

Flygtningenævnets baggrundsmateriale

Bilagsnr.:	712
Land:	Iran
Kilde:	Article 19
Titel:	Iran: Backsliding on UN Free Expression Commitments
Udgivet:	19. september 2017
Optaget på baggrundsmaterialet:	19. december 2017



Iran: Backsliding on UN Free Expression Commitments

Executive Summary

In this Universal Periodic Review (UPR) midterm report, ARTICLE 19 and Impact Iran assess the progress made by the Islamic Republic of Iran (Iran) in implementing freedom of expression related recommendations received during the second cycle in October 2014. Iran's third cycle review is due to take place November 2019.

During the second cycle of the UPR, Iran received 44 recommendations addressing the following themes relevant to freedom of expression:

- Lack of cooperation with the UN Special Procedures
- Legal restrictions on the rights to freedom of expression, peaceful assembly and association in the Iranian Constitution, Penal Code, Press Law
- Restrictions on the right to information
- Restrictions on freedom of expression online

ARTICLE 19 and Impact Iran considers that there has been severe regression and negligible progress in implementing these recommendations, with the right to freedom of expression and related rights heavily curtailed in Iran.

Lack of cooperation with the UN Special Procedures

Iran accepted five recommendations calling for cooperation with special procedures;¹ a further seven recommendations calling for Iran to facilitate country visits by the Special Rapporteur on the Situation of Human Rights in Iran (Special Rapporteur on Iran) were noted.²

Despite issuing a standing invitation to all Special Procedures in 2002, the Iranian authorities have not permitted any visits since 2005, including for the Special Rapporteur on Iran, though repeated requests have been made. Moreover, the government has taken no action to implement

¹ 138.77; 138.79; 138.80; 138.82; 138.83;

² 136.69; 138.74; 138.75; 138.76; 138.81; 138.84; 138.233

any of the mandates' recommendations to improve the human rights situation in the country. Recently, hardline elements in the government have also sought to undermine the Special Rapporteur on Iran, through spurious attacks on her character and credibility.³

Restrictions on freedom of expression, peaceful assembly and association in the Iranian Constitution and Penal Code

In 2014, Iran fully accepted recommendations to strengthen and promote freedom of expression in the country,⁴ and to guarantee a favourable environment for journalists, human rights defenders and civil society,⁵ among others,⁶ including some which were partially accepted.⁷ More specific recommendations, however, were noted, including to repeal all legal provisions that infringe the freedoms of expression, assembly and association, as guaranteed by the International Covenant on Civil and Political Rights and to lift restrictions of free expression.⁸

The 1979 Constitution of Iran protects the rights to free expression, peaceful assembly and association in Articles 24, 26, and 27 respectively, but also permits these rights to be curtailed in circumstances not compatible with the International Covenant on Civil and Political Rights (ICCPR). These include very vague terms that are not defined, enabling arbitrary restrictions on the exercise of these rights:

- Freedom of expression can be restricted if it is found to be “detrimental to the fundamental principles of Islam or the rights of the public”; (Articles 20 and 24);
- Article 40 prohibits the exercise of constitutional rights in a manner deemed to be “injurious to others” or “detrimental to public interests”;
- The preamble of the Constitution specifies that the media must “strictly refrain from diffusion and propagation of destructive and anti-Islamic practices”.

The Penal Code contains broad provisions criminalising expression that are against international human rights law; including criminal insult,⁹ and blasphemy provisions,¹⁰ criminalisation of disseminating “propaganda against the State”¹¹, spreading false rumours, lies, and creating “anxiety and unease in the public’s mind.”¹² Penalties include prison sentences (ranging from three months to five years), flogging, and death. Together with other vague and overbroad

³ <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=21524&LangID=E>

⁴ 138.236

⁵ 138.236

⁶ 138.235

⁷ 138.226; 138.237; 138.231; 138.234

⁸ 138.227; 138.232

⁹ Book Five, Articles 513, 514, 515, 517, 609.

¹⁰ Book Two, Part 2, Chapter 5

¹¹ Book Five, Article 500.

