

ARTICLE 19

Deceit, denials, and delays:

How Iran keeps its public in the dark

26 April 2022

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Introduction

“Iran’s Constitution guarantees the right to freedom of expression in its Article 24 and the right to gatherings and assemblies in its Article 27... Over the past year, in line with legal standards, 331 assemblies have taken place across the country.”¹

Seyyed Salman Samani, a member of the Islamic Republic of Iran’s delegation, said these words during the country’s third Universal Periodic Review before the United Nations Human Rights Council (UN HRC) in November 2019. A few days after Samani’s claims before the international community, the world witnessed with horror the shocking scenes of deadly violence used by state security forces against unarmed protesters across Iran. The security forces’ deliberate and unlawful use of lethal force killed a harrowing number of men, women, and children within a span of days: Amnesty International has [recorded the names and details of hundreds of individuals](#) and stated that the real number of those killed is higher but many feared to speak out or go public with information about the deaths fearing reprisals from the government. Many others were seriously injured and subjected to arbitrary detention, [enforced disappearances, torture](#), and other ill-treatment.

Samani is not the only Iranian official who has made claims that a significant number of assemblies are held every year. In January 2018, the political deputy of the Ministry of Interior Esmail Jabbarzadeh stated that over 30,000 assemblies had taken place since President Hassan Rouhani took office in 2013 – a staggering average of nearly 6,000 assemblies each year. Jabbarzadeh, however, did not clarify if these assemblies were held after obtaining a permit from the authorities or if it included those that took place without a licence. He further claimed that Rouhani’s Administration had not only prevented assemblies but also ensured that those attending did not face even ‘the slightest harassment’, and that the Governors’ Offices and the police had shown full cooperation to ensure the safety of assemblies and maintain public order.²

The authorities’ claims about upholding the right to peaceful assembly and allowing thousands of assemblies every year without the ‘slightest harassment’ are rendered meaningless by the state’s violent and increasingly deadly suppression of protests and assemblies that do not align with its ideology and policies, and the security forces’ use of unlawful lethal force against peaceful and unarmed protesters. Moreover, state institutions,

as this report demonstrates, have failed to provide adequate or, in many cases, any response when individuals have submitted access to information (ATI) requests under the [Publication and Free Access to Information Act 2009](#) (the Freedom of Information Act) demanding information about these claims. In 2019, individuals in Iran submitted at least 117 assembly and protest-related ATI requests to the relevant authorities. The number of assemblies that the authorities claim to have permitted has not gone unnoticed by people submitting requests – they have cited these numbers when demanding information and used ATI requests as an instrument to compel the Iranian authorities to show transparency.

ARTICLE 19 reviewed 117 assembly and protest-related ATI requests submitted during 2019 as officially recorded and reported by the Secretary of the Commission for Free Publication and Access to Information (Information Commission). ARTICLE 19 found that although the Iranian authorities make proclamations about upholding the right to peaceful assembly in front of the media and before the international community, when their own people ask for public information about these assemblies via ATI requests, the authorities refuse to comply or provide responses, thereby failing to be transparent and accountable.

ARTICLE 19 is concerned that state institutions, in particular provincial Governors' Offices and the Ministry of Interior, have either ignored assembly and protest-related ATI requests or have denied the requested information on the grounds that it is classified. Where they have provided responses, the responses have generally been partial and incomplete. As ARTICLE 19 has repeatedly [highlighted](#) in the past, provisions of the Freedom of Information Act violate international human rights law and standards. The provisions allow for problematic, vaguely-formulated exemptions that limit the release of information and establish broadly-defined grounds for refusal. Nonetheless, even these flawed provisions do not give state or public institutions the right to refuse the release of information, as the public interest test³ in releasing such information has not been correctly applied. As such, the people who deny the release of requested information violate international human rights law, as well as Iran's domestic laws.

Methodology and background

ARTICLE 19 examined 117 assembly and protest-related ATI requests submitted under Iran's Freedom of Information Act between January and November 2019. The organisation studied these requests and the responses provided by state institutions, including the Ministry of Interior and provincial Governors' Offices, to assess their level of compliance with the Act and with international human rights law and standards by which Iran is bound.

The ATI requests analysed in this report involve:

- 93 ATI requests submitted to the Ministry of Interior and the Governors' Offices in all 31 provinces in Iran asking questions about assemblies granted or denied permission since 2013.
- 24 assembly and protest-related ATI requests about nationwide protests in 2017/2018 and 2019 and the Internet shutdown imposed during the November 2019 nationwide protests.

Ninety-three ATI requests examined by ARTICLE 19 demanded identical information and details, and this provided an opportunity to highlight how state institutions, in particular the Ministry of Interior and Governors' Offices who received the requests, treated requests. These requests were analysed separately from the other assembly and protest-related ATI requests, and the statistics provided, including the response rate, were limited to only these requests – they do not reflect the remaining 24 assembly and protest-related ATI requests.

The ATI requests examined in this report and the responses to them were made available as a spreadsheet published by the Office of the Secretary of the Commission for Publication and Free Access to Information, the body mandated with overseeing the implementation of the Act.⁴ At the time when ARTICLE 19 examined the spreadsheet in 2021, the spreadsheet contained ATI requests submitted up to November 2019.

In addition to these documents, ARTICLE 19's research into publicly available material revealed another public source, which has also published some of the assembly-related requests and responses examined in this report. This unofficial source document (an article published on a domestic website) was authored by an individual/s who submitted a

series of assembly-related ATI requests in 2019. As the ATI requests originated from the author/s of the article, they had access to some information that the Information Commission has failed to officially record in their spreadsheet and make publicly available.⁵

While this analysis, including the statistics provided, is based on the officially recorded and reported ATI requests and the responses received, the information provided in the unofficial source document is also reflected as it draws a more complete picture of whether and how state institutions have responded to ATI requests and demonstrates flaws, irregularities, discrepancies and omissions in the publication of ATI requests and their responses.

Irregularities and omissions in the Information Commission spreadsheet have posed challenges to the analysis by ARTICLE 19. For example, some responses provided by public institutions make references to attached documents, but these attachments are not made publicly available. In other instances, follow-up requests show that an initial response may have been provided; however, the spreadsheet fails to include these responses in some cases.

In addition to the spreadsheet, the National Freedom of Information Portal has made some ATI requests available on its database. Although the database makes the attachments provided by institutions available, serious flaws in its search function mean a large number of ATI requests are inaccessible. For example, advanced search functions have been designed to facilitate the filtering of search outcomes; however, some functions, including those that allow institutions to filter the information, do not seem to work adequately or at all.

Where possible, ARTICLE 19 has used the unofficial source document to complement the Information Commission's spreadsheet. In at least three instances, Governors' Offices referred to attachments in their responses; however, ARTICLE 19 was only able to access and review these attachments through the unofficial source document.

