

Iran: Decline for free expression requires increased support for UN scrutiny

In the year since the Special Rapporteur on Iran last reported to the UN Human Rights Council (UN HRC), the situation for freedom of expression online and offline has continued to deteriorate, amid an increasingly precarious political and economic environment.

The unilateral withdrawal of the United States of America (US) from the 2015 Joint Comprehensive Plan of Action (JCPOA), and the subsequent imposition of sanctions in November 2018, saw the destabilisation of Iran's currency. The resulting economic pressures have led to protests and strikes across the country, which the government has sought to suppress.

While the Government of Iran denies the existence of a human rights crisis in the country, in the past year, it has continued to systematically suppress freedom of expression and information, association and peaceful assembly, online and offline. Journalists, human rights defenders, trade unionists and protesters, as well as dual-nationals, are among those who have borne the brunt of the ongoing crackdown against dissent. Arbitrary arrests and detention remain the most widely used tool to silence any criticism of the state and its policies, and intimidate others into self-censorship.

Targeted efforts to restrict access to the Internet - which included the blocking of Telegram, the most widely used messaging app in Iran - were a further blow to access to information in the country, and online expression in 2018. Several new bills currently before Parliament threaten to undermine the right to privacy of Internet users, and further entrench the government's control over the Internet in Iran.

In the absence of any measurable progress towards improving the human rights situation in Iran, it is critically important that the continued independent scrutiny provided by the mandate of the Special Rapporteur on the human rights situation in the Islamic Republic of Iran, be maintained. We call on all UN HRC Member States to support the renewal of the mandate at the 40th Session, including through cosponsorship of the resolution, and for all States to raise the following freedom of expression priorities during the interactive dialogue with the Special Rapporteur.

1. Criminalisation of dissent

The Islamic Penal Code contains numerous vague and over-broad restrictive provisions, that are abused to target individuals exercising the right to freedom of expression and information, and peaceful assembly and association. These include provisions criminalising insult, blasphemy (*Moharebeh*), religious insult, disseminating "propaganda against the State", "spreading false rumours or lies", "creating anxiety and unease in the public's mind", "acting against national security", offences related to publishing "immoral and indecent matters", "membership in an illegal organisation", "participation in an illegal gathering" and

“espionage”.¹ These provisions are applied both for expression online, and offline.

Among those most at risk of arbitrary arrest and detention under these provisions are human rights defenders, their legal representatives, journalists, trade unionists, and protesters, as well as social media users.

Women human rights defenders

Women human rights defenders have been targeted for the exercise of the right to protest, in a series of protests against compulsory hijab laws. Narges Hosseini was given a suspended sentence in March 2018 of 24 months imprisonment for removing her headscarf in a public place. She was sentenced under articles 638 and 639 of the Islamic Penal Code, which criminalises anyone who explicitly “violates a religious taboo in public” and “encourages others to violate public morals.” She was released after 20 days in detention. Also prosecuted under these provisions in 2018 were Roya Soghiri, who was sentenced to a 23-month sentence on 11 July, and Shaparak Shajarizadeh, who reported in July that she had been sentenced in absentia to 24-months’ imprisonment, after she fled the country while on bail.

In a welcome development, Safiyeh Gharebaghi was acquitted in November 2018 by Branch 1 of Zanjan Court, having been arrested on 13 July 2017, and charged with “propaganda against the regime” and “gathering and conspiring against national security”.² She was released pending trial after spending one day in prison. Her activities had included posting on social media for gender equality.

