

## Special Rapporteur on the situation of human rights in the Islamic Republic of Iran A/HRC/37/68 para 89

### Full recommendation:

*The Special Rapporteur further urges the Government, in line with its international obligations, to guarantee the freedom of the press and media, and immediately release all detainees who have been imprisoned for exercising their right to freedom of opinion, expression and unobstructed peaceful assembly. The Special Rapporteur further urges the Government to amend or rescind laws, policies and parliamentary measures that contravene freedom of expression and that restrict access to information, including online information.*

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

#### A. The Special Rapporteur further urges the Government, in line with its international obligations, to guarantee the freedom of the press and media

Iranian law, including the Islamic Penal code and the press law, enables Iranian authorities to label as crime any act of criticism against the policies or practices of government institutions.<sup>2</sup>

Articles 23 and 24 of the Iranian Constitution recognize the right to freedom of thought and expression while prohibiting censorship of press.<sup>3</sup> However, Article 24 restricts freedom of the press “when it is detrimental to the fundamental principles of Islam or the rights of the public.”<sup>4</sup> The “fundamental principles of Islam” or “the rights of the public” are not explicitly defined under Iranian law which grants Iranian authorities significant discretion to restrict the right to freedom of expression, freedom of the press and media. These legal guarantees are further undermined by the criminalisation under the Islamic Penal Code of vaguely defined charges such as “violating public morals”, “sowing corruption on earth” or disturbing national security<sup>5</sup>, consequently largely restricting the right to freedom of expression.<sup>5</sup>

The 1986 Press Law, amended in 2000, provides vague and broad content-based restrictions on traditional and online media. For example, news reports may only be published in pursuit of one of the five “legitimate objectives”, including “to campaign against manifestations of imperialistic

<sup>1</sup> 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.

<sup>2</sup> Article 608, 609 and 697 of Islamic Penal Code: <https://shenasname.ir/laws/4475-ghanon-mojazat>

<sup>3</sup> The Constitution states that the press is free to express its views, unless it violates the principles of Islam and public law. The Constitution of the Islamic Republic of Iran, English translation, <<https://www.refworld.org/docid/3ae6b56710.html> >

<sup>4</sup> Constitution of the Islamic Republic of Iran, English translation, <https://irandataportal.syr.edu/wp-content/uploads/constitution-english-1368.pdf>

<sup>5</sup> Article 608, 609, 697 and Article 498 to 512 of Islamic Penal Code 2013 : <https://shenasname.ir/laws/4475-ghanon-mojazat>

culture” or “to propagate and promote genuine Islamic culture and sound ethical principles.”<sup>6</sup> 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>7</sup> It further limits the publication of material deemed critical of key political figures, including the Supreme Leader and President.<sup>8</sup> The law also mentions that publications should “duly [observe] Islamic criteria and the best interests of the community”, these broad and vague conditions grant Iranian authorities with significant discretion to restrict the content of publications. On top of restrictions applied to the publication of information, the 1986 Press Law restricts the issuance of license to individuals who fulfil a number of broad and vaguely defined conditions, including “practical adherence to the constitution”<sup>9</sup>

Although Article 168 of the Constitution stipulates that press crimes should be tried in the press court and before a jury, in recent years a large number of journalists have been tried in public and revolutionary courts for their media activities, notably on national security related charges.<sup>10</sup><sup>11</sup> Additionally, while Article 4 of the 1986 Press Law states that "No government or non-governmental authority has the right to impose pressure on the press or to censor and control the press in order to publish an article"<sup>12</sup>, there is no readily available information indicating that government or non-government officials have been tried under this article.

