression and to information in violation of the country's international human rights obligations. Indeed, Iranian legal restrictions are inconsistent with international standards which stipulate that restrictions must be narrowly defined, pursue a legitimate aim, conform to the strict tests of necessity and proportionality and be compatible with Article 19(3) of the International Covenant on Civil and Political Rights, both online and offline.²⁶ Similarly, overbroad restrictions, vaguely worded and generic bans on freedom of expression are inconsistent with international standards.²⁷

The authorities frequently resort to the Iranian legal framework in order to intimidate, arrest and prosecute individuals who peacefully exercise their rights to freedom of expression, association and assembly including journalists and media workers, trade unionists, and lawyers.^{28 29 30 31}

¹⁹ Iran: Review of the Publication and Free Access to Information Act 2009", ARTICLE 19, September 2017, available at <https://www.article19.org/resources/iran-review-of-the-publication-and-free-access-to-information-act-2009-2/>

²⁰ See more: NGO joint submission to the Human Rights Committee, 2020, Article 19, Small Media, Human Rights Activists in Iran, Impact Iran, https://tbinternet.ohchr.org/Treaties/CCPR/Shared%20Documents/IRN/INT_CCPR_ICS_IRN_42315_E.pdf

²¹ See more: Article 19, <https://www.article19.org/right-to-info-iran/>

²² See more: Article 19, <https://www.article19.org/data/files/medialibrary/2921/12-01-30-FINAL-iran-WEB%5B4%5D.pdf>

²³ See also: Volunteer Activists, <https://volunteeractivists.nl/en/wp-content/uploads/2018/10/Civil-Society-in-Iran-and-its-Future-Prospects-pdf.pdf>

²⁴ "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>

²⁵ The Committee has a list of filtered online items on the Iran's Cyber Police's website,

²⁶ UN Human Rights Committee (HRC), *General comment no. 34, Article 19, Freedoms of opinion and expression*, 12 September 2011, CCPR/C/GC/34, available at: <https://www.refworld.org/docid/4ed34b562.html>

²⁷ UN Human Rights Committee (HRC), *General comment no. 34, Article 19, Freedoms of opinion and expression*, 12 September 2011, CCPR/C/GC/34, available at: <https://www.refworld.org/docid/4ed34b562.html>

²⁸ See more : ARTICLE 19, Small Media, Human Rights Activists in Iran, Impact Iran, Human Rights Committee, 129th session (Geneva) 29 June – 24 July 2020, https://tbinternet.ohchr.org/Treaties/CCPR/Shared%20Documents/IRN/INT_CCPR_ICS_IRN_42315_E.pdf

²⁹ See more: Iran Human Rights, <https://www.iranhr.net/en/reports/23/>

³⁰ See more: Iran Human Rights Documentation Center, <https://iranhrdc.org/controlled-and-pursued-labor-activism-in-contemporary-iran/>

³¹ See more: Ensemble Contre la Peine de Mort, <https://www.ecpm.org/wp-content/uploads/Rapport-iran-2020-gb-070420-WEB.pdf>

NGOs have reported a pattern of targeting members of minority of marginalized groups attempting to exercise their rights to freedom of expression, association and assembly.^{32 33 34 35 36 37}

In the same way, 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.³⁸ 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.³⁹ The Government blocked the messaging application Telegram in 2018, an important mean of communication of information in Iran,⁴⁰ and a number of its administrators have been arrested and charged with encouraging protests, "disturbing public opinion" and/or "promoting homosexuality".⁴¹ During the 2019 November protests, the Government ordered a country-wide internet shutdown, impairing the possibility to document acts of violence in real time.⁴²

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 three the 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.⁴³ Additionally, as the aforementioned restrictions on

³² See more: Association for the human rights of the Azerbaijani people in Iran, <http://www.ahraz.org/association-for-the-human-rights-of-the-azerbaijani-people-in-iran-ahrazs-repot-regarding-the-current-situation-of-the-azerbaijani-arrestees-that-are-arrested-during-the-recent-protests-nove/>

³³ See more: Kurdistan Human Rights Geneva, <https://kmmk-ge.org/sd/annual-report-2020/>

³⁴ See more: United For Iran, <https://ipa.united4iran.org/en/prisoner/>

³⁵ Center for Human Rights in Iran, <https://iranhumanrights.org/2020/10/more-bahais-begin-serving-prison-sentences-in-iran-simply-for-their-beliefs/>

³⁶ See more: Joint submission to the Human Rights Committee from All Human Rights for All in Iran, Association for Human Rights in Kurdistan – Geneva, Association for the Human Rights of the Azerbaijani People in Iran, Iran Human Rights Documentation Center, OutRight International, Siamak Pourzand Foundation, Small Media, Impact Iran, 2020, https://tbinternet.ohchr.org/Treaties/CCPR/Shared%20Documents/IRN/INT_CCPR_NGO_IRN_42317_E.pdf

³⁷ "Iran arrests 29 linked to protests against compulsory hijab laws", New York Times, 2 February 2018. <https://www.nytimes.com/2018/02/02/world/middleeast/iran-hijab-protests-arrests.html>

³⁸ Small Media, Digital Rights in Iran, UPR Submission, Session 34 : <https://uprdoc.ohchr.org/uprweb/downloadfile.aspx?filename=6980&file=EnglishTranslation> >

³⁹ Small Media, Digital Rights in Iran, UPR Submission, Session 34 : <https://uprdoc.ohchr.org/uprweb/downloadfile.aspx?filename=6980&file=EnglishTranslation> >

⁴⁰ Human Rights Watch, <https://www.hrw.org/news/2018/05/02/iran-assault-access-information>

⁴¹ Small Media, Digital Rights in Iran, UPR Submission, Session 34 : <https://uprdoc.ohchr.org/uprweb/downloadfile.aspx?filename=6980&file=EnglishTranslation> >

⁴² See more: Article 19, <https://www.article19.org/wp-content/uploads/2020/09/TTN-report-2020.pdf>

⁴³ 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%2fCS%2fIRN%2f42313&Lang=en

otherwise protected activities under international law are enshrined into Iranian law, opportunities to seek justice are particularly limited.

In light of the above-mentioned information, the Islamic Republic of Iran has not explicitly defined actions that constitute crimes against national security, has not guaranteed the space for public criticism or advocacy through peaceful activities that are protected by international law. In the Islamic Republic of Iran, restrictions on freedom of expression and the right to information have not been “content-specific,” as called for by the Human Rights Committee in its General Comment 34 on article 19.

Recommendation Status:

This recommendation has **NOT** been implemented.