

## Special Rapporteur on the situation of human rights in the Islamic Republic of Iran A/HRC/28/70 para 93

### Full recommendation:

*The Government should amend laws and policies, and reconsider draft legislation, that infringe on the right to freely associate and assemble with expressive groups or like-minded individuals and to promote peaceful ideals and activities. Non-governmental organizations, including unregistered associations, should be allowed to function freely, and their members should be able to operate in a safe environment. The Special Rapporteur echoes the recommendation made by the Special Rapporteur on the rights to freedom of peaceful assembly and of association that the establishment of associations should be facilitated by a notification procedure that is simple, easily accessible, non-discriminatory and non-onerous or free of charge. Furthermore, the right to peaceful assembly should not be subject to prior authorization by the authorities, but at the most to a prior notification procedure, which should not be burdensome, and the Government should recognize spontaneous assemblies as exempted from prior notification.*

### Assessment using Impact Iran human rights indicators<sup>1</sup>

#### **A. The Government should amend laws and policies, and reconsider draft legislation, that infringe on the right to freely associate and assemble with expressive groups or like-minded individuals and to promote peaceful ideals and activities.**

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.<sup>2</sup> Unauthorized assemblies had previously been prohibited under the 1981 Law on the Activities of Parties, Populations and Political and Trade Unions and Islamic Associations or Recognized Religious Minorities.<sup>3</sup>

The revised version of the Islamic Penal Code,<sup>4</sup> adopted in 2013, maintains numerous provisions which criminalize the exercise of the right to freedom of expression, association and peaceful

<sup>1</sup> CCPR.22.1.S.1

CCPR.22.1.P.1

CCPR.22.1.O.2

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

<sup>3</sup> The 1981 Law on the Activities of Parties, Populations and Political and Trade Unions and Islamic Associations or Recognized Religious

Minorities, available at: <https://rc.majlis.ir/fa/law/show/90226>

<sup>4</sup> The Islamic Penal Code available at: [http://rc.majlis.ir/fa/law/print\\_version/845048](http://rc.majlis.ir/fa/law/print_version/845048)

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,<sup>5</sup> as well as a variety of acts considered as propaganda<sup>6</sup> or conspiracy against the state (which has been interpreted to include peaceful protests).<sup>7</sup> Encouragement to “violate public morals”<sup>8</sup> as well as satire are also penalized.<sup>9</sup> Similar vaguely worded provisions punish acts such as swearing at<sup>10</sup> or insulting<sup>11</sup> “the Great Prophet of Islam” as well as “sowing corruption on earth”<sup>12</sup> with the death penalty.

These restrictions fail to meet requirements of international standards that limitations are necessary and proportionate, and in pursuit of one of a limited number of narrowly-drawn legitimate aims, per Article 19 of the ICCPR. Additionally, the restriction on freedom of expression on the basis that it, for instance, offend public morality and chastity, is not a lawful restriction as per Article 19(3) of the ICCPR. Similarly, overbroad restrictions, vaguely worded and generic bans on freedom of expression are inconsistent with international standards.<sup>13</sup>

Such restrictive legal provisions grant Iranian authorities’ significant discretion to impose overbroad and vague restrictions on individuals’ rights in violation of the country’s international human rights obligations.

The authorities frequently resort to these provisions 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.<sup>14 15 16 17</sup>

<sup>5</sup> Article 498 Islamic Penal Code 2013, <https://iranhrdc.org/islamic-penal-code-of-the-islamic-republic-of-iran-book-five/>

<sup>6</sup> Article 500 Islamic Penal Code 2013, <https://iranhrdc.org/islamic-penal-code-of-the-islamic-republic-of-iran-book-five/>

<sup>7</sup> Article 610 Islamic Penal Code 2013, <https://iranhrdc.org/islamic-penal-code-of-the-islamic-republic-of-iran-book-five/>

<sup>8</sup> Article 639 Islamic Penal Code 2013, <https://iranhrdc.org/islamic-penal-code-of-the-islamic-republic-of-iran-book-five/>

<sup>9</sup> Article 700 Islamic Penal Code 2013, <https://iranhrdc.org/islamic-penal-code-of-the-islamic-republic-of-iran-book-five/>

<sup>10</sup> Article 262 Islamic Penal Code 2013, <https://iranhrdc.org/english-translation-of-books-i-ii-of-the-new-islamic-penal-code/>

<sup>11</sup> Article 513 Islamic Penal Code 2013, <https://iranhrdc.org/islamic-penal-code-of-the-islamic-republic-of-iran-book-five/>

