



SMALL MEDIA 



Written contribution to the
Human Rights Committee

From

ARTICLE 19
Small Media
Human Rights Activists in Iran
Impact Iran

In preparation for the List of Issues prior to Reporting (LOIPR) for the

ISLAMIC REPUBLIC OF IRAN

***Freedom of expression,
freedom of association and peaceful assembly
and the right to privacy***

Human Rights Committee, 129th session (Geneva)

29 June – 24 July 2020



ARTICLE 19 works for a world where all people everywhere can freely express themselves and actively engage in public life without fear of discrimination. It does this by working nationally, regionally and internationally to close the implementation gap between law and practice. ARTICLE 19 promotes media freedom, increases access to information, protects journalists and human rights defenders, fights the shrinking of civic space, and places human rights at the heart of developing digital spaces. It is in consultative status with the ECOSOC. ARTICLE 19 is a member of Impact Iran.



Small Media (IHRDC) is a London-based action lab, providing digital research, training and advocacy solutions to support the work of civil society actors that provides assistance to at-risk communities globally. This includes: (1) providing Media Advocacy training and support, (2) providing Digital Security training and consultancy services, (3) working with CSOs to visualise their data to support advocacy work, (4) providing free secure hosting to websites and (5) developing secure technology solutions. Small Media is a member of Impact Iran.



Human Rights Activists in Iran (HRAI) is a non-political and non-governmental organization comprised of advocates who defend human rights in Iran, founded in 2005. HRAI's goals consist in promoting, safeguarding and sustaining human rights in Iran. The organization keeps the Iranian community and the world informed by monitoring human rights violations in the country and disseminating information about such abuses, including through its news agency Human Rights Activists New Agency (HRANA). HRAI's mission is to protect the human rights of all Iranian citizens regardless of their religion, political views, social status, gender or ethnicity. It is a member of Impact Iran.



Impact Iran represents a coalition of 14 non-governmental organizations that draw attention to the situation of human rights in Iran, and encourage the Iranian government to address concerns expressed by the international community and international human rights bodies. We organize public advocacy campaigns aimed at the United Nations (UN) member states and lead high-level human rights discussions to collectively spark action by the international community to promote and protect the rights and dignity of all in Iran.

TABLE OF CONTENT

| | |
|--|----|
| A) Freedom of Expression and Peaceful Assembly | 4 |
| B) Media Freedom and Safety of Journalists | 7 |
| C) Freedom of Expression Online | 9 |
| D) Protection of the Right to Privacy Online | 12 |
| E) Human Rights Lawyers and Defenders | 14 |
| F) Access to Information | 15 |

A) Freedom of Expression and Peaceful Assembly

1. In 2011, the Human Rights Committee recommended that Iran guarantee the right to freedom of assembly and association to all individuals without discrimination, and immediately release anyone held solely for the peaceful exercise of these rights. Despite this, authorities have intensified intimidation, arrests and prosecution of individuals who peacefully exercise their rights to freedom of expression, association and assembly through a repressive legal framework.
2. While Article 27 of the Constitution ostensibly protects the right to freedom of peaceful assembly, the guarantee falls short of international standards set out in the International Covenant on Civil and Political Rights (ICCPR) by requiring that participants are not “in violation of the fundamental principles of Islam”. There is no clear definition or criteria that define what can be considered “fundamental principles of Islam”.
3. Under Article 2 of the Law on Political Crimes, adopted in 2016, participation in an unauthorised assembly, even if it is peaceful, can effectively be considered a political offence.¹ Unauthorised assemblies had previously been prohibited under the 1981 Law on the Activities of Parties, Populations and Political and Trade Unions and Islamic Associations or Recognised Religious Minorities.² As detailed below, those participating in peaceful unauthorised assemblies are often charged and sentenced to prison terms under Article 610 of the Islamic Penal Code.³
4. The right to freedom of expression, recognised under Article 24 of the Constitution is similarly undermined by vague qualifications, such as being “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 their exercise is deemed “injurious to others” or “detrimental to public interests”.⁴ These restrictions fail to meet requirements of international standards that limitations are necessary and proportionate, and in pursuit of one of a limited number of narrowly-drawn legitimate aims, per Article 19 of the ICCPR. This grants authorities’ significant discretion to impose overbroad and vague restrictions on individuals’ rights in violation of the country’s international human rights obligations.
5. The revised version of the Islamic Penal Code,⁵ adopted in 2013, maintains numerous provisions which criminalise the exercise of the right to freedom of expression, association and peaceful assembly, in contravention of international human rights law and standards. Among the most problematic provisions are:

¹ The 2016 Law on Political Crimes, available at: <https://rc.majlis.ir/fa/law/show/968421>