The publication of ATI requests by the Information Commission is a positive step. However, major delays and flaws continue to hamper its work, including the lack of timely and accurate publication of reports and other documents and material that should be

available to the public, such as annual reports which the Information Commission must publish under Article 20 of the Freedom of Information Act. The Information Commission finally published its first report on the implementation of the Act covering a two-year period between 2017 and 2018, but this was not until the end of 2019, nearly a year after the deadline. Reporting on implementation of the Act in 2019 and 2020 has had similar delays.

Domestic legal framework

The right of access to information in Iran

Under the Freedom of Information Act,⁶ every Iranian citizen has a right to request information held by public, private, and other institutions providing public services. The law requires institutions to reply to the requested information within 10 working days. The law provides for the right of citizens to request any form of information held by public institutions such as copies of contracts, published and unpublished reports, emails, data sets, planning permissions, receipts for spending, or budget outlines. The information covered by the Act can be in any form, including written documents, audiovisual files, images, and data in any physical or electronic form, as long as it has been recorded. Article 7 of the Act prohibits public institutions from asking the requester to ‘provide a reason or explanation for their request’. Furthermore, any refusal to release information must be communicated to the requester along with the legal and adequate reasoning. Refusals may not go beyond the exemptions outlined under the Act.

The Freedom of Information Act is Iran’s first step towards meeting its obligations under international law to guarantee the right to information. However, the Act has many shortcomings, including imposing broad and vague exemptions to the release of information and must be amended to ensure compatibility with international law. In the past two years, the Information Commission, the body mandated with the implementation of the Act, has drafted and enacted [additional directives](#) which, [according to Hossein Entezami](#), Secretary of the Information Commission, seek to clarify the content of the Act, provide guidance on points of ambiguity or where the Act is silent, and to facilitate the implementation of its provisions. These directives address issues such as detection and separation of government secrets from public information, resolving disputes with regards to releasing information, and detection and separation of personal and private information from public information.⁷

The passage of these directives is a step in the right direction. However, major flaws in the Act remain unaddressed. Among the most important of these flaws is an item under Article 13 of the Act, which allows for ‘classified’ information to be exempt from requests for release. Under its 2014 bylaw, determination of what counts as ‘classified’ is based on the

archaic Punishment for Publication and Disclosure of Confidential and Secret Government Documents Act (Secrets Act), dating back to 1975, which defines secret information in vague and broad terms, and enables this definition to cover a range of information that the public should be entitled to access. While the directive on determining state secrets provides some guidance, it is still based on the Secrets Act and does not address this fundamental flaw in the legislation.

Moreover, the directives fail to expand the right of access to information beyond the limited remits of the Freedom of Information Act. Currently, the Act only applies to Iranian citizens, leaving the rights of non-citizens, such as refugees and asylum seekers from other countries, including Afghanistan, as well as other residents unprotected. There are also concerns about the independence of the Information Commission because it is within the Ministry of Culture and Islamic Guidance, which is known for limiting the right to freedom of expression.

The right to peaceful assembly in Iran

The right to peaceful assembly, which is at the core of the ATI requests examined for this report, is not fully guaranteed in Iran in law or in practice. The country's Constitution fails to guarantee the right in line with international law as it subjects the right to vague qualifications. Under Article 27 of the [Constitution](#), 'Public gatherings and marches may be freely held, provided arms are not carried and that they are not detrimental to the fundamental principles of Islam.' However, there is no definition of 'the fundamental principles of Islam', meaning the authorities are granted wide interpretive discretion.

Moreover, further restrictions are imposed on the right by other domestic laws. While the Constitution is silent on the issue of obtaining permissions for holding assemblies, the Law on Operation of Political Groups and Parties 2016 requires assemblies to have prior permission and only allows established political parties to request permission to hold them. Under the Law, political parties that have a licence to operate within Iran's laws have a series of 'rights and privileges', one of which is holding demonstrations and assemblies with the knowledge and/or permission of the Ministry of Interior and the Governor's Office in question. The Law requires the Secretary of the Party to apply for the required permission at least 72 hours before the planned assembly.

Neither the 2016 Law on political parties or its bylaw, nor any other laws in Iran provide for individuals and groups other than political parties to request permission to hold assemblies. This is even more alarming considering the eligibility criteria for forming a political party. For example, under Note 2 to Article 2 of the Law, the statutes of political parties must ensure, among other conditions, that its 'worldviews, ideologies and beliefs' fall within Islamic principles, with no definition of what these principle are. Moreover, individuals founding a political party or wishing to be members of one must meet certain eligibility criteria such as 'believing in and demonstrated commitment to the Constitution and the principle of absolute guardianship of the Islamic jurist' (Article 4). Article 5 of the Law excludes, among others, those convicted of crimes against national security; those suspected by security and intelligence bodies of espionage before the issuance of a verdict by a court; and those who 'visibly commit vice', again, with no definition of what constitutes 'vice'. In reality, these groups sweep up a large number of human rights defenders, women's rights activists, trade unionists and labour rights activists, journalists and media workers, lawyers, and others who peacefully exercise their human rights, such as women who protest against obligatory veiling.

The limitations imposed on the right to peaceful assembly through the Constitution and other laws, detailed above, mean that only assemblies aligned with state-sanctioned ideologies and organised through state-approved political parties are legally permitted. In practice, unlicensed assemblies that further the state's ideologies and policies or do not challenge or criticise them are also allowed. All other assemblies, as statements from various officials demonstrate, are regarded as illegal. Research and documentation by human rights organisations show that the authorities demonstrate little to zero tolerance towards unlicensed assemblies that do not align with their policies and ideologies. Organisers and participants of such assemblies face systematic repression and are subjected to unlawful and excessive force including live ammunition, arrest, detention, torture and other ill-treatment, enforced disappearances, and harsh punishments such as long imprisonment sentences.⁸

Assembly and protest-related ATI requests submitted in 2019

Analysis of 93 ATI requests

The Iranian authorities' claims about upholding the right to assembly have not gone unnoticed by people in Iran. Individuals have used the Freedom of Information Act to compel the authorities to demonstrate transparency and compliance with their obligations to uphold the right to peaceful assembly.

As detailed earlier, there have been major delays and flaws in the publication of ATI requests submitted under the Act and of the responses provided by the Information Commission. The exact number of assembly and protest-related ATI requests submitted by people in Iran remains unclear to date. ARTICLE 19 has identified at least 93 ATI requests submitted in 2019 to the Ministry of Interior and the Governors' Offices in all 31 provinces in Iran regarding the number of permission requests for assemblies over the past few years. These requests, identified in the official Information Commission document, show that each institution received between two and five requests. ARTICLE 19 understands that of the 93 requests, 12 were follow-up requests to previously submitted requests that had either remained unanswered or received partial or inadequate answers; the remaining 81 were first-time requests.