¹² Book One, Article 286

provisions,¹³ such as “acting against national security”, “membership in an illegal organization”, and “participation in an illegal gathering”, these are often interpreted to criminalise journalists, bloggers, human rights defenders and minority groups legitimately exercising their rights.

Harassment of journalists and human rights defenders

In 2014, Iran accepted two recommendations to create a favourable and empowering environment for civil society in Iran;¹⁴ partially accepted six,¹⁵ and noted a further six¹⁶ addressing the harassment and arbitrary detention of those exercising their legitimate rights to free expression and assembly, including journalists and human rights defenders.

Since 2014, activists, journalists, bloggers, human rights defenders, women’s rights advocates, trade unionists, have continued to be harassed, arbitrarily detained and given increasingly harsh prison sentences, often for trumped up national security-related charges.

In particular, as of August 2017, 30 journalists and bloggers are in detention,¹⁷ including:

- Issa Saharkhiz, charged with “insulting the Supreme Leader” for writing in memoirs; detained since November 2015 on a 21 month sentence, extended by another six months in June 2017;
- Afarin Chitsaz, charged with “assembly and collusion against national security” and “collaboration with enemy states” for political columns in Iran newspaper (affiliated with Hassan Rouhani), detained since November 2015;
- Ehsan Mazandarani, reformist journalist detained without charge since March 2017;
- Sasan Aghaie, reformist journalist detained without charge since 12 August 2017;
- Yaghma Fashkhami, reformist journalist detained without charge on 21 August 2017.

Human rights defenders and activists in detention include:

- Narges Mohammadi, arrested 2009, sentenced to 11 years in prison in October 2011 on charges of “assembly and collusion against national security,” “membership in the [now banned] Defenders of Human Rights Center,” and “propaganda against the state”.
- Arash Sadeghi, serving a 15 year sentence for peaceful human rights activism. He remains critically ill after a 71 day hunger strike in December 2016, which was undertaken to protest the imprisonment of his wife, who was jailed for writing a unpublished fictional story about stoning.
- Ali Shariati, activist detained in 2015, sentenced to five years for “acting against national security” for participating in a protest against acid attacks on 22 October 2014.”

¹³ Book Five, Article 502, 505, 507, 510, 511, 512

¹⁴ 138.224; 138.57

¹⁵ 138.226; 138.193; 138.229; 138.237; 138.232; 138.234;

¹⁶ 138.230; 138.222; 138.223; 138.225; 138.233

¹⁷ Iran Prison Atlas, United for Iran, <https://ipa.united4iran.org/en/prisoner/>

- Esmail Abdi, Secretary General of Iran's teachers' association, was ordered back to prison in October 2016 after his six year prison sentence for "propaganda against the state" and "collusion against national security" was upheld.
- Ebrahim Madadi, labour activist and leading member of Tehran's bus drivers' union; sentenced to five years and three months imprisonment in February 2016 for "gathering and colluding with intent to act against national security" and "disrupting public order and peace by participating in illegal gatherings."
- Khosro Kordpour, Kurdish activist and founder of the Mukerian news website, remains in arbitrary detention following his arrest in March 2013. More than three years has passed since the UN Working Group on Arbitrary Detention called for his urgent release.

Dual nationals of Iran and the USA, including journalist Jason Rezaian, were released during the prisoner swap linked to the 2015 Nuclear Negotiations.

Women's rights activists

Hardline bodies including the Islamic Revolutionary Guards Corps (IRGC) refer to Iran's women's rights movement as a foreign-led conspiracy against the government,¹⁸ with publications and campaigns promoting women's rights particularly targeted and activists harassed and detained.

In February 2016, the IRGC started an intensive campaign against those affiliated with the Campaign for Changing the Male Dominated Face of Parliament and the Feminist School.¹⁹ This included interrogations, alongside pressure to close or suspend their activities.²⁰ This clampdown stifled many feminist voices in Iran, including renowned women's rights magazine Zanan-e Emrooz, shuttered since July 2016 after a long struggle against forced closure.

