

## Special Rapporteur on the situation of human rights in the Islamic Republic of Iran A/HRC/31/69 para 66

### Full recommendation

*The widening crackdown on freedom of expression and opinion that reportedly took place during the reporting period is regrettable, and the Special Rapporteur urges the Government to consider amending or rescinding laws, policies and parliamentary measures that contravene freedom of expression and that restrict access to information, including the draft political crimes bill, which would criminalize attempts to “reform the country’s policies”.*

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

While Article 27 of the Constitution ostensibly protects the right to freedom of peaceful assembly, the guarantee is only ensured so long as long it is not deemed “in violation of the fundamental principles of Islam.” There is no clear definition or criteria that define what constitutes “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. 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>2</sup> Those participating in peaceful unauthorized assemblies are often charged and subsequently sentenced to prison terms under Article 610 of the Islamic Penal Code, which criminalizes 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.”<sup>3</sup>

The right to freedom of expression, recognized 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 of vaguely worded offences such as the “dissemination of lies” and what is deemed to offend “public morality and chastity.”<sup>4</sup>

<sup>1</sup> CCPR.19.1.S.1; CCPR.19.2.S.1; CCPR.19.2.S.2  
CCPR.19.2.P.1; 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

<sup>2</sup> <https://rc.majlis.ir/fa/law/show/90226>

<sup>3</sup> The 2016 Law on Political Crimes, available at: <https://rc.majlis.ir/fa/law/show/968421>

<sup>4</sup> “Islamic Republic of Iran: Computer Crimes Law,” ARTICLE19, 2012. <https://bit.ly/1RecP6R>

The revised version of the Islamic Penal Code,<sup>5</sup> adopted in 2013, maintains numerous provisions criminalizing the exercise of the right to freedom of expression, association and peaceful assembly, in contravention of international human rights law and standards. For example, under the Penal Code, the establishment or leadership of a group that “aims to perturb the security of the country”,<sup>6</sup> a variety of acts considered as propaganda<sup>7</sup> or conspiracy against the state (which has been interpreted to include peaceful protests) are criminalized.<sup>8</sup> Encouragement to “violate public morals”<sup>9</sup>, as well as satire, are also penalized.<sup>10</sup> Similar vaguely worded provisions punish acts such as swearing at<sup>11</sup> or insulting<sup>12</sup> “the Great Prophet of Islam” as well as “sowing corruption on earth”<sup>13</sup> with the death penalty.

These restrictions fail to meet requirements of international standards that limitations be 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, offends public morality and chastity, is not a lawful restriction as per Article 19(3) of the ICCPR. Overbroad restrictions, vaguely worded and generic bans on freedom of expression are inconsistent with international standards.<sup>14</sup>

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.<sup>15</sup>

In 2009, the Islamic Republic of Iran adopted the Publication and Free Access to Information Act,<sup>16</sup> which partially recognizes the right to access information as guaranteed under international law.<sup>17</sup> The Act, however, suffers from shortcomings, including broad exemptions undermining its effectiveness. Some of the Act’s shortcomings include restrictions on the

<sup>5</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)

<sup>6</sup> Article 498 Islamic Penal Code 2013, <https://iranhrdc.org/islamic-penal-code-of-the-islamic-republic-of-iran-book-five/>

<sup>7</sup> Article 500 Islamic Penal Code 2013, <https://iranhrdc.org/islamic-penal-code-of-the-islamic-republic-of-iran-book-five/>

<sup>8</sup> Article 610 Islamic Penal Code 2013, <https://iranhrdc.org/islamic-penal-code-of-the-islamic-republic-of-iran-book-five/>

<sup>9</sup> Article 639 Islamic Penal Code 2013, <https://iranhrdc.org/islamic-penal-code-of-the-islamic-republic-of-iran-book-five/>

<sup>10</sup> Article 700 Islamic Penal Code 2013, <https://iranhrdc.org/islamic-penal-code-of-the-islamic-republic-of-iran-book-five/>

<sup>11</sup> Article 262 Islamic Penal Code 2013, <https://iranhrdc.org/english-translation-of-books-i-ii-of-the-new-islamic-penal-code/>

<sup>12</sup> Article 513 Islamic Penal Code 2013, <https://iranhrdc.org/islamic-penal-code-of-the-islamic-republic-of-iran-book-five/>

<sup>13</sup> Article 286 Islamic Penal Code 2013

<sup>14</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>15</sup> See more: Article 19, <https://www.article19.org/data/files/medialibrary/2921/12-01-30-FINAL-iran-WEB%5B4%5D.pdf>

<sup>16</sup> 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/>

<sup>17</sup> 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>

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 provided oversight body 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 not independent as its members are all senior government officials representing powerful public bodies, many of which have little or no commitment to transparency.<sup>18 19 20</sup>

