



Joint submission to the Universal Periodic Review of the Islamic Republic of Iran by ARTICLE 19 and Access Now

For consideration at the 34th session of the Working Group in November 2019

4 April 2019

Executive Summary

1. ARTICLE 19 and Access Now make the following submission ahead of the third cycle Universal Periodic Review (UPR) of the Islamic Republic of Iran (Iran). In this submission, we address developments in relation to the right to freedom of expression and related rights.
2. The information in this submission draws on ARTICLE 19's monitoring and research on freedom of expression in Iran, in particular on digital rights,¹ as well as developments regarding freedom of information.²
3. The Government of President Rouhani has presided over a deteriorating human rights situation. There has been no progress on the implementation of the vast majority of UPR recommendations received in 2014; in many cases there has been significant regression. The highly restrictive legal framework continues to be abused to target dissenting voices, including human rights defenders, journalists, and human rights lawyers. Peaceful protests have been subject to harsh repression, including unlawful use of force and mass arbitrary arrests. Freedom of expression online has come under unprecedented pressure, as the authorities have sought closer control over access to, and sharing of, information online.
4. In a positive step, access to information legislation has begun to be implemented, though there remains significant potential for further reform to fully guarantee this right.

Cooperation with UN Special Procedures

5. During the previous UPR, Iran accepted five recommendations concerning cooperation with UN Special Procedures (SRs), including to consider requests for country visits,³ while noting seven that called for the facilitation of visits by the SR on the Situation of Human Rights in Iran (SR on Iran).⁴ The Government of Iran has not facilitated the visits of any UN SRs in the period under review, despite issuing a standing invitation in 2002.
6. The government has continued its policy of non-cooperation and has engaged in ongoing targeted efforts to undermine the work of successive SRs on Iran. Former SR on Iran, Asma Jahangir, was subjected to attacks on her character and credibility by government-affiliated news agency IRNA during her tenure from November 2016 to her sudden passing in February 2018, including false reports that she intended to visit Saudi Arabia in

¹ "Tightening the Net: Internet in times of economic crisis," ARTICLE 19, October 2018. https://www.article19.org/wp-content/uploads/2018/10/TTN-6_Eng_10.18.pdf

² "Iran: Access to information law provides important tool for environmental activists," ARTICLE 19, July 2018.

<https://www.article19.org/resources/iran-access-to-information-law-provides-important-tool-for-environmental-activists/>

"Iran: Review of the Publication and Free Access to Information Act 2009", ARTICLE 19, September 2017. https://www.article19.org/wp-content/uploads/2017/09/Iran-FOI-review_Sept_2017-1.pdf

³ 138.77; 138.79; 138.80; 138.82; 138.83;

⁴ 136.69; 138.74; 138.75; 138.76; 138.81; 138.84; 138.233

order to defame Iran's authorities.⁵ Current mandate-holder, Professor Javaid Rehman, has similarly been criticised since appointment, primarily accusations that his work is political, biased, and connected to Iran's adversaries.⁶

Recommendation

- Cooperate with the United Nations, in particular OHCHR and the special procedures of the Human Rights Council, by facilitating a visit of the Special Rapporteur on Iran without delay.

Legal framework for freedom of expression

7. In 2014, Iran accepted recommendations to strengthen and promote freedom of expression in the country,⁷ and noted specific recommendations to repeal all provisions which overly restrict it.⁸ Overbroad and vague restrictions remain both in the constitutional framework and in the IPC, which do not comply with international human rights law.
8. Article 24 of the 1979 Constitution of Iran (the Constitution) provides limited guarantees to the right to freedom of expression, stating "Publications and the press have freedom of expression".⁹ This right is limited by the broad caveat that allows expression rights only where there is no "infringement of the basic tenets of Islam or public rights."
9. Article 23 of the Constitution addresses freedom of belief in broad terms, prohibiting the targeting of individuals for holding certain beliefs, which may be interpreted to encompass freedom of opinion.¹⁰
10. Other articles in the Constitution undermine the already-weak constitutional guarantee. In particular, Article 40 allows for the restrictions of rights if their exercise is deemed "injurious to others" or "detrimental to public interests". This fails to meet requirements of international standards that limitations be 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.
11. A revised version of the Islamic Penal Code (IPC) was introduced in 2013,¹¹ retaining numerous overbroad and vague restrictions on freedom of expression, on grounds which are not recognised under international human rights law. These provisions facilitate the targeting of human rights defenders (HRDs), journalists, and dissenting or minority voices.¹²
12. Among the most problematic provisions misused to restrict expression are:
 - Book One, Chapter Nine, **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."¹³

⁵ "UN human rights expert condemns "defamatory" Iran press report," OHCHR, 24 April 2017.

<http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=21524&LangID=E>

⁶ "Javed Rahman's report on the situation of human rights in Iran and the Iranian representative's response to it" ISNA, March 2019, available at: <https://bit.ly/2FzhAph> (in Persian); "Iran's UN Human Rights Rapporteur Appointed," IRNA, July 7 2018. <http://www.irna.ir/fa/News/82963677>

⁷ 138.236

⁸ 138.227; 138.232

⁹ "Article 24 Publications and the press have freedom of expression except when it is where there is infringement of the basic tenets of Islam or public rights. In this respect detailed provisions will be laid down by law." "The Constitution of Islamic Republic of Iran", Iran Chambers Society, available at: <http://www.iranchamber.com/government/laws/constitution>

¹⁰ "The investigation of individuals' beliefs is forbidden, and no one may be molested or taken to task simply for holding a certain belief."