Environmental human rights defenders

Environmental human rights defenders have come under intense pressure in recent months, for their work monitoring and reporting on environmental degradation in the country. Eight environmental defenders have spent over a year in pre-trial detention for their work for the Tehran-based Persian Wildlife Heritage Foundation (PWHF).³ Four face the possible application of the death penalty under charges of “spreading corruption on earth”, three have been charged with “espionage”, and one for “acting against national security.” Their trial, which began in January 2019, is marred by allegations that their confessions were extracted through torture.⁴ The group was arrested and detained in January 2018 along with the organisation’s Managing Director, Kavous Seyed-Emami, while conducting field work linked to conservation of endangered Asiatic cheetahs. Seyed-Emami died on 8 February 2018 while in custody in Evin prison in suspicious circumstances, which the authorities call suicide. His death has not been independently investigated. Seyed-Emami’s widow Maryam Mobeini has since faced harassment by the authorities: her passport has been seized and she is subject to a travel ban.⁵

¹ The Islamic Penal Code criminalises blasphemy (Moharebeh) in Book 2 “Hudud”, Part 2, Chapter 8, Articles 279-

² “Zanjan Revolutionary Court Acquits Civil Rights Activist Safiyeh Gharebaghi,” HRANA, 9 November 2018; available at: <https://www.en-hrana.org/zanjan-revolutionary-court-acquits-civil-rights-activist-safiyeh-gharebaghi>

³ Niloufar Bayani, Sam Radjabi, Houshang Rastegar, Taher Ghadirian, Morad Tahbaz, Sepideh Kashani, Amir Hossein Khaleghi and Abdolreza Kouhpayeh.

⁴ “Environmental activists facing trial based on forced confessions,” ARTICLE19, 6 February 2019; available at: <https://www.article19.org/resources/iran-environmental-activists-facing-trial-based-on-forced-confessions/>

⁵ “Travel Ban Extended for Widow of Ecologist Who Died Murky Death in Prison,” Radio Farda, 20 February 2019; available at: <https://en.radiofarda.com/a/iran-travel-ban-extended-on-wife-of-dead-ecologist-emami/29780642.html>

Between 31 December 2018 and 6 January 2019, eight environmental HRDs all of whom are members of the Iran National Union Party (Hezb Vahdat Melli) were arrested in Kurdistan.⁶ So far, they have not had access to lawyers and their charges are unknown.⁷ Additionally, Kurdish EHRDs Shaho Faraji, Arman Vafaie were arrested on the 17th and 18th of February 2019, their charges are currently unknown.⁸

Journalists and media-workers

Journalists have faced intensifying pressure in the last year as the government has sought to silence reporting critical of the state, and to restrict the public's access to independent sources of information. 28 journalists are currently estimated to be in detention.⁹

Reformist journalist Hengameh Shahidi, has been detained since March 2017, and is currently serving a sentence of 12 years and 9 months for criticising state policies in social media posts and in interviews with foreign news outlets. Charges related to her alleged insult of a member of the judiciary, for several letters she had written condemning her prolonged detention between March and August 2017.¹⁰ She was charged under article 134 of the Islamic Penal Code for “acting against national security” and participating in a “illegal gathering”.¹¹

On 24 April 2018, reformist journalist Amir Mohammad Hossein Miresmaili was arrested for disparaging a Shia imam in a tweet the previous day that was then deleted hours later with an apology. He was charged with “insulting sacred tenets and the imams,” “insulting government and judicial officials,” “spreading falsehoods to disturb public opinion” and “publishing immoral and indecent matters”. He was sentenced to 10 years in prison in August 2018.

Journalist Yashar Soltani was sentenced to five years in prison for exposing extensive corruption within the Tehran Municipality on 23 January 2019. Soltani is still awaiting sentencing for the charges of “publishing falsehoods to disturb public opinion” and a further 3 years for “slandering and threatening” the Techlar construction company, under articles 134, 667, 668 and 669 of the Islamic Penal Code.¹²

Human rights lawyers

⁶ Fazel Gheytsi, Issa Feizi, Zanyar Zamiran, Reza Asadi, Amanj Ghorbani, Farhad Mohammadi, Hossein Kamangar, and Rashed Montazeri.

⁷ “The continuation of arrests of environmental activists in Kurdistan and their denial of access to lawyers,” Center for Human Rights in Iran, 6 February 2019; available at: <https://persian.iranhumanrights.org/1397/11/arrest-of-environmentalists-in-kurdistan/>

⁸ “The arrests of environmentalists in Kurdistan continue; more than 10 are incarcerated,” VOA Persian, 21 February 2019; available at: <https://ir.voanews.com/a/kurdistan-environmentalist/4798011.html>

⁹ “Worldwide round-up of journalists killed, detained, held hostage, or missing in 2018,” RSF, 1 December 2018; available at: https://rsf.org/sites/default/files/worldwide_round-up.pdf.