In August 2017, Branch 26 of the Tehran Revolutionary Court reportedly sentenced women's rights activist Alieh Motlabzadeh to three years in prison on the charge of "assembly and collusion against national security" for attending a seminar on women's empowerment in Georgia in October 2016.²¹ Motlabzadeh was one of at least 20 women's rights activists interrogated by authorities for participation in this seminar;²² she plans to appeal the verdict.

Media Freedoms

In 2014, Iran accepted a recommendation committing itself to promoting free expression, 'particularly that of the press',²³ and partially accepted recommendations addressing media

¹⁸<https://globalvoices.org/2016/09/30/an-iranian-canadian-academic-is-released-but-irans-larger-crackdown-on-womens-rights-activists-continues/>

¹⁹ <http://www.feministschool.com/english/spip.php?article538>

²⁰<https://www.amnesty.org/en/latest/news/2016/08/iran-womens-rights-activists-treated-as-enemies-of-the-state-in-renewed-crackdown/>

²¹<https://www.iranhumanrights.org/2017/08/iranian-womens-rights-activist-to-serve-three-years-in-prison-for-attending-seminar/>

²² <https://www.iranhumanrights.org/2016/11/womens-rights-activist-arrested/>

²³ 138.236

freedom, safety of journalists, and access to foreign and domestic media, online and offline.²⁴ More specific recommendations to reform the press law, and cease censorship of the media were noted.²⁵

Rather than enhancing media freedom, Iran has ramped up pressure on the press. Several bills have been proposed since 2014 that threaten additional restrictions, if enacted.

The Press Law includes severe restrictions on media freedom,²⁶ including:

- Requirements for the press to pursue at least one of five “legitimate objectives”, which include “to campaign against manifestations of imperialistic culture” and “to propagate and promote genuine Islamic culture and sound ethical principles” (Article 2);
- Prohibitions on publishing 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 (Article 6).

In October 2016, President Rouhani’s administration proposed a new bill (the ‘**Comprehensive Mass Media Regulation**’) to replace the current Press Law,²⁷ which would impose greater restrictions on media freedom. If enacted, the bill would give greater discretion to judges and prosecutors to determine whether an offence has been committed, enabling judicial harassment of journalists and newspapers.

An October 2016 bill to establish a **Media Affairs Commission** also threatens to further erode media freedom.²⁸ The 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. The Commission will not be independent, and its extensive powers clearly violate international human rights law. Hossein Entezami, a former Ministry of Intelligence expert and known supporter of hardline media in Iran is expected to lead the Commission.

Access to Information

In 2014, Iran partially accepted recommendations to “guarantee freedom of speech and eliminate restrictions to the free flow of information, including through the Internet, and stop arrests,

²⁴ 138.229; 138.231

²⁵ 138.228; 138.222

²⁶ Press Law, 2002: <http://irandataportal.syr.edu/press-law>

²⁷ <https://www.iranhumanrights.org/2016/10/hassan-rouhani-government-bills-to-restrict-media/>

²⁸ Ibid

prosecution and sanction of individuals for expressing views and opinions.”²⁹ A recommendation to “ensure genuine freedom of expression and information, including on the Internet” was noted.³⁰

In a positive development, the 2016 non-binding “**Citizenship Rights Charter**” states that all citizens “must have free access to all laws and regulations or decisions made by public organizations within the Executive Branch”.

Since 2015, steps made to implement the **2009 Publication and Free Access to Information Act** law have been positive.

The Act provides a right to access information held by government institutions and some private bodies, and requires responses within 10 days. However, contradictory and vague provisions, as well as broad-based exceptions, undermine the law’s purpose. For example, “organs that are under the direct supervision of the Supreme Leader”, are not obliged to release information without the permission of the Supreme Leader (Article 10, Note 1).

Web portals to facilitate access to information were introduced in 2017, but implementation is impeded by insufficient awareness of and use of the Law, poor compliance by public bodies, and limited proactive disclosure of information. Comprehensive guidance and bylaws to clarify the legislation are needed.

