

## Special Rapporteur on the situation of human rights in the Islamic Republic of Iran A/HRC/34/65 para 87

### Full recommendation

*The Special Rapporteur recalls that freedom of opinion and freedom of expression are indispensable conditions for the full development of the person, are essential for any society and constitute the foundation stone for every free and democratic society. The Government has the responsibility to ensure that human rights defenders do not face prosecution for promoting and advancing human rights in the country.*

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

Article 27 of the Constitution of the Islamic Republic of Iran<sup>2</sup> ostensibly protects the right to freedom of peaceful assembly, so long as it is not “in violation of the fundamental principles of Islam”. There is no clear definition or criteria that define what constitutes “fundamental principles of Islam”, granting the State significant discretion to restrict the right of peaceful assembly when it is considered to be in violation of these fundamental principles. Similar restrictions can also be found under Article 2 of the Law on Political Crimes, adopted in 2016, which stipulates that participation in an unauthorized assembly, even if it is peaceful, can effectively be considered a political offence.<sup>3</sup>

Similarly, the right to freedom of expression, recognized under Article 24 of the Constitution, is restricted if it is “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 the 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> The 1986 Press Law and its subsequent amendments also significantly obstruct the right to freedom of expression, particularly for the media.<sup>5</sup> The law mentions that publications should “duly [observe] Islamic criteria and the best interests of the community”. It also provides twelve conditions under which the press might be censored, including “publishing heretical articles”, “spreading fornication and forbidden practices”, and “propagating and spreading overconsumption”.<sup>6</sup>

<sup>1</sup> CCPR.19.2.S.1; CCPR.19.3.S.1; CCPR.21.1.S.1; CCPR.22.1.S.2; CCPR.21.1.P.1; CCPR.21.1.P.2; CCPR.19.2.O.2; CCPR.19.2.O.5; CCPR.21.1.O.2; CCPR.21.1.O.3; CCPR.22.1.O.1

<sup>2</sup> Constitution of the Islamic Republic of Iran, English translation, <https://irandatportal.syr.edu/wp-content/uploads/constitution-english-1368.pdf>

<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>

<sup>5</sup> The Press Law and its subsequent amendments up until 2002 is available at: <http://irandatportal.syr.edu/press-law>

<sup>6</sup> Iranian Press Law, Article 6.

These restrictions are reiterated in the revised version of the Islamic Penal Code,<sup>7</sup> adopted in 2013. For instance, those participating in peaceful unauthorized assemblies can be sentenced to prison terms on the charges of “gathering and colluding to commit crimes against national security” (Article 610 of the Islamic Penal Code),<sup>8</sup> “forming a group composed of more than two people with the purpose of disrupting national security” (Article 498)<sup>9</sup> and/or “membership of a group with the purpose of disrupting national security” (Article 499). Other criminal charges include “spreading propaganda against the system”,<sup>10</sup> conspiracy against the State,<sup>11</sup> encouragement to “violate public morals”<sup>12</sup> as well as satire.<sup>13</sup> Similar vaguely worded provisions criminalize acts such as swearing at<sup>14</sup> or insulting<sup>15</sup> “the Great Prophet of Islam” as well as “sowing corruption on earth”<sup>16</sup> with the death penalty.

The UN Declaration on Human Rights Defenders (HRDs), adopted by consensus by the UN General Assembly in 1998, recognizes the role of HRDs in the advancement of human rights and requires specific measures for their protection due to their exposure to additional and specific risks. While the Declaration is not a binding document, it articulates existing international human rights in a context applicable to the work of HRDs. Notably, the Declaration reiterates the State’s duty to protect the rights to freedom of expression,<sup>17</sup> assembly<sup>18</sup> and association<sup>19</sup> for all, and specifically calls on States to guarantee these rights as they are crucial for any type of human rights work.<sup>20</sup>

All the aforementioned restrictions fail to meet requirements of international standards, including the principles of legality and requirements that limitations of rights must be necessary, proportionate and in pursuit of one of a limited number of narrowly-drawn legitimate aims.<sup>21</sup> Consequently, the current Iranian legal framework grants authorities’ significant discretion to impose overbroad and vague restrictions on individuals’ rights in contravention of the Iran’s international human rights obligations. As freedom of expression, assembly and association are central to the work of HRDs, they are particularly exposed to State restriction and repression.

<sup>7</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>8</sup> 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](http://rc.majlis.ir/fa/law/print_version/845048)

<sup>9</sup> Article 498 Islamic Penal Code 2013, <https://iranhrdc.org/islamic-penal-code-of-the-islamic-republic-of-iran-book-five/>

<sup>10</sup> Article 500 Islamic Penal Code 2013, <https://iranhrdc.org/islamic-penal-code-of-the-islamic-republic-of-iran-book-five/>

<sup>11</sup> Article 610 Islamic Penal Code 2013, <https://iranhrdc.org/islamic-penal-code-of-the-islamic-republic-of-iran-book-five/>

<sup>12</sup> Article 639 Islamic Penal Code 2013, <https://iranhrdc.org/islamic-penal-code-of-the-islamic-republic-of-iran-book-five/>

<sup>13</sup> Article 700 Islamic Penal Code 2013, <https://iranhrdc.org/islamic-penal-code-of-the-islamic-republic-of-iran-book-five/>

<sup>14</sup> Article 262 Islamic Penal Code 2013, <https://iranhrdc.org/english-translation-of-books-i-ii-of-the-new-islamic-penal-code/>

<sup>15</sup> Article 513 Islamic Penal Code 2013, <https://iranhrdc.org/islamic-penal-code-of-the-islamic-republic-of-iran-book-five/>

<sup>16</sup> Article 286 Islamic Penal Code 2013.