¹¹ The new Islamic Penal Code was introduced in 2013 for an experimental period of 5 years, and revised in 2016. See the most updated version of the Islamic Penal Code here in the website for the Iranian parliament. http://rc.majlis.ir/fa/law/print_version/845048

¹² "Codifying Repression: An Assessment of Iran's New Penal Code," HRW. 29 August 2012. <https://www.hrw.org/report/2012/08/28/codifying-repression/assessment-irans-new-penal-code>

¹³ "Article 286: "Any person, who extensively commits felony against the bodily entity of people, offenses against internal or international security of the state, spreading lies, disruption of the economic system of the state [...] establishment of, or aiding and abetting in, places of corruption and prostitution, [on a scale] that causes severe disruption in the public order of the state and insecurity, [...] or causes distribution of corruption and prostitution on a large scale, shall be considered as *mofsed-e-fel-arz* [corrupt on earth] and shall be sentenced to death." "Iran: Penal Code", RefWorld, available at: <https://www.refworld.org/docid/518a19404.html>

- Book Two, Chapter Five, **Article 262** vaguely criminalises anyone who “swears at or commits *qazf*”¹⁴ against the Great Prophet of Islam” or other prophets and Imams, punishable by the death penalty.
- Book Five contains provisions broadly criminalising expression lawful under international human rights law: **Article 513** criminalises “insult” of the “sacred values of Islam” and of religious leaders (punishable by between one and five years’ imprisonment)¹⁵; ‘insult’ of the Prophet is punishable by the death penalty; **Article 514** criminalises “insult” of the Supreme Leader, punishable by six months’ to two years’ imprisonment;¹⁶ **Article 500** criminalises “any type of propaganda against the [state] or in support of opposition groups and associations”, punishable by imprisonment of three months’ to a year;¹⁷ **Article 698** criminalises anyone who causes “damage to someone” or disrupts “the opinion of the authorities or the public” through printed or written materials - punishable by two months’ to two years’ imprisonment, or up to 74 lashes;¹⁸ and **Article 618** criminalises “disrupting public order” - punishable by three months’ to a year’s imprisonment, and up to 74 lashes.¹⁹

Recommendation

- Reform the IPC to fully guarantee the right to freedom of expression, in line with international human rights law and standards, including in particular by repealing Articles 262, 286, 500, 513, 514, 618, and 698.

Freedom of Peaceful Assembly and Association

13. While **Article 27** of the Constitution ostensibly protects the right to assembly, the guarantee falls short of international standards set out in the ICCPR, qualifying the right to ‘freely organise’ unarmed assemblies and marches, by requiring that “no violation of the foundations of Islam is involved.”²⁰ The exercise of the right to peaceful assembly is also subject to broad limitation, through the aforementioned **Article 40**.
14. **Article 26** of the Constitution protects the creation and joining of “political parties, societies, political and craft associations, and Islamic or recognized minority religious associations”, with the heavy qualifier that such groups must not violate “the principles of independence, freedom, national unity, Islamic standards, and the foundations of the Islamic Republic.”²¹ This falls far short of international standards: it explicitly denies association rights to “unrecognised” minority religious groups, and restricts the right on broad and ill-defined grounds not permitted by international human rights standards, without requiring that restrictions be either necessary or proportionate. This has granted authorities significant leeway to classify activities of protesters, HRDs, lawyers, and others as a threat to the foundations of the country.
15. Numerous IPC provisions criminalise the exercise of assembly and association rights, in contravention of international human rights law. Among the most problematic provisions are found in Book Five, Chapter One:
 - **Article 498** criminalises the establishment or leadership of a group, defined as more than two people, that

¹⁴ “Qazf” means the false accusation of sexual offenses

¹⁵ It should be noted that this also includes Biblical prophets.

¹⁶ **Article 513**– Anyone who insults the sacred values of Islam or any of the Great Prophets or [twelve] Shi’ite Imams or the Holy Fatima, if considered as *Saab ul-nabi* [as having committed actions warranting the *hadd* punishment for insulting the Prophet], shall be executed; otherwise, they shall be sentenced to one to five years’ imprisonment”.

Article 514– Anyone who, by any means, insults Imam Khomeini, the founder of the Islamic Republic, and/or the Supreme Leader shall be sentenced to six months to two years’ imprisonment.” “Islamic Penal Code of the Islamic Republic of Iran – Book Five”, Iran Human Rights Documentation Center, available at: <https://iranhrdc.org/islamic-penal-code-of-the-islamic-republic-of-iran-book-five/>

¹⁷ **Article 500**– Anyone who engages in any type of propaganda against the Islamic Republic of Iran or in support of opposition groups and associations, shall be sentenced to three months to one year of imprisonment.”

“Islamic Penal Code of the Islamic Republic of Iran – Book Five”, Iran Human Rights Documentation Center, available at: <https://iranhrdc.org/islamic-penal-code-of-the-islamic-republic-of-iran-book-five/>

¹⁸ **Article 698**, of the fifth book “Anyone who, with the intent to cause damage to someone or to disrupt the opinion of the authorities or the public by [sending] a letter or complaint or correspondence or petitions or reports or distribution of printed or written papers... shall be sentenced to two months to two years imprisonment or up to 74 lashes”

“Islamic Penal Code of the Islamic Republic of Iran – Book Five”, Iran Human Rights Documentation Center, available at: <https://iranhrdc.org/islamic-penal-code-of-the-islamic-republic-of-iran-book-five/>

¹⁹ **Article 618**– Anyone who disrupts the order and public peace or prevents people from their business by crying out and creating a row and outrageous behavior or by assaulting other people shall be sentenced to three months to one year of imprisonment and up to 74 lashes.”

“Islamic Penal Code of the Islamic Republic of Iran – Book Five”, Iran Human Rights Documentation Center, available at: <https://iranhrdc.org/islamic-penal-code-of-the-islamic-republic-of-iran-book-five/>

²⁰ **Article 27**: Unarmed assemblies and marches may be freely organized, provided that no violation of the foundations of Islam is involved.”

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

²¹ **Article 26**: Political parties, societies, political and craft associations, and Islamic or recognized minority religious associations may be freely brought into being, provided that no violation is involved of the principles of independence, freedom, national unity, Islamic standards, and the foundations of the Islamic Republic. No person may be prevented from joining, or compelled to join, one of the above.”