Freedom of expression online

Iran accepted a recommendation to “give further account to its measures to ensure public access to the Internet”,³¹ and partially accepted two recommendations referencing promoting freedom of expression and access to information online.³² A further two recommendations, including to “end its severe restrictions and surveillance of the Internet, hence guaranteeing free, unrestricted access for all its citizens to Internet and Social Media”, were only noted.³³

In spite of rhetoric from Rouhani’s administration in favour of broadening online freedoms, restrictions to freedom of expression online have continued to grow since 2014.

Mahmoud Vaezi, the Minister of Information and Communications Technology at the time, announced in February 2017 that, in cooperation with the Supreme Council of Cyberspace (SCC), they were increasing efforts to criminally prosecute Internet users who post “immoral” content, instead of pursuing the platforms or their administrators. This followed a November 2016 announcement that the government had censored 95 million “immoral” Instagram posts; neither the censored content, nor the “intelligent censorship technology” the government is using, have been revealed.

²⁹ 138.234

³⁰ 138.230

³¹ 138.239

³² 138.231;138.234

³³ 138.230; 138.238

Website blocking continues, including of Facebook and Twitter (blocked since the 2009 Presidential election), BBC Persian, and websites of human rights organisations, such as Human Rights Watch, Justice for Iran and ARTICLE 19, or political opposition groups, such as the political opposition group known as the Green Movement's Kaleme news website.

On 28 August 2017, the newly instated Minister of ICT, Mohammad-Azari Jahromi reversed a decision by the Rouhani administration not to block Telegram, implementing a shutdown of 8,000 new channels. Overall, the appointment of Jahromi, a former member of the Ministry of Intelligence associated with building that Ministry's surveillance infrastructure and allegedly implicated in human right violations against Green Movement protesters, has marked a dark turn for prospects for freedom of expression online in Iran.

In a positive development, websites providing circumvention technology enabling Internet users to access content that is otherwise blocked in the country, were not blocked during the 2017 Presidential elections, unlike in previous election cycles. Internet speed connections were also not throttled, as they were throughout the 2013 Presidential election season.

On 7 August 2017, the SCC introduced new data localisation regulations, called "**The Policies and Actions Regarding Organizing Social Media Messaging Applications**" which would drastically increase the government's surveillance capabilities. These require social media and messaging platforms to either move their servers into Iran, or face blocking orders imposed by the Committee Charged with Determining Offensive Content.³⁴

Enforcement of the Computer Crimes Law

The **Computer Crimes Law** (CCL),³⁵ adopted in 2010, continues to pose serious concern. In particular:

- Article 14 criminalises "producing, sending, publishing, distributing, saving or financially engaging in obscene content";
- Article 10 facilitates surveillance by effectively prohibiting Internet users and companies from using encryption, or protecting data, in a manner that would "deny access of authorised individuals to data, computer and telecommunication systems";
- Article 21 allows the judiciary to fine or shutdown ISPs that do not filter content, amongst other punishments for not adhering to regulations to censor or surveil online;
- Article 48, within the fifth section of the law, incorporates a corresponding regulation to collect data related to telephone conversations to the Internet.³⁶

³⁴ See new SCC regulation, published 7 August 2017 <http://bit.ly/2wCsbcT>

³⁵ ARTICLE 19's translation and analysis of the Computer Crimes Law in full; available here: <https://www.article19.org/resources.php/resource/2922/en/iran-computer-crimes-law>

³⁶ *Ibid*

These vague provisions give wide discretion to law enforcement authorities, including the IRGC and the Iranian Cyber Police (FATA),³⁷ to arbitrarily arrest and detain individuals on the basis of political motivations. Sanctions include prison sentences and fines, among others. In a notable June 2015 case, FATA made a series of 6 arrests of individuals accused of creating “23 anti-cultural groups” on the Line and WhatsApp applications that published “falsehoods and immoral content”,³⁸ under Article 14 of the CCL.

³⁷ 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>

³⁸ See report on FATA arrests here: <http://ana.ir/news/34320>