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Restrictions on Freedom of Expression in the Islamic Republic of Iran

Iran Human Rights Documentation Center

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Iran Human Rights Documentation Center, New Haven, Connecticut

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Introduction

In 2006, when Reza Haghighatnejad was the editor of a local newspaper in Yazd, his paper published a front page story about the high rate of domestic violence against women in the city. The story was based on data compiled by a government study. Within hours the newspaper's office received calls from government officials who objected to the story's publication. They stated that the reputations of Yazd, and that of its women, were injured by the report. The fact that the study was commissioned by the government did not matter. By the end of the day, Haghighatnejad's newspaper decided to publish an apology on the next day, and falsely claim that the story was not accurate. Had this step not been taken, the newspaper's leadership feared that it would have been closed down.¹

The latest round of arrests of journalists in Iran occurred in 2015. Solmaz Eikder, a journalist who worked at several newspapers, was arrested on June 11, 2015 as she was about to leave the country.² She was subsequently sentenced to three years of imprisonment on charges of insulting the Supreme Leader and insulting sacred religious values.³ On October 7, 2015, Hasan Sheikhaghahi, the managing editor of Ruwange News, a website focusing on Kurdistan Province, was arrested.⁴ On November 2, 2015 Isa Saharkhiz, and Ehsan Mazandarani, the managing editor of the daily *Farhikhtegan*, were arrested by the IRGC intelligence division. On November 3, 2015, Afarin Chitsaz, a journalist working at *Iran* newspaper, and Saman Safarzaei, a journalist with the *Andisheye Pouya* monthly, were also arrested.⁵ These arrests followed a speech by Iran's Supreme Leader on September 16, 2015, in which he warned of Western infiltration in the Iranian society. In that speech Ayatollah Khamenei stated, "Economic and security infiltration are, of course, dangerous. But the enemy's political and cultural infiltration is much more dangerous and everyone should watch for it."⁶

The arbitrary and extra-legal nature of restrictions on freedom of expression, as evident from the above example, makes it very difficult to predict the limits of acceptable speech in Iran. This uncertainty is even reflected in the Iranian Constitution, which states, "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."⁷ What is considered permissible under Islam, however, is a subject of great debate.

¹ Witness Testimony of Reza Haghighatnejad, (Aug. 2, 2015) (on file with IHRDC).

² *Sulmāz 'Iykdar, Rūznāmihniḡār, Bih Sih Sāl Hābsi Ta 'zīrī Maḡkūm Shud*, RADIO FARDA (Dec. 10, 2015), http://www.radiofarda.com/content/f4_solmaz_ekdar_convict_three_years_prison/27356432.html.

³ *Id.*

⁴ *Bāzdāshti Yik Rūznāmihniḡar Dar Mahābād*, HUMAN RIGHTS ACTIVISTS NEWS AGENCY (Oct. 12, 2015), <https://hra-news.org/fa/prisoners/a-2566>.

⁵ *Bāzdāshti Du Rūznāmihniḡāri Dīgar; Sāmān Safārzāyī Va Āfarīni Chītsāz*, KALEME (Nov. 3, 2015), <http://kaleme.com/1394/08/12/klm-228801>.

⁶ *Nufūzi Farhangī Va Sīasī Khatarnāktar Az Nufūzi 'Iqtisādī Ast/ Dushman Bidunbāli Digargūn Kardani Bāvarhāyi Jāmi'i Va Nufūz Dar Marākizi Taḡmīngīrī Va Taḡmīmsāzī Ast*, LEADER.IR (Sept. 16, 2015), <http://www.leader.ir/langs/fa/index.php?p=contentShow&id=13606>.

⁷ ARTICLE 24, QANUNI ASSASSI JUMHURI ISLAMI IRAN [THE CONSTITUTION OF THE ISLAMIC REPUBLIC OF IRAN] 1358 [1980].

While censorship is a broad concept, in this report censorship is discussed in the context of actions taken by various branches of the Iranian government to punish individuals for their speech or to impose strict limitations on what may be discussed in print or online media.

This report first provides a background on the early years of the Iranian Revolution and the attempts of the newly formed government to impose its ideology on universities and other state institutions. It then discusses the role that the Ministry of Culture and Islamic Guidance (MOCAIG) plays in shaping the government's policy regarding various forms of expression. The report then uses the accounts of journalists, authors and others to demonstrate how the Iranian government restricts the freedom of expression and punishes those who cross its ever-changing lines. Finally, the report will explain the Islamic Republic's criminal and civil legal provisions pertaining to control of speech, and it will provide an analysis of the actions of the Iranian government through international human rights law.

1. Background

When the revolutionary government came to power in February 1979 it immediately began its campaign against officials of the former regime and others deemed to be counter-revolutionaries. Many were executed.⁸ Purging state agencies of individuals who were considered to be counter-revolutionaries or unsympathetic to the new government followed suit.

1.1. Purges after the 1979 Iranian Revolution

In August 1979, the Revolutionary Council, which acted as the country's temporary legislature, passed a law to provide a framework for purging of individuals who were considered unfit from governmental agencies.⁹

In January 1980 the Revolutionary Council passed another law to create an appeal process for purge decisions. This law established boards comprised of three to five individuals in order to hear such appeals.¹⁰ If the appeal had merit, then the purge decision would be reversed regarding that person.

While supporting the purges in principle, Ezatollah Sahabi, a member of the parliament and prominent member of the Iran Freedom Movement, criticized their implementation on the floor of the parliament on August 26, 1980:

⁸ According to one count, 757 individuals were executed in the 28 months following the Iranian Revolution on the charge of "sowing corruption on earth." ERVAND ABRAHAMIAN, *TORTURED CONFESSIONS* 124 (1999).

⁹ Law of 29 Aug. 1979 (On Purges and Creation of an Appropriate Environment for Growth of Revolutionary Institutions), available at <http://rc.majlis.ir/fa/law/show/98209>. This law, which had a single article, stated: the government was permitted to appoint a five-person board comprised of eligible employees to prepare a list of individuals that needed to be terminated. Cooperation with SAVAK, the Pahlavi regime's secret police, being demonstrably "unfit," and being notorious for "deviance" could be grounds for being purged.

¹⁰ Law of 19 Feb. 1980, (Amending the Purge Law of 29 Aug. 1979), available at <http://rc.majlis.ir/fa/law/show/98617>.

During the months in which purges have been going on, because there were no clear regulations for the purges, different purge committees have had various processes, methods, and possibly very different and divergent regulations and opinions, so much so that now we see that in our administrative organs some brains, experts and individuals who can serve the revolution in the future are being purged instead of main counter-revolutionary elements.¹¹

Mohammad Javad Bahonar, who served as the Minister of Education at the time, stated that “irresponsible” committees had conducted purges in provinces.¹² Bahonar added that some of the purge committees were, in fact, illegal. He further conceded that the purge law was overbroad. For instance, he noted that participating in official events marking the Shah’s birthday was used as a cause for termination by purge committees.¹³

The October 1980 closure of the Ministry of National Guidance, the predecessor to the MOCAIG, clearly demonstrated the swift and arbitrary nature of the revolutionary government’s actions against those who it deemed in opposition to its ideology. On October 1, Abbas Douzdouzani, the Minister of National Guidance, announced that his ministry was shutting down in order for it to be purged.¹⁴



Figure1: Abbas Douzdouzani announces the temporary closure of Ministry of National Guidance to its employees on October 1, 1980.

¹¹ *Debates of the Islamic Consultative Assembly, June 25, 1981*, pp. 7-8 , LIBRARY, MUSEUM AND DOCUMENT CENTER OF IRAN PARLIAMENT , available at

http://ical.ir/index.php?option=com_mashrooh&view=session&id=38&Itemid=38 (last visited Feb. 10, 2016).

¹² *Debates of the Islamic Consultative Assembly, December 10, 1980*, p.14 , LIBRARY, MUSEUM AND DOCUMENT CENTER OF IRAN PARLIAMENT , available at

http://ical.ir/index.php?option=com_mashrooh&view=session&id=80&Itemid=38 (last visited Feb. 10, 2016).