² The 1981 Law on the Activities of Parties, Populations and Political and Trade Unions and Islamic Associations or Recognised Religious Minorities, available at: <https://rc.majlis.ir/fa/law/show/90226>

³ 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

⁴ “The Constitution of Islamic Republic of Iran”, Iran Chambers Society, available at: <http://www.iranchamber.com/government/laws/constitution.php>

⁵ The Islamic Penal Code available at: http://rc.majlis.ir/fa/law/print_version/845048

- Article 262 criminalises anyone who “swears at or commits *‘qazf’*⁶ against the Great Prophet of Islam” or other prophets and imams, making the offence punishable by the death penalty.
- Article 286 criminalises “sowing corruption on earth”, punishable by the death penalty. This includes a set of ill-defined acts, including “spreading lies”, if these actions “cause severe disruption in the public order of the state and insecurity.”
- Article 498 criminalises the establishment or leadership of a group, defined as more than two people, that “aims to perturb the security of the country”, punishable by two to 10 years’ imprisonment.
- Article 500 criminalises “any type of propaganda against the [state] or in support of opposition groups and associations”, punishable by three months’ to one-year imprisonment.
- Article 513 criminalises “insult” of the “sacred values of Islam” and of religious leaders, punishable by between one and five years’ imprisonment. It also punishes “insult” of the Prophet by the death penalty.
- Article 514 criminalises “insults” of “Imam Khomeini, the founder of the Islamic Republic, and/or the Supreme Leader”, punishable by six months to two years’ imprisonment
- Article 610 criminalises collusion or conspiracy to commit crimes against the state, which has been interpreted to include peaceful protests, punishable by two to five years’ imprisonment.
- Article 638 criminalises the breaking of religious rules in public, punishable by 10 days to two months’ imprisonment, or 74 lashes. It further imposes criminal liability on women who do not wear the hijab in public, punishable by the same custodial sentence or a fine of 50,000 to 500,000 Rials.
- Article 639 criminalises encouraging others to “violate public morals”, punishable by 1-10 years’ imprisonment.
- Article 700 criminalises satire by stating that “Anyone who satirises an individual, whether in poetry or prose and whether verbal or written, or publishes a satire, shall be sentenced to one to six months’ imprisonment.”

6. The authorities frequently resort to the above provisions 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. Those individuals

⁶ “*Qazf*” means the false accusation of sexual offenses.

who belong to minority or marginalised groups, and experience one or more form of discrimination, including on the basis of religion or belief, ethnicity, political opinion, gender or sexual orientation, are at particularly high risk of reprisal for exercising their rights. As examples:

- In February 2017, **Alireza Farshi Yekenli**, a member of Iran's Azerbaijani Turk minority and founder of an online campaign to commemorate International Mother Language Day, received a 15 year prison sentence on charges of colluding (Article 610) and disrupting national security (Article 498). On 10 April 2020, Yekenli was released on temporary bail with his charges still pending review.⁷
- In January 2018 alone, protests against compulsory hijab laws resulted in 29 arrests, the majority of whom were women. Among them was **Narges Hosseini**, who was sentenced to two years' imprisonment for removing her headscarf in public in March 2018. She was convicted for the "violation of a religious taboo in public" and "encouraging others to violate public morals" (Articles 638 and 639). She was released after 20 days.⁸

7. The authorities have continued to respond to protests with excessive and unlawful force. Anti-government protests that erupted in late December 2017 were met with a heavy-handed response by state forces resulting in at least 21 deaths and hundreds of arrests.⁹ Most recently, in November 2019, authorities violently repressed protests across the country, violating - among others - the rights to life and to peaceful assembly as guaranteed under international human rights law and standards.¹⁰ The unlawful lethal force used against the protestors, the vast majority of whom did not pose an imminent threat to life¹¹ made it one of the bloodiest periods in Iran for freedom of assembly since the 1979 Revolution.¹² The death toll ranges from verified reports of 304,¹³ to unconfirmed reports of up to 1500 deaths,¹⁴ and the number of those injured by security forces estimated at several thousand.¹⁵

⁷ "Alireza Farshi has been released from Evin," HRNA News Agency. 11 April 2020. <https://www.hra-news.org/2020/hranews/a-24375/>

⁸ "Iran arrests 29 linked to protests against compulsory hijab laws", *New York Times*, 2 February 2018. <https://tinyurl.com/ybmdozuy>

⁹ "Iran: protect constitutional right to protest", ARTICLE 19, 3 January 2018. <https://tinyurl.com/ycodj649>

¹⁰ "Iran: Protests met with violent crackdown and online censorship," ARTICLE19, 19 November 2020.