¹⁰ “Iranian Journalist and Political Activist Detained for Criticizing Iran’s Judiciary,” CHRI, 28 June 2018.

<https://www.iranhumanrights.org/2018/06/iranian-journalist-and-political-activist-detained-for-criticizing-irans-judiciary/>

¹¹ See Article 134 of the Islamic Penal code here in Persian: “Islamic Penal Code,” Published in International Labour Organization, 21 April 2013; available at: <https://www.ilo.org/dyn/natlex/docs/ELECTRONIC/103202/125190/F-2020626636/penal%20code.pdf>

¹² “Journalist to serve five years in prison for uncovering corruption in Tehran municipality,” CHRI, 25 January 2019; available at: <https://iranhumanrights.org/2019/01/journalist-to-serve-five-years-in-prison-for-uncovering-corruption-in-tehran-municipality/>

Human rights lawyers have been targeted with increasing frequency in recent years, for their work providing legal counsel to those who speak out against the government, and their own expression.

Renowned human rights lawyer Nasrin Soutodeh, who has been the repeated target of judicial harassment since 2010, was sentenced on 18 June 2018 to 5 years' imprisonment for national security related charges. On 31 August 2018, Payam Dorafshan, legal counsel for Nasrin Soutodeh, and Farokh Forouzan were arrested in Karaj (a city near Tehran), they were subsequently released on bail and await trial on a wide array of charges, including related to national security.

Arash Keykhoosravi, Masoud Javadieh and Qasem Sholeh Sa'adi, were arrested on 18 August 2018, while protesting in front of the parliament (Majles), against "beneficent supervision" (nezarat estesvabi) and the Caspian Sea Treaty. They were sentenced to 5 years in prison for "participation in an illegal gathering" and 1 year for "propaganda against the State". While Masoud Javadieh and Sholeh Sa'adi have been released, Arash Keykhosravi remains in detention.

Mohammad Najafi was arrested by the security forces after revealing information about Vahid Heidari, a salesman who was arrested by police in Arak on 31 December 2017, during protests, and later died in custody under suspicious circumstances. In October 2018, Najafi was sentenced to one year in prison on the charge of "disturbing public order" and to two years on the charge of "publishing falsehoods in order to disturb public opinion."

Lawyer Abdolfatah Soltani continues to be incarcerated after his arrest in 2011, currently serving the end of his 11 year sentence on charges of acting against national security after he accepted the Nuremberg International Human Rights Award and was recognized as the co-founder of the Center for Supporters of Human Rights.¹³

Dual-nationals

As of December 2018, 30 dual nationals and foreign nationals remained in detention in Iran, many on spurious politically-motivated charges related to compromising national security and espionage in the absence of evidence.

The ongoing detention of Nazanin Zaghari-Ratcliffe, who was first arrested in 2016 and faces trumped-up espionage charges related to her work at BBC Media Action and Thomson Reuters Foundation, is a continuing concern. Zaghari-Ratcliffe has faced ill-treatment whilst in detention, having been denied medical treatment. At the beginning of 2019, Zaghari-Ratcliffe began a hunger strike in protest against the denial of medical treatment.¹⁴ The government has continued a smear campaign against her, including through the broadcast of documentaries about her case on state media channels, including information obtained through the illegal search and seizure of her electronic devices.¹⁵

¹³ "Iran, an open-air prison for lawyers: A report," HRANA, 9 September 2018; available at: <https://www.en-hrana.org/iran-an-open-air-prison-for-lawyers-a-report>

¹⁴ Rahim, Zamira. "Nazanin Zaghari-Ratcliffe: British mother ends hunger strike in Iranian prison," Independent, 16 January 2019; available at: <https://www.independent.co.uk/news/world/middle-east/nazanin-zaghari-ratcliffe-latest-hunger-strike-iran-prison-richard-husband-free-tehran-a8731686.html>

¹⁵ For more information on how these seizures broke Iranian law, see "Cases of Zaghari-Ratcliffe and Seyed-Emami create dark precedent for privacy violations and unlawful detentions," ARTICLE19, 15 March 2018; available at:

Some high profile cases include Iranian-British Nazanin Zaghari-Ratcliffe, Iranian-American Siamak Namazi and his elderly father Baquer Namazi, the American Princeton researcher Xiyue Wang, and the Lebanese citizen Nizar Zakka who holds American residency.