Such legal framework leads to a generalization of the criminalisation of dissent and criticism against Iran and enables the Iranian authorities’ censorship and mass surveillance campaign, both on and offline. Iranian authorities target journalists and writers with harassment, arbitrary arrests,

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<sup>6</sup> The Press law: <https://shenasname.ir/organs/vezarat/ershada/344>

<sup>7</sup> See more: Article 19, <https://www.article19.org/data/files/medialibrary/2921/12-01-30-FINAL-iran-WEB%5B4%5D.pdf>

<sup>8</sup> The Press law: <https://shenasname.ir/organs/vezarat/ershada/344>

<sup>9</sup> Chapter 5 (Articles 8-22) The Press law: <https://shenasname.ir/organs/vezarat/ershada/344>

<sup>10</sup> Amnesty International, <https://www.amnestyusa.org/press-releases/prison-and-flogging-sentences-for-seven-journalists-and-activists-disgraceful-injustice/>

<sup>11</sup> Small Media, Digital Rights in Iran, UPR Submission, Session 34 : <https://uprdoc.ohchr.org/uprweb/downloadfile.aspx?filename=6980&file=EnglishTranslation> >

<sup>12</sup> Those who violate Article 4 will be sentenced to up to two years’ dismissal from office or to a permanent dismissal from public service if their violations are repeated.

detentions and imprisonments solely for performing their work.<sup>13 14 15 16 17 18</sup> Iran is one of the countries with the highest number of journalists in prison, illustrating its repression of the freedom of the press.<sup>19</sup>

Considering the above, the Government has not guaranteed the freedom of the press and media in Iran.

**B. The Special Rapporteur further urges the Government to immediately release all detainees who have been imprisoned for exercising their right to freedom of opinion, expression and unobstructed peaceful assembly.**

Since 2016, the Working Group on Arbitrary Detention (WGAD) has found at least 38 cases of arbitrary detention in the Islamic Republic of Iran, a significant number of them concerning individuals imprisoned solely for exercising their right to freedom of opinion, expression and peaceful assembly. Despite these opinions, many remain in detention as of February 2021, including but not limited to: Mr. Arash Sadeghi (Opinion no. 19/2018), Ms. Golrokh Ebrahimi Iraee (Opinion no. 33/2019), Ms. Atena Daemi (Opinion no. 83/2018). OHCHR continues to document numerous cases of individuals imprisoned solely for exercising their freedom of expression, including journalists and human rights defenders.<sup>20</sup>

The Islamic Republic of Iran has not immediately released all detainees who have been imprisoned for exercising their right to freedom of opinion, expression and peaceful assembly.<sup>21</sup>

<sup>13</sup> Committee to Protect Journalists, <https://cpj.org/2020/06/at-least-5-journalists-sentenced-to-jail-in-iran-since-early-june/> and <https://cpj.org/2020/08/iranian-journalist-kayvan-samimi-begins-3-year-jail-term-over-protest-coverage/> and <https://cpj.org/2020/09/mohammad-mosaed-cpj-2020-awardee-sentenced-to-more-than-4-years-in-jail-in-iran/>; <https://cpj.org/2020/09/iranian-journalist-nada-sabouri-begins-3-5-year-jail-term-in-2014-protest-case/>; <https://cpj.org/2020/09/iranian-journalist-khosrow-sadeghi-borojeni-begins-7-year-jail-term/>

<sup>14</sup> Center for Human Rights in Iran, <https://iranhumanrights.org/2020/10/prominent-iranian-writers-sent-to-prison-for-peaceful-dissent/>.

<sup>15</sup> The Guardian, [www.theguardian.com/world/2020/jun/30/iran-sentences-journalist-ruhollah-zam-to-death](http://www.theguardian.com/world/2020/jun/30/iran-sentences-journalist-ruhollah-zam-to-death).