¹³ *Debates of the Islamic Consultative Assembly, December 10, 1980*, p.15 , LIBRARY, MUSEUM AND DOCUMENT CENTER OF IRAN PARLIAMENT , available at

http://ical.ir/index.php?option=com_mashrooh&view=session&id=80&Itemid=38.

¹⁴ *Vizāratī irshādi milli ta’līl shud*, Ettelaat, October 1, 1980.

“Our most important duty in this ministry is reviving Islam,” Douzdouzani declared. Referring to the employees of his ministry, Douzdouzani added:

Unfortunately most of you are former employees of the ministry of censorship under the Shah and the former Ministry of National Guidance, but we want to have a Ministry of Islamic Guidance with employees who are truly ideological and believe in the Islamic Revolution.¹⁵

Following the speech, which took place at a hotel in Tehran, Ministry of National Guidance employees returned to the ministry building only to find that the ministry’s doors were closed.¹⁶ These employees staged a protest in front of the ministry’s building. According to *Kayhan*, the Revolutionary Guards fired warning shots but the protesters did not leave.¹⁷

Douzdouzani indicated that the backgrounds of the ministry’s employees would be thoroughly examined, and those deemed qualified would return to their jobs. However, he added, those returning to their jobs would have to participate in special classes so that they would be “ideologically strengthened.”¹⁸ Few months later the ministry reopened under the name of the Ministry of Islamic Guidance.¹⁹

Mohammad Khatami, who was Minister of Islamic Guidance during most of the 1980s before being elected president in 1997, discussed the purges at the Ministry of Islamic Guidance in remarks at the Iranian parliament on April 22, 1984. According to Khatami, 730 individuals were fired from the ministry in the first wave of purges, and another 613 persons were terminated in purges that occurred later.²⁰ On the other hand, Khatami stated that 922 and 473 individuals were hired in Tehran and the provinces, respectively. Khatami described the new hires as “devoted clerics and non-clerics.”²¹ He stated that in his opinion good management meant that all those who were willing to work with the Islamic Republic should be allowed to work within the system. Nevertheless, Khatami added, “Key position, however, should be held by individuals who are one hundred percent trustworthy and pious.”²²

1.2. The Law to Reconstruct the Human Resources of Ministries, Governmental Institutes and Government-Related Institutes

Following two laws promulgated by the Revolutionary Council regarding purges, a broader and significantly more detailed law was passed by the newly formed Iranian parliament in 1981. The law,

¹⁵ *Bāzkhānūi li’lāmi Ta’līlī Vizārati Farhang Dar Rūzhāyi Ibtidāyī Jangi Tahmīlī : Vizārati Farhang Ta’līl Shud*, SHARAF.IR (Oct. 1, 2014, 11:42 AM), <http://www.shafaf.ir/fa/news/281933>.

¹⁶ *Id.*

¹⁷ *Id.*

¹⁸ *Id.*

¹⁹ *Id.*

²⁰ *Debates of the Islamic Consultative Assembly, Apr. 22, 1984*, p.13, LIBRARY, MUSEUM AND DOCUMENT CENTER OF IRAN PARLIAMENT, available at http://www.ical.ir/index.php?option=com_mashrooh&view=session&id=603&page=10262&Itemid=38.

²¹ *Id.*

²² *Id.*

which was entitled “The Law to Reconstruct the Human Resources of Ministries, Governmental Institutes and Government-Related Institutes,” significantly broadened the scope of purges and the reasons for which an individual could be denied employment in the public sector. Containing 63 articles, this law provided a framework for appealing adverse decisions.

The 1981 law established four categories of offenses that could be the basis for denying employment.²³ These were (1) political and military offenses, (2) financial and administrative offenses, (3) disciplinary infractions, and (4) actions violating public morality.

While the activities that could lead to a firing were expanded in this law, the arbitrary nature of the law remained in place. Actions against public morality, which constituted the fourth category of offenses, were particularly ill-defined. “Actions violating public decency,” “public acts of debauchery,” and “acts and behaviors violating the honor and the station of the workplace” were listed as actions violating public morality.²⁴

In addition to the activities mentioned above, this law specifically targeted individuals whose religious beliefs were not acceptable to the revolutionary government. Article 19.1 of this law stated that members of “misguided sects” that were considered to have left Islam, and members of organizations that their founding charters were based on “denying divine religions” would be subject to the restructuring law.²⁵ The term “misguided sect” typically refers to the Bahá’í Faith.²⁶ According to a 2008 report by the International Bahá’í Community, about 15,000 Bahá’ís lost their jobs or sources of livelihood in the years following the Iranian Revolution.²⁷ This report indicates that by July 1982 all Bahá’í public servants were fired and the pensions of those who had retired were eliminated.²⁸

2. Ministry of Culture and Islamic Guidance

The MOCAIG is one of the most important government organs in terms of controlling and shaping political and cultural speech. This section explains the structure of this ministry, and through the accounts of two former Ministry officials, examines the actions of this Ministry during the reform era, which was one of its most consequential periods.

²³ Law 27 Sept. 1981, (On Reconstruction of Human Resources of Ministries and Governmental Institutions), available at <http://rc.majlis.ir/fa/law/show/90230?keyword=%D9%82%D8%A7%DA%86%D8%A7%D9%82%20%D9%85%D9%88%D8%A7%D8%AF%20%D9%85%D8%AE%D8%AF%D8%B1>

²⁴ *Id.*, article 18.

²⁵ *Id.*, article 19.2.

²⁶ See *Aḥkāmi Kāfar*, KHAMENEI.IR, <http://farsi.khamenei.ir/treatise-content?id=23#329> (last visited Feb. 11, 2016), also see *Ayatollah Ali Khamenei Issues Edict against Baha’i Faith in Iran*, HUFFINGTON POST (Oct. 1, 2013, 7:01 AM), http://www.huffingtonpost.com/2013/08/01/iran-bahai-fatwa_n_3687872.html.

²⁷ Bahá’í International Community, *The Bahá’í Question: Cultural Cleansing in Iran 35* (2008), available at <http://news.bahai.org/documentlibrary/TheBahaiQuestion.pdf>.

²⁸ *Id.*

2.1. Structure

2.1.1. Departments

The MOCAIG has six departments. Each department, or *moavenat*, is responsible for a different aspect of the Ministry's responsibilities. The wide array of responsibilities listed for each department demonstrates the extent to which the Iranian government controls, or at least attempts to control, various forms of expression.

The Cultural Affairs Department is responsible for promoting book readership and regulating publication of books. The Arts Department is in charge of overseeing exhibitions, theatrical performances, and visual arts. The Expansion of Management and Resources Department mostly deals with human resources and logistical management. The Press Affairs and Information Department is responsible for policies governing the press. This department drafts regulations governing the establishment of non-governmental news agencies and online news sites.²⁹ This department also oversees the export and import of newspapers, magazines, and other news-related products. The Quran and the Prophet's Family Department, as its name implies, focuses on fostering Islamic, and particularly Shia', religious values. The Legal, Parliamentary, and Provinces Affairs Department acts as a liaison between the Ministry and the parliament. Some of the responsibilities of this department include observing regulations promulgated for registering cultural landmarks, planning discussion sessions with members of the parliament regarding cultural issues, and advising the Minister on appointments of provincial Ministry officials.

2.2. Implementation of Ministry of Culture Policies in Practice

In interviews with IHRDC two former senior officials with the MOCAIG described how this ministry operated, and provided accounts of how they handled competing interests within the spheres of their respective duties.

2.2.1. Isa Saharkhiz

Isa Saharkhiz is the former head of the Office of Internal Press and News Agencies, which is one of the offices in the Press Affairs and Information Department. Saharkhiz, born in January 1954, was invited to take charge of the Office of Internal Press and News Agencies after President Khatami's election in 1997.

2.2.1.1. Paper Subsidies

²⁹*Mu'āvinati Umūri Maṭbū'ātī Va 'Iṭṭilā' risānī*, FARHANG.GOV.IR, <http://www.farhang.gov.ir/fa/intro/adjutancy/press> (last visited Feb. 11, 2016).

