

Special Rapporteur on extrajudicial, summary or arbitrary executions A/HRC/14/24/Add.1 para 397

Full recommendation:

We should also like to appeal to your Excellency's Government to take all necessary steps to secure the right to freedom of opinion and expression of the above mentioned persons (people arrested following the 2009 elections), in accordance with fundamental principles as set forth in article 19 of the Universal Declaration of Human Rights and reiterated in article 19 of the International Covenant on Civil and Political Rights which provides that " Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice".

Assessment using Impact Iran human rights indicators¹

In 2009, many individuals in Iran were subjected to arrest and detention, initiating concern from multiple international bodies. On 27 December 2009, marking the *Ashura* holiday as well as the seventh day of mourning for the cleric Grand Ayatollah Hossein Ali Montazeri, mass demonstrations in Iran were met with violent governmental crackdown.^{2 3} The Special Rapporteur on Extrajudicial, summary or arbitrary executions reported about 300 arrests were made on that day⁴, but other reports estimated there were more than 1,000 arrests.⁵ NGOs reported a large number of arbitrary arrests against protestors following the demonstrations during *Ashura*.⁶⁷ By the end of the year 2009, over 5,000 people were reportedly detained after the contested presidential elections in June.⁸ On 30 December 2009, then-UN Human Rights High Commissioner expressed concern about reports of arrests of political activists, journalists and human rights defenders.⁹ The Working Group on Arbitrary Detention considered cases of

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

CCPR.19.1.O.1; CCPR.19.2.O.1 ; CCPR.19.2.O.2; CCPR.19.2.O.5; CCPR.19.2.O.6

² Iran Human Rights Documentation Center, https://iranhrdc.org/violent-aftermath-the-2009-election-and-suppression-of-dissent-in-iran/#_Toc252545048

³ UNGA report, September 2010, https://www.ecoi.net/en/file/local/1042102/1226_1291059004_n1053532.pdf

⁴ Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions, June 2010, <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G10/145/06/pdf/G1014506.pdf?OpenElement>

⁵ See more : Iran Human Rights Documentation Center, https://iranhrdc.org/violent-aftermath-the-2009-election-and-suppression-of-dissent-in-iran/#_Toc252545048

⁶ Center for Human Rights in Iran, <https://www.iranhumanrights.org/2009/12/release-arrested/>

⁷ Amnesty International, <https://www.amnesty.org/download/Documents/40000/mde130202010eng.pdf>

⁸ Center for Human Rights in Iran, <https://www.iranhumanrights.org/2010/07/malek-mohammadi-nasim-ghanavi/>

⁹ UN WGAD, <https://www.unwgadatabase.org/un/Document.aspx?id=2764>

arrests in the context of the 27 December protests and issued opinions on what it considered being arbitrary detentions.^{10 11}

The current Iranian legal framework permits repression of certain rights related to freedom of expression. Article 24 of the Constitution of the Islamic Republic of Iran stipulates that “Publications and the press have freedom of expression except when it is detrimental to the fundamental principles of Islam or the rights of the public.”¹² The “fundamental principles of Islam” or “the rights of the public” are not explicitly defined under Iranian law, granting Iranian authorities’ significant discretion to interpret the law and impose overbroad and vague restrictions on individuals’ right to freedom of expression in violation of the country’s international human rights obligations.

Similarly, the revised version of the Islamic Penal Code,¹³ adopted in 2013, maintains numerous provisions which criminalise the exercise of the right to freedom of expression and impairs the freedom to seek, receive and impart information and ideas. For instance, the establishment or leadership of a group that “aims to perturb the security of the country”, acts considered propaganda¹⁴, and conspiracy against the state (which has been interpreted to include peaceful protests)¹⁵ have been criminalized.¹⁶ Encouragement to “violate public morals”¹⁷ and satire are also penalized.¹⁸ Similar vaguely worded provisions also punish acts such as swearing at¹⁹ or insulting²⁰ “the Great Prophet of Islam”, “sowing corruption on earth”,²¹ with the death penalty.

The 1986 Press Law, amended in 2000, reiterates the Penal Code by providing content-based restrictions on traditional and online media. For instance, 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 also prohibits publishing content on matters relating to atheism, concerning national security, affecting the dignity of interests of the State, insulting Islam, or offending religious officials, among others.²²

¹⁰ UN WGAD, <https://www.unwgadatabase.org/un/Document.aspx?id=2764>

¹¹ UN WGAD, <https://www.unwgadatabase.org/un/Document.aspx?id=2832>

¹² Constitution of the Islamic Republic of Iran, English translation, <https://irandataportal.syr.edu/wp-content/uploads/constitution-english-1368.pdf>

¹³ The Islamic Penal Code available at: http://rc.majlis.ir/fa/law/print_version/845048

¹⁴ Article 500 Islamic Penal Code 2013, <https://iranhrdc.org/islamic-penal-code-of-the-islamic-republic-of-iran-book-five/>

¹⁵ Article 610 Islamic Penal Code 2013, <https://iranhrdc.org/islamic-penal-code-of-the-islamic-republic-of-iran-book-five/>

¹⁶ Article 498 Islamic Penal Code 2013, <https://iranhrdc.org/islamic-penal-code-of-the-islamic-republic-of-iran-book-five/>

¹⁷ Article 639 Islamic Penal Code 2013, <https://iranhrdc.org/islamic-penal-code-of-the-islamic-republic-of-iran-book-five/>

¹⁸ Article 700 Islamic Penal Code 2013, <https://iranhrdc.org/islamic-penal-code-of-the-islamic-republic-of-iran-book-five/>

¹⁹ Article 262 Islamic Penal Code 2013, <https://iranhrdc.org/english-translation-of-books-i-ii-of-the-new-islamic-penal-code/>