<sup>16</sup> Iran Human Rights, [www.iranhr.net/en/articles/4301/](http://www.iranhr.net/en/articles/4301/)

<sup>17</sup> Amnesty International, <https://www.amnesty.org/en/latest/news/2020/07/iran-two-kurds-executed-amid-increasing-use-of-death-penalty-as-weapon-of-repression/>

<sup>18</sup> HRANA <<https://www.en-hrana.org/journalist-masoud-kazemi-arrested>>; <<https://www.en-hrana.org/journalists-death-attributed-to-travel-and-healthcare-restrictions>>

<sup>19</sup> <https://cpj.org/mideast/iran/>

<sup>20</sup> Report of the Special Rapporteur on the situation of human rights in the Islamic Republic of Iran, January 2021, <https://undocs.org/Home/Mobile?FinalSymbol=A%2FHRC%2F46%2F50&Language=E&DeviceType=Desktop>

<sup>21</sup> See more: United for Iran, <https://ipa.united4iran.org/en/prisoner/>

**C. The Special Rapporteur further urges the Government to amend or rescind law, policies, and parliamentary measure that contravene freedom of expression and that restrict access to information, including online information.**

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.”<sup>22</sup>

The revised version of the Islamic Penal Code,<sup>23</sup> 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,<sup>24</sup> as well as a variety of acts considered as propaganda<sup>25</sup> or conspiracy against the state (which has been interpreted to include peaceful protests).<sup>26</sup> Encouragement to “violate public morals”<sup>27</sup> as well as satire are also penalized.<sup>28</sup> Similar vaguely worded provisions punish acts such as swearing at<sup>29</sup> or insulting<sup>30</sup> “the Great Prophet of Islam” as well as “sowing corruption on earth”<sup>31</sup> with the death penalty.

Restrictions on the right to freedom of expression extend to the right to information and to the press and media, as mentioned above. The 1986 Press Law provides content-based restrictions on traditional and online media which significantly impact the information made available to the public.<sup>32</sup>

In 2009, the Islamic Republic of Iran adopted the Publication and Free Access to Information Act,<sup>33</sup> which partially recognizes the right to access information as guaranteed under

<sup>22</sup> “Islamic Republic of Iran: Computer Crimes Law,” ARTICLE19, 2012. <https://bit.ly/1RecP6R>

<sup>23</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>24</sup> Article 498 Islamic Penal Code 2013, <https://iranhrdc.org/islamic-penal-code-of-the-islamic-republic-of-iran-book-five/>

<sup>25</sup> Article 500 Islamic Penal Code 2013, <https://iranhrdc.org/islamic-penal-code-of-the-islamic-republic-of-iran-book-five/>

<sup>26</sup> Article 610 Islamic Penal Code 2013, <https://iranhrdc.org/islamic-penal-code-of-the-islamic-republic-of-iran-book-five/>

<sup>27</sup> Article 639 Islamic Penal Code 2013, <https://iranhrdc.org/islamic-penal-code-of-the-islamic-republic-of-iran-book-five/>

<sup>28</sup> Article 700 Islamic Penal Code 2013, <https://iranhrdc.org/islamic-penal-code-of-the-islamic-republic-of-iran-book-five/>

<sup>29</sup> Article 262 Islamic Penal Code 2013, <https://iranhrdc.org/english-translation-of-books-i-ii-of-the-new-islamic-penal-code/>

<sup>30</sup> Article 513 Islamic Penal Code 2013, <https://iranhrdc.org/islamic-penal-code-of-the-islamic-republic-of-iran-book-five/>

<sup>31</sup> Article 286 Islamic Penal Code 2013

<sup>32</sup> See more: Article 19, <https://www.article19.org/data/files/medialibrary/2921/12-01-30-FINAL-iran-WEB%5B4%5D.pdf>

<sup>33</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/>

international law.<sup>34</sup> 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 contravenes 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: its members are all senior government officials representing powerful public bodies, many of which have little or no commitment to transparency.<sup>35 36 37</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, to be offending public morality and chastity or amounting to propaganda against the State.<sup>38 39</sup> The Cyber Criminal Code Committee<sup>40</sup> decides which websites shall be filtered or shutdown altogether.<sup>41 42</sup>

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”.