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

“aims to perturb the security of the country”, punishable by two to ten years’ imprisonment.²²

- **Article 499** penalises anyone who is a member of a group proscribed under **Article 498**, punishable by three months’ to five years’ imprisonment.²³
- **Article 610** criminalises collusion or conspiracy to commit crimes against the state, which has been interpreted to include peaceful protests. It is punishable by two to five years’ imprisonment.²⁴
- **Article 638** criminalises the breaking of religious rules in public, punishable by 10 days to two months’ imprisonment, of 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.²⁵
- **Article 639** criminalises encouraging others to “violate public morals”, punishable by 1-10 years’ imprisonment.²⁶

16. Vague and broad concepts such as ‘perturbing’ security or breaking “religious taboos” facilitates the arbitrary and wholly disproportionate application of these provisions against individuals expressing dissenting viewpoints, including human rights defenders, protesters, lawyers and unionists. Individuals 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, sexual identity and sexual orientation, are at particularly high risk of reprisal for exercising their rights. Emblematic cases include:

- 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 in February 2017 on charges of colluding (Article 610) and disrupting national security (Article 498).²⁷
- Narges Mohammadi, the Vice President of the Centre for Human Rights Defenders, was sentenced to 16 years’ imprisonment in May 2016, in relation to her involvement with Legam.²⁸ She was convicted of forming a group that aimed to “perturb the security of the nation” (Article 498), membership of that group (Article 499), and spreading propaganda against the state (Article 500).²⁹
- Protests against compulsory hijab laws in January 2018 resulted in 29 arrests - a majority women.³⁰ 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.

17. In late December 2017, protests related to socio-economic concerns erupted across Iran in what became the largest anti-government protests since 2009.³¹ The response of the government was heavy-handed, marked by the disproportionate and unlawful use of force, including the use of tear gas, water cannons and physical attacks with batons.³² 21 individuals were killed, predominately by security forces; there has been no independent investigation into their deaths, or into the authorities’ use of lethal force.³³ More than 4,970 people were arrested following the protests. Three protesters, Sina Ghanbari, Vahid Heidari and Saro Ghahremani, died in

²² **Article 498** – Anyone, with any ideology, who establishes or directs a group, society, or branch, inside or outside the country, with any name or title, that constitutes more than two individuals and aims to perturb the security of the country, if not considered as *mohareb*, shall be sentenced to two to ten years’ imprisonment.”

²³ **Article 498** – Anyone, with any ideology, who establishes or directs a group, society, or branch, inside or outside the country, with any name or title, that constitutes more than two individuals and aims to perturb the security of the country, if not considered as *mohareb*, shall be sentenced to two to ten years’ imprisonment.”

Article 499– Anyone who joins, as a member, any of the groups, societies, or branches aforementioned in article 498, shall be sentenced to three months to five years’ imprisonment, unless it is proved that he had been unaware of its aims.”

²⁴ **Article 610**– When two or more individuals collude and conspire to commit crimes against the national or foreign security of the country or prepare the facilities to commit the aforementioned crimes, unless they are regarded as *mohareb*, shall be sentenced to two to five years’ imprisonment.”

²⁵ **Article 638**- Anyone who explicitly violates any religious [rules] in public beside being punished for the act should also be imprisoned from ten days to two months, or should be flogged (74 lashes). Note- women who appear in public without a proper *hijab* should be imprisoned from ten days to two months or pay a fine of 50,000 to 500,000 Rial”

²⁶ **Article 639**–The following people should be imprisoned from one to ten years, and in the case of category (a)the property should be confiscated according to decision of the court.a)anyone who manages a property where activities against public moral take place;b)anyone who encourages people to violate public moral;

²⁷ “Caught in a Web of Repression: Iran’s Human Rights Defenders Under Attack”, Amnesty International, 2017, available at: <https://www.justice.gov/eoir/page/file/986541/download>

²⁸ Legam is the Campaign for Step by Step Abolition of the Death Penalty

²⁹ “Iran: Three new cases of judicial harassment and arbitrary detention targeting human rights lawyers,” OMCT. 19 February 2019. <http://www.omct.org/human-rights-defenders/urgent-interventions/iran/2019/02/d25250/>

³⁰ “Iran arrests 29 linked to protests against compulsory hijab laws”, *New York Times*, 2 February 2018; available at: <https://tinyurl.com/ybmdozuy>

³¹ “Iran: protect constitutional right to protest”, ARTICLE 19, 3 January 2018; available at: <https://tinyurl.com/ycodj649>

³² “Iran’s Suppression of December 2017 Unrest Marked by Brutal Violations of Law,” CHRI, 19 February 2018; available at: <http://bit.ly/2oi0Z1l>

³³ “Iran’s Supreme Leader blames ‘enemies’ for protests, death toll hits 21,” CNN 2 January 2018; available at: <http://cnn.it/2BL08fw>

custody.³⁴ Instead of independently investigating the deaths in custody, officials have alleged that Ghanbari and Heidari died by suicide.³⁵ In each case, there are reports of signs of torture on the bodies returned to families.

18. In 2018 and 2019, trade unionists and those protesting for labour rights have come under particular pressure,³⁶ facing charges like “spreading propaganda against the state”, attempting to “collude and conspire to commit crimes against” the state, and “disrupting public order and peace by participating in illegal gatherings”. The ‘haft tappeh’ protests resurfaced in November 2018, when 24 individuals were arrested in Khuzestan on national security related charges.³⁷ 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. The pair were re-arrested a day later, in apparent reprisal for speaking publicly about these violations. They are charged with “spreading propaganda against the state” (Article 500), and “colluding and conspiring to commit crimes against the national or foreign security” (Article 610).

Recommendations

- Fully guarantee the right to peaceful assembly and association, including by reforming the IPC to repeal all those provisions that restrict these rights, in contravention of international human rights law, including in particular Articles 498, 499 and 610, 638 and 639;
- Cease the practice of mass arrests, and the unlawful use of force, to suppress peaceful protests
- Fully investigate all incidents of the use of force against protestors and human rights defenders, as well as full, independent and transparent investigations into the deaths of protestors in custody, and hold those responsible for the deaths accountable, and provide remedies to victims or their representatives.

Media Freedom

19. In 2014, Iran accepted a recommendation to promote free expression among the press, whilst rejecting recommendations to reform the press law and cease censorship of the media.³⁸ Iran has further curtailed media freedom in the period under review.