<https://www.article19.org/resources/iran-protests-met-with-violent-crackdown-and-online-censorship/>

¹¹ Amnesty International has stated that "in almost all protests that took place between 15 and 19 November, there is no evidence that people were in possession of firearms or that they posed an imminent threat to life that would have warranted the use of lethal force" and that "the organization is aware of two exceptions in one city on 18 November where gunfire was exchanged between protesters and security forces." See Iran: Details released of 304 deaths during protests six months after security forces' killing spree," Amnesty International. 20 May 2020. <https://www.amnesty.org/en/latest/news/2020/05/iran-details-released-of-304-deaths-during-protests-six-months-after-security-forces-killing-sprees/>

¹² "Iran: Details released of 304 deaths during protests six months after security forces' killing spree," Amnesty International. 20 May 2020. <https://www.amnesty.org/en/latest/news/2020/05/iran-details-released-of-304-deaths-during-protests-six-months-after-security-forces-killing-sprees/>

¹³ "Iran: Details released of 304 deaths during protests six months after security forces' killing spree," Amnesty International. 20 May 2020. <https://www.amnesty.org/en/latest/news/2020/05/iran-details-released-of-304-deaths-during-protests-six-months-after-security-forces-killing-sprees/>

¹⁴ "Special Report: Iran's leader ordered crackdown on unrest - 'Do whatever it takes to end it'," Reuters. 23 December 2019. <https://www.reuters.com/article/us-iran-protests-specialreport/special-report-irans-leader-ordered-crackdown-on-unrest-do-whatever-it-takes-to-end-it-idUSKBN1YR0OR>

¹⁵ "Iran: Details released of 304 deaths during protests six months after security forces' killing spree," Amnesty International. 20 May 2020. <https://www.amnesty.org/en/latest/news/2020/05/iran-details-released-of-304-deaths-during-protests-six-months-after-security-forces-killing-sprees/>

8. Around 7,000 persons were arrested and detained according to a spokesperson for Iran’s parliamentary committee for national security and foreign policy, many on an arbitrary basis, with many trials ongoing, and already resulting in death sentences as well as some draconian prison sentences on vague grounds. Sohbatoollah Omidi, a protester from the city of Kermanshah, was sentenced to five years’ imprisonment for “membership in an opposition group” (Article 500), and five years of imprisonment for the charge of “assembly and collusion” (Article 610). Additionally, Amir Hossein Moradi, Saeed Tamjidi, and Mohammad Rajabi, protesters from Tehran, were all sentenced to death for vandalism and arson against the Islamic Republic (Article 687).¹⁶

Suggested Questions

- *Please comment on the use of Articles 638, 639, and 698 of the Islamic Penal Code to arrest women for violations of hijab and morality laws. How many women have been arrested based on these provisions since 2011?*
- *Please comment on the use of Article 286 of the Islamic Penal Code against individuals involved in human rights or environmental work; protests; journalism or social media posts. How many death sentences have been issued on the basis of this provision since 2013 and how many of these death sentences have been implemented? Of those charged, and not executed, what prison terms were they sentenced to and what did they serve?*
- *Please comment on the use of lethal force by state security forces against protestors during the nationwide protests in December 2017, January 2018 and November 2019. How many individuals were killed as a result of such use of force? What investigations have been carried out into these deaths, and have officials responsible for unlawful use of lethal force been held responsible? Please report on the number of individuals injured as well as those who were arrested and detained during the aforementioned protests.*
- *Please comment on the use of Article 610 of the Islamic Penal Code. How many people have been charged with this crime since 2011 based on their involvement in protests, and what terms they have been sentenced to?*

B) Media Freedom and Safety of Journalists

9. In 2011, the Committee recommended that Iran fully guarantee the right to freedom of expression and opinion of independent media and ensure that journalists can exercise their profession without fear of being brought before courts. It also called on Iran to release, rehabilitate and provide effective judicial redress and compensation for imprisoned journalists. However, the authorities

¹⁶ “November Protests; the details of the case of three prisoners who were sentenced to death,” HRANA.5 March 2020. <https://www.en-hrana.org/november-protests-the-details-of-the-case-of-three-prisoners-who-were-sentenced-to-death>

have continued to curb the freedom and independence of the media and systematically target journalists.