ARTICLE 19 urges all States at the HRC to call on the Government of Iran to prioritise immediate and comprehensive reforms to the Islamic Penal Code, to fully protect the right to freedom of expression, peaceful assembly, and association. All arbitrarily detained journalists, human rights defenders including women human rights defenders, lawyers, dual-nationals, trade unionists and protesters currently detained must be immediately and unconditionally released, and charges against them must be dropped, and where applicable convictions quashed. There must be independent investigations into of all alleged torture and ill-treatment in custody, and appropriate remedies must be provided to all victims and survivors.

Freedom of Expression Online

Despite President Rouhani's election promises to keep the Internet open, the authorities have continued to limit freedom of expression online throughout 2018, as documented in ARTICLE 19's series "tightening the net."¹⁶

Blocking and Filtering

Efforts to restrict online expression and access to information online are accelerating, with website blocking and filtering a recurrent trend. Twitter remains entirely blocked in Iran, having first been blocked in 2009 in the context of Presidential elections and protests. Senior members of the judiciary have signaled the imminent blocking of Instagram, with reference to its alleged promotion of immorality in the country.

Telegram – by far the most popular messaging app in Iran, with 40 million users – was blocked by a court order on 30 April 2018, and justified on the basis of national security, though the use of the app around the organisation of protests in early 2018 is suspected to be the true motivation. The blocking of Telegram resulted in significant collateral blocking: Internet users reported difficulties accessing the Apple App store, and WhatsApp, and in the use of circumvention tools, as well as slower connections and the throttling of encrypted traffic. This has been acknowledged by the ICT Ministry.¹⁷ Additionally, those who have continued to access Telegram through circumvention tools (such as VPNs) have reported that certain content has been blocked, including Radio Farda (a US-funded media outlet), BBC Persian, Manoto, Radio Zamaneh and Euronews Farsi among others.

<https://www.article19.org/resources/iran-cases-zaghari-ratcliffe-seyed-emami-create-dark-precedent-privacy-violations-unlawful-detentions/>

¹⁶ ARTICLE 19's series on "tightening the net" in Iran; available at: <https://www.article19.org/tightening-net-monitoring-internet-freedoms-iran/>

¹⁷ "The closure of circumvention tools has started," IRNA, 15 May 2019; available at: <http://www.irna.ir/fa/News/82916267>

As access to Telegram and other platforms has become more restricted, privately owned, Iranian versions of these platforms have grown in popularity in Iran. These include platforms such as “Hotgram” and “Telegram Talae”. The suspected links between the owners of these platforms and the government raise serious concerns for the privacy and safety of their users, which chills freedom of expression and information. The majority of these platforms also fail to use end-to-end encryption, further undermining the security of their users.¹⁸

In a worrying legislative development, the draft “Social Media Organisation Bill”, released on 19 November 2018, seeks to criminalise Internet users who access blocked websites under Article 27. The offence carries a potential penalty of up to 6 months in prison. It is important that the draft Bill is not passed into law.

Centralising Internet Infrastructure

The adoption of the European Union’s General Data Protection Regulation (GDPR), in May 2018, was welcomed by the Iranian Government, which has since sought to adopt legislation ostensibly in a similar mold.¹⁹ The “Preservation and Protection of Personal Data Bill” was announced on the 28 July 2018 by the Minister of ICT.²⁰ Unlike the GDPR, however, the draft Bill fails to include a provision that explicitly protects the right to freedom of expression, specifically to protect media freedom, academia, the arts, and literature.²¹

While Article 1 of the Bill proposes to protect the “sensitive data” of Iranians, including their opinions, religious beliefs, and ethnic affiliations, the government’s history of systematically violating the right to brings this guarantee into doubt. Article 38 of the Bill would force Internet Service Providers and platforms to relocate data processing centres to Iranian territory, and to store data relating to Iranian nationals exclusively inside Iran.²² The Bill reflects policies released by the Supreme Council of Cyberspace in 2017, which aimed at nationalising the Internet infrastructure in Iran.²³ The Bill would endanger freedom of expression by enabling surveillance and reduce the availability of foreign-owned apps and social media platforms, increasing reliance on less secure Iranian technologies.