20. Media freedom is subject to the overbroad limitations previously described, while being technically protected under Article 24 of the Constitution.³⁹ The media is further regulated through the 2002 Press Law,⁴⁰ which continues to significantly obstruct independent media from operating and deny access to independent, pluralistic and diverse sources of information.⁴¹

21. Independent media outlets operate under constant threat of forced closure by judicial order for potential infringements of the Press Law, encouraging self-censorship. In September 2018, for example, 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.⁴² The newspaper was pursued under Article 6 of the Press Law,⁴³ which prohibits publishing content insulting Islam or its sanctities.⁴⁴

³⁴ “Iran: authorities must investigate deaths in custody and respect the right to protest”, ARTICLE 19, 10 January 2018; available at:

<https://tinyurl.com/yaq8dym7>

³⁵ “Iran should launch independent investigation of deaths of two protesters in prison”, Center for Human Rights in Iran, 11 January 2018; available at:

<https://tinyurl.com/y852dole>

³⁶ “What’s behind the protests in Iran and what can you do?” TUC, 2 January 2018. <https://www.tuc.org.uk/blogs/whats-behind-protests-iran-and-what-can-you-do>

³⁷ “Detained Protester Reportedly Tortured as Iranian Sugar Mill Workers Demand Unpaid Wages,” CHRI, 3 December 2018.

<https://www.iranhumanrights.org/2018/12/detained-protester-reportedly-tortured-as-iranian-sugar-mill-workers-demand-unpaid-wages/>

³⁸ Accepted recommendation: 138.236); partially accepted recommendations: 138.229; 138.231; noted recommendations: 138.228; 138.222

³⁹ In addition, the preamble of the Constitution specifies that the media must refrain from “propagation and encouragement of destructive and anti-Islamic qualities (ideas)”.

⁴⁰ Press Law, 2002 : <http://irandataportal.syr.edu/press-law>

⁴¹ “Iran: Backsliding on UN Free Expression Commitments,” ARTICLE19 and Impact Iran, September 2017; p 6.

<https://www.article19.org/resources/iran-backsliding-on-un-free-expression-commitments/>

⁴² You can see the last issue published by this newspaper in the Jaar archives. <https://www.jaar.com/archive/Sedayeeslahat>

⁴³ Article 6 prohibits the publishing of an exceptionally broad spectrum of content including atheistic articles, those prejudicial to Islamic codes, insulting Islam and/or its sanctities, offending senior Islamic jurists, those quoting articles from the “deviant press” or groups which are seen as opposing Islam, or any publication deemed contradictory to the Constitution.

⁴⁴ “The Order of the Attorney General after the defamation of the holiness of Hazrat Raghieh,” Fars News, September 15, 2018. <https://bit.ly/2TXKJo8>

22. In October 2016, a new bill (the ‘Comprehensive Mass Media Regulation’) to replace the current Press Law⁴⁵ was proposed that threatened increased restrictions on media freedom if introduced. It would grant greater leeway to judges and prosecutors to determine whether an offence has been committed, thereby facilitating the politically motivated judicial harassment of the press. The status of the draft is unknown.

23. Also in October 2016, a bill to establish a Media Affairs Commission was put forward,⁴⁶ raising concerns for interference in media independence.⁴⁷ Reports in December 2018 indicated a new draft would soon be presented in parliament.⁴⁸

Recommendations

- Cease harassment of independent media outlets operating inside Iran, and broadcasting to Iran, and reverse forced closure orders;
- Withdraw the Comprehensive Mass Media Regulation and the powers of the Media Affairs Commission to abide by the Constitutions guarantees for speech and free press;
- Create an enabling environment for the flourishing of a diverse, pluralistic, and independent media, including through the repeal of the Press law, and, adoption of new legislation for the regulation of the media, through an open and participatory process involving all relevant stakeholders, including civil society groups and media organisations.

Harassment of dissenting voices

24. The authorities have continued to retaliate against those perceived as criticising the state, promoting minority or oppositional viewpoints, and reporting on corruption or human rights violations perpetrated by the State. This harassment has included digital attacks, however the misuse of the legal framework remains the primary tool relied upon by the authorities to silence any opposition, whether real or perceived.

25. We note the systematic due process violations, which undermine fair trial rights of those targeted under the restrictive legal framework; this includes denial of access to legal counsel,⁴⁹ use of torture to extract forced confessions, lengthy detention without charge, and privacy violations. Reports of ill-treatment and torture in detention – including denial of access to medical treatment and assault – are widespread. Arbitrary arrest is often accompanied by smear campaigns designed to undermine the credibility of those speaking out against the government. For every journalist, human rights lawyer, and human rights defender subject to judicial harassment, many more are intimidated into self-censorship in fear of reprisal. We highlight below emblematic cases from the period under review, whilst noting that for reasons of space, we cannot be exhaustive in reflecting all the applicable trends:

26. **28 journalists** are currently estimated to be in detention, among them:⁵⁰

- 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 in August 2018.⁵¹ 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).

⁴⁵ “Rouhani Press Bills Would Further Erode Press Freedom in Iran,” CHRI, October 4, 2016. <https://www.iranhumanrights.org/2016/10/hassan-rouhani-government-bills-to-restrict-media/>

⁴⁶ *Ibid.*

⁴⁷ The government controlled Commission will be responsible for issuing permits to journalists, drafting a Journalism Ethics Code, and ensuring “high moral standards” in the media. Article 56 empowers the Commission to temporarily or permanently suspend journalists if they are deemed in “violation” of religious principles or professional ethical codes. Hossein Entezami, a former Ministry of Intelligence expert and known supporter of pro-government media in Iran is expected to lead the Commission.

⁴⁸ “Lawyer: The proposal for a media affairs commission is in queue to be discussed and decided upon in parliament,” ISNA, December 8, 2018. <https://bit.ly/2UrvDGX>

⁴⁹ Article 128 of the Iranian Criminal Code of Procedure states: “In cases when the subject has a confidential nature, or if the presence of anyone other than the accused can cause corruption, and also in the case of crimes against national security, presence of attorney in the investigation phase will be with court permission only.”

⁵⁰ “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.

⁵¹ “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>

- Reformist journalist Hengameh Shahidi, was arrested in March 2017 and is serving a 12 years sentence for criticising state policies in social media posts and in interviews with foreign news outlets. She was convicted in December 2018⁵² of “collud[ing] and conspir[ing] to commit crimes against...foreign security” Article 610.⁵³
- Reza Khandan and Keyvan Bazhan, and Bektash Abtin, members of the Iranian PEN Centre, previously held on charges of “propaganda against the regime” were recently summoned to Branch 7 of the Evin Prosecutions Office to be read new charges of “ collud[ing] and conspir[ing] to commit crimes against...foreign security” (Article 610) and (Article 286), which risk harsher sentences.⁵⁴ They remain in detention as although granted bail, the bond was set at the exorbitant figure of ten billion Rial (240,000 USD).