10. Whilst Article 24 of the Constitution recognises freedom of expression and media freedom, it is subject to the overbroad limitations previously described. The 1986 Press Law and its subsequent amendments also continue to significantly obstruct independent media,¹⁷ threatening outlets with forced closure by judicial order for potential infringements of the law, encouraging self-censorship. The Press Law limits the publication of material deemed critical of key political figures, including the Supreme Leader and President. The law mentions that publications should “duly [observe] Islamic criteria and the best interests of the community”, which leads in practice to the criminalisation of critical reporting. 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”.¹⁸

- In September 2018, Iran’s Attorney-General ordered reformist newspaper **Sedayeh Eslahat** to close permanently, in relation to a report on gender reassignment surgery, which compared a transgender man to a Shiite Imam during Ramadan.¹⁹ The newspaper was pursued under Article 6 of the Press Law which prohibits publishing content insulting Islam.²⁰

11. The authorities have also continued to rely on the aforementioned legal framework to retaliate against journalists perceived as criticising the state, promoting minority or oppositional viewpoints, and reporting on corruption or human rights violations. Violations of the rights of those who voice dissent include denial of access to legal counsel, use of torture including to extract forced confessions, lengthy detention without charge, and privacy violations. For every journalist subject to judicial harassment, many more are intimidated into self-censorship in fear of reprisal. Estimates suggest hundreds of journalists have been jailed since 2011.²¹ Among them are:

- In August 2018, **Mostafa Abdi**, administrator of the Majzooban-e-Noor website, which reports on human rights abuses against the Gonabadi Dervish religious minority, was sentenced to 26 years and three months in prison and 148 lashes. The charges are not publicly available. This case is the latest example of judicial harassment against Abdi. In 2011 he was arrested for similar conduct, on charges of “collud[ing] and conspir[ing] to commit crimes against...foreign security” (Article 610).²²
- In March 2017, reformist journalist **Hengameh Shahidi** was arrested. She was convicted of “collud[ing] and conspir[ing] to commit crimes against...foreign security” (Article 610) in December 2018 and is now serving

¹⁷ The Press Law and its subsequent amendments up until 2002 is available at : <http://irandataportal.syr.edu/press-law>

¹⁸ Iranian Press Law, Article 6.

¹⁹ You can see the last issue published by this newspaper in the Jaar archives. <https://www.jaar.com/archive/Sedayeeslahat>

²⁰ The Order of the Attorney General after the defamation of the holiness of Hazrat Raghieh,” Fars News. September 15, 2018. <https://bit.ly/2TXKJo8>

²¹ 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.

²² “Iran’s ‘year of shame’: More than 7,000 arrested in chilling crackdown on dissent during 2018,” Amnesty International, 24 January 2019. <https://bit.ly/2CBSbtI>

a 12 year sentence imposed on her for criticising state policies in social media posts and in interviews with foreign news outlets.²³

- **Hassan Fathi**, a reformist journalist, started an 18 month prison sentence in May 2020 for "spreading lies and disrupting public opinion" under Article 268, charges known to have been applied for Fathi's interview with BBC Persian in 2018 about the reelection of President Hassan Rouhani.²⁴
- A former television presenter, **Mahmoud Shahriari**, was arrested on 15 April 2020 for "disseminating false news about the novel coronavirus outbreak in Iran" (Article 286). Shahriari was recently banned from television after becoming vocal in his criticisms of authorities and clerics.²⁵

12. Article 4 of the 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." Article 5 also states that a violator of Article 4, will be sentenced to up to two years' dismissal from office or to permanent dismissal from public service if their violations are repeated. Despite these laws and numerous reports that indicate pressure and censorship done by security and judicial authorities, no government or non-governmental official has been tried under these articles so far.

Suggested Questions

- *Please provide information on the number of journalists (whether properly accredited by the Iranian state or not) who have been arrested and detained since 2011, the sentences against each individual and details of the grounds for arrest, detention and the sentence in each case.*
- *Please provide information on the media outlets that have been forcibly closed and suspended under Article 6 of the Press Law since 2011. Please provide information on the number of such closures and suspensions and the grounds for them.*
- *Please indicate whether the State Party has any plans to amend the 1986 Press Law and its subsequent revisions in order to ensure that any restrictions on the right to freedom of expression strictly comply with the requirements of legality, necessity and proportionality as set out under international law and standards.*

C) Freedom of Expression Online

13. In 2011, the Committee recommended that Iran ensure that the monitoring of Internet use does not violate the rights to freedom of expression and privacy. Since then, the State Party has intensified

²³ "Hengameh Shahidi was sentenced to 12 years and 9 months imprisonment," IRNA. 1 December 2018.

<http://www.irna.ir/fa/News/83118449>

²⁴ "Iranian Journalist Begins Jail Term Over BBC Interview," RFE/L, 14 May 2020. <https://www.rferl.org/a/iranian-journalist-begins-jail-term-over-bbc-interview/30612491.html>

²⁵ "Mahmoud Shahriari, a former presenter on Iranian television and radio is arrested," BBC Persian, 15 April 2020. <https://www.bbc.com/persian/iran-52299769>

its suppression of freedom of expression on the Internet through sweeping criminal provisions and wide scale shutdowns.