Restrictions on 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 or to amount to propaganda against the State.<sup>21 22</sup> The Cyber Criminal Code Committee<sup>23</sup> decides which websites shall be filtered or shut down altogether.<sup>24</sup>

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.<sup>25</sup>

The authorities frequently resort to the Iranian legal framework to intimidate, arrest and

<sup>18</sup> 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/>

<sup>19</sup> 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](https://tbinternet.ohchr.org/Treaties/CCPR/Shared%20Documents/IRN/INT_CCPR_ICS_IRN_42315_E.pdf)

<sup>20</sup> See more: Article 19, <https://www.article19.org/right-to-info-iran/>

<sup>21</sup> See more: Article 19, <https://www.article19.org/data/files/medialibrary/2921/12-01-30-FINAL-iran-WEB%5B4%5D.pdf>

<sup>22</sup> See also : Volunteer Activists, <https://volunteeractivists.nl/en/wp-content/uploads/2018/10/Civil-Society-in-Iran-and-its-Future-Prospects-pdf.pdf>

<sup>23</sup> "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>

<sup>24</sup> The Committee has a list of filtered online items on the Iran's Cyber Police's website.

<sup>25</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>

prosecute individuals who peacefully exercise their rights to freedom of expression, association and assembly, including journalists and media workers, trade unionists, and lawyers.<sup>26 27 28 29 30</sup>

The Iranian legal framework also enables Iranian authorities to severely restrict 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 due to their online activities.<sup>31</sup> 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.<sup>32</sup> The Government blocked the messaging application Telegram in 2018, an important mean of communication of information in Iran, and a number of its administrators have been arrested and charged with encouraging protests, "disturbing public opinion" and/or "promoting homosexuality".<sup>33</sup> During the 2019 November protests, the Government ordered a country-wide internet shutdown, impairing the possibility to document acts of violence in real time.<sup>34</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>35</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.

<sup>26</sup> HRANA <<https://www.en-hrana.org/journalist-masoud-kazemi-arrested>>; <<https://www.en-hrana.org/journalists-death-attributed-to-travel-and-healthcare-restrictions>> <<https://www.en-hrana.org/annual-report-of-prosecuted-lawyers-in-iran>>; <<https://www.en-hrana.org/iranian-authorities-detain-lawyers-and-civil-rights-activists>> <<https://www.en-hrana.org/omct-repression-of-human-rights-defenders-goes-on-uninterrupted-in-iran>>

<sup>27</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\\_ICS\\_IRN\\_42315\\_E.pdf](https://tbinternet.ohchr.org/Treaties/CCPR/Shared%20Documents/IRN/INT_CCPR_ICS_IRN_42315_E.pdf)

<sup>28</sup> See more: Iran Human Rights, <https://www.iranhr.net/en/reports/23/>

<sup>29</sup> See more: Iran Human Rights Documentation Center, <https://iranhrdc.org/controlled-and-pursued-labor-activism-in-contemporary-iran/>

<sup>30</sup> See more: Ensemble Contre la Peine de Mort, <https://www.ecpm.org/wp-content/uploads/Rapport-iran-2020-gb-070420-WEB.pdf>

<sup>31</sup> Small Media, Digital Rights in Iran, UPR Submission, Session 34 :

<<https://uprdoc.ohchr.org/uprweb/downloadfile.aspx?filename=6980&file=EnglishTranslation>>

<sup>32</sup> Small Media, Digital Rights in Iran, UPR Submission, Session 34 :

<<https://uprdoc.ohchr.org/uprweb/downloadfile.aspx?filename=6980&file=EnglishTranslation>>

<sup>33</sup> Small Media, Digital Rights in Iran, UPR Submission, Session 34 :

<<https://uprdoc.ohchr.org/uprweb/downloadfile.aspx?filename=6980&file=EnglishTranslation>>

<sup>34</sup> See more : Article 19, <https://www.article19.org/wp-content/uploads/2020/09/TTN-report-2020.pdf>

<sup>35</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%2fICS%2fIRN%2f42313&Lang=en](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=INT%2fCCPR%2fICS%2fIRN%2f42313&Lang=en)

Additionally, the Political Crimes Bill became law in 2016, despite UN and NGOs' concerns that the bill further restricts freedom of expression in Iran.<sup>36</sup>

The Government of the Islamic Republic of Iran has not considered amending or rescinding laws, policies and parliamentary measures that contravene freedom of expression and restrict access to information, including the Political Crimes Bill.

Recommendation Status:

This recommendation has **NOT** been implemented.

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<sup>36</sup> Adopted on May 9, 2016: <https://shenasname.ir/laws/6778>