27. We further regret the death of Hamid Houshang, former journalist and director at state-run news agency, IRNA. He was sentenced in October 2016 to two years’ imprisonment on charges of “propaganda against the regime” (Article 500) and of “collud[ing] and conspir[ing] to commit crimes against...foreign security” (Article 610). He appealed his sentence, on the basis of health concerns. Houshang died in November 2018, having been denied permission to seek urgent treatment for his cancer abroad.

28. In recent years, human rights lawyers have faced heightened risk for providing legal counsel to dissenting voices, and the exercise of their own expression rights. Emblematic cases include:

- The conviction and extraordinarily harsh sentencing of renowned human rights lawyer Nasrin Sotoudeh on 11 March 2019, to 38 years’ imprisonment and 148 lashes, in relation to her work defending women charged for protesting against the compulsory hijab.⁵⁵ Sotoudeh was convicted of “inciting corruption and prostitution”, appearing in public without a hijab and “publishing falsehoods with the intent to disturb public opinion,” (the majority of which fall under the charge of “sowing corruption on earth” Article 286).⁵⁶ Following international condemnation, reports indicate her sentence has been reduced to 12 years.⁵⁷
- Mehdi Houshmand-Rahimi was sentenced in absentia on 1 January 2019, having been convicted of “insulting the Supreme Leader” (Article 514) and “insulting the judiciary” (Article 605). This followed a separate sentencing in absentia in December 2018, to five years’ imprisonment, charged with crimes including “spreading propaganda against the state” (Article 500), for insulting remarks during a speech on November 2016.
- Mohammad Najafi was sentenced in Shazand, Markazi province, to two years’ imprisonment, and 40 million rials for “disturbing public opinion” by “spreading lies” (Article 698) for criticism of the Supreme Leader posted on his Instagram page. Najafi was already serving a 3 year sentence for his legal defense work, having been convicted under Article 698 and Article 618 for “disrupting public order”.⁵⁸ The harassment of Najafi is believed to be linked to his advocacy around the death in custody of protester Vahid Heydari.⁵⁹
- On 31 August 2018, Farokh Forouzan and Payam Dorafshan (legal counsel for Nasrin Sotoudeh), were arrested in Karaj. They are on bail awaiting trial on a range of trumped up national security charges for their legal support to Sotoudeh.
- Professor and lawyer Massood Shamsnejad, was sentenced to six years in prison for “propaganda against the state” (Article 500), after he represented several Iranian Kurdish political prisoners.⁶⁰

29. **Environmental HRDs (EHRDs)** have come under intense pressure for their work monitoring and reporting on environmental degradation in the country:

- Niloufar Bayani, Sam Radjabi, Houman Jowkar, Taher Ghadirian, Morad Tahbaz, Sepideh Kashani, Amir Hossein Khaleghi and Abdolreza Kouhpayeh have spent over a year in pre-trial detention for work for the Persian Wildlife Heritage Foundation (PWHF). Five may face the death penalty for “sowing corruption on

⁵² “Hengameh Shahidi was sentenced to 12 years and 9 months imprisonment,” IRNA, 1 December 2018. <http://www.irna.ir/fa/News/83118449>

⁵³ “The recent details of the Hengameh Shahidi’s Ruling,” RFI, 3 December, 2018. <https://bit.ly/2FD548y>

⁵⁴ “Three writers slapped with new charges,” HRANA, 5 November 2018. <https://www.en-hrana.org/three-writers-slapped-with-new-charges>

⁵⁵ “Iran: Harsh sentencing of Nasrin Sotoudeh sets a new tone for judicial repression of human rights,” ARTICLE19, 12 March 2019.

<https://bit.ly/2CF9c6Y>

⁵⁶ See section on “Restrictive Provisions in the Islamic Penal Code on Freedom of Expression above.”

⁵⁷ “Defying Unjust Court Process, Nasrin Sotoudeh Refuses to Appeal Prison Sentence,” CHRI, 19 March 2019,” <https://bit.ly/2CF9c6Y>

⁵⁸ “Iran: New developments concerning the judicial harassment of human rights lawyers,” OMCT, 13 February 2019. <http://www.omct.org/human-rights-defenders/urgent-interventions/iran/2019/02/d25240/>

⁵⁹ “Mohammad Najafi and Abbas Sadari Arrested to Serve Their Sentences,” HRANA, 30 October 2018. <https://www.en-hrana.org/mohammad-najafi-and-abbas-safari-arrested-to-serve-their-sentences>

⁶⁰ “Iran: Three new cases of judicial harassment and arbitrary detention targeting human rights lawyers” OMCT, 19 February 2019.

<http://www.omct.org/human-rights-defenders/urgent-interventions/iran/2019/02/d25250/>

earth” (Article 286).⁶¹ Their trial – ongoing since January 2019 – is marred by allegations that their confessions were extracted through torture.⁶² The group was detained in January 2018, with PWFH’s Managing Director, Kavous Seyed-Emami, while conducting fieldwork. Seyed-Emami died in custody in Evin prison on 8 February 2018 in suspicious circumstances, which the authorities have called suicide. His death has not been independently investigated. Seyed-Emami’s widow Maryam Mobeini has since faced harassment: her passport was seized and she is subject to a travel ban.⁶³

- Between 31 December 2018 and 6 January 2019, eight EHRDs, all members of the Iran National Union Party, were arrested in Kurdistan.⁶⁴ So far, they have not had access to lawyers and their charges are unknown.⁶⁵
- Kurdish EHRDs Shaho Faraji and Arman Vafaie were arrested on the 17th and 18th of February 2019; their charges are unknown.⁶⁶

Digital surveillance and harassment

30. Online threats and intimidation have continued against arbitrarily detained journalists and political prisoners including the illegal access of their digital devices, and persons associated with them and/or advocating for their rights abroad.⁶⁷ This has included suspected government hacking.

