

## Special Rapporteur on the situation of human rights in the Islamic Republic of Iran A/HRC/34/65 para 89

### Full recommendation:

*The Special Rapporteur urges the Islamic Republic of Iran to take proactive steps to promote the full realization of the rights of human rights defenders and to refrain from any acts that violate the rights of human rights defenders because of their human rights work. The government should take strict measures to ensure that the security and intelligence apparatus does not use reprisals against families of those who monitor or campaign against human rights violations or express views that are contrary to government policies.*

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

#### **A. The Special Rapporteur urges the Islamic Republic of Iran to take proactive steps to promote the full realization of the rights of human rights defenders and to refrain from any acts that violate the rights of human rights defenders because of their human rights work**

The Iranian legal framework does not guarantee the full enjoyment of the rights of human rights defenders, rather it severely limits or even criminalises their peaceful human rights work.

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, nor criteria, that defines what is considered to be in conformity with the “fundamental principles of Islam”. This results with the State having 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 unauthorised assembly, even if it is peaceful, can effectively be considered a political offence.<sup>3</sup>

Similarly, the right to freedom of expression, recognised 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 the 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 criminalisation of vaguely worded offences

<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://irandataportal.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>

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>

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 unauthorised 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> conspiring against the State,<sup>11</sup> encouraging people to “violate public morals”<sup>12</sup>, as well as anyone who satirises an individual or publishes a satire.<sup>13</sup> Similar vaguely worded provisions criminalise 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>; these crimes are punishable by death.

The UN Declaration on Human Rights Defenders (HRDs), adopted by consensus by the UN General Assembly in 1998, recognises the role of HRDs in the advancement of human rights. The Declaration established specific measures that sought to ensure the protection of HRDs, given their exposure to additional and specific risks whilst carrying out their professional activities. 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,

<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://irandataportal.syr.edu/press-law>

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

<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

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 that are set out in international standards, including the principle of legality and the requirement that the limitation of rights must be necessary, proportionate and in pursuit of one of a limited number of narrowly-defined legitimate aims.<sup>21</sup> Consequently, the current Iranian legal framework grants authorities' significant discretion to impose overbroad and vague restrictions on individuals' rights, directly contravening 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 restrictions and repression imposed by the State.

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> Furthermore, the Government of Iran has responded to protests with excessive and unlawful use of force.<sup>26</sup>

Human rights lawyers have increasingly been targeted and repressed. They faced 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</sup>  
<sup>29 30 31</sup> In his July 2020 report, the Special Rapporteur on the situation of human rights in the

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

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

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

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 the increasing pressure faced by their families.<sup>35</sup>

Despite the existence of several mechanisms that ostensibly accept complaints regarding violations of citizens' rights, such as the Parliament's Article 90 Commission (established under 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.

In light of the above, the Islamic Republic of Iran has not taken proactive steps to promote the full realisation of the rights of human rights defenders and has not refrained from any acts that violate the rights of human rights defenders because of their human rights work.

**B. The government should take strict measures to ensure that the security and intelligence apparatus does not use reprisals against families of those who monitor or campaign against human rights violations or express views that are contrary to government policies**

The Constitution established the Islamic Revolutionary Guards Corps (IRGC) as an independent security force tasked to preserve the ideals of the 1979 revolution.<sup>37</sup> Nowadays, the IRGC extended its security and intelligence role in Iran, it being separate from the country's regular forces. This was done notably through its *Basij* all-volunteer paramilitary force and the IRGC Intelligence Organisation.

The head of the IRGC reports directly to the Supreme Leader and in effect is not accountable to either the government or the judiciary. The Supreme Leader, who appoints, dismisses and

<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)

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

<sup>37</sup> Constitution of the Islamic Republic of Iran, English translation, <https://irandataportal.syr.edu/wp-content/uploads/constitution-english-1368.pdf>

accepts resignation of the chief commander of the IRGC,<sup>38</sup> is not accountable to any institution. Consequently, the possibility to challenge the actions of the Islamic Revolutionary Guard Corps is severely limited.

Iranian authorities, including the IRGC, regularly resort to reprisals against families of those who monitor or campaign against human rights violations or express views that are contrary to government policies.<sup>39 40 41 42</sup>

The Islamic Republic of Iran has not taken strict measures to ensure that the security and intelligence apparatus does not use reprisals against families of those who monitor or campaign against human rights violations or express views that are contrary to government policies.

Recommendation Status:

This recommendation has **NOT** been implemented.

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<sup>38</sup> Article 110, Constitution of the Islamic Republic of Iran, English translation, <https://irandataportal.syr.edu/wp-content/uploads/constitution-english-1368.pdf>

<sup>39</sup> OHCHR News, <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=25706&LangID=E>

<sup>40</sup> European Parliament, [https://www.europarl.europa.eu/doceo/document/B-9-2020-0440\\_EN.html](https://www.europarl.europa.eu/doceo/document/B-9-2020-0440_EN.html)

<sup>41</sup> Frontline Defenders, [https://www.frontlinedefenders.org/sites/default/files/flf\\_iran\\_upr34\\_full.pdf](https://www.frontlinedefenders.org/sites/default/files/flf_iran_upr34_full.pdf)

<sup>42</sup> Center for Human Rights in Iran, <https://iranhumanrights.org/2020/07/activists-brother-sentenced-to-eight-years-in-prison-collective-punishment-of-families-continues-in-iran/>