These ATI requests asked the Ministry of Interior and all provincial Governors' Offices for detailed information about licence applications for assemblies and demonstrations received since March 2013 (1392 in the Iranian calendar).⁹ The requested information included the following:

- Who made these requests (both legal entities and actual persons)?
- What were the aims of these assemblies?
- When and where were the requested assemblies and demonstrations to be held?
- Was permission granted or rejected for each assembly request?
- When requests were rejected, on what grounds were they denied?

At the time of writing this report, ARTICLE 19 had identified a further 24 assembly and protest-related ATI requests where individuals asked for different types of information pertaining to assemblies and protests, including the number of gatherings outside a government building in a certain province, directives and bylaws with regards to holding assemblies, and the number of individuals arrested and killed during the nationwide protests in 2017/2018 and November 2019. These requests are discussed later.

The institutions' responses to these 93 ATI requests

ARTICLE 19 examined these 93 officially recorded and reported ATI requests in relation to licences granted or denied for assembly licence applications and found that the majority of state institutions either ignored the ATI requests or refused to provide the requesters with information on the grounds that they constitute classified information. A number of Governors' Offices provided some information; however, in most cases they failed to provide adequate information and only provided partial responses to the questions.

The failure to provide any response

A review of officially recorded ATIs reveals that state institutions did not respond to 62 out of 93 requests, which is 67% of the requests. The official Information Commission document records the responses by various Governors' Offices; however, it does not record responses to assembly and protest-related ATI requests received in 2019 for 11 out of the 31 provinces, including the Governors' Offices in Alborz,¹⁰ Ilam, Razavi Khorasan, Northern Khorasan,¹¹ Zanzan, Sistan and Baluchestan,¹² Kurdistan, Kermanshah,¹³ Kohgiluyeh and Boyer-Ahmad,¹⁴ Western Azerbaijan,¹⁵ and Mazandaran. According to the document, the Ministry of Interior also did not respond to the requests it received.

According to the unofficial source document, some of the Governors' Offices for which no response is recorded in the official Information Commission spreadsheet have in fact provided a response. Of the provinces named above, the Governors' Offices in Zanzan and Mazandaran stated that they had not received any requests for assembly permissions since 2013. The unofficial source document also sheds light on some of the responses provided by other Governors' Offices. For example, the Governor's Office in Fars province, in a contradictory manner, initially refused to release the requested information on the grounds that it was classified, but upon receiving a follow-up complaint responded that it

had not received any requests for assemblies since 2013. Similarly, the Governor’s Office in Kurdistan provided two contradictory responses, one stating that it had not received any applications for assembly licences and the other stating that it did not hold the requested information. According to the response from Alborz province, two requests for assembly permissions were submitted during the aforementioned time frame, but the responses lacked clarity as to whether these requests were rejected or granted.

Release of information by institutions in response to ATI requests

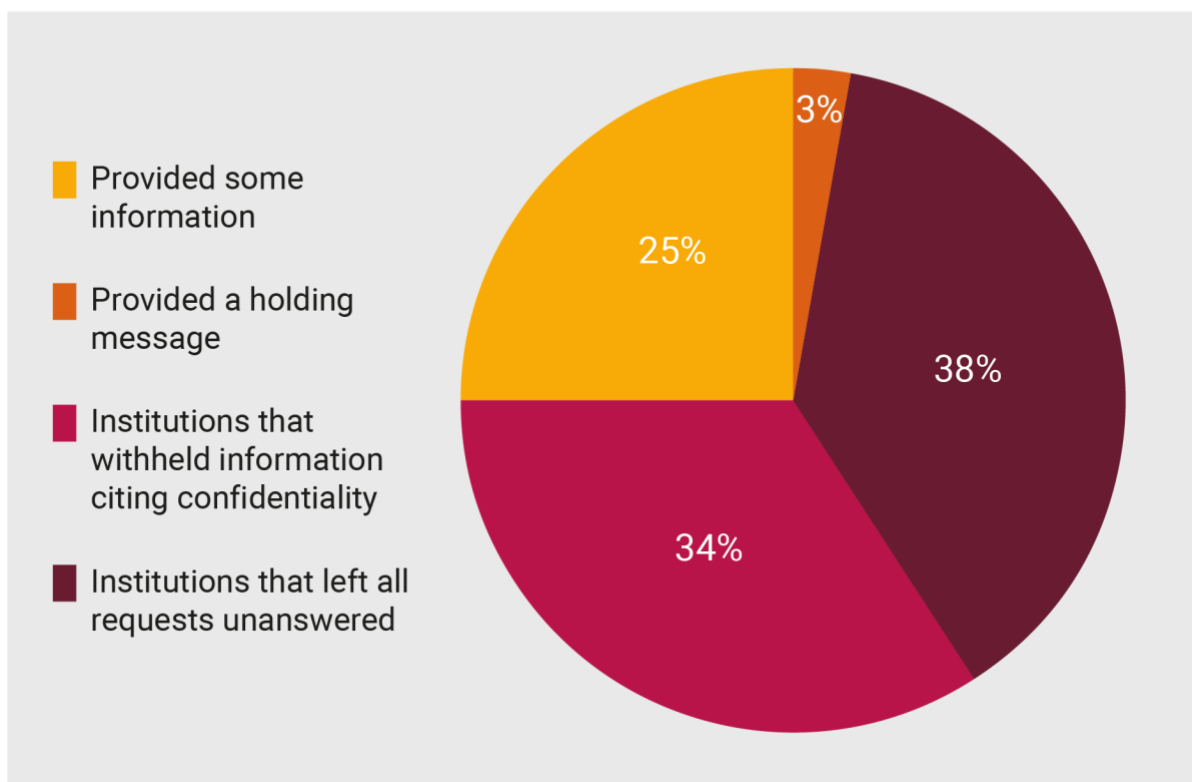


Figure 1: Rate of release of information by 31 Governors’ Offices in response to ATI requests in 2019 demanding information on governmental licences granted to assemblies.

Rejections on the grounds that information is classified

The authorities provided a response to ATI requests in 31 instances. However, according to the officially published information, in 18 instances where a response was given, the institution in question denied the request on grounds that it was ‘classified’ or constituted ‘confidential’ information; that the release of information was not ‘prudent’; or that it could

only be accessed by individuals holding certain positions or it required approval from ‘higher authorities’.