Effect of Sanctions on Access to Information online

Freedom of expression and information online has been impacted by US sanctions in the past year. In December 2018, the platform Slack temporarily banned all users who had ever connected to the platform from Iranian IP addresses. Slack reinstated these accounts under public pressure, while continuing to block all users connecting from Iran.²⁴ In March 2018, Apple made the App Store unavailable in Iran, with significant impacts on the ability of people in the country to communicate online at a crucial political

¹⁸ “Tightening the net: The internet in the time of currency crisis,” ARTICLE19, October 2018. pages 11-13.

Accessible at: https://www.article19.org/wp-content/uploads/2018/10/TTN-6_Eng_10.18.pdf

¹⁹ Azari Jahromi’s Tweet welcoming the EU GDPR, 25 May 2018: <https://bit.ly/2PTjvc7>

²⁰ “The Preservation and Protection of Personal Data Bill,” via the Ministry of ICT website, 28 July 2018; available at: <https://bit.ly/2xFRi0X>

²¹ Article 85 of the GDPR: Processing of freedom of expression and information; available at: <https://bit.ly/2MLN3Gz>

²² *Ibid.* at Article 38.

²³ Tightening the Net: A New Cabinet and New Attempts at Control, 18 September 2017, Appendix 1; available at: <https://bit.ly/2QlphOE>

²⁴ “Slack Bans Iranian Academic Living in Caanda Because of Sanctions,” Vice Motherboard, 21 December 2018; available at: https://motherboard.vice.com/en_us/article/bjek8w/slack-bans-iranian-academic-sanctions

moment.²⁵ The blocking of Telegram in April 2018 resulted in the collateral blocking of WhatsApp and the disabling of many VPNs: Apple device users were therefore unable to access the App Store through their usual proxies, and were unable to download new VPNs or communication apps.²⁶

ARTICLE 19 urges all States at the HRC to call on the Government of Iran to cease all measures designed to obstruct access to the Internet, including through the use of Internet shutdowns, and the blocking and filtering of communications platforms and online content, in contravention of international human rights law, and to call for the withdrawal of the Preservation and Protection of Personal Data Bill, and the Organisation of Social Messengers Bill.

Restrictions on the right of peaceful assembly

Protests flared across the country in December 2017 and into January 2018, resulting in the arrest of 4970 individuals. In the period since March 2018, persons exercising their right of peaceful assembly have continued to be subject to harsh repression.

There has yet to be any independent investigation or any form of accountability for the unlawful and excessive use of lethal force against protesters in December 2017, which included the use of tear gas, water cannons, and batons. 21 people were killed, the majority by the security forces. There has been no independent investigation of the deaths in custody of protesters Sina Ghanbari, Vahid Heidari, and Saro Ghahremani, who were arrested during these protests. Their bodies showed signs of torture on their return to their families, however the authorities have alleged that Ghanbari and Heidari died by suicide, and further smeared Heidari by speculating he was in possession of illegal drugs. Ghahremani's father stated that his son had died in a violent clash with police during the protest, in a seemingly coerced statement aired on a government-owned tv channel.

Criminal charges against peaceful protesters remain common. Trade unionists, and those protesting in support of labour rights, have come under particular pressure - facing such charges as "spreading propaganda against the state", "gathering and colluding against national security", and "disrupting public order and peace by participating in illegal gatherings".