The print media in Iran receive critical subsidies from the government for purchasing their paper. Saharkhiz stated that his predecessor, Ali Jannati, who years later became Minister of Culture and Islamic Guidance, had implemented a policy through which some publications received special treatment.³⁰ One publication, for instance, had received five years worth of paper during a six-month period.³¹ Some publications sold their surplus of subsidized paper in the free market for a profit.³² When the reformists came into power, the approach of the Ministry towards subsidies changed. Leading the change was the late Ahmad Bourghani, the Minister's deputy and the head of the Press Affairs and Information Department. According to Saharkhiz, under Bourghani the policy of the Ministry was to provide subsidies to print media without judging the content of the publication.³³

Saharkhiz stated that when he came into office he developed a new formula that determined the subsidy each publication received by factoring in their use of paper, their actual circulation, and the pages that do not generate income through advertisement.³⁴ This new approach adversely impacted newspapers that used to sell their extra paper in the free market or inflate their circulation numbers in order to receive more money. Saharkhiz stated that when he was in office the total circulation of newspapers and magazines in Iran increased threefold from an average of 1.2 million copies per day to 3.4 million copies.³⁵

2.2.1.2. Permit Issuance

The number of permits issued after the 1997 presidential election soared. According to Saharkhiz, before 1997 the Press Oversight Board only issued permits to 40 or 50 publications per year. In contrast, after the reformists' victory the Press Oversight Board issued more than 300 permits just during one of its meetings.³⁶ One factor in this increase was a new approach to issuing permits for magazines in specialized fields such as medicine or metals.³⁷ Another factor was adopting the policy that was based on the premise that each journalist is entitled to have his or her publication in the same way that a pharmacist or radiologist was entitled to have his or her own business.³⁸

Saharkhiz stated that following the reformists' victory in the 1997 presidential election the balance of power in the Press Oversight Board was in favor of the reformists. In response, conservatives, who controlled the parliament, amended the Press Law to tip the balance of power in favor of conservatives.³⁹ They achieved this goal through adding two seats to the Press Oversight Board. The added seats were to be filled by a representative from the Qom religious seminary and a representative from the Supreme Council of Cultural Revolution. Following this change the 3-2 balance in favor of reformists changed to 4-3 in favor of conservatives.⁴⁰

³⁰ Witness Testimony of Isa Saharkhiz, (July 8, 2015) (on file with IHRDC).

³¹ *Id.*

³² *Id.*

³³ *Id.*

³⁴ *Id.*

³⁵ *Id.*

³⁶ *Id.*

³⁷ *Id.*

³⁸ *Id.*

³⁹ *Id.*

⁴⁰ *Id.*

2.2.1.3. Arranging Visits to Neighboring Countries for Members of the Press Oversight Board

After Saharkhiz had left the MOCAIG, he was selected as the press's representative in the Press Oversight Board. While serving in that capacity, Saharkhiz suggested that the members of the Press Oversight Board visit other countries so that they could become familiar with how the press is handled outside Iran. He believed that taking this action will show conservative members of the Press Oversight Board that restrictions on the press in Iran, even compared to its neighbors, were excessive.⁴¹

A trip was arranged for members of the board. They visited Jordan, Kuwait, Syria, Lebanon, and Saudi Arabia.⁴² Gholamhossein Mohseni-Eje'i, the judiciary's representative in the Press Oversight Board, was among those who went on this trip.⁴³ According to Saharkhiz:

They went and saw that in Kuwait, for instance, there was no such a thing as closing down [a paper]...They realized that even in Arab countries publications had a good quality as well as a high quantity, and that their press was more free compared to ours.⁴⁴

According to Saharkhiz, Mohseni-Eje'i asked the most questions from foreign officials during those trips. He wanted to know how their judiciaries handled press cases.⁴⁵

2.2.1.4. Resignation from the Ministry

Saharkhiz resigned from the MOCAIG after Saeed Mortazavi, the press court judge, took legal action against him. At issue was the daily *Zan* (Woman), which was first published on August 8, 1998 and permanently closed on April 6, 1999.⁴⁶ While the case against *Zan* was pending in the press court and the ultimate fate of the publication was not clear, the MOCAIG allowed *Zan* to have a booth at the Press Expo, an annual fair in Tehran.⁴⁷ Saharkhiz reasoned that since the press court had not issued a final decision regarding *Zan*, the newspaper should have been allowed to participate in the Press Expo.⁴⁸ Mortazavi brought charges against Saharkhiz for issuing a permit to *Zan* to participate in the fair.

During the interrogations, which were conducted by Saeed Mortazavi, Saharkhiz was faced with three charges, two of which were related to *Zan*.⁴⁹ These two charges were obstructing a judicial order and aiding and abetting *Zan*. The charge of obstructing a judicial order was dropped because Saharkhiz argued that he had, in fact, delivered the judicial order of *Zan*'s closure to the newspaper.⁵⁰ The last charge,

⁴¹ *Id.*

⁴² *Id.*

⁴³ *Id.*

⁴⁴ *Id.*

⁴⁵ *Id.*

⁴⁶ *Fā'izih Hāshimi Dar Rūznāmihi Zan*, SHAFAR.IR (Sept. 19, 2014), <http://www.shafaf.ir/fa/news/279419>.

⁴⁷ Witness Testimony of Isa Saharkhiz, *supra* note 30.

⁴⁸ *Id.*

⁴⁹ The other charge, which related to Saharkhiz's comments about allocation of advertisements by government agencies, was dropped soon.

⁵⁰ Witness Testimony of Isa Saharkhiz, *supra* note 30.

aiding and abetting *Zan*, was punishable by termination of governmental employment and a fine. This charge was rendered moot because Saharkhiz resigned from his official post.⁵¹

2.2.1.5. The Physical Altercation with Mohseni-Eje'i

While representing the press at the Press Oversight Board, Saharkhiz was physically assaulted by Gholamhossein Mohseni-Eje'i, the judiciary's representative at the board. In two separate incidents, Mohseni Eje'i threw sugar cube containers at Saharkhiz.⁵² The first incident was not publicized. The second incident, which took place in May 2004, was publicized and demonstrated the tension between the conservative and reformist camps.

During a session of the Press Oversight Board in May 2004, Saharkhiz and Mohseni-Eje'i got into an argument over two pieces published in two different publications. One was an economic article, and the other one was an article about relationships between boys and girls.⁵³ The argument got heated, and Mohseni-Eje'i reportedly insulted Saharkhiz's family.⁵⁴ He subsequently threw a sugar cube container at Saharkhiz. As Saharkhiz tried to flee, Mohseni-Eje'i threw another sugar cube container, which hit Saharkhiz in the back.⁵⁵ Saharkhiz then left the room, but decided to get back because his absence would tip the balance in favor of the conservatives and would result in adverse decisions regarding permits for publications.⁵⁶ When he returned, however, Mohseni-Eje'i attacked him again, and this time he bit him on the shoulder.⁵⁷



Figure 2: Isa Saharkhiz, a member of the Press Oversight Board, was bit on the shoulder by Gholamhossein Mohseni Eje'i, a judge representing the judiciary in the Press Oversight Board.

Saharkhiz went to the medical examiner's office and lodged a complaint against Mohseni-Eje'i. The medical examiner's office set a compensatory payment equal to one tenth of the price of a camel for the

⁵¹ *Id.*

⁵² *Id.*

⁵³ *Id.*

⁵⁴ 'Muhsinū 'Izhīh ī Saḥarkhīz Rā Gāz Girift', BBC PERSIAN (May 24, 2004, 12:10 AM), http://www.bbc.com/persian/iran/story/2004/05/040524_mf_fight.shtml.

⁵⁵ Witness Testimony of Isa Saharkhiz, *supra* note 30.

⁵⁶ *Id.*

⁵⁷ *Id.* See also Muhsinū 'Izhīh ī Saḥarkhīz Rā Gāz Girift', *supra* note 54.

injury Saharkhiz had sustained as a result of being hit in the back by a sugar cube container.⁵⁸ The judiciary has never held a trial to hear Saharkhiz's complaint against Mohseni-Eje'i.