2019 ATI requests on licenses granted to assemblies

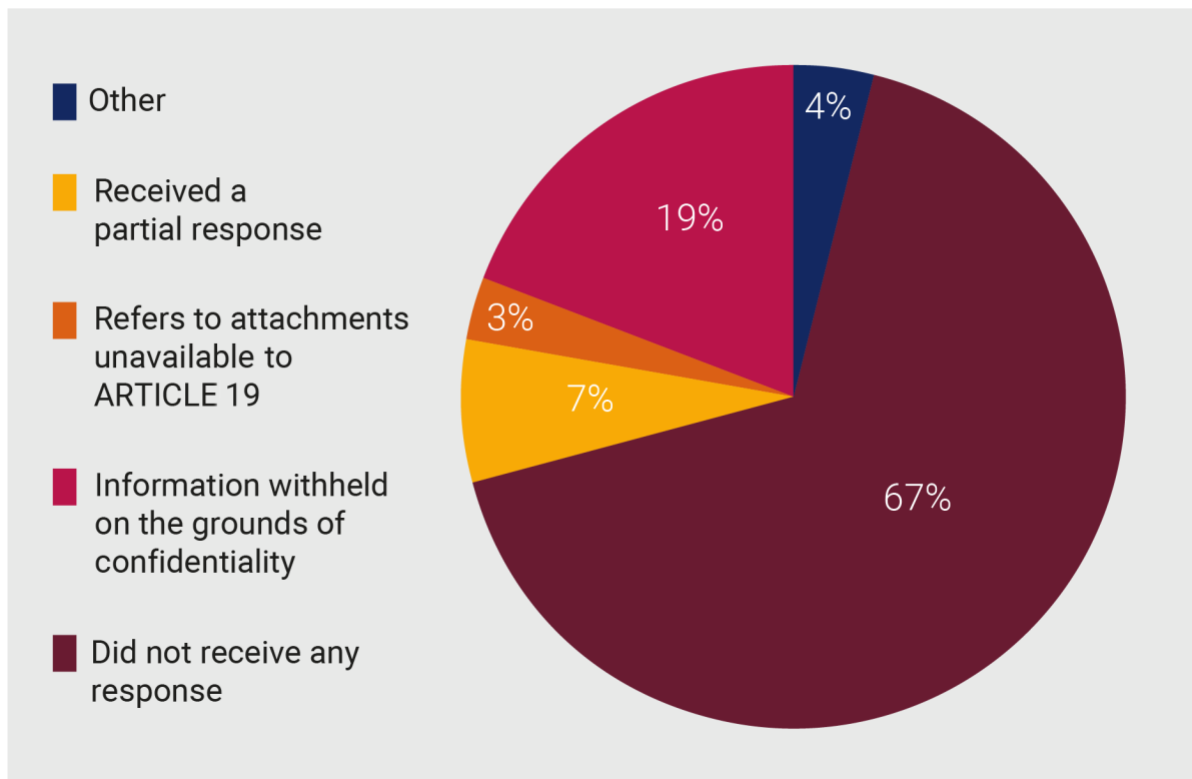


Figure 2: ATI requests submitted in 2019 demanding information on governmental licences granted to assemblies

Governors’ Offices that denied ATI requests on the grounds that the information was ‘classified’ referred to slightly different reasons for their confidentiality. While some Governors’ Offices, for example in Kerman and Fars provinces, referred to the information being classified without providing any further details, others cited directives or guidance from certain departments when arguing that the information was classified. For example, the Governor’s Office in Eastern Azerbaijan stated that ‘under the guidance received from the Political and Electoral Affairs Department, the requested figures were classified and did not fall under the Publication and Free Access to Information Act’ and that ‘their release without authorisation from higher authorities was not possible’. The Hamedan Governor’s Office similarly referred to correspondence with the Office’s Political and

Security and Legal Departments when rejecting the request on the grounds of confidentiality. The text of these correspondence and guidance notes have not been made available.

Some Governors' Offices, for example those in Isfahan and Chaharmahal Bakhtiari, initially stated that the information about requests for assembly licences were considered classified. However, after follow-up requests that challenged the classification of the requested information as state secrets, both offices modified their responses, stating that under regulations by their security departments, the release of requested information is only allowed 'if the requester is the secretary of a [political] party'. This does not constitute a legal ground for denial under the Act.

Partial and inadequate responses

Of the Governors' Offices that provided a response, three (in Lorestan, Qom, and Gilan) referred to attached documents. ARTICLE 19 has not been able to access these documents on the official Information Commission's website or the National Freedom of Information Portal; however, it has been able to review them via the unofficial source document.

According to the documents from the unofficial source, the Governor's Office in Lorestan stated that between 2013 and 2019, the Office received 18 requests for assemblies. Of these, 15 received permission and three were denied. Thirteen of the assembly requests that were granted permission related to electoral campaigns, including those of the presidential election in 2013. On the three occasions where the assembly requests were denied, the reason for rejection is cited as 'the illegality of the assembly'. These three rejected requests were submitted by residents in three villages, two of which related to urban/rural planning and one to illegal water well pumps. The Office did not provide any details on why the requested assemblies were deemed illegal.

The Governor's Office in Qom, according to the unofficial source, provided the requester with a table containing annual figures. Based on the table, between March 2013 and September 2018, the Office had received 10 applications for assembly licences, two of which were granted and the rest rejected.¹⁶ The table also states that during the same period, a total of 288 assemblies were held, 286 of which did not have a licence. The

response does not contain any information about the individuals and entities submitting the applications, the subject of the assemblies, their dates and locations, or the reasons for which the majority of requests were denied.

A similar table was provided by the Governor's Office in Gilan. According to this table, between March 2013 and September 2018, the Office received 1,200 licence requests for assemblies, of which 1,188 were granted and 12 were denied. The table also states that during the same period, 1,509 assemblies were held, 321 of which did not have a licence. The Office failed to provide any information on other aspects of the ATI requests, including the purpose of the assemblies, who requested the licences, their date and location, and the reasons for not granting licences when they were denied.

Governors' Offices in Yazd, Southern Khorasan, and Semnan also provided minimal and incomplete information. For example, the Office in Yazd stated that it had received eight requests for assembly licences since 2013 and that none of these requests were granted. It provided no information about who had asked for licences, what they were about, or the grounds on which the requests had been denied.

Low figures were also cited by other offices:

- The Governor's Office in Semnan stated that 'due to citizens' lack of adequate awareness about the legal processes resulting in the issuance of assembly licences, the number of requests made to the Governor's Office for holding assemblies is very limited'. The Office went on to say that since 2013, it had only received two requests for assembly licences, both of which had been granted.
- The Governor's Office in Markazi stated that 'in Markazi province, licences were requested for holding demonstrations in support of hijab and decency and in support of Yemeni children. These requests were granted.'
- The Governor's Office in Southern Khorasan stated that it had received only one request in 2015, which had been granted. According to the Office, the requested assembly was for a demonstration by children to promote reading books.
- The Governor's Office in Qazvin stated that no assembly licence requests had been submitted since 2016 and that no information concerning requests prior to 2016 existed.

- The Governor's Office in Bushehr stated that it had not received any requests for assembly permissions since 2013.

These responses are not only minimal and incomplete – failing to respond to various parts of the ATI requests – but they also raise questions such as how could an average of 6,000 assemblies, as claimed by the political deputy of the Ministry of Interior, be held every year while zero, or close to zero, requests for assemblies have been made in major provinces over the same years?