The 'haft tappah' protests – focused on the unpaid wages of thousands of sugar-cane workers - resurfaced in November 2018, when 24 individuals were arrested for their involvement in peaceful protests in Khuzestan on national security related charges.²⁷ On their release in December 2018, two of those arrested, Esmail Bakhsi and Sepideh Gholian, alleged that they had been subject to torture during their detention, including deeply troubling accounts of physical assault, and being threatened with sexual violence, and execution. The forced confessions obtained through the use of torture were broadcast on state television on the 19th January 2019, and the pair were re-arrested a day later, in what appears to be

²⁵ "Apple appears to have totally cut off Iran from the App Store," The Verge, 15 March, 2018; available at: <https://www.theverge.com/2018/3/15/17126342/apple-iran-app-store-block>

²⁶ Interviews and conversations ARTICLE19 conducted with Iranians inside of Iran throughout the Telegram ban and confirmed by reporting by the Centre for Human Rights in Iran. "Closing of the Gates: Implications of Iran's Ban on the Telegram Messaging App," CHRI, June 2018; available at: <https://www.iranhumanrights.org/wp-content/uploads/Closing-the-gates-3-online.pdf>

²⁷ "Detained Protester Reportedly Tortured as Iranian Sugar Mill Workers Demand Unpaid Wages," CHRI, 3 December 2018; available at: <https://www.iranhumanrights.org/2018/12/detained-protester-reportedly-tortured-as-iranian-sugar-mill-workers-demand-unpaid-wages/>

a reprisal for speaking about the abuse. They are charged with “spreading propaganda against the state”, “gathering and colluding against national security”.

ARTICLE 19 urges States at the HRC to call on the Government of Iran to repeal all restrictions on the right to peaceful assembly and association, drop all outstanding charges and quash the convictions of those currently detained under restrictive provisions, and ensure their immediate and unconditional, and to conduct independent and thorough investigations into the use of force, including lethal force, during protests, into the use of torture and ill-treatment in detention, and into deaths in custody of peaceful protesters.

Right to Information

The 2016 non-binding “Citizenship Rights Charter” stated that all citizens “have the right to access public information available in public institutions and private institutions that provide public services” [Article 30]. The 2009 Publication and Free Access to Information Act (Access to Information Act) also provides for citizens’ right to access information held by government institutions and some private bodies. These developments remain positive, however further reforms are needed, and implementation must be encouraged, to fully protect the right to information in the country.²⁸

Broad exemptions set out in the law undermine its essential purpose and enable opaque practices at the centre of government. In particular, Note 1, Article 10, provides that all government bodies under the control of the Supreme Leader can only release information with the express permission of the Supreme Leader. Article 13 of the Act further exempts classified information from release, by reference to the Official Secrets Act of 1975, which broadly defines what constitutes secret information. Note 2 of Article 17 exempts information that could “cause defamation or disgrace, or are against public decency and/or promoting vice”. The inclusion of these overly broad exemptions in the Act is exacerbated by the absence of a genuinely independent oversight body, responsible for implementing the Act, and the absence of a clearly defined appeal mechanism in the case that a request is rejected. The use of these exemptions has been reported by the Hamshahri Newspaper, whose multiple numerous requests about purchase contracts of filtering equipment were ignored or rejected.²⁹ It is additionally important to note that the right of access to information is provided only to citizens, which impedes the rights of the numerous refugees and migrants within the country.

Implementation of the Act has been slow, with awareness of the Act limited among the public, and public bodies’ rate of compliance also low. Although 2018 saw an increase in the number of information requests, it is frequently reported that individuals receive either false information or have failed to receive a response at all. Complaints regarding the responses received have rarely received an official response.

ARTICLE 19 urges all States at the HRC to call on the Government of Iran to fully guarantee the right to information in the country, including through the reform of the Access to Information Law to ensure conformity with international standards, and to take steps to enhance implementation through increasing public awareness of the Act, and ensuring compliance with its provisions by all public officials.

²⁸ “Iran: Review of the Publication and Free Access to Information Act 2009,” ARTICLE19, 28 September 2017. <https://www.article19.org/resources/iran-review-of-the-publication-and-free-access-to-information-act-2009-2/>

²⁹ “Confidential Filtering,” Hamshahri Newspaper, 12 January 2019.