14. The Computer Crimes Law (CCL), adopted in 2010, undermines freedom of expression and information and the right to privacy, including by extending undue restrictions on freedom of expression to the online sphere. Its vague provisions give wide discretion to law enforcement authorities, including the Revolutionary Guards (IRGC) and the Iranian Cyber Police (FATA),²⁶ to pursue individuals they wish to silence, including through the criminalisation of vague offenses such as “dissemination of lies” and what is deemed to offend “public morality and chastity”.²⁷ Article 10 of the CCL facilitates state surveillance by prohibiting Internet users and companies from using encryption, which is essential to counterbalance the chilling effect of legal restrictions obstructing Internet users’ ability to freely seek and impart information online. The proposition of several Bills have caused further concern for rights and access online.
15. A draft “Social Media Organisation” bill (also referred to as Managing Social Messaging Apps Bill in this submission), published in November 2018, would – if adopted – further strengthen the authority’s ability to restrict access to online information. It proposes to cede control of key internet infrastructure, including international gateways, to the armed forces, removing it from the purview of the Ministry of ICT. This move is, in ARTICLE19’s view, likely to result in an increase in shutdowns, on the vague basis of unsubstantiated national security concerns considering the lack of transparency that characterises the governance and the activities of the armed forces.²⁸
16. At the same time, dissenting voices are frequently subject to prosecution under the IPC for online expression, in particular for posts on social media platforms. We are concerned by prosecutions relating to online expression, under provisions which carry the death penalty:
 - In April 2018, **Sina Dehghan** was sentenced to death on the charge of insulting the Prophet of Islam (Article 262 of the IPC) in relation to posts on social media and messaging platforms. He is currently awaiting appeal. His conviction was based on a forced confession.²⁹
 - In November 2013, **Soheil Arabi**, a photographer, was sentenced to death for Facebook posts that “insulted” the Prophet (Article 262). His sentence was overturned in 2015, and he was ultimately convicted of “insulting the Supreme Leader” (Article 514) and “propaganda against the regime” (Article 500) and sentenced to 10 and a half years’ imprisonment.³⁰

²⁶ FATA was created in 2011 as the cyber crime unit of the Iranian national police force. The unit was created in compliance with the Cyber Crime Laws passed by the Iranian parliament in 2010. <http://bbc.in/1VOXj2l>

²⁷ “Islamic Republic of Iran: Computer Crimes Law,” ARTICLE19, 2012. <https://bit.ly/1RecP6R>

²⁸ “The text of the social media organisation bill,” ISNA, November 19 2018.

<https://www.isna.ir/news/97082813960/%D9%85%D8%AA%D9%86-%D8%B7%D8%B1%D8%AD-%D8%B3%D8%A7%D9%85%D8%A7%D9%86%D8%AF%D9%87%DB%8C-%D9%BE%DB%8C%D8%A7%D9%85-%D8%B1%D8%B3%D8%A7%D9%86-%D9%87%D8%A7%DB%8C-%D8%A7%D8%AC%D8%AA%D9%85%D8%A7%D8%B9%DB%8C>

²⁹ “Death Sentence for Expression of Opinion in Iran; Demand for a Retrial,” Iran Human Rights, April 9, 2018.

<https://iranhr.net/en/articles/3274/>

³⁰ See page 10 of “Tightening the Net: Online Freedoms in Iran Ahead of the 2017 Elections,” ARTICLE19, May 2017.

https://www.article19.org/data/files/medialibrary/38743/Online_freedoms_in_Iran_final.pdf

17. Human rights monitors have reported arbitrary arrests and intimidation of individuals for their expression on social media. To mention only a few recent examples:

- Since the onset of the COVID-19 crisis in Iran, a number of journalists have been arrested, including economic reporter **Mohammad Mosaed**, who posted a series of tweets questioning the country's response to the crisis. Mosaed stated that he is banned from publishing online content and during his interrogation, security forces took control of his online accounts, in violation of his right to privacy. Mosaed was reportedly previously arrested for tweeting during the November 2019 Internet shutdown.³¹
- In 2019, investigations by the Centre for Human Rights in Iran (CHRI) revealed that dozens of Instagram users with large online followings were arrested, and while most were released on bail, they were also forced to hand over control of their Instagram accounts.³²

Internet shutdowns

18. During the 2017/18 and 2019 mass protests, the government imposed unprecedented Internet controls. In November 2019, a week-long near total Internet shutdown enabled an information blackout on the protests, limiting the ability of participants to communicate freely, including to document abuses by security forces, and placing barriers to international monitors – including UN human rights experts – and their efforts to document the unfolding situation in the country.³³