The responses by the Governors' Offices indicate that the large number of assemblies the authorities claim have been held every year are either exaggerated or they refer to assemblies that have not received a licence. The authorities therefore appear to be using the assemblies that they refer to as 'illegal' and routinely crack down on to showcase their tolerance for protests and respect for the right to peaceful assembly before the international community.

Other assembly and protest-related ATI requests

In addition to the 93 requests discussed earlier, ARTICLE 19 has identified at least 24 other ATI requests submitted in 2019 pertaining to various aspects of protests and assemblies. The majority of these requests, as detailed in the following section, pertain to violations and incidents that took place during the November 2019 nationwide protests. The responses of the institutions holding the requested information follow a similar pattern to those provided to the above requests. Many of these requests received partial and incomplete responses or were denied on the grounds of confidentiality. For example:

- Two ATI requests asked the Ministry of Interior for the disaggregated (by city and subject) list of the 331 assemblies the Ministry of Interior's spokesperson claimed had received a licence during the previous year. According to the official records, neither request received a response.
- Another ATI request asked the Ministry of Interior for details about the nationwide protests in December 2017 and January 2018, including the number of cities in which protests broke out, the number of those arrested, as well as their level of education and social status. The officially recorded response by the Ministry states that providing the

requested information required the cooperation of various bodies and that the Ministry had asked these bodies for the information and would provide them to the requester as soon as they were received. The official Information Commission document does not record any other response, and it remains unclear to ARTICLE 19 whether, and to what level, the Ministry ultimately responded to the request.

- The Governor's Office in Hormozgan refused to provide any information with regards to the number of protests held in front of the office building over the previous year on the grounds that it was considered 'classified'.

ATI requests related to the November 2019 nationwide protests

The Iranian authorities' treatment of the November 2019 nationwide protests has not only been marked with [shocking violence and brutality](#) used to repress the protesters, but also with continued lack of accountability and concealment of the truth. To date, the Iranian authorities have refused to carry out independent, impartial, and transparent investigations in line with international law into the serious human rights violations and international crimes committed during and in the aftermath of the protests. Those responsible continue to enjoy absolute impunity and positions of power, while victims, survivors, and the society as a whole are denied truth and justice.

This ongoing lack of accountability means that the authorities have continued to conceal the actual number of people killed, injured and arrested during the November 2019 protests and denied people the truth about other aspects of the crackdown, including the week-long near-total Internet shutdown, in the shadow of which the bloody crackdown was carried out. In May 2020, the authorities announced for the first time that approximately 230 people were killed during the protests, including six members of the security forces. Amnesty International has recorded the details of [hundreds of men, women, and children who were killed](#) by security forces during the protests, stating that the real number of deaths is likely to be higher.

In this context of impunity, a number of people have used ATI requests as a tool to compel state institutions to show some level of transparency. For reasons stated earlier, ARTICLE 19 has been unable to determine the exact number of ATI requests pertaining to the November 2019 protests. The organisation has, however, been able to identify and

examine a number of ATI requests submitted in 2019 pertaining to aspects of the protests, in particular to the Internet shutdown. The requests included the following:

- An ATI request submitted to the Governor's Office in Khuzestan province referred to reports about the high number of people killed in Mahshahr, Khuzestan¹⁷ during the protests and asked for the latest official death toll. According to the official records published by the Information Commission, no response was provided to the requester.
- Two requests were submitted to Melli and Sepah banks, both of which are government-owned corporations, asking for the number of branches that sustained damages on 17 and 18 November 2019 during the nationwide protests. According to the official Information Commission spreadsheet, neither institution provided a response. Alarming, the commentary of the Secretary of the Information Commission for both requests made to the banks inaccurately states that the questions fall outside the scope of the 2009 Freedom of Information Act.

ARTICLE 19 has also identified at least 12 ATI requests submitted primarily to the Ministry of Information and Communications Technology of Iran (Ministry of ICT) but also to the Ministry of Interior and the Parliament¹⁸ in which requesters asked for information about the Internet shutdown imposed during the protests. The ATI requests demanded information about the reasons for the Internet shutdown, the bodies responsible for the decision, and the ways in which individuals could submit complaints against the responsible bodies and officials.

Of the 12 ATI requests, the Ministry of ICT received nine requests, while the Ministry of Interior and Parliament received the remaining three. While the Ministry provided a response in all nine instances, the majority of these responses were insufficient or constituted refusals to release information on the grounds that it was classified.

A review of the Ministry of ICT responses to requests asking for reasons behind the imposition of the shutdown and the channels for lodging complaints against the bodies responsible for the decision revealed that the Ministry generally attempted to absolve itself of any responsibility by attributing the decision-making to other bodies. In its responses, the Ministry stated that under a decision by the Supreme National Security Council, the authority to 'connect and disconnect the Internet in special circumstances' was granted to

the Minister of Interior and the National Security Council, a body falling under the Supreme National Security Council. As such, the Ministry of ICT claimed that ‘it has no obligation to provide responses with regards to the Internet shutdown’. This claim is despite the fact that the decision within the Supreme National Security Council to shut down the Internet would probably have been made with counsel of the Minister of ICT because, as per Article 176 of the Constitution, the Minister could have been called upon to offer his opinion on the decision.

Moreover, in at least two requests, the Ministry of ICT was asked to provide the letter from the National Security Council ordering the Internet shutdown. In response, the Ministry of ICT stated that the requested letter was ‘classified’ and refused to provide it. Similarly, at least one requester asked the Ministry of Interior for the text of the decree by the National Security Council ordering the shutdown, reminding the Ministry that the decree pertains to the public’s rights and, as such, should not be considered a state secret. The official records show that the Ministry did not provide any response to this request.

The Ministry of ICT also received two requests asking for the names of individuals and organisations who were connected to the global Internet during the Internet shutdown and the financial cost of the shutdown (between 15 November and 19 November 2019). In response, the Ministry of ICT stated that ‘operators had received notification to keep all websites, media outlets, and newspapers which had a licence from the Ministry of Guidance connected’ to the global Internet. With regards to the costs, the Ministry of ICT stated that, according to the Communication Regulatory Authority, the damage to communication operators alone amounted to approximately USD 44 million (based on the exchange rate at the time of publication for 10,800 billion Rials) and that the damages incurred by other business were being calculated.

The official Information Commission spreadsheet also includes comments made by the Secretary of the Information Commission regarding ATI requests. Alarming, the Secretary’s commentaries on nearly all ATI requests seeking information about the Internet shutdown state that these requests ‘fall outside the inclusion of the Freedom of Information Act’. These commentaries fail to provide any clarifications as to how or why questions about decisions that affected and disrupted the lives of millions of people in

numerous ways and violated an array of their human rights fall outside the scope of the Act.

Unlawful and arbitrary denial of ATI requests

ARTICLE 19's review of institutions' responses, or lack thereof, to assembly and protest-related ATI requests shows that the denial of requests for information in these instances has been both arbitrary and unlawful. Indeed, requesters have pointed to the unlawful and arbitrary nature of these denials in their follow-up requests, demonstrating a good grasp of their own rights as well as the responsibilities of public institutions under the law.