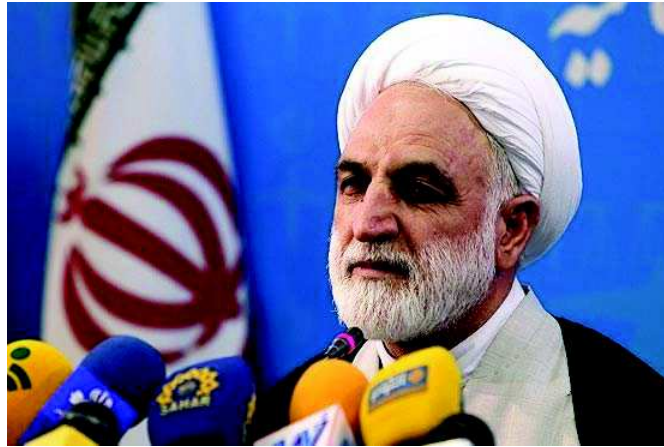


Figure 3: Gholamhossein Mohseni-Eje'i, the deputy to the head and spokesperson of the Iranian judiciary, assaulted and bit Isa Saharkhiz during a session of the Press Oversight Board in May 2004. At that time Mohseni-Eje'i was the head of the Special Clerical Court and served the judiciary's representative in the Press Oversight Board.

According to Saharkhiz, Mohseni-Eje'i had planned to halt the permitting process by disrupting the meeting of the Press Oversight Board.⁵⁹ Mohseni-Eje'i, who at the time was the head of the Special Clerical Court, went on to become the Minister of Intelligence under President Ahmadinejad. He later became the deputy to the head and the spokesperson of the Iranian judiciary.

2.2.2. Ali Asghar Ramezanzpour

Ali Asghar Ramezanzpour was born in 1961 in Bandar Abbas. He fought in the Iran-Iraq War and worked at the War Propaganda Office. After the war ended in 1988 he and a number of his colleagues at the War Propaganda Office joined the MOCAIG.⁶⁰ Ramezanzpour was appointed as the secretary of the Press Oversight Board.⁶¹

2.2.2.1. Changing the Permitting Process

⁵⁸ Witness Testimony of Isa Saharkhiz, *supra* note 30.

⁵⁹ *Id.*

⁶⁰ Witness Testimony of Ali Asghar Ramezanzpour, (Aug. 8. 2015) (on file with IHRDC).

⁶¹ *Id.*

Ramezanpour stated that during the first decade after the Revolution, with the exception of daily newspapers, other publications had to have every single issue reviewed and approved by the MOCAIG.⁶² The process, in effect, was similar to what takes place before a book can get published. To change this policy, the MOCAIG invoked a relatively lax law passed by the Revolutionary Council in 1979.⁶³ Ramezanpour stated that at that time invoking the old law passed by the Revolutionary Council was a better approach than trying to pass a new law at the parliament, and that a new law would have been far more restrictive.⁶⁴ According to Ramezanpour the number of publications doubled in the 1990-91 period under the MOCAIG's policy.⁶⁵

2.2.2.2. Circumventing Ministry of Intelligence Background Checks

To ensure the highest number of approved applications, MOCAIG often took measures to circumvent Ministry of Intelligence (MOI) background checks. For instance, Ramezanpour stated that when individuals like Masoud Behnoud⁶⁶ and Sirous Alinejad⁶⁷ were named by a magazine as potential permit-holders, the MOCAIG would contact MOI officials and ask them what would be the result of a hypothetical background check for that person.⁶⁸ When MOI officials told MOCAIG officials that the background check result would not be favorable, MOCAIG would tell the applicants to name a different person as the permit-holder.⁶⁹ As a result, in several instances a person would become the permit-holder but a different person would actually run the publication.

3. Restrictions on Freedom of Expression in Practice

Iranian law imposes serious yet arbitrary and ill-defined restrictions on the press and what they can publish. As a result, the press is constantly under the threat of closure and judicial action. One of the recent instances of restrictions on the press involved the discussion of the nuclear deal between Iran and the 5+1 group. In July 2015 Iranian media reports emerged that a secret directive by the MOCAIG had instructed Iranian media to refrain from criticizing the nuclear deal.⁷⁰ The directive further urged the media to praise the Iranian negotiating team. According to this directive, the instructions regarding the manner in which the nuclear deal was to be covered were issued by the Supreme National Security

⁶² *Id.*

⁶³ The Press Law of 16 Aug. 1979, article 2 available at <http://www.dastour.ir/Brows/?lid=99289>. According to this law a person obtaining a permit must have possessed the following qualifications: Being an Iranian citizen, not having a criminal record that results in being deprived of social rights, not being indigent or bankrupt through fraud, having a good moral and political character, and possessing at least a bachelor's degree or being deemed qualified by a committee established in accordance with this law.

⁶⁴ Witness Testimony of Ali Asghar Ramezanpour, *supra* note 60.

⁶⁵ *Id.*

⁶⁶ Masoud Behnoud, born in 1947, is a journalist and author with a long career in Iranian media. He currently resides in London and reviews Iranian media in a weekly BBC Persian television program.

⁶⁷ Sirous Alinejad worked at the Ayandegan newspaper before the Iranian Revolution. After the revolution he was the editor of Ayandeh and Adineh magazines.

⁶⁸ Witness Testimony of Ali Asghar Ramezanpour, *supra* note 60.

⁶⁹ *Id.*

⁷⁰ *Vizārati Irshād Bih Risānihāyi Īrān Tuṣūḥ Kard Darbārihi Muzakirāti Hasti ī 'Shibhiāfkanī' Nakunand*, BBC PERSIAN (25 July 2015), http://www.bbc.com/persian/iran/2015/07/150725_ershad_letter_confidential_talks.

Council.⁷¹ Based on accounts of witnesses interviewed by IHRDC and news reports, this section provides a detailed discussion of various examples of restrictions on freedom of speech and expression.

3.1. Accounts of Journalists Who Experienced Censorship or Prosecution

IHRDC has interviewed a number of journalists who experienced censorship or prosecution for their work. The following accounts demonstrate the pattern in which their freedom of expression has been abused.

3.1.1. Nikahang Kowsar

Nikahang Kowsar, a cartoonist born in 1969 in Tehran, began his career at a university paper at the University of Tehran. In 1991 he joined Gol-Agha, a popular satirical weekly, as a cartoonist and a writer.⁷² Kowsar worked at Gol-Agha until 1996. Later on he worked at newspapers such as *Hamshahri*, *Zan*, and *Azad*.

3.1.1.1. Gol-Agha

Gol-Agha was run by Kioumars Saberi Fumani, who had previously served as Ali Khamenei's advisor during Khamenei's presidency, before he became the Supreme Leader. According to Kowsar, due to Saberi Fumani's personal relationship with the Supreme Leader, Gol-Agha enjoyed a degree of protection from state interference.⁷³ Fumani instructed his cartoonists not to draw the clergy or security forces.⁷⁴ Even the instances in which the regular police were drawn were very few.⁷⁵ Fumani also told his staff not to approach subjects that could be used by the Islamic Republic's enemies. Human rights, for example, was generally not an issue that Gol-Agha tackled. Gol-Agha's satire mostly involved economic issues, the performance of the executive branch, and general policies.⁷⁶ Occasionally, however, the executive branch took issue with some of the material published in Gol-Agha. Gol-Agha never published a cartoon of President Hashemi Rafsanjani because he was a cleric. Instead, Gol-Agha would draw the cartoon of Vice President Hasan Habibi, and it was generally understood that the real intent of the cartoons depicting Vice President Habibi was to poke fun at President Hashemi Rafsanjani.⁷⁷ President Hashemi Rafsanjani, had, in a number of occasions, complained to Ayatollah Khamenei about Gol-Agha.⁷⁸

Kowsar maintained that during his tenure at Gol-Agha, depending on the political climate, the magazine would instruct the staff to lower their level of criticism. In a few occasions, Saberi Fumani had to write editorials in which he would reiterate his loyalty to the Supreme Leader.⁷⁹ Saberi Fumani also intervened

⁷¹ *'Idāmiyi Janjāl Bar Sari "Dastūrulamali Hasti'ī" Vizāratī Irshād*, DEUTSCHE WELLE PERSIAN (July 31, 2015), <http://www.dw.com/fa-ir/ادامه-جنجال-بر-سیر-دستورالعمل-هستهای-وزارت-ارشاد/a-18620960>.