19. The continued development of the National Information Network (NIN), a project which aims to create a national 'secure' and 'clean' Internet, has had a major role in facilitating Internet shutdowns.³⁴ NIN has given the government the confidence to eliminate access to free and unrestricted international traffic during sensitive moments like protests, as the majority of national infrastructure remains on Iran's NIN, such as banking, e-commerce, national and insecure messaging and social media, as well as hospital networks.³⁵ Aggressive policies to favour and subsidise use of national platforms hosted on NIN, including local social media and messaging platforms, is of particular concern given broad content-based criminal offences, criminalisation of encryption technologies, and wide-reaching surveillance enabled by the Computer Crimes Law of 2010.

20. These hurdles on online expression have been exacerbated by the impact of sanctions against Iran, as a number of free services, such as Github, Amazon Cloud and Google Cloud, have limited access

³¹Committee to Protect Journalists, "Iranian authorities arrest journalist Mohammad Mosaed for tweets amid internet shutdown", 25 November 2019, Accessed at: <https://cpj.org/2019/11/iranian-authorities-arrest-journalist-mohammad-mos.php>

³² Centre for Human Rights in Iran, "Iran Cracks Down on Instagram Celebrities as It Tightens Noose on Freedom of Speech and Expression", August 2019, Available at: <https://iranhumanrights.org/2019/08/iran-cracks-down-on-instagram-celebrities-as-it-tightens-noose-on-freedom-of-speech-and-expression/>

³³Iran: Protests met with violent crackdown and online censorship," ARTICLE19, 19 November 2020.

<https://www.article19.org/resources/iran-protests-met-with-violent-crackdown-and-online-censorship/>

³⁴ "Tightening the Net: Iran's National Internet Project," ARTICLE19. 2016. <https://www.article19.org/resources/tightening-the-net-irans-national-internet-project/>

³⁵ "The Ayatollah Comes for the Internet," Mahsa Alimardani. 19 November 2019. <https://www.nytimes.com/2019/11/19/opinion/iran-internet-ban.html>

to circumvention tools Iranians frequently use to bypass government filters. This increases reliance on unsafe hosting tools, that may compromise users' data and security.

Suggested Questions

- *Please provide information on what safeguards the government has put in place to prevent another global Internet shutdown, such as those experienced in 2017/18 and November 2019. Are the safeguards being placed to prevent security organisations from shutting down the internet exchange points or pressuring Internet Service Providers to cut off international traffic?*
- *Please provide information regarding arrests of social media and internet users. How many social media users have been arrested since 2011? Which authorities monitor and make these arrests, and what methods do they use?*
- *Please provide information regarding your grievances against sanctions that block use of internet services in Iran. Would the Iranian government be willing to unrestrict access to foreign platforms in order to allow for these American platforms to lift their restrictions?*
- *Please provide information regarding the status of the “Social Media Organisation Bill” (Managing Social Messaging Apps Bill) and whether the State Party will strive to reformulate the bill according to international standards and laws regarding accessing the Internet?*
- *Please provide information regarding the status of the “Preservation and Protection of Personal Data Act” and its relationship with the EU’s GDPR. Will it seek to reform the bill in order to receive adequacy licenses from the EU and engage in data sharing endeavours? Will the bill be reformulated to adhere to international standards of data protection?*

D) Protection of the right to privacy online

21. In 2011, the Committee urged Iran to ensure that the monitoring of Internet use does not violate the right to privacy. The Iranian government has nonetheless continued to tighten its control over its Internet infrastructure in violation of international privacy standards.
22. Article 10 of the Cyber Crime Law criminalises “concealing data, changing passwords, and/or encoding data that could deny access of authorised individuals to data, computer and telecommunication systems.” The article is framed in such a broad way as to essentially criminalise any technologies or practices that obstruct state authorities’ ability to access data, including encryption.
23. Draft legislation such as “Managing Social Messaging Apps”, (also referred to as the Social Media Organisation Bill in this submission) which is under review by the Parliamentary Cultural Committee, if passed in its current form, threatens to grant further control of Iran’s internet

infrastructure to security forces, and can also enforce the use of domestic messaging apps which lack privacy and data protections, and which are particularly prone to government surveillance.³⁶