31. On 26 April 2018, Imam Ali's Popular Student Relief Society (IAPSRS) announced it had suffered a series of cyberattacks, connected to a series of attacks on Iranians inside the country and in the diaspora that appeared to use the resources of the Telecommunication Infrastructure Company of Iran.⁶⁸

32. Sophisticated strategies and technologies have been employed , such as malware targeting journalists and members of civil society, and various methods of hijacking Telegram accounts.⁶⁹

Recommendations

- Cease the abusive and arbitrary application of the legal framework against journalists, human rights defenders, human rights lawyers, trade unionists, and peaceful protesters, including by dropping all outstanding charges, and guaranteeing the immediate and unconditional release of all those currently detained for exercising their rights to freedom of expression, peaceful assembly, and association, and quashing their convictions, and granting their access to remedies
- Cease the unlawful surveillance, and digital attacks against, individuals exercising their right to freedom of expression, assembly, and association, and ensure all such attacks are promptly, impartially, and exhaustively investigated
- Ensure all allegations of ill-treatment and torture in custody, and all deaths in custody, are subject to prompt, impartially, thorough, and exhaustive investigations, and those responsible held accountable.
- Lift travel bans applied against individuals exercising their rights to freedom of expression, assembly and association, their family members, or associates.

Freedom of expression online

33. In 2014, Iran accepted a recommendation related to taking “measures to ensure public access to the Internet”,⁷⁰ and partially accepted two on promoting freedom of expression and access to information online.⁷¹ It noted

⁶¹ Morad Tahbaz, Niloufar Bayani, Hooman Jokar, Sepideh Kashani and Taher Ghadirian. “The charge of corruption on earth to five environmental activists is based on the ruling of the army,” Iranwire. 22 October 2018. <https://iranwire.com/fa/features/28085>

⁶² “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/>

⁶³ “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>

⁶⁴ Fazel Gheytsi, Issa Feizi, Zanyar Zamiran, Reza Asadi, Amanj Ghorbani, Farhad Mohammadi, Hossein Kamangar, and Rashed Montazeri.

⁶⁵ “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/>

⁶⁶ “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>

⁶⁷ See documentation of Rezaian’s email hackings prior to his arrest on page 5 of his book Prisoner. <https://www.amazon.com/Prisoner-Prison-Solitary-Confinement-High-Stakes-Extraordinary/dp/0062691570> and the illegal seizures of the digital platforms of Nazanin Zaghari-Ratcliffe and Kavous Seyed-Emami. <https://www.article19.org/resources/iran-cases-zaghari-ratcliffe-seyed-emami-create-dark-precedent-privacy-violations-unlawful-detentions/>

⁶⁸ Imam Ali Twitter account: <https://twitter.com/imamalisociety>

⁶⁹ See the research and work of the Iran threats project here <https://iranthreats.github.io/> and other documentation of digital harassment of activists, journalists and civil society here in ARTICLE19’s “Tightening the Net Part Two: Soft War and Cyber Tactics in Iran,”

<https://www.article19.org/resources/tightening-the-net-part-2-the-soft-war-and-cyber-tactics-in-iran/>

⁷⁰ 138.239

⁷¹ 138.231;138.234

recommendations to “end its severe restrictions and surveillance of the Internet.”⁷² Despite election promises to keep the Internet open, freedom of expression online has come under unprecedented pressure.⁷³ Restrictive legislation has not been reformed, blocking and filtering of online content has been stepped up following protests December 2017. Simultaneously, the government has taken steps to undermine online anonymity, and centralise Internet infrastructure to increase control over the free flow of information online.

34. Dissenting voices are frequently subject to prosecution under the IPC for online expression, in particular for posts on social media platforms, as several of the aforementioned cases attest. Our organisations are additionally concerned by prosecutions relating to online expression, under provisions which carry the death penalty:
 - Sina Dehghan was convicted in April 2018 with the charge of insulting the Prophet under Article 262 in relation to posts on social media and messaging platforms. He faces the death penalty, and is currently awaiting appeal.⁷⁴ His conviction is based on a forced confession.⁷⁵
 - Soheil Arabi, a photographer arrested in November 2013, 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 ten and a half years’ imprisonment.⁷⁶
 - Administrators of social media channels used to circulate information in Iran, in particular Telegram, have also been targeted under the IPC.
35. The Computer Crimes Law (CCL), adopted in 2010, also undermines freedom of expression and information and the right to privacy.⁷⁷ Vague provisions give wide discretion to law enforcement authorities, including the Revolutionary Guards (IRGC), and the Iranian Cyber Police (FATA) to pursue individuals they wish to silence.⁷⁸ Article 10 of the CCL facilitates state surveillance by prohibiting Internet users and companies from using encryption, which is essential to counter-balance the chilling effect of legal restrictions obstructing Internet users’ ability to freely seek and impart information online.
36. During protests in December 2017 and January 2018, Internet users reported intermittent periods of disconnection across various ISPs throughout Iran where users could not connect to websites and applications hosted outside of Iran.⁷⁹
37. The National Security Council ordered the Internet Exchange Point to disrupt Internet traffic, indicating that even national legal procedures were not followed. According to national law, filtering should follow a decision by the Committee Charged with Determining Offensive Content, which is situated within the judicial rather than security branch.
38. Circumvention tools such as “Lantern” were also targeted by blocking access to cloud-host services such as Digital Ocean, despite the fact that many local businesses use this website for other purposes, creating unintended collateral impacts.⁸⁰
39. Twitter remains entirely blocked in Iran, after it was first blocked in 2009 during Presidential elections and protests. Senior members of the judiciary have signaled the imminent blocking of Instagram for alleged promotion of immorality. Telegram – by far the most popular messaging app in Iran with 40 million users – was permanently blocked by court order on 30 April 2018 on the basis of national security, though use of the app

⁷² 138.230; 138.238

⁷³ ARTICLE 19’s series on “tightening the net” in Iran; available at: <https://www.article19.org/tightening-net-monitoring-internet-freedoms-iran/>

⁷⁴ “Death Sentence for Expression of Opinion in Iran; Demand for a Retrial,” Iran Human Rights, April 9, 2018. <https://iranhr.net/en/articles/3274/>

⁷⁵ “Young Man Facing Death for Insulting Islam Online Tricked into Signing Confession,” CHRI, March 24, 2017.