⁷² Witness Testimony of Nikahang Kowsar, (Sept. 19, 2015) (on file with IHRDC).

⁷³ *Id.*

⁷⁴ *Id.*

⁷⁵ *Id.*

⁷⁶ *Id.*

⁷⁷ *Id.*

⁷⁸ *Id.*

⁷⁹ *Id.*

on behalf of a number of cartoonists in other publications to help them avoid prosecution and imprisonment.⁸⁰

3.1.1.2. Imprisonment and Prosecution

A cartoon by Kowsar at *Azad* subjected him to arrest and prosecution. Kowsar drew the cartoon in response to comments by an influential conservative cleric, Ayatollah Mesbah Yazdi, who had claimed that reformist journalists had been paid by the CIA to attack Islam.⁸¹ The cartoon, published on January 30, 2000, depicted a crocodile shedding tears while suffocating a journalist with his tail. The Persian term for crocodile —*temsah*—was very similar to Ayatollah Mesbah Yazdi's name, and this similarity was not lost to the authorities.

When Kowsar returned to work the next day he was faced with phone threats. On the next day a protest was held at Qom, demanding Kowsar's punishment.⁸² In addition, seminary students at Qom cancelled their classes and staged a sit-in at the seminary. They were joined by clerics teaching at the Qom seminary and some members of the Assembly of Experts.⁸³ On Friday Prayer sermons across the country, prayer leaders stated that this cartoon had insulted Islam.⁸⁴ On the following Saturday, February 5, 2000, Judge Mortazavi called Kowsar at the office of Aftab-e Emrouz newspaper, where he worked in the mornings.⁸⁵ Mortazavi asked him to go to court so they could talk and resolve the misunderstanding.⁸⁶

Kowsar called Kambiz Norouzi, the legal consultant of the Association of Iranian Journalists. Norouzi told Kowsar that the authorities were about to arrest him. Kowsar subsequently asked *Azad*'s managing editor to have the newspaper's attorney represent him at court. However, Kowsar stated that despite the managing editor's promise in the affirmative, the newspaper had conspired with Mortazavi so that Kowsar would be imprisoned instead of the managing editor.⁸⁷ Under the Press Law in effect at that time in most circumstances only the managing editor could be held responsible for the content of his or her publication.⁸⁸ When Kowsar reached the court, he realized that the newspaper's attorney was not there to represent him.⁸⁹

⁸⁰ *Id.*

⁸¹ *Id.*

⁸² *Id.*

⁸³ *Id.*

⁸⁴ *Id.*

⁸⁵ *Id.*

⁸⁶ *Id.*

⁸⁷ *Id.*

⁸⁸ Press Law of 13 Mar. 1986, available at <http://www.moi.ir/Portal/File/ShowFile.aspx?ID=c501b2c9-a16e-48a9-beeb-aef53bf5805b>.

⁸⁹ Witness Testimony of Nikahang Kowsar, *supra* note 72.



Figure 4: Nikhang Kowsar was imprisoned and prosecuted for drawing this cartoon.

Mortazavi interrogated Kowsar for three and a half hours at Branch 1410 of the Government Employees' Court.⁹⁰ Kowsar referred to this interrogation as one of the most difficult experiences of his life.⁹¹ Mortazavi threatened Kowsar by insinuating that something terrible could happen to his family.⁹² Kowsar faced several charges, including offending sacred Islamic beliefs, disseminating falsehood, and acting against national security.⁹³ The latter charge was predicated on causing demonstrations in Qom in days leading to the parliamentary elections.⁹⁴ A few days later the charge of swearing at the Prophet was also added to Kowsar's charges. This charge stemmed from another one of Kowsar's cartoons in which a father was relating the story of Joseph to his son. In that cartoon the father told his son that Joseph, too, had "rogue brothers."⁹⁵ The term "rogue brothers" was a reference to MOI agents who had assassinated a number of Iranian intellectuals in 1990s. Mortazavi, Kowsar states, sent this cartoon to Qom to obtain the opinion of Islamic jurists in Qom.⁹⁶ Overall, Mortazavi collected 168 cartoons by Kowsar and added them to his case file.⁹⁷

After six days Kowsar was taken to court, where he was released on bail. An attorney retained by the Association of Iranian Journalists was there to represent him.⁹⁸

⁹⁰ *Id.*

⁹¹ *Id.*

⁹² *Id.*

⁹³ *Id.*

⁹⁴ *Id.*

⁹⁵ *Id.*

⁹⁶ *Id.*

⁹⁷ *Id.*

⁹⁸ *Id.*

After his release Kowsar was summoned numerous times for further questioning at Branch 1410 of the Government Employees' Court. Mortazavi instructed Kowsar to provide written explanations for each of the 168 cartoons he had collected for his case file.⁹⁹ Sometimes these sessions took three to four hours.¹⁰⁰

More than a year after his arrest, Kowsar sent a fax to Ayatollah Mesbah Yazdi's office, and expressed his regrets if his cartoon had upset him and his students. He received a response after 15 minutes, in which Ayatollah Mesbah Yazdi's chief of staff wrote that Ayatollah Mesbah Yazdi would pray for Kowsar, and that he would advise him to be mindful of God in his work.¹⁰¹ Ayatollah Mesbah Yazdi's office forwarded a copy of this response to Judge Mortazavi. This effectively meant that he did not have a complaint against Kowsar. Mortazavi, however, called Kowsar and told him that he was mistaken if he thought that he could resolve the case against him by writing a letter, and that the judiciary was not finished with him.¹⁰²

In April 2003 Kowsar found a letter under his chair when attending a meeting at the Association of Iranian Journalists.¹⁰³ The letter, which was signed by "children of Navvab Safavi¹⁰⁴," stated that according to the fatwas of three jurists Kowsar was condemned to death.¹⁰⁵ Similar letters were sent to others, including satirist Ebrahim Nabavi.¹⁰⁶ During this period Kowsar received a call from Hasan Shayanfar, *Kayhan*'s deputy manager. Shayanfar told Kowsar that if he joined *Kayhan* he would no longer face the problems that he was facing.¹⁰⁷ Following this phone call Kowsar felt that he had two options: cooperating with *Kayhan* or going to prison and being worried about the death threats he had received.¹⁰⁸

Kowsar contacted Cartoonists' Rights Network International, and asked them to send him an invitation to go abroad.¹⁰⁹ Kowsar subsequently left Iran for Canada. Several years later Kowsar was finally tried in absentia, and he was sentenced to four months of imprisonment.

Kowsar has won several awards including the 2001 Courage in Editorial Cartooning Award and three Crystal Pen awards at Iran's Press Expo.

3.1.2. Abbas Maroufi

⁹⁹ *Id.*

¹⁰⁰ *Id.*

¹⁰¹ *Id.*

¹⁰² *Id.*

¹⁰³ *Id.*

¹⁰⁴ Navvab Safavi was the founder of Fedaian-e Islam, an Islamist political movement that carried out a number of high-profile assassinations during the Pahlavi regime. Navvab Safavi and three other members of Fedaian-e Islam were executed by firing squad on January 18, 1956. See Farhad Kazemi, *Fedā'īān-e Eslām*, IRANICA ONLINE (Jan. 24, 2012), <http://www.iranicaonline.org/articles/fedaian-e-esla>.

¹⁰⁵ Witness Testimony of Nikahang Kowsar, *supra* note 72.

¹⁰⁶ *Id.*

¹⁰⁷ *Id.*

¹⁰⁸ *Id.*

¹⁰⁹ *Id.*

Abbas Maroufi is a renowned Iranian author. He left Iran in March 1996 after enduring harassment by the Iranian authorities.