24. The Iranian government has so far failed to implement comprehensive data protection in line with international standards.
25. Despite an attempt made through the introduction of the “Data Protection and Online Privacy Bill” in 2018, the bill has so far failed to progress beyond the Cabinet and is effectively dormant. In its current form, the proposed legislation fails to establish adequate protections for online privacy or data protection.³⁷ The draft law mandates enforced data localisation (Article 38), in line with the National Information Network (NIN) project, which means there are no privacy provisions (as per Article 10 of the CCL) and subject to abuse from the Iranian authorities looking to prosecute journalists, human rights defenders, minorities, and other vulnerable identities. Other key concerns include the fact that the Draft Act protects only the data rights of Iranian citizens and fails to include explicit journalistic, artistic, literary or other cultural exemptions, or protect the right to information.³⁸
26. The current legislative data protection and online privacy vacuum means that legal protections and defences are not available to those arrested or detained for their online activities, or for those impacted by data and privacy breaches.
27. Additionally, in October 2019 Iran’s top internet policy-making body, the Supreme Council for Cyberspace, passed the ‘Valid Identity System in Cyberspace’ resolution, which outlines its future plans to require all online interactions between two entities to be conducted using a valid form of ID, and traceable. Such a policy threatens to seriously undermine user privacy online, and if implemented fully would effectively bring an end to online anonymity. This has serious implications for all internet users in Iran, but particularly for journalists and political activists.³⁹

Suggested Questions

- *Please provide information about the current status of the draft law on “Managing Social Messaging Apps” (Social Media Organisation Bill) and of the draft law on “Data Protection and Online Privacy”, and explain what the state party is doing to ensure the conformity of these laws with Iran’s human rights obligations in terms of protection of personal data and of the right to privacy.*

³⁶ “Iran’s “Managing Social Messaging Apps” Bill Returns to Parliament”, Small Media, 1 April 2020. <https://medium.com/filterwatch/irans-managing-social-messaging-apps-bill-returns-to-parliament-b0a98c18463f>

³⁷ See page 27 of “Bills, Bills, Bills — Upcoming Policy Challenges in Iran”, Small Media. 9 April 2019. https://smallmedia.org.uk/media/articles/files/Filterwatch_BillsBillsBills19.pdf

³⁸ “Iran: Personal Data Protection and Safeguarding Draft Act,” ARTICLE19. 27 June 2019. <https://www.article19.org/resources/iran-data-protection-draft-act/>

³⁹ Small Media, ‘Filterwatch October 2019’, 15 November 2019, available at: <https://medium.com/filterwatch/filterwatch-october-2019-d671d23e52c>

- *Please explain what legal remedies and rights of appeal will be available to individuals when they have been subjected to a violation of their privacy rights, in line with international privacy standards.*

E) Human Rights Lawyers and Defenders

28. In 2011, the Committee expressed concern about continuing reports of harassment or intimidation, and arrests and arbitrary detentions of human rights defenders, and recommended that imprisoned defenders be released immediately, and that Iran ensure the prompt, effective and impartial investigation of threats, harassment, and assault on human rights defenders and other groups held solely for the peaceful exercise of their rights to freedom of assembly and to freedom of expression. This harassment has heightened significantly since the previous review.
29. This repression is enabled by numerous aforementioned provisions in the Islamic Penal Code and the Constitution that fail to safeguard the right to freedom of expression, association and assembly in accordance with international law and standards.
30. In recent years, human rights lawyers have increasingly been targeted for repression, facing arrest, detention, and imprisonment solely for exercising their rights to freedom of expression, association and assembly and for carrying out their professional work to defend their clients. As of June 2019, 14 human rights lawyers were in prison serving lengthy sentences. They include:
 - In June 2019, **Amir Salar Davoudi** was sentenced to 30 years in prison for creating a group channel for Iranian lawyers on Telegram. He was charged with “insulting officials” (Article 513), “propaganda against the state” (Article 500), “cooperating with enemy states” (Article 510), and “forming a group to overthrow the state” (Article 504).⁴⁰
 - In March 2019, **Nasrin Sotoudeh** was sentenced to 38 years in prison - 12 years of which is to be served - and 148 lashes in prison for her work as a human rights lawyer including defending hijab protesters. She was charged with “inciting corruption and prostitution”, “openly committing a sinful act by... appearing in public without a hijab” and “publishing falsehoods with the intent to disturb public opinion” (Article 286).
31. Other human rights defenders, including trade unionists and environmental activists have also faced increasing levels of harassment and persecution due to their peaceful activities.
 - On 18 November 2018, labour rights activists, **Esmail Bakhsi** and **Sepideh Gholian**, were arrested after participating in a peaceful protest by the workers of the Haft Tappeh sugar cane industrial complex. On their release in December 2018, Esmail Bakhsi and Sepideh Gholian alleged they had been subject to torture in detention, including physical assault, and threats of sexual violence and execution. They were both re-arrested a day later, in apparent reprisal for speaking publicly about these violations. They are charged with “spreading