<sup>12</sup> Article 286 Islamic Penal Code 2013

<sup>13</sup> 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>

<sup>14</sup> See more : ARTICLE 19, Small Media, Human Rights Activists in Iran, Impact Iran, Human Rights Committee, 129<sup>th</sup> session (Geneva) 29 June – 24 July 2020,

[https://tbinternet.ohchr.org/Treaties/CCPR/Shared%20Documents/IRN/INT\\_CCPR\\_ICJ\\_IRN\\_42315\\_E.pdf](https://tbinternet.ohchr.org/Treaties/CCPR/Shared%20Documents/IRN/INT_CCPR_ICJ_IRN_42315_E.pdf)

<sup>15</sup> See more: Iran Human Rights, <https://www.iranhr.net/en/reports/23/>

<sup>16</sup> See more: Iran Human Rights Documentation Center, <https://iranhrdc.org/controlled-and-pursued-labor-activism-in-contemporary-iran/>

<sup>17</sup> 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 violations to the aforementioned human rights targeting disproportionately members of minority or marginalized groups.<sup>18 19 20 21 22 23</sup>

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.<sup>24</sup> Additionally, as the aforementioned restrictions on otherwise protected activities under international law are enshrined into Iranian law, opportunities to seek justice are particularly limited.

The Government of the Islamic Republic of Iran has not amended laws and policies that infringe on the right to freely associate and assemble with expressive groups or like-minded individuals and to promote peaceful ideals and activities.

**B. Non- governmental organizations, including unregistered associations, should be allowed to function freely, and their members should be able to operate in a safe environment. The establishment of associations should be facilitated by a notification procedure that is simple, easily accessible, non-discriminatory and non-onerous or free of charge.**

The establishment and operations of groups, political associations and trade unions are protected under Article 26 of the Constitution of the Islamic Republic of Iran, provided that they do not violate the State's independence, freedom and national unity, and are in conformity with Islamic

<sup>18</sup> 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/>

<sup>19</sup> See more: Kurdistan Human Rights Geneva, <https://kmmk-ge.org/sd/annual-report-2020/>

<sup>20</sup> See more: United For Iran, <https://ipa.united4iran.org/en/prisoner/>

<sup>21</sup> Center for Human Rights in Iran, <https://iranhumanrights.org/2020/10/more-bahais-begin-serving-prison-sentences-in-iran-simply-for-their-beliefs/>

<sup>22</sup> 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](https://tbinternet.ohchr.org/Treaties/CCPR/Shared%20Documents/IRN/INT_CCPR_NGO_IRN_42317_E.pdf)

<sup>23</sup> “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>

<sup>24</sup> 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](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=INT%2fCCPR%2fCS%2fIRN%2f42313&Lang=en)

standards and the Islamic Republic's foundation.<sup>25</sup> These vaguely worded limitations are open to interpretation and grant the Government with significant leeway to restrain civil society organizations (CSOs) and interfere with their work.<sup>26 27</sup> The Labor Law states in its article 131 that founding members of CSO boards have “to pledge allegiance to the Islamic Republic of Iran's Constitution.” The Iranian Supreme Council of Cultural Revolution passed two directives (in 1999 and 2001) which allow only the formation of Islamic associations at universities, in other words an association which follows ‘Islamic ideals’ as well as the principles of the Islamic Revolution, the Islamic Government and the Constitution.<sup>28</sup> Similarly, all members of an association's founding board must believe in and pledge allegiance to Islam, the authority of the Supreme Leader, and the Constitution of Iran.<sup>29</sup> Any association which fails to fulfill these conditions cannot acquire a license.

In order to be able to establish an independent civil society organization (CSO) or association, the Government of Iran requires first an activity license from relevant authorities and then a registration with the General Directorate of Corporate Registrar and Non-Commercial Companies. To obtain an activity license, Iranian authorities require, among other conditions, that all founding members and executive board members are accredited by relevant government authorities.

While bylaws and regulations stipulate that associations can be dissolved either voluntarily or forcibly based on the verdict of a competent court, certain government institutions, like the Investigative Board of Cultural Centers, can dissolve associations without a court verdict.<sup>30</sup> Consequently, the Government can legally, and easily, prevent the establishment of CSOs and force their dissolution under the broad provisions found in the Constitution, therefore severely restricting civil society's space.