As explained earlier, Iran's Freedom of Information Act, while a step forward, is undermined by a number of shortcomings, including an overly broad and vague exemption clause that allows for refusal to release information on the grounds that it is 'classified'. Under Article 13 of the Act, the release of 'classified' information is exempt, and under its 2014 bylaw, determination of what counts as 'classified' is based on the archaic Punishment for Publication and Disclosure of Confidential and Secret Government Documents Act, dating back to 1975, which defines secret information as 'documents whose disclosure is against the interests of the state or country' and which has been used to cover a range of information the public should be entitled to access. These vague and broad exceptions give public institutions the power to arbitrarily refuse the release of information.

Although a large number of Governors' Offices have denied the release of information requests in relation to assemblies and protests on the grounds that it is 'classified', ARTICLE 19 believes that, despite the vague and broad exemption clauses, the requested information cannot be denied on grounds of being 'classified' because decisions pertaining to public rights and duties cannot be considered as state secrets under the Freedom of Information Act. Article 11 of the Act states that 'Resolutions or decisions that concern public rights and responsibilities cannot be classified as confidential State information; therefore, their publication is mandatory.' The right to peaceful assembly is a human right guaranteed by international human rights law – by which Iran is bound – as well as by Iran's Constitution, albeit in a flawed manner. Similarly, access to the Internet, as a right

recognised under the right to freedom of expression, belongs to all people and it is the duty of the state to ensure that all individuals can enjoy this right.

The requirement for publication of information pertaining to public rights and responsibilities has been further elaborated under a directive adopted by the Information Commission in May 2020. Article 1 of the Directive, entitled the 'Directive on Publication and Access to Information Pertaining to People's Rights and Duties (Laws, Regulations and Public Decisions)', states that all decisions – whether in the form of directives, laws, bylaws that create general obligations, prohibitions, or deprivations – are considered information pertaining to the people's rights and duties. Classification of such information is prohibited under Article 5 of the Directive. Moreover, Article 2 clarifies that the decisions of Supreme Councils also fall under the Directive if they meet the conditions outlined under Article 1.

While the date of the passage of the Directive is after the date of the requests, Article 11 of the Freedom of Information Act, which explicitly excludes information relating to the rights of the public from the exemption clause, was in force at the time of the submission of requests. Moreover, and importantly, Article 5 of the Directive has a retroactive nature as it obligates state institutions that have previously classified information pertaining to the rights and the duties of the public to declassify such information.

As such, ARTICLE 19 believes that the Ministry of Interior, provincial Governors' Offices, and other relevant information holders are under a legal obligation to publicly release the requested information.

In addition to being unlawful, the manner in which Governors' Offices have responded to requests is marked by arbitrariness and contradictions. How can information about granting or denying assembly licences be a state secret in some provinces but not in others? As requesters have highlighted in their follow-up requests, offices in provinces such as Yazd and Gilan have released the requested information, although only partially. These contradictions demonstrate that the requested information does not fall under any overarching confidentiality regulation; rather, it is the authorities who, in an arbitrary and unlawful manner, have classified the information as state secret.

Iran's international obligations to uphold the rights of access to information and peaceful assemblies

As a state party to the International Covenant on Civil and Political Rights (ICCPR), Iran is obligated to guarantee the rights to peaceful assembly and the right of access to information.

The right to peaceful assembly is recognised under [Article 21 of the ICCPR](#). The UN Human Rights Committee (OHCHR), in its General Comment 37, has clarified that Article 21 'protects peaceful assemblies wherever they take place: outdoors, indoors and online; in public and private spaces; or a combination thereof... [and] whether they are stationary, such as pickets, or mobile, such as processions or marches.' Assemblies may take various forms such as 'demonstrations, protests, meetings, processions, rallies, sit-ins, candlelit vigils and flash mobs'.¹⁹

OHCHR has further required that the right to peaceful assembly must be recognised under domestic law and that 'the duties and responsibilities of all public officials involved' must be 'aligned with the relevant international standards and be publicly accessible'. States also have an obligation to 'ensure public awareness about the law and relevant regulations, including any procedures to be followed by those wishing to exercise the right, who the responsible authorities are, the rules applicable to those officials, and the remedies available for alleged violations of rights'. Importantly, OHCHR has highlighted that '[f]reedom of access to information held by public bodies (art. 19 (2)) underlies the ability of the public to know about the legal and administrative framework applicable to assemblies and enables them to hold public officials accountable.'²⁰

General Comment 37 obliges states to meet the so-called three-part test of restrictions on assemblies. All restrictions must be prescribed by law; pursue a legitimate aim; and meet the strict tests of necessity and proportionality. Blanket restrictions on peaceful assemblies are presumptively disproportionate. Restrictions cannot be grounded on the mere possibility that an '[assembly may provoke adverse or even violent reactions](#)'. Moreover, according to OHCHR, 'Official decisions restricting the exercise of assembly rights must be open to legal challenge in a process that meets fair and public hearing requirements.'²¹

OHCHR has further [clarified](#) that spontaneous assemblies, which are typically direct responses to current events and as such are not organised by giving prior notification to the authorities, are equally protected under Article 21 of the ICCPR and that '[h]aving to apply for permission from the authorities undercuts the idea that peaceful assembly is a basic right'.²² Notification systems creating obligations to inform the authorities in advance 'are permissible to the extent necessary to assist the authorities in facilitating the smooth conduct of peaceful assemblies and protecting the rights of others'.²³ Any requirement for notification should not be misused to stifle the right to assembly, and notification procedures should be transparent. Moreover, the fact that certain domestic legal requirements pertaining to an assembly have not been met by its organisers or participants does not, on its own, place the participants outside the scope of the protection of Article 21.²⁴

The right of access to information is well established in international law as a human right relating to freedom of expression, as well as an important mechanism for achieving other rights, including ensuring social and economic rights. It is also crucial for combating corruption.

The right is recognised under [Article 19 of the Universal Declaration of Human Rights](#) and [Article 19 of the ICCPR](#) as an element of freedom of expression and the right to seek and receive information. In its [General Comment 34](#), OHCHR interpreted the scope and limits of the right to information in 2011, stating that Article 19 of the ICCPR ensures the right to information held by public bodies. It requires that states proactively disseminate information in the public interest and that the access is 'easy, prompt, effective and practical'. It also states that countries must enact 'necessary procedures' such as legislation to give effect to the right to information and that fees for access must be limited, responses to requests must be timely, authorities must provide explanations for withholding information, and states need to establish appeals mechanisms.

OHCHR further described the right to information in Article 19 of the ICCPR in the case of [Toktakunov v Kyrgyzstan](#), reaffirming that exemptions to the right are limited to only those permitted under Article 19(3) and that information should be provided without requiring a direct interest or explanation.