3.1.2.1. Gardoun

In 1990 he started publishing *Gardoun*, a literary magazine. Maroufi stated that he had to wait for five years before he could obtain a permit for *Gardoun* during the 1980s.¹¹⁰ *Gardoun* had a circulation of 22,000.¹¹¹ Soon after *Gardoun* was published the authorities started pressuring him.¹¹² After a sermon at Friday Prayers by Ayatollah Yazdi, the head of the judiciary, a mob attacked *Gardoun*'s office, damaging the computers.¹¹³ Maroufi filed a complaint with the police.¹¹⁴

However, it was Maroufi who was summoned to the Revolutionary Court after a few days.¹¹⁵ Maroufi was questioned at the Revolutionary Court for three months without being arrested. He stated that he would go to the Revolutionary Court at six in the morning and was questioned until sunset.¹¹⁶ Once Maroufi asked to be formally arrested, but he was told that they would not do that because he would become famous and his name would be mentioned in foreign radio stations.¹¹⁷

Maroufi was questioned about who provided financial support to him, who he was in contact with in the U.S., what were his relations to Israel, how many women he was sleeping with, whether he drank alcohol, which counter-revolutionary group he was cooperating with, and what foreign country was funding *Gardoun*.¹¹⁸

Maroufi stated his trial took place without his presence, and he was sentenced to death on seven charges including insulting Islam, the clergy, the Islamic Republic, and Ayatollah Khomeini.¹¹⁹ His attorneys, Shirin Ebadi and Hamid Mosadegh, suggested that he should meet with Ebrahim Raesi, the Attorney General and deputy to the head of the judiciary.¹²⁰ Raesi used to open his office to the public on Tuesdays, and Maroufi was finally able to speak with him the third time he went to his office.¹²¹ Raesi stated that on the night before he had read half of one Maroufi's best-known books, the *Symphony for the Dead*, while visiting the home of Ayatollah Meibodi.¹²² Raesi then added that he had enjoyed the book very much, and that he wanted to know where he could find the book.¹²³ Maroufi had one copy with him:

¹¹⁰ Witness Testimony of Abbas Maroufi, (Aug. 3, 2015) (on file with IHRDC).

¹¹¹ *Id.*

¹¹² *Id.*

¹¹³ *Id.*

¹¹⁴ *Id.*

¹¹⁵ *Id.*

¹¹⁶ *Id.*

¹¹⁷ *Id.*

¹¹⁸ *Id.*

¹¹⁹ *Id.*

¹²⁰ *Id.*

¹²¹ *Id.*

¹²² *Id.*

¹²³ *Id.*

I put it on his table. He put his hand in his pocket and asked, “How much does it cost?” I said that he could have it for free. He said, “No! This is the desk of justice. Please tell me how much it costs.” I think it was 300 toumans. I took his money and gave him the book. He then asked, “What else have you done in this country?” I said, “Nothing, just the things I told you before.”¹²⁴

Raeesi then went to the next room and looked into the files on Maroufi’s background. He then asked Maroufi to provide him a copy of all the issues that had so far been published. Maroufi complied and asked one his employees to bring them over.¹²⁵ Within a week Maroufi stated he received a letter from the judiciary indicating that his sentence was vacated due to lack of jurisdiction of the Revolutionary Court.¹²⁶ His case was subsequently referred to the Press Court, where he was acquitted. *Gardoun* resumed publication after 18 months.¹²⁷ A few years later, Mohammad Khatami, who had been the Minister of Culture and Islamic Guidance, told Maroufi that he had been distressed by the death sentence against Maroufi, and that on his last day as minister, he had he formed the Press Court Jury to prevent Maroufi’s execution.¹²⁸

Gardoun was eventually closed down by the government in 1996. The Press Court Jury, which included several conservative members, found Maroufi guilty and sentenced him to flogging and a two year ban from writing.¹²⁹ Maroufi appealed this decision, but he left Iran before his appeal could be addressed.

3.1.3. Reza Haghighatnejad

Reza Haghighatnejad was born in Eghlid, Fars Province, in 1977. He has worked in a number of reformist as well as conservative media outlets. Haghighatnejad worked as a journalist in Yazd, a city in central Iran. According to him, censorship in newspapers operating in provincial towns and cities was more prevalent compared to newspapers in Tehran.¹³⁰

3.1.3.1. Violence Against Women Study

Sensitivity of local officials was evident in how they reacted to the publication of a report in *Khatam-e Yazd* newspaper in 2006. This report had discussed the results of a study commissioned by the Iranian government regarding violence against women.¹³¹ The report indicated that Yazd had a high rate of

¹²⁴ *Id.*

¹²⁵ *Id.*

¹²⁶ *Id.*

¹²⁷ *Id.*

¹²⁸ *Id.*

¹²⁹ *Id.*

¹³⁰ Witness Testimony of Reza Haghighatnejad, *supra* note 1.

¹³¹ This report, which contained 32 volumes, was produced by the Ministry of Interior and the Center for Women’s Affairs during the presidency of Mohammad Khatami. According to Ashraf Boroujerdi, a government official in the Khatami administration, this report was physically destroyed by the Ahmadinejad administration. *See Tarhi*

violence against women.¹³² The authorities had several reasons for opposing the publication of this story in *Khatam-e Yazd*.¹³³ One was that this report was “on the same page” with foreign media. The second was that this report was undermining the reputation of Yazd. Third, the report had “insulted” the women of Yazd.¹³⁴ Haghighatnejad stated that the newspaper come under tremendous pressure from local officials to retract the story.¹³⁵ Two days after its publication, the newspaper published an apology, stating that the story had not been accurate.¹³⁶ The managing editor reasoned that if the newspaper did not issue this apology, it likely would have been closed down by the authorities.¹³⁷ The Yazd Prosecutor and the advisor to the provincial governor were among government officials who pressured the newspaper to retract the story.¹³⁸

3.1.3.2. Prosecution for Personal Blog

Reza Haghighatnejad had started blogging since 2005.¹³⁹ In 2007 the head of the MOI provincial office in Yazd filed a complaint against Haghighatnejad based on 19 items on his blog.¹⁴⁰ Haghighatnejad was charged with insulting President Ahmadinejad, acting against national security, atheism and insulting Islamic beliefs.¹⁴¹

In one blog post Haghighatnejad had discussed a state-funded calendar published in Qom that contained religious quotes demeaning to women.¹⁴² The charge of insulting Islamic beliefs stemmed of his negative characterization of quotes about women attributed to Islamic figures.¹⁴³ Haghighatnejad was released on bail, but he was subsequently sentenced to 91 days of imprisonment.¹⁴⁴ On appeal, his sentence was reduced to 89 days of imprisonment and a fine.¹⁴⁵ The change from 91 to 89 days was critical because it enabled Haghighatnejad to pay a fine in lieu of imprisonment under a provision that makes it possible to pay a fine for sentences less than 90 days. Haghighatnejad added that he received this relatively lenient sentence because he had a connection in the judiciary.¹⁴⁶

3.1.4. Isa Saharkhiz

Barrasī Khushūnati Khānigī ‘Alayhi Zanān, Dar Zamāni Aḥmadīnizhād ‘Khamīr Shud’, BBC PERSIAN (Nov. 30, 2014), http://www.bbc.com/persian/iran/2014/11/141130_nm_research_women_violence.

¹³² Witness Testimony of Reza Haghighatnejad, *supra* note 1.

¹³³ *Id.*

¹³⁴ *Id.*

¹³⁵ *Id.*

¹³⁶ *Id.*

¹³⁷ *Id.*

¹³⁸ *Id.*

¹³⁹ *Id.*

¹⁴⁰ *Id.*

¹⁴¹ *Id.*

¹⁴² *Id.*

¹⁴³ *Id.*

¹⁴⁴ *Id.*

¹⁴⁵ *Id.*

¹⁴⁶ *Id.*

Isa Saharkhiz is a former MOCAIG official, and his work at the MOCAIG is discussed in Section 2.2.1., *supra*. Saharkhiz also had a career as a journalist after he left his job.

