

Special Rapporteur on the situation of human rights in the Islamic Republic of Iran A/73/398 para 34

Full recommendation:

The Special Rapporteur calls upon the Government to uphold the fundamental human rights of freedom of opinion and expression and to repeal all laws and policies which criminalize or restrict online expression, with online content to be restricted only by independent and impartial judicial decisions.

Assessment using Impact Iran human rights indicators¹

The right to freedom of expression, recognized under Article 24 of the Constitution of the Islamic Republic of Iran, is guaranteed only as long as it is not “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 broad and vaguely defined provisions restrict the right to freedom of expression online, notably the crimes of “dissemination of lies” or the offence to “public morality and chastity.”²

The revised version of the Islamic Penal Code,³ adopted in 2013, maintains numerous provisions which criminalize 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,⁴ as well as a variety of acts considered as propaganda⁵ or conspiracy against the state (which has been interpreted to include peaceful protests).⁶ Encouragement to “violate public morals”⁷ as well as satire are also penalized.⁸ Similar vaguely worded provisions punish acts such as swearing at⁹ or insulting¹⁰ “the Great Prophet of Islam” as well as “sowing corruption on earth”¹¹ with the death penalty.

¹ CCCPR.19.1.S.1.; CCPR.19.2.S.1.; CCPR.19.2.S.2.; CCPR.19.2.P.2.; 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.

² “Islamic Republic of Iran: Computer Crimes Law,” ARTICLE19, 2012. <https://bit.ly/1RecP6R>

³ The Islamic Penal Code available at: http://rc.majlis.ir/fa/law/print_version/845048

⁴ Article 498 Islamic Penal Code 2013, <https://iranhrdc.org/islamic-penal-code-of-the-islamic-republic-of-iran-book-five/>

⁵ Article 500 Islamic Penal Code 2013, <https://iranhrdc.org/islamic-penal-code-of-the-islamic-republic-of-iran-book-five/>

⁶ Article 610 Islamic Penal Code 2013, <https://iranhrdc.org/islamic-penal-code-of-the-islamic-republic-of-iran-book-five/>

⁷ Article 639 Islamic Penal Code 2013, <https://iranhrdc.org/islamic-penal-code-of-the-islamic-republic-of-iran-book-five/>

⁸ Article 700 Islamic Penal Code 2013, <https://iranhrdc.org/islamic-penal-code-of-the-islamic-republic-of-iran-book-five/>

⁹ Article 262 Islamic Penal Code 2013, <https://iranhrdc.org/english-translation-of-books-i-ii-of-the-new-islamic-penal-code/>

¹⁰ Article 513 Islamic Penal Code 2013, <https://iranhrdc.org/islamic-penal-code-of-the-islamic-republic-of-iran-book-five/>

¹¹ Article 286 Islamic Penal Code 2013

Restrictions on the right to freedom of expression extend to the right to information and to the press and media. The 1986 Press Law provides content-based restrictions on traditional and online media which significantly impact the information made available to the public.^{12 13}

In 2009, the Islamic Republic of Iran adopted the Publication and Free Access to Information Act,¹⁴ which partially recognizes the right to access information as guaranteed under international law.¹⁵ 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 deemed to cause disgrace or contravene public decency or promotes vice (Article 17). Additionally, the Act fails to establish a clear appeal mechanism and the oversight body prescribed 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 not independent as its members are all senior government officials representing powerful public bodies, many of which have little or no commitment to transparency.^{16 17 18}

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, to be offending public morality and chastity or amounting to propaganda against the State.^{19 20} The Cyber Criminal Code Committee²¹ decides which websites should be filtered or shutdown altogether.^{22 23}

¹² The Press law: <https://shenasname.ir/organs/vezarat/ershad/344>

¹³ See more: Article 19, <https://www.article19.org/data/files/medialibrary/2921/12-01-30-FINAL-iran-WEB%5B4%5D.pdf>

¹⁴ 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/>

¹⁵ 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>

¹⁶ 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/>

¹⁷ 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

¹⁸ See more: Article 19, <https://www.article19.org/right-to-info-iran/>

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

²⁰ See also: Volunteer Activists, <https://volunteeractivists.nl/en/wp-content/uploads/2018/10/Civil-Society-in-Iran-and-its-Future-Prospects-pdf.pdf>

²¹ "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>

²² The Committee has a list of filtered online items on the Iran's Cyber Police's website.