<https://www.iranhumanrights.org/2017/03/young-man-facing-death-for-insulting-islam-online-tricked-into-signing-confession/>

⁷⁶ 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

⁷⁷ “Islamic Republic of Iran: Computer Crimes Law,” ARTICLE19, 2012. <https://bit.ly/1RecP6R>

<https://www.article19.org/resources.php/resource/2922/en/iran-computer-crimes-law>

⁷⁸ 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>

⁷⁹ “Iran’s severely disrupted internet during protests: ‘websites hardly open’,” CHRI, 2 January 2018; available at: <https://tinyurl.com/y78butao>

⁸⁰ “Netizen Report: Iranian Authorities Blocking International Web Traffic, Messaging Platforms” Global Voices Advx, 4 January 2018.

http://www.slate.com/blogs/future_tense/2018/01/04/netizen_report_iranian_authorities_blocking_international_web_traffic_messaging.html

around organisation of protests in early 2018 is suspected to be the true motivation.⁸¹ Blocking Telegram resulted in significant collateral blocking: Internet users reported difficulties accessing the Apple App store, and WhatsApp, and in use of circumvention tools, as well as slower connections and throttling of encrypted traffic.⁸²

40. As access to Telegram and other platforms has become more restricted, privately-owned, Iranian versions of these platforms have grown in popularity, including platforms such as “Hotgram” and “Telegram Talae”. Suspected links between owners of these platforms and government raise serious concerns for privacy and safety of users. The majority of these platforms also fail to use end-to-end encryption, further undermining the security of users.⁸³
41. In a worrying legislative development, the draft “Social Media Organisation Bill”⁸⁴, released on 19 November 2018, seeks to criminalise Internet users who access blocked websites under Article 27. The offence carries a penalty of up to 6 months’ imprisonment.
42. The intensification of blocking and filtering confirmed concerns around the expansion of government control enabled by Iran’s the National Information Network (NIN)⁸⁵, which first launched in 2012.⁸⁶ The government’s efforts are particularly concerning, given the broad content-based criminal offences within the CCL and its corresponding and far-reaching surveillance, search and seizure powers.⁸⁷ Additional efforts to undermine net neutrality principles, by convincing Iranian telecommunications companies to provide subsidies for Iranians to use local Internet platforms – over which the government has influence – are strengthening the government’s censorship and monitoring capabilities.⁸⁸
43. We are concerned by the announcement of the “Preservation and Protection of Personal Data Bill” on the 28 July 2018.⁸⁹ The Bill reflects policies released by the Supreme Council of Cyberspace in 2017, which aimed to nationalise Internet infrastructure in Iran.⁹⁰ The Bill would enable surveillance and reduce the availability of foreign-owned apps and social media platforms, increasing reliance on less secure Iranian technologies.⁹¹
44. 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. The draft Bill fails to include a provision that explicitly protects the right to freedom of expression, media freedom, academia, the arts, and literature⁹².
45. US sanctions on Iran continue to affect freedom of expression and information.⁹³ In December 2018, the platform Slack temporarily banned all users who had ever connected to the platform from Iranian IP addresses. Slack reinstated accounts under public pressure, while continuing to block users connecting from Iran.⁹⁴ In March 2018, Apple made the App Store unavailable in Iran, with significant impacts on the ability of people in the

⁸¹ “Iran: The block on Telegram is a blow to freedom of expression,” Access Now. 11 May 2018. <https://www.accessnow.org/iran-the-block-on-telegram-is-a-blow-to-freedom-of-expression/>

⁸² This has been acknowledged by the ICT Ministry. “The closure of circumvention tools has started,” IRNA, 15 May 2019; available at: <http://www.irna.ir/fa/News/82916267>

⁸³ “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

⁸⁴ “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>

⁸⁵ Sometimes known as “halal” internet, national intranet, or nation internet project.

⁸⁶ “Tightening the Net: Iran’s National Internet Project,” ARTICLE19. 29 March 2017. <https://www.article19.org/resources/tightening-the-net-irans-national-internet-project/>

⁸⁷ “Islamic Republic of Iran: Computer Crimes Law,” ARTICLE19, 2012. <https://bit.ly/1RecP6R>
<https://www.article19.org/resources.php/resource/2922/en/iran-computer-crimes-law>

⁸⁸ “Tightening the Net: Internet controls during and after Iran’s protests,” ARTICLE19. 8 March 2018. <https://www.article19.org/resources/tightening-net-internet-controls-irans-protests/>

⁸⁹ “The Preservation and Protection of Personal Data Bill,” via the Ministry of ICT website, 28 July 2018; available at: <https://bit.ly/2xFRi0X>

⁹⁰ Tightening the Net: A New Cabinet and New Attempts at Control, 18 September 2017, Appendix 1; available at: <https://bit.ly/2QlphOE>

⁹¹ Articles of the GDPR: Processing of freedom of expression and information; available at: <https://bit.ly/2MLN3Gz>

⁹² ARTICLE 19 legal analysis, forthcoming.

⁹³ Technology sanctions on Iran have existed for decades. “Iran Sanctions,” US Department of Treasury. <https://www.treasury.gov/resource-center/sanctions/Programs/pages/iran.aspx>

⁹⁴ “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

country to communicate online at a crucial political moment.⁹⁵ The blocking of Telegram in April 2018 resulted in collateral blocking of WhatsApp and the disabling of many VPNs: Apple device users were unable to access the App Store through their usual proxies, and were unable to download new VPNs or communication apps.⁹⁶

Recommendations

- Refrain from all measures to intentionally disrupt access to the Internet or mobile networks - including Internet shutdowns, blocking and filtering measures – in particular during protests, and elections, and lift blocking orders on Telegram and Twitter.
- Take all necessary steps to guarantee freedom of expression and information online, including by ceasing the harassment of individuals exercising their right to freedom of expression online
- Enact clear laws to ensure online content is only blocked on the basis of judicial decisions, and only where it is strictly necessary, proportionate, in compliance with international human rights law and standards;
- Guarantee the right to privacy online, including by refraining from introducing measures to restrict online anonymity, including the use of encryption and circumvention tools.
- Repeal all data localization requirements, and attempts to force the use of local platforms and other efforts to centralize control over the Internet.
- Withdraw the Preservation and Protection and Personal Data Bill, and ‘Social Media Organisation Bill’, pending their comprehensive reform to ensure their compliance with international human rights law and standards.
- Comprehensively reform the Computer Crimes Law, with the full and effective participation of all relevant stakeholders including civil society, in particular to repeal provisions that unduly restrict the right to privacy and freedom of expression and information.