3.1.4.1. Akhbar-e Eghtesad

Saharkhiz started publishing *Akhbar-e Eghtesad* after he resigned from the MOCAIG. The newspaper was closed down during the mass closure of newspapers in the spring of 2000. The pretext for the closure of this newspaper was an open letter written by the wife of Mohammad Saeedi, the imprisoned CEO of a company named Iran Marine Services.¹⁴⁷ In this letter, which was addressed to the head of the Iranian judiciary, Ms. Saeedi had written about her husband's case and the conditions of his imprisonment.¹⁴⁸

3.1.4.2. Aftab

Aftab was a monthly magazine also published by Saharkhiz. *Aftab* ran articles by Iranian intellectuals, and its purpose was to offer a critique of the reform movement from within.¹⁴⁹ Even the concept of the Guardianship of the Jurist was discussed in the magazine.¹⁵⁰ First the magazine was temporarily closed for an interview with a French professor who had referred to Ayatollah Khomeini as a person who had used guile.¹⁵¹ Although it resumed publishing, *Aftab* was eventually closed permanently after three years of publication.¹⁵² Saharkhiz was initially sentenced to five years of imprisonment for charges related to *Aftab* magazine, but this verdict was later changed to four years of imprisonment and a five year prohibition from working in the press.¹⁵³ Saharkhiz appealed, but the judiciary failed to rehear the case. This meant that Saharkhiz's case was not resolved. However, when Saharkhiz was imprisoned in the aftermath of the disputed 2009 presidential election, the charges relating to *Aftab* resurfaced.¹⁵⁴ Saharkhiz was eventually sentenced to 18 months of imprisonment for his work at *Aftab*, which he served after serving three years for charges related to 2009 presidential election.¹⁵⁵ He was released from prison on October 3, 2013.¹⁵⁶

3.1.5. Ali Asghar Ramezanzpour

Ali Asghar Ramezanzpour is a former official with the MOCAIG, and his experience in that ministry is discussed in section 2.2.2. *supra*. Ramezanzpour was also a journalist, and he was involved in a number of publications.

¹⁴⁷ Witness Testimony of Isa Saharkhiz, *supra* note 30.

¹⁴⁸ *Id.*

¹⁴⁹ *Id.*

¹⁵⁰ *Id.*

¹⁵¹ *Id.*

¹⁵² *Id.*

¹⁵³ *Id.*

¹⁵⁴ *Id.*

¹⁵⁵ *Id.*

¹⁵⁶ 'Isā Saharkhīz Āzād Shud, TABNAK (Oct. 3, 2013, 11:12 PM), <http://www.tabnak.ir/fa/news/348892>.

3.1.5.1. Havades

After his first stint at the MOCAIG Ramezanpour published the weekly *Havades*. *Havades*, which literally meant “incidents,” covered stories related to crime and fatal accidents. According to Ramezanpour, *Havades* had a circulation of 300,000 and it had become popular.¹⁵⁷ Iran’s police force soon approached *Havades* and made certain demands. They wanted to review its content before it was published.¹⁵⁸ In addition, they wanted *Havades* to publish articles that preached morality and were provided by the police force itself.¹⁵⁹ In practice, they wanted to take advantage of the popularity of *Havades* and advance their agenda.¹⁶⁰

When *Havades* resisted the police force’s demands, the police force went to members of the parliament. Hasan Kamran, a hardliner member of the parliament, was also a member of the Press Oversight Board. Due to his influence, *Havades* was finally closed down.¹⁶¹

3.1.5.2. Hamshahri

When Tehran Mayor Gholamhossein Karbaschi wanted to publish the daily *Hamshahri*, Ramezanpour was one of the individuals he called on to start the project. *Hamshahri* began publication on December 15, 1992.¹⁶² After 50 issues, however, Ramezanpour left the newspaper.¹⁶³ The reason for his departure was pressure from the office of Supreme Leader Ali Khamenei.¹⁶⁴ According to Ramezanpour, the Supreme Leader’s office had contacted Mayor Karbaschi and specifically told him that Ramezanpour, Ahmad Sattari, and Behrouz Geranpayeh, all member of the editorial board, should leave the paper.¹⁶⁵ Ramezanpour and the two other members of the editorial board decided to leave the paper rather than jeopardize the paper and the jobs of its staff.¹⁶⁶

3.1.6. Bijan Safsari

Bijan Safsari is a journalist born in 1957. He worked in *Ettelaat* newspaper before the Iranian Revolution. After President Khatami’s election in 1997, Safsari worked in other newspapers such as *Entekhab*, *Hayat-e No*, *Sobh-e Emrouz*, *Aftab-e Emrouz*, and *Azad*.¹⁶⁷ Safsari recounted that on the day Saeed Hajjarian, the deputy-chair of the Tehran City Council, was shot in an assassination attempt, MOI agents came to the

¹⁵⁷ Witness Testimony of Ali Asghar Ramezanpour, *supra* note 60.

¹⁵⁸ *Id.*

¹⁵⁹ *Id.*

¹⁶⁰ *Id.*

¹⁶¹ *Id.*

¹⁶² *Āshnāyī Ba Rūznāmeh Va Mu‘assisiyi Hamshahrī*, HAMSHAHRI ONLINE, (Sept. 24, 2008, 05:17PM), <http://www.hamshahrionline.ir/details/61443>.

¹⁶³ Witness Testimony of Ali Asghar Ramezanpour, *supra* note 60.

¹⁶⁴ *Id.*

¹⁶⁵ *Id.*

¹⁶⁶ *Id.*

¹⁶⁷ Witness Testimony of Bijan Safsari, (July 30, 2015) (on file with IHRDC).

Sobh-e Emrouz office and prevented the distribution of the newspaper's special edition about the assassination attempt.¹⁶⁸

3.1.6.1. Sepideye Zendegi

In 2000 Safsari was summoned to the Press Court after he published an issue of weekly *Sepideye Zendegi*, in which the magazine took a position in support of Minister of Culture and Islamic Guidance Ataollah Mohajerani. This issue was published when Mohajerani was under increasing pressure by conservatives to resign.¹⁶⁹ Two days after its publication, the managing editor of the magazine, a woman from whom Safsari had rented the magazine, was summoned to the Press Court. The Press Court was held at Branch 401 of the Government Employees' Court.¹⁷⁰ Safsari accompanied her to the court. Gholamhossein Mohseni-Eje'i, the Press Court prosecutor, criticized Safsari for dedicating one issue of his magazine to the controversy surrounding Mohajerani.¹⁷¹ The magazine was temporarily closed down on the charge of disturbing public opinion.¹⁷² Although the managing editor and Safsari scheduled a court date at the Press Court, which was to be presided by Judge Mortazavi, the managing editor decided not to pursue the case.¹⁷³ As a result *Sepideye Zendegi*'s permit was revoked.

3.1.6.2. Nedaye Eslahat

The managing director of *Nedaye Eslahat* magazine was a reformist member of the parliament. Safsari was the editor-in-chief of this magazine. *Nedaye Eslahat* was closed down after one issue.¹⁷⁴ The magazine published details of confidential deliberations inside the parliament, which were provided by the managing director.¹⁷⁵ After a complaint by the parliament, which at that time was controlled by the conservatives, the magazine was closed down.¹⁷⁶

3.1.6.3. Sedaye Edalat

Safsari then rented another weekly magazine, *Sedaye Edalat*, from a senior cleric named Hashem Hashemzadeh Herisi, who was a member of the Assembly of Experts.¹⁷⁷ After the first issue, Safsari received a phone call. The person who called Safsari used profane language and told Safsari to remind Hashemzadeh Herisi, who held the magazine's license, that he was residing in a house owned by the Supreme Leader, and that he should not have given his magazine to reformist journalists.¹⁷⁸ Safsari

¹⁶⁸ *Id.*

¹⁶⁹ *Id.*

¹⁷⁰ *Id.*

¹⁷¹ *Id.*

¹⁷² *Id.*

¹⁷³ *Id.*

¹⁷⁴ *Id.*

¹⁷⁵ *Id.*

¹⁷⁶ *Id.*

¹⁷⁷ *Id.*

¹⁷⁸ *Id.*

believes that the person who called him was an IRGC member.¹⁷⁹ *Sedaye Edalat* continued on, and after a few months it became a daily newspaper.¹⁸⁰ After about forty issues, the newspaper started receiving warning letters from the MOCAIG.¹⁸¹ In addition, Safsari recounted that the MOCAIG explicitly told newspapers the topics from which they should stay away.¹⁸²

After Safsari and other journalists working at *Sedaye Edalat* published a report detailing their meeting with Ayatollah Hosseinali Montazeri, who was under house arrest at the time, Hashemzadeh Herisi was summoned to the Special Clerical Court.¹⁸³ When he returned from the court, he stated that he was told that he should give the control of his newspaper to conservatives.¹⁸⁴ Following this Safsari was no longer able to work at newspapers.¹⁸⁵