²⁰ Article 513 Islamic Penal Code 2013, <https://iranhrdc.org/islamic-penal-code-of-the-islamic-republic-of-iran-book-five/>

²¹ Article 286 Islamic Penal Code 2013

²² See more: Article 19, <https://www.article19.org/data/files/medialibrary/2921/12-01-30-FINAL-iran-WEB%5B4%5D.pdf>

In 2009, the Islamic Republic of Iran adopted the Publication and Free Access to Information Act,²³ which partially recognises the right to access information as guaranteed under international law.²⁴ The Act, however, includes broad exemptions which undermine its effectiveness. For example, the Act includes restrictions on the publication of information that causes disgrace, contravenes public decency, or promotes vice (Article 17). Additionally, the Act fails to establish a clear appeal mechanism and the oversight body, the Commission for Free Publication and Access to Information with a Secretariat, created by Chapter Five of the Act, reportedly lacks independence as its members are all senior government officials representing powerful public bodies, many of which have little or no commitment to transparency.^{25 26}

Restrictions on freedom of expression and the free communication of information and ideas in Iran also apply online. For instance, the Criminal Cyber Law criminalises the publication of information if it is considered to be against Islamic tenets or the Constitution, a disruption of public or national security, or propaganda against the State.^{27 28} The Cyber Criminal Code Committee²⁹ decides which websites are filtered or shutdown.³⁰

Provisions under the 1986 Press Law, the 2013 Islamic Penal Code, the 2009 Free Access to Information Act, and the Criminal Cyber Law which restrict the free communication of information and ideas are ambiguous and vaguely defined, which grant broad discretion to Iranian authorities for interpretation and implementation. These ambiguous provisions 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.³¹

These vague legal restrictions have effectively allowed for the violation of the right to freedom of expression in the Islamic Republic of Iran. While it is difficult to find an accurate number of

²³ 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/>

²⁴ 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>

²⁵ 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/>

²⁶ 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_ICSR_IRN_42315_E.pdf

²⁷ See more: Article 19, <https://www.article19.org/data/files/medialibrary/2921/12-01-30-FINAL-iran-WEB%5B4%5D.pdf>

²⁸ See also : Volunteer Activists, <https://volunteeractivists.nl/en/wp-content/uploads/2018/10/Civil-Society-in-Iran-and-its-Future-Prospects-pdf.pdf>

²⁹ “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>

³⁰ The Committee has a list of filtered online items on the Iran’s Cyber Police’s website,

³¹ 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>

newspapers and articles taken down or censored by Iranian regulatory authorities, there are a number of reports that demonstrate a pattern of printed or online publications being monitored and censored/shut down by state agencies.³²

Additionally, Iranian authorities often resort to the aforementioned legal framework to prosecute and sentence acts otherwise protected under international law, including freedom of expression.^{33 34 35 36} In the same way, the Government resorted to its legal restrictions on freedom of expression to block the messaging application³⁷ During the 2019 November protests, the Government ordered a country-wide internet shutdown, impairing the possibility to document acts of violence in real time and preventing people from seeking³⁸ The Government's ability to order a country-wide internet shutdown is one of the examples showing Iranian authorities' tight control over freedom of expression and right to information in the Islamic Republic of Iran.

Similarly, the authorities have also continued to rely on the aforementioned legal framework to retaliate against journalists perceived as criticizing the state, promoting minority or oppositional viewpoints, and reporting on corruption or human rights violations. Those who voice dissent have been subjected to the use of torture to extract forced confessions, lengthy detention without charge, privacy violations, and a denial of access to legal counsel.^{39 40 41} Estimates suggest hundreds of journalists have been jailed since 2011.⁴²

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

³² Al Jazeera <<https://www.aljazeera.com/news/2018/09/iran-orders-closure-newspaper-insulting-shia-islam-180915123604224.html>>

Reuters <<https://www.reuters.com/article/iran-rights-press-idUSL8N19C1RN>>

³³ 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

³⁴ See more: Iran Human Rights, <https://www.iranhr.net/en/reports/23/>

³⁵ See more: Iran Human Rights Documentation Center, <https://iranhrdc.org/controlled-and-pursued-labor-activism-in-contemporary-iran/>

³⁶ See more: Ensemble Contre la Peine de Mort, <https://www.ecpm.org/wp-content/uploads/Rapport-iran-2020-gb-070420-WEB.pdf>

³⁷ Human Rights Watch, <https://www.hrw.org/news/2018/05/02/iran-assault-access-information>

³⁸ See more : Article 19, <https://www.article19.org/wp-content/uploads/2020/09/TTN-report-2020.pdf>

³⁹ Committee to Protect Journalists, *Iranian journalist imprisoned, fired, and forced into exile over a single word. December 11, 2019:* <https://cpj.org/2019/12/iran-journalist-pouyan-khoshhal-arrest-exile-censored/>

⁴⁰ 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

⁴¹ See more : Abdorrahman Boroumand Center (ABC)

Iran Human Rights Documentation Center (IHRDC) Impact Iran Human Rights Activists in Iran, 2020,

https://tbinternet.ohchr.org/Treaties/CCPR/Shared%20Documents/IRN/INT_CCPR_IC_S_IRN_42313_E.pdf

⁴² 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.

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.⁴³ Additionally, as restrictions on freedom of expression are enshrined in the Iranian legal framework, opportunities to seek justice are limited. Information about prosecuted and/or wrongfully convicted journalists that have received any sort of remedy is not made public by Iranian authorities.

Considering the above, the Islamic Republic of Iran has not taken all necessary steps to secure the right to freedom of opinion and expression in the country.

Recommendation Status:

This recommendation has **NOT** been implemented.

⁴³ 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