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

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<sup>34</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>

<sup>35</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>36</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>37</sup> See more: Article 19, <https://www.article19.org/right-to-info-iran/>

<sup>38</sup> See more: Article 19, <https://www.article19.org/data/files/medialibrary/2921/12-01-30-FINAL-iran-WEB%5B4%5D.pdf>

<sup>39</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>40</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>41</sup> The Committee has a list of filtered online items on the Iran’s Cyber Police’s website.

<sup>42</sup> Small Media, Digital Rights in Iran, UPR Submission, Session 34 :

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

prosecute individuals who peacefully exercise their rights to freedom of expression, association and assembly including journalists and media workers, trade unionists, and lawyers.<sup>43 44 45 46</sup> NGOs have reported a pattern of these violations targeting disproportionately members of minority or marginalized groups attempting to exercise their rights to freedom of expression, association and assembly.<sup>47 48 49 50 51 52</sup>

In the same way, the Iranian legal framework enables Iranian authorities to restrict severely 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.<sup>53</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, in particular those sharing information on the situation of marginalized communities or political prisoners.<sup>54</sup> Social networking platforms, including Twitter, Facebook, YouTube, and Google, and blog-hosting platforms, such as WordPress, Blogspot, and Blogger,<sup>55</sup> are also blocked in Iran.<sup>55</sup> The Government blocked the messaging application Telegram in 2018,<sup>56</sup> with an estimated 40 million monthly users,<sup>57</sup> and a number of its administrators have been arrested and charged with encouraging protests, “disturbing public opinion” and/or “promoting

<sup>43</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>44</sup> See more: Iran Human Rights, <https://www.iranhr.net/en/reports/23/>

<sup>45</sup> See more: Iran Human Rights Documentation Center, <https://iranhrdc.org/controlled-and-pursued-labor-activism-in-contemporary-iran/>

<sup>46</sup> See more: Ensemble Contre la Peine de Mort, <https://www.ecpm.org/wp-content/uploads/Rapport-iran-2020-gb-070420-WEB.pdf>

<sup>47</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>48</sup> See more: Kurdistan Human Rights Geneva, <https://kmmk-ge.org/sd/annual-report-2020/>

<sup>49</sup> See more: United For Iran, <https://ipa.united4iran.org/en/prisoner/>

<sup>50</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>51</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>52</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>53</sup> Small Media, Digital Rights in Iran, UPR Submission, Session 34 : <https://uprdoc.ohchr.org/uprweb/downloadfile.aspx?filename=6980&file=EnglishTranslation> >

<sup>54</sup> Small Media, Digital Rights in Iran, UPR Submission, Session 34 : <https://uprdoc.ohchr.org/uprweb/downloadfile.aspx?filename=6980&file=EnglishTranslation> >

<sup>55</sup> Small Media, Digital Rights in Iran, UPR Submission, Session 34 : <https://uprdoc.ohchr.org/uprweb/downloadfile.aspx?filename=6980&file=EnglishTranslation> >

<sup>56</sup> Human Rights Watch, <https://www.hrw.org/news/2018/05/02/iran-assault-access-information>

<sup>57</sup> Small Media, Digital Rights in Iran, UPR Submission, Session 34 : <https://uprdoc.ohchr.org/uprweb/downloadfile.aspx?filename=6980&file=EnglishTranslation> >

homosexuality”.<sup>58</sup> 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.<sup>59</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>60</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.

In light of the above, the Government has not amended or rescinded law, policies, and parliamentary measure that contravene freedom of expression and that restrict access to information, including online information.

Recommendation Status:

This recommendation has **NOT** been implemented.

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<sup>58</sup> Small Media, Digital Rights in Iran, UPR Submission, Session 34 :

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

<sup>59</sup> See more: Article 19, <https://www.article19.org/wp-content/uploads/2020/09/TTN-report-2020.pdf>

<sup>60</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)