²³ Small Media, Digital Rights in Iran, UPR Submission, Session 34 :

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

In addition, the 2010 Computer Crimes Law remains the most recent piece of legislation, extending restrictions on freedom of expression to the online sphere, including through vague and broad crimes such as “dissemination of lies” and the criminalization of what is deemed to offend “public morality and chastity”.²⁴

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.^{25 26 27 28} NGOs have reported a pattern of these violations disproportionately targeting members of minority or marginalized groups attempting to exercise their rights to freedom of expression, association and assembly.^{29 30 31 32 33 34}

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 because of their online activities.³⁵ 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, in particular those sharing information on the situation of marginalized communities or political prisoners.³⁶ Social networking platforms, including Twitter, Facebook, YouTube, and Google, and blog-

²⁴ See more: Article19, <https://www.article19.org/data/files/medialibrary/37385/Computer-Crimes-in-Iran-.pdf>

²⁵ 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_IC_S_IRN_42315_E.pdf

²⁶ See more: Iran Human Rights, <https://www.iranhr.net/en/reports/23/>

²⁷ See more: Iran Human Rights Documentation Center, <https://iranhrdc.org/controlled-and-pursued-labor-activism-in-contemporary-iran/>

²⁸ See more: Ensemble Contre la Peine de Mort, <https://www.ecpm.org/wp-content/uploads/Rapport-iran-2020-gb-070420-WEB.pdf>

²⁹ 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/>

³⁰ See more: Kurdistan Human Rights Geneva, <https://kmmk-ge.org/sd/annual-report-2020/>

³¹ See more: United For Iran, <https://ipa.united4iran.org/en/prisoner/>

³² Center for Human Rights in Iran, <https://iranhumanrights.org/2020/10/more-bahais-begin-serving-prison-sentences-in-iran-simply-for-their-beliefs/>

³³ 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

³⁴ “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>

³⁵ Small Media, Digital Rights in Iran, UPR Submission, Session 34 : <https://uprdoc.ohchr.org/uprweb/downloadfile.aspx?filename=6980&file=EnglishTranslation> >

³⁶ Small Media, Digital Rights in Iran, UPR Submission, Session 34 : <https://uprdoc.ohchr.org/uprweb/downloadfile.aspx?filename=6980&file=EnglishTranslation> >

hosting platforms, such as WordPress, Blogspot, and Blogger, are also blocked in Iran.³⁷ The Government blocked the messaging application Telegram in 2018,³⁸ with an estimated 40 million monthly users,³⁹ and a number of its administrators have been arrested and charged with encouraging protests, “disturbing public opinion” and/or “promoting homosexuality”.⁴⁰ During the 2019 November protests, the Government ordered a country-wide internet shutdown, impairing media coverage and the possibility to document acts of violence in real time.⁴¹

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.⁴² 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 upheld the fundamental human rights of freedom of opinion and expression and has not repealed all laws and policies which criminalize or restrict online expression. Online content has not been restricted only by independent and impartial judicial decisions.

Recommendation Status:

This recommendation has **NOT** been implemented.

³⁷ Small Media, Digital Rights in Iran, UPR Submission, Session 34 :

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

³⁸ Human Rights Watch, <https://www.hrw.org/news/2018/05/02/iran-assault-access-information>

³⁹ Small Media, Digital Rights in Iran, UPR Submission, Session 34 :

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

⁴⁰ Small Media, Digital Rights in Iran, UPR Submission, Session 34 :

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

⁴¹ See more: Article 19, <https://www.article19.org/wp-content/uploads/2020/09/TTN-report-2020.pdf>

⁴² 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