Recommendations

Freedom of expression and assembly

ARTICLE 19 calls on the Iranian authorities to repeal or substantially amend the country's domestic legislation to guarantee the rights to freedom of expression and peaceful assembly in line with their international human rights obligations. Among the urgent actions they must take are:

- Amending the country's Constitution as well as the 2016 Law on Operation of Political Groups and Parties and its bylaw and the Islamic Penal Code to ensure that the rights to freedom of expression, association, and assembly are fully guaranteed in line with the country's obligations; are not subjected to vague and broad qualifications; and that any restrictions imposed on these rights are exceptional, are prescribed by law, pursue a legitimate aim, and are proportionate.
- Repealing or substantially amending, with a view to bringing into conformity with international law, Articles 24, 26, and 27 of Iran's Constitution as well as the vaguely-worded provisions of the Islamic Penal Code that unduly restrict the rights to freedom of expression, association, and peaceful assembly, including Articles 499, 499 bis, 500, 500 bis, 514, 609, 610, 618, and 698.
- Abolishing all regulations and practices that require, in law or effect, prior permission or licences in order for protests to take place and ensuring that notification regimes for protests are voluntary. Where notification regimes are in force, they must be for the purpose of enabling the authorities to put in place the necessary arrangements to facilitate protests; protesters should never be asked to submit requests for permission to hold a protest; and notice periods should be limited to a maximum of 48 hours before the protests are due to take place.
- Ensuring that all rights of individuals, including their rights to life, to be free from torture and other ill-treatment, liberty, freedom of expression, and privacy, are fully guaranteed in the context of protests and that measures such as Internet shutdowns which violate the rights to freedom of expression and access to information and facilitate the concealment of human rights violations are prohibited.

- Ensuring in law and practice that all decision-making processes by public authorities relating to protests are transparent, accessible, and comply with international due process standards and that any violations committed in the context of protests are investigated in line with international law and those responsible are held to account, including through criminal proceedings that comply with international fair trial standards.

The Publication and Free Access to Information Act 2009 and its bylaws

ARTICLE 19 calls on the Iranian authorities to:

Review and amend the Publication and Free Access to Information Act 2009 and its bylaws with a view to bringing it into conformity with international human rights law by:

- Guaranteeing the right of non-citizens such as immigrants, refugees, and asylum seekers to access information through submitting ATI requests.
- Repealing or substantially amending provisions providing for broad exemptions to the release of information, including Article 17, and ensuring that any restrictions to the right to access information strictly adhere to international law and standards.
- Ensuring that people with disabilities can seek and receive information by means and formats accessible to them.
- Adopting provisions that provide for translation for national minorities.
- Adopting a bylaw on reuse of information and data obtained under the Act's provisions.
- Guaranteeing the independence of the Commission for Publication and Free Access to Information.
- Repealing or substantially amending other legislation that unduly restricts the right to access information, including the 1975 Punishment for Publication and Disclosure of Confidential and Secret Government Documents Act.

The Iranian authorities must also take measures to improve the implementation of the Act by:

- Ensuring that all bodies covered by the Act, including institutions falling under the Judiciary and the control of the Supreme Leader, comply with their legal duties to proactively publish information and grant information requests, including on protests and assemblies.
- Ensuring the timely and full publication of the Information Commission's annual reports as well as ATI requests submitted under the Act and the responses to them.
- Reviewing and amending the functions of the National Freedom of Information Portal to ensure that all ATI requests and their responses are easily accessible.

Annex I: Public institutions' treatment of 93 assembly and protest-related ATI requests submitted in 2019

No.	Public institution	Requests received	Requests ignored	Requests rejected due to confidentiality	Holding message only	Some response provided
	The Ministry of Interior	3	3	0	0	0
1	Governor's Office, Alborz	3	3	0	0	0
2	Governor's Office, Ardebil	3	1	1	1	0
3	Governor's Office, Azerbaijan, Eastern	2	1	1	0	0
4	Governor's Office, Azerbaijan, Western	4	4	0	0	0
5	Governor's Office, Bushehr	2	1	1	0	0
6	Governor's Office, Chaharmahal Bakhtiari	4	2	2	0	0
7	Governor's Office, Isfahan	4	2	2	0	0
8	Governor's Office, Fars	4	1	3	0	0
9	Governor's Office, Gilan	3	1	0	0	2
10	Governor's Office, Golestan	2	1	1	0	0

11	Governor's Office, Hamedan	2	0	2	0	0
12	Governor's Office, Hormozgan	4	2	1	1	0
13	Governor's Office, Ilam	2	2	0	0	0
14	Governor's Office, Kerman	4	1	3	0	0
15	Governor's Office, Kermanshah	5	5	0	0	0
16	Governor's Office, Khorasan, Razavi	4	4	0	0	0
17	Governor's Office, Khorasan, Northern	2	2	0	0	0
18	Governor's Office, Khorasan, Southern	2	1	0	0	1
19	Governor's Office, Khuzestan	3	2	0	1	0
20	Governor's Office, Kohgiluye and Boyer- Ahmad	3	3	0	0	0
21	Governor's Office, Kurdistan	3	3	0	0	0

22	Governor's Office, Lorestan	2	1	0	0	1
23	Governor's Office, Markazi	2	1	0	0	1
24	Governor's Office, Mazandaran	3	3	0	0	0
25	Governor's Office, Qazvin	3	2	0	0	1
26	Governor's Office, Qom	2	1	0	0	1
27	Governor's Office, Semnan	3	2	0	0	1
28	Governor's Office, Sistan and Baluchestan	2	2	0	0	0
29	Governor's Office, Tehran	2	1	1	0	0
30	Governor's Office, Yazd	2	0	0	0	2
31	Governor's Office, Zanjan	4	4	0	0	0

Annex II: Number of assemblies held between March 2013 and November 2019 according to provincial governors' offices

No.	Province	Requests for assembly licence	Licences issued	Licences denied	Assemblies held without a licence	Total number of assemblies
1	Alborz	2	n/a	n/a	n/a	n/a
2	Ardebil	n/a	n/a	n/a	n/a	n/a
3	Azerbaijan, Eastern	n/a	n/a	n/a	n/a	n/a
4	Azerbaijan, Western	n/a	n/a	n/a	n/a	n/a
5	Bushehr	0	0	0	n/a	n/a
6	Chaharmahal Bakhtiari	n/a	n/a	n/a	n/a	n/a
7	Isfahan	n/a	n/a	n/a	n/a	n/a
8	Fars	0	0	0	n/a	n/a
9	Gilan	1,200	1,188	12	321	1,509
10	Golestan	n/a	n/a	n/a	n/a	n/a
11	Hamedan	n/a	n/a	n/a	n/a	n/a
12	Hormozgan	n/a	n/a	n/a	n/a	n/a
13	Ilam	n/a	n/a	n/a	n/a	n/a
14	Kerman	n/a	n/a	n/a	n/a	n/a
15	Kermanshah	n/a	n/a	n/a	n/a	n/a
16	Khorasan, Razavi	n/a	n/a	n/a	n/a	n/a