Right to Information

46. In 2014, Iran partially accepted a recommendation to ‘eliminate restrictions to the free flow of information, including through the Internet.’⁹⁷ In a positive development, 2016’s non-binding “Citizenship Rights Charter” established a right to access public information held by public institutions and private institutions providing public services [Article 30]; and for individuals to access personal data held about them by those institutions [Article 31].⁹⁸ 2009’s Publication and Free Access to Information Act (Access to Information Act) provides a legal basis for citizens’ right to access information held by government institutions and certain private bodies.

47. While the adoption of the law was positive, and its implementation since 2015 welcome, it nevertheless requires further reforms.⁹⁹ In particular:

- Under Note 1, Article 10,¹⁰⁰ bodies under the control of the Supreme Leader (such as the Revolutionary Guard, Ministry of Intelligence and Security, and Supreme Council of Cyberspace) are only permitted to proactively publish information about their structures and activities *with his permission*, and enables the most opaque public bodies to evade scrutiny, despite the high public interest in their activities..
- Only citizens have the right to access information protected, as well as Iran-based companies (Article 2), excluding all migrants, in contravention of the right to equal protection under the law.¹⁰¹

⁹⁵“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>

⁹⁶ “Closing of the Gates: Implications of Iran’s Ban on the Telegram Messaging App,” CHRI, June 2018. <https://www.iranhumanrights.org/wp-content/uploads/Closing-the-gates-3-online.pdf>

⁹⁷ 138.234

⁹⁸ See translation of the act in the appendix of: “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/>

⁹⁹ See ARTICLE 19’s full legal analysis of the Law, “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/>

¹⁰⁰ “**Article 10:** In support of citizens’ rights and public interest, Public institutions must provide at least annually, their general information, including operations and fiscal reports, while protecting their classified information, through their websites, or published as a journal, to provide to citizens for a fee upon request. The content could include: a) Objectives, responsibilities, policies, and structure; b) Procedures and levels of services provided directly to the public; c) Methods of receiving complaints from the public for the institution’s consideration and action; d) Nature of information held by the institution and procedures for accessing them; e) Duties and responsibilities of its high-ranking officers; f) Methods and procedures whereby natural persons, legal entities, or non-governmental organizations could utilize to be involved or have an impact.

Note 1: Provisions of this article with respect to organs that are under the direct supervision of the Supreme Leader are subject to his Excellency’s agreement.”

“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/>

¹⁰¹ **Article 2:** “Any person of Iranian nationality has the right to access public information, unless otherwise indicated by law [or ‘unless banned by law’]. Use of public information, and/or its publication is subject to relevant laws and regulations.”

“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/>

- Chapter IV sets out over-broad and ill-defined exemptions, which are reported to be cited frequently to justify non-compliance with requests:¹⁰²
 - Article 13 exempts the release of classified information. This is the most problematic section, referring to the 1975 Secrets Act, an archaic law from the Shah’s regime which broadly defines what constitutes classified information with little guidance.¹⁰³
 - Note 2, Article 17 exempts the release of information that would “cause defamation and disgrace” or that are “against public decency and/or promoting vice”, against international standards.¹⁰⁴
- Chapter V creates a Commission 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.¹⁰⁵ The appeals mechanism itself is not clearly set out.

48. Implementation of the Act has been slow.¹⁰⁶ Since 2018, although the number of requests has increased,¹⁰⁷ responses are not always provided, and some have included false information.¹⁰⁸ There is no clear means of appeal or remedy set out in the law or its bylaws, with no defined timeline for responses to complaints. Reports to ARTICLE 19 have noted that complaints made via the portal have not elicited a response, or remedy.

Recommendations

- Review and reform the Access to Information Act to bring it in line with international human rights law, including to repeal the over-broad exemptions contained in Chapter IV, and to ensure the obligation of transparency applies to all relevant bodies including the Office of the Supreme Leader and all organs under his supervision; and to expand the right of information to all those in Iran.
 - Ensure the full implementation of the Access to Information law, including through the adoption of the necessary explanatory bylaws, and through the adoption of effective appeals procedures and creation of a fully independent oversight body.

¹⁰² Hamshahri, “Filtering Confidentiality,” January 2019, Hamshahri Newspaper, <https://bit.ly/2Flrg8z>

¹⁰³ **Article 13:** “Requests for documents or information that are considered classified (State’s confidential information) should be denied. Accessing classified information is subject to specific laws and regulations”.

¹⁰⁴ **Article 17:** “Institutions subject to this Act are obliged to deny requests for information if harmful to: a) public peace and security; b) prevention of crime and investigation, arrest or prosecution of offenders; c) tax audits, government fees and their collection; d) supervision over immigration to the country.

Note 1: Provisions of Articles 13 to 16 do not apply to information pertaining to existence or emergence of environmental hazards or threats to public health

Note 2: Provisions of Articles 15 to 17 do not apply to information that could cause defamation and disgrace, or are against public decency and/or promoting vice.”

“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/>

¹⁰⁵ “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/>

¹⁰⁶ “How to Make an Information Request” ARTICLE 19, 23 January 2018, available at: <https://www.article19.org/resources/make-information-request-iran/>

¹⁰⁷ “Free Access to Information from the Second!”, ISNA, Available at: <https://bit.ly/20A1gJg>

¹⁰⁸ For example this concern reported by a journalist to Iran’s Minister of Culture and Islamic Guidance, Hossein Entezami via Twitter <https://twitter.com/kheyzaran/status/1019209072179019776>, and here where the information provided was reported as irrelevant and incorrect by a journalist <https://twitter.com/nasringhavami/status/1092530396489670656> and the Minister’s response to allegations of fictitious and false responses is to call on those providing and media organisations to hold them accountable according to the law:

https://twitter.com/h_entezami/status/1061344713800908800; Hamshahri, Majles Will Not Respond to All Information Requests, 2019, available at: <https://bit.ly/2YyJKJT>