Reports suggest that the Iranian Government NGOs, notably by forcing closure under the broad legal provisions aforementioned.<sup>31 32 33 34</sup> In July 2020, the UN High Commissioner for Human Rights Michelle Bachelet stated that she was alarmed by the Iranian Government's increased

<sup>25</sup> Constitution of the Islamic Republic of Iran, English translation, <https://irandataportal.syr.edu/wp-content/uploads/constitution-english-1368.pdf>

<sup>26</sup> Outright International, Rights of the Child in Iran, [https://outrightinternational.org/sites/default/files/CRC71\\_Iran\\_JointSubmission\\_FINAL2.pdf](https://outrightinternational.org/sites/default/files/CRC71_Iran_JointSubmission_FINAL2.pdf)

<sup>27</sup> A Synthesis Report of NGO Submissions to the UN Committee on the Rights of the Child for Consideration of the Third Periodic Report of The Islamic Republic of Iran During the 71<sup>st</sup> Pre-Sessional Working Group, <https://justice4iran.org/wp-content/uploads/2015/07/Joint-CRC-Report-February-2015-Final.pdf>

<sup>28</sup> Supreme Council of Cultural Revolution's Directive, 1999, [http://eco.umz.ac.ir/uploads/آئین\\_نامه\\_تشکل\\_های\\_اسلامی.pdf](http://eco.umz.ac.ir/uploads/آئین_نامه_تشکل_های_اسلامی.pdf)

<sup>29</sup> Paragraph 1, Supreme Council of Cultural Revolution's Directive, 1999, <https://bit.ly/3dpbaff>

<sup>30</sup> See more: Volunteer Activists, *Civil Society in Iran and its Future Prospects*, <https://volunteeractivists.nl/en/wp-content/uploads/2018/10/Civil-Society-in-Iran-and-its-Future-Prospects-pdf.pdf>

<sup>31</sup> ISNA News, <https://www.isna.ir/news/اقتصاد-روسیاهی-کودک-کار-جا-اقتصاد-روسیاهی-96070301939/>

<sup>32</sup> Center for Human Rights in Iran, <https://www.iranhumanrights.org/wp-content/uploads/Days-to-remember-low.pdf>

<sup>33</sup> OHCHR News, <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=16940&LangID=E>

<sup>34</sup> Human Rights Activists News Agency, *The Association to Defend the Street and Working Children Sealed*, <https://www.en-irana.org/association-defend-street-working-children-sealed?hilitte=%27street%27%2C%27children%27>

pressure on the civil society group Imam Ali Popular Student's Relief Society, working on issues such as child labor. Iranian authorities closed the organization and arrested its founding member along with a number of their colleagues.<sup>35</sup>

In light of the above, the Government of the Islamic Republic of Iran has not allowed NGOs to function freely, and ensured that their members are able to operate in a safe environment. The procedure of establishment of associations is not simple and is discriminatory.

**C. The right to peaceful assembly should not be subject to prior authorization by the authorities, but at the most to a prior notification procedure, which should not be burdensome, and the Government should recognize spontaneous assemblies as exempted from prior notification.**

Article 27 of the Constitution of the Islamic Republic of Iran stipulates that “Public gatherings and marches may be freely held, provided arms are not carried and that they are not detrimental to the fundamental principles of Islam.”<sup>36</sup> The latter restriction is overly broad and grant Iranian authorities with d-significant leeway to restrict the right to peaceful assembly. Additionally, The Government requires all organizations and associations participating to an assembly to acquire a permit from the Article 10 Party Commission before-hand.<sup>37</sup> The process to obtain permits is difficult and burdensome<sup>38</sup> deterring further individuals from exercising their right to peaceful assembly.

The right to peaceful assembly is subject to prior authorization by authorities in the Islamic Republic of Iran. Spontaneous assemblies are not exempted from prior notification in the Islamic Republic of Iran.

Recommendation Status:

This recommendation has **NOT** been implemented.

<sup>35</sup> OHCHR News, <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=26141&LangID=E>

<sup>36</sup> Constitution of the Islamic Republic of Iran, English translation, <https://irandataportal.syr.edu/wp-content/uploads/constitution-english-1368.pdf>

<sup>37</sup> <http://rrk.ir/Laws/ShowLaw.aspx?Code=12758>

<sup>38</sup> See more: Volunteer Activists, *Civil Society in Iran and its Future Prospects*, <https://volunteeractivists.nl/en/wp-content/uploads/2018/10/Civil-Society-in-Iran-and-its-Future-Prospects-pdf.pdf>