17	Khorasan, Northern	n/a	n/a	n/a	n/a	n/a
18	Khorasan, Southern	n/a	n/a	n/a	n/a	n/a
19	Khuzestan	n/a	n/a	n/a	n/a	n/a
20	Kohgiluyeh and Boyer-Ahmad	n/a	n/a	n/a	n/a	n/a
21	Kurdistan	0	0	0	n/a	n/a
22	Lorestan	18	15	3	n/a	n/a
23	Markazi	2	2	0	n/a	n/a
24	Mazandaran	0	0	0	n/a	n/a
25	Qazvin	n/a	n/a	n/a	n/a	n/a
26	Qom	10	2	9	286	288
27	Semnan	2	2	0	n/a	n/a
28	Sistan and Baluchestan	n/a	n/a	n/a	n/a	n/a
29	Tehran	n/a	n/a	n/a	n/a	n/a
30	Yazd	8	0	8	n/a	n/a
31	Zanjan	0	0	0	n/a	n/a
	Total	1,232	1,209	32	607	1,797

Endnotes

¹ Islamic Students' News Agency, '[331 legal assemblies held over the past year](#)', 11 November 2019.

² Hamshahri Online, '[Why are assemblies not issued licences? Ministry of Interior says there are legal vacuums](#)', 31 January 2018.

³ Even in cases where it can be shown that disclosure of requested information would cause substantial harm to a legitimate aim, the information should still be disclosed if the benefits of disclosure outweigh the harm. For example, certain information may be private in nature but at the same time expose high-level corruption within government. The harm to the legitimate aim must be weighed against the public interest in having the information made public. Where the latter is greater, the law should provide for disclosure of the information. Other public interests include making an important contribution to an ongoing public debate; promoting public participation in political debate; improving accountability for the running of public affairs in general and the use of public funds in particular; exposing serious wrongdoings, including human rights violations, other criminal offences, abuse of public office and deliberate concealment of serious wrongdoing; and benefiting public health or safety.

⁴ See <https://foia.farhang.gov.ir>

⁵ The unofficial sources document, written by an individual/s who submitted some of the ATI requests studied in this report, is public and therefore the documents published by it are publicly available. However, ARTICLE 19 has not provided a reference to the source to protect the privacy and security of the publisher. The published documents are on file with ARTICLE 19.

⁶ A translation of the Act and its bylaws can be found in [ARTICLE 19's analysis](#).

⁷ The directives passed so far are: (1) Directive on Dispute Resolution regarding Releasing Information; (2) Directive on Detection and Separation of Private and Personal Information from Public Information; (3) Directive on Publication and Access to Administrative Documents and Correspondence; (4) Directive on Publication and Access to Governmental Licences and Licences by Private Institutions Providing Public Services; (5) Directive on Publication and Access to Information Held by Private Institutions Providing Public Services; (6) Directive on Detection and Separation of State Secrets from Public Information; (7) Directive on Publication and Access to Information Held by Public Commercial Agencies; (8) Directive on Publication and Access to Information Held by NGOs; and (9) Directive on Publication and Access to Information Pertaining to People's Rights and Duties (Laws, Regulations, and Public Decisions).

⁸ For example, see Amnesty International, '[Trampling on Humanity](#)'; '[Iran: Details of 324 deaths](#)'; '[Iran: They Shot Our Children: Killing of Minors in November 2019 Protests](#)'; '[Iran: Release all individuals arrested solely for demonstrating peacefully and investigate the killing of protester](#)'; '[Iran: Ensure right to safe drinking water and release peaceful protesters in Khuzestan](#)'. See also Center for Human Rights in Iran, '[Deaths Rising in Sistan and Baluchistan as Unrest Continues Amid Internet Shutdown](#)'; '[Students](#)

[assaulted, arrested in state crackdown on university protests](#)’; and [Protesters deploring acid attacks against women are beaten and arrested](#)’.

⁹ The period starts shortly before the commencement of Hassan Rouhani’s presidency and covers the majority of his time in office.

¹⁰ According to the documents published by the unofficial source, the Governor’s Office in Alborz stated that it had received two requests for assembly permissions during the specified timeframe and had guided the applicants to another institution for ‘doing the administrative process of receiving assembly permissions’. According to the Office, students in Basij in Alborz province submitted one request for protesting against the import of foreign goods, the equivalent of which existed domestically. The Office stated that the second request submitted by contractors commissioned by the municipality in Karaj was related to a series of unfulfilled financial obligations by the Municipality. The language of the response by the Office is ambiguous and it remains unclear whether these requests were granted.

¹¹ According to information published by the unofficial source, the Governor’s Office in Northern Khorasan asked the requester to submit the request through a formal written letter and provided a phone number for the requester to call and receive further advice.

¹² According to the information published by the unofficial source, the Governor’s Office in Sistan and Baluchestan responded stating that the request had been forwarded to the relevant authority and would be released, unless it constituted classified information. No further response has been provided.

¹³ According to the unofficial source, the Governor’s Office in Kermanshah first asked the requester to resubmit the request citing a technical problem, and then refused to release the requested information on the grounds that it was ‘classified’ information, stating that the requester should go to the Office in person if they required further information.

¹⁴ According to the unofficial source, the Governor’s Office in Kohgiluyeh and Boyer-Ahmad refused to release the requested information on the grounds that it constituted ‘classified’ information.

¹⁵ According to the unofficial source, the Governor’s Office in Western Azerbaijan asked the requesters to direct their requests to the Ministry of Interior.

¹⁶ The table contains an error in that the total number of licence requests are 10, while the culmination of the requests granted (2) and those rejected (9) add up to 11.

¹⁷ According to [Amnesty International](#), the poverty-stricken suburbs around the capital Tehran suffered the most, with at least 176 deaths recorded there, followed by the minority-populated provinces of Khuzestan and Kermanshah, with 59 and 31 deaths recorded, respectively.

¹⁸ There were at least two ATI recorded requests submitted to Iran’s Parliament in 2019 in relation to the Internet shutdown. One request asked Parliament whether MPs had access to the global Internet while the rest of the population did not. Parliament responded that it was not the relevant body for responding to the request. Another request asked for detailed debates at Parliament on 16 and 17 November 2019 during the Internet shutdown. The request was written in a slightly vague manner, and it is unclear whether it seeks the text of the debates related to the shutdown or a debate that took place during the shutdown. In response, Parliament has guided the requester to its website.

¹⁹ UN Human Rights Committee (OHCHR), [General Comment No.37](#), Article 21: The right of peaceful assembly (2020), para 21.

²⁰ General Comment No.37, para 99.

²¹ General Comment No.37, para 99.

²² General Comment No.37, para 70.

²³ General Comment No.37, para 70.

²⁴ General Comment No.37, para 16.