<sup>17</sup> Article 19, International Covenant on Civil and Political Rights

<sup>18</sup> Article 21, International Covenant on Civil and Political Rights

<sup>19</sup> Article 22, International Covenant on Civil and Political Rights

<sup>20</sup> OHCHR, <https://www.ohchr.org/en/issues/srhdefenders/pages/declaration.aspx>

<sup>21</sup> Article 19, International Covenant on Civil and Political Rights

Such risk of restriction and repression has been confirmed in practice. Iranian authorities frequently rely on the legal framework to intimidate, arrest and prosecute individuals who peacefully exercise their rights to freedom of expression, association and assembly,<sup>22 23</sup> reportedly disproportionately targeting members of minorities.<sup>24 25</sup> Further, the Government of Iran has responded to protests with excessive and unlawful force.<sup>26</sup>

Human rights lawyers have been increasingly targeted and repressed through arrests, detention, and imprisonment solely for exercising their rights to freedom of expression, association and assembly during the course of their professional duty to defend their clients.<sup>27</sup> Other human rights defenders, including trade unionists, environmental or abolitionist activists have also faced increasing levels of harassment and persecution due to their peaceful activities.<sup>28 29 30 31</sup> In his July 2020 report, the Special Rapporteur on the situation of human rights in the Islamic Republic of Iran raised serious concerns over recurrent arrests and detentions of HRDs solely for carrying out their legitimate work.<sup>32 33 34</sup> The Special Rapporteur also referred to reports of harassment, imprisonment and mistreatment in prison of HRDs and increasing pressure on their families.<sup>35</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

<sup>22</sup> See more : Amnesty International, Caught in a web of repression: Iran's Human Rights Defenders under attack, <https://www.amnesty.org/download/Documents/MDE1364462017ENGLISH.PDF>

<sup>23</sup> While no official figure exists on the number of journalists detained with charges since 2011, documentation on specific cases of journalists imprisoned by HRANA News Agency, Committee to Protect Journalists, Amnesty International, Centre for Human Rights on Iran, and Reporters Without Borders and ARTICLE19 suggest the number is over a hundred.

<sup>24</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>25</sup> See more: Kurdistan Human Rights Geneva, <https://kmmk-ge.org/sd/annual-report-2020/>

<sup>26</sup> The Governmental crackdown on the November 2019 protests is emblematic of Iran's repression of the rights to freedom of expression, assembly and association. See more: Amnesty International, Trampling Humanity: Mass arrests, disappearances and torture since Iran's 2019 November protests, <https://www.amnesty.org/en/documents/mde13/2891/2020/en/>

<sup>27</sup> See more: Abdorrahman Boroumand Center, <https://www.iranrights.org/projects/timeline>

<sup>28</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>29</sup> See more: Iran Human Rights, <https://www.iranhr.net/en/reports/23/>

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

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

<sup>32</sup> Special Rapporteur on the situation of human rights in the Islamic Republic of Iran, January 2020, [https://www.ohchr.org/Documents/Countries/IR/Report\\_of\\_the\\_Special\\_Rapporteur\\_on\\_the\\_situation\\_of\\_human\\_rights\\_in\\_the\\_Islamic\\_Republic\\_of\\_IranA4361.pdf](https://www.ohchr.org/Documents/Countries/IR/Report_of_the_Special_Rapporteur_on_the_situation_of_human_rights_in_the_Islamic_Republic_of_IranA4361.pdf)

<sup>33</sup> See more: United for Iran, database of Iran's prisons and political prisoners available at <https://ipa.united4iran.org/en/>

<sup>34</sup> See more: EN-Human Rights Activists News Agency, <https://www.en-hrana.org/?s=activists>

<sup>35</sup> Report of the Special Rapporteur on the situation of human rights in the Islamic Republic of Iran, January 2020, [https://www.ohchr.org/Documents/Countries/IR/Report\\_of\\_the\\_Special\\_Rapporteur\\_on\\_the\\_situation\\_of\\_human\\_rights\\_in\\_the\\_Islamic\\_Republic\\_of\\_IranA4361.pdf](https://www.ohchr.org/Documents/Countries/IR/Report_of_the_Special_Rapporteur_on_the_situation_of_human_rights_in_the_Islamic_Republic_of_IranA4361.pdf)

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>36</sup> Additionally, as the State relies on the Iranian legal framework to repress the work of HRDs, access to justice is particularly limited.

The Government has not ensured that human rights defenders do not face prosecution for promoting and advancing human rights in the country.

Recommendation Status:

This recommendation has **NOT** been implemented.

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<sup>36</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)