⁴⁰ “Amir Salar Davoudi was sentenced to 30 years in prison,” HRANA News. 3 June 2019. <https://www.en-hrana.org/amir-salar-davoudi-was-sentenced-to-30-years-in-prison>

propaganda against the state” (Article 500), and “colluding and conspiring to commit crimes against the national or foreign security” (Article 610).⁴¹

- On 18 February 2020, an Iranian revolutionary court upheld the sentences of eight environmental activists on espionage related charges. Of the eight activists, seven were sentenced with tough prison terms ranging from six to 10 years on the charge of “cooperating with the hostile state of the U.S” (Article 510). One of them, **Abdolreza Kouhpayeh**, received the lowest sentence of four years for “assembly and collusion to act against national security” (Article 610). **Morad Tahbaz**, an Iranian national who also holds U.S. and British citizenship, and **Niloufar Bayani**, an environmental researcher, both of whom work with the Persian Wildlife Fund, received the maximum sentences predicted under Article 510, and were each sentenced to 10 years’ in prison.⁴²

Suggested Questions

- *Please provide information on the number of human rights defenders, including defence lawyers, trade unionists and labour rights activists and environmental activists, currently in prison, as well as details of the grounds for their detention, the sentences passed in each case and the ground on the basis of which these sentences have been issued.*
- *Please comment on the serious, systematic and credible allegations of torture and other ill-treatment against human rights defenders in detention. Have impartial, independent, and effective investigations into these allegations been carried out, and have officials responsible for these violations been held responsible?*
- *Please indicate if there are any plans to adopt a comprehensive whistleblower protection law to protect individuals who reveal information of public interest including dangers to health and environment, human rights violations, and acts of corruption.*

F) Access to Information

32. The Committee did not directly address the issue of access to information during the previous review. Despite this, the legal framework for access to information in Iran does not fully meet international standards.

33. In 2009, Iran took a welcome step by adopting the Publication and Free Access to Information Act,⁴³ which partially recognises the right to access information as guaranteed under international law.⁴⁴ The Act, however, suffers from shortcomings, including broad exemptions which undermine its

⁴¹ “14 civil rights activists received long term prison sentences,” 14 February 2020. <https://www.en-hrana.org/14-civil-rights-activists-received-long-term-prison-sentences>

⁴² “Iran: Environmentalists’ Unjust Sentences Upheld,” 19 February 2020. <https://www.hrw.org/news/2020/02/19/iran-environmentalists-unjust-sentences-upheld>

⁴³ 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/>

⁴⁴ 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>.

effectiveness. These legal shortcomings are further exacerbated by the slow pace of the law's implementation. The most problematic shortcomings of the Act are:

- Article 2 of the Act guarantees the right to access information only for Iranian citizens excluding immigrants and refugees in the country in contravention of the right to equal protection under the law;
- Chapter 4 of the Act allows for ill-defined and vaguely worded exemptions, under which refusal to release information may be justified. Most notably, Article 13 exempts the release of “classified information” referring to the 1975 Secrets Act which offers an overly broad definition of classified information. Furthermore, information that is deemed to cause disgrace or contravenes public decency or promotes vice can also be denied under Article 17. Many of the exemptions provided under the Act do not comply with the requirements of legality, necessity and proportionality under international law and standards.
- Article 10 of the Act provides for an exemption for the bodies that fall under the direct control of the Supreme Leader (including the Revolutionary Guard, Ministry of Intelligence and Security, and the Supreme Council of Cyberspace). Under the Act, these bodies are subject to the requirements to proactively publish information about their structures and activities unless there is an objection by the Supreme Leader.
- Neither the Act nor its bylaws provide any guidance on the republication and reuse of information and data obtained under its provisions.
- The Act fails to establish a clear appeal mechanism and the oversight body predicted under its provisions 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.⁴⁵

Suggested Questions

- *Please indicate whether plans exist to amend the Publication and Free Access to Information Act to bring the law in line with international laws and standards and ensure access to information in a transparent and independent manner. In particular, please indicate any plans to ensure full access to information for bodies falling under the direct control of the Supreme Leader, and plans to ensure the independence of the Commission for Free Publication and Access to Information.*

⁴⁵ 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/>

- *Please indicate whether plans exist to amend the Publication and Free Access to Information Act to ensure access to information for citizens and non-citizens alike.*
- *Please indicate whether the State Party has any plans to adopt bylaws to introduce independent and effective appeal mechanisms and clearly allow individuals and organisations to republish and reuse documents or information obtained under the Publication and Free Access to Information Act.*
- *Please indicate if any journalists or citizens have been investigated, questioned, arrested, fined or sentenced to prison, based on making information requests or the republication of information they gained from requests made under the Publication and Free Access to Information Act.*