3.1.6.4. Arrest and Imprisonment

After *Sedaye Edalat*, Safsari started the Iran-e Ma website. This website published material from opposition figures who were censored in Iranian media.¹⁸⁶ In 2005 Safsari covered a bombing in Ahvaz that was not widely covered in media operating inside Iran.¹⁸⁷ Subsequently, Safsari was arrested by MOI agents and taken to ward 209 of Evin Prison.¹⁸⁸ Safsari was held in solitary confinement for 43 days.¹⁸⁹ He was interrogated and physically abused during this detention.¹⁹⁰ He was accused of receiving funds from organizations that are funded by the United States.¹⁹¹

In court he was initially sentenced to 18 months of imprisonment, but the sentence was reduced to six months due to his heart condition. This meant that Safsari could be released on account of time already served.¹⁹² After his release Safsari would occasionally get a call from the authorities, and he had to present himself for informal questioning.¹⁹³ In 2011, Safsari wrote a report about the February 14 protests, and it was published in Persian-language media outside Iran.¹⁹⁴ Although Safsari had used a pseudonym, his interrogator realized he had been the author. He was summoned and questioned about the report.¹⁹⁵ The intelligence official who questioned him told him that there is a chance that he could be arrested.¹⁹⁶

¹⁷⁹ *Id.*

¹⁸⁰ *Id.*

¹⁸¹ *Id.*

¹⁸² *Id.*

¹⁸³ *Id.*

¹⁸⁴ *Id.*

¹⁸⁵ *Id.*

¹⁸⁶ *Id.*

¹⁸⁷ *Id.*

¹⁸⁸ *Id.*

¹⁸⁹ *Id.*

¹⁹⁰ *Id.*

¹⁹¹ *Id.*

¹⁹² *Id.*

¹⁹³ *Id.*

¹⁹⁴ *Id.*

¹⁹⁵ *Id.*

¹⁹⁶ *Id.*

After this incident, Safsari contemplated leaving Iran.¹⁹⁷ When the intelligence official called him for further questioning, Safsari felt that his arrest was imminent, and he immediately left Iran.¹⁹⁸

3.2. Accounts of Authors Experiencing Censorship

Before a book can be published in Iran it must receive the approval of the MOCAIG. In this section the experiences of a number of authors interviewed by IHRDC will be examined.

3.2.1. Abbas Maroufi

Abbas Maroufi's experience in running the *Gardoun* magazine was discussed in section 3.1.2. *supra*. In addition to the *Gardoun* magazine, Maroufi also run Gardoun publishing. His experience with book censorship at the MOCAIG is an example of what authors face in Iran.

3.2.1.1. The Last Greatest Generation

In 1986 Maroufi wrote a novel entitled *The Last Greatest Generation*. This novel was about a wrestling coach who has accompanied his wrestling team for a competition in Egypt. While in Egypt the coach falls in love with a cleaning lady at the hotel, and he spends all his time trying to get the woman to sleep with him. Eventually the woman jumps from a window ledge to end his harassment. In the novel Maroufi had described the woman's body. A MOCAIG official, however, told him that according to a fatwa by Ayatollah Khomeini describing a woman's body was prohibited in Islam.¹⁹⁹ To circumvent this problem, Maroufi changed the name of the hotel in the story to Isis, an Egyptian goddess. Then, describing a statue of Isis's body in his novel, Maroufi wrote, "It seems as if she's whistling..." When Maroufi finished describing the statue's ankles, he added a line about the cleaning lady, saying, "She whistles when she cleans the windows."²⁰⁰ By adding the line about whistling, Maroufi made an indirect reference to the description of the statue of Isis, thus enabling the reader to imagine the body of the cleaning lady in the novel.²⁰¹

3.2.1.2. Farhad's Body

Maroufi's account of how he obtained MOCAIG's approval for the novel *Farhad's Body* included how he used an ironic tactic to get past censorship. Maroufi indicated that some Iranian authors insert controversial or sensitive lines into their novels on purpose in order to distract the censoring officials from the actual text of their books. These additional lines are not meant to be part of the text, and the authors add them only to be marked as unacceptable by the MOCAIG. In the process, however, censoring

¹⁹⁷ *Id.*

¹⁹⁸ *Id.*

¹⁹⁹ Witness Testimony of Abbas Maroufi, *supra* note 110.

²⁰⁰ *Id.*

²⁰¹ *Id.*

officials are likely to overlook the rest of the text, which means that the book can be published with fewer instances of censorship. Maroufi stated that he inserted 15 controversial lines into *Farhad's Body*. The novel was about the invasion of Iran by Arab armies in early Islamic history. One of the controversial lines read: "These Arabs attacked our girls with crooked swords."²⁰² The MOCAIG officials in charge of approving the book had noticed and crossed out 13 of the 15 sensitive lines.²⁰³

3.2.2. Reza Parchizadeh

Reza Parchizadeh is a political theorist and activist. Parchizadeh was arrested on July 13, 1999 during student protests in Tehran.²⁰⁴ He was taken to the police headquarters' detention facility in Shahpour Avenue, and he was held there for a week, during which he was physically abused by the authorities.²⁰⁵ He was released after giving a pledge to the authorities stating that he would no longer engage in subversive activities.²⁰⁶ In 2007 Parchizadeh published a collection of his English poetry, with partial Persian translation. He stated that he was careful that the poems were metaphorical enough so that the book would not be rejected by the MOCAIG. The MOCAIG initially approved the book.²⁰⁷ However, one day Parchizadeh's publisher called and told him that he had received a call from the MOCAIG saying that they should stop selling Parchizadeh's book.²⁰⁸ His poems touched on topics like Iran's nuclear program, prostitution, and President Ahmadinejad's anti-Semitism.²⁰⁹

3.2.3. Popak Akhtari Rad

Popak Akhtari Rad is a writer and artist born in 1965 in Tehran. In his interview with IHRDC Akhtari Rad discussed a number of instances in which he experienced censorship. The first time Akhtari Rad witnessed censorship was when he was working at Agah publishing in Tehran. The individual running the publishing house had taken a book for approval to the MOCAIG. Upon his return he described some of the issues censoring officials had raised. For instance, the censoring official had flagged a sentence in a short story saying, "He zipped up." The censoring official had reasoned that this sentence implied that the character's zipper had been down previously, which he had considered as inappropriate.²¹⁰ Another instance of censorship at Agah publishing was when a translation of a children's book had not been approved by the MOCAIG. The MOCAIG had found a drawing of chicken unacceptable because the chicken's skirt was too short.²¹¹

²⁰² *Id.*

²⁰³ *Id.*

²⁰⁴ Reza Parchizadeh, *Khizishi Dānishjū'ū Tirmāhi 1378 Va "Sandrumi Dānishjuyū" Khizishhāyi Madanī Dar Īrāni Mu'āshir*, AKHBAR-ROOZ (July 8, 2013), <http://www.akhbar-rooz.com/article.jsp?essayId=53984>.

²⁰⁵ Witness Testimony of Reza Parchizadeh (July 1, 2015) (on file with IHRDC).

²⁰⁶ *Id.*

²⁰⁷ *Id.*

²⁰⁸ *Id.*

²⁰⁹ *Id.*

²¹⁰ Witness Testimony of Popak Akhtari Rad, (June 14, 2015) (on file with IHRDC).

²¹¹ *Id.*

Akhtari Rad's first children's book was published by Soroush Publications, a major publishing house owned by the Islamic Republic of Iran Broadcasting. Soroush Publications, however, rejected his second book. The book, entitled "The Wall," was a story about a boy and a girl who were neighbors separated by a wall. At the end of the book the wall between them broke down.²¹² When Akhtari Rad asked why the book was rejected, Soroush Publications held a meeting with him. In this meeting Mostafa Rahmandoust, a prominent poet and author of children's books, was one of the individuals representing Soroush Publications. Rahmandoust told Akhtari Rad that the story did not conform to Iran's societal and religious norms regarding relationships between boys and girls.²¹³ Akhtari Rad then went to the Children and Adolescents' Intellectual Development Center, which is administered by the Ministry of Education. His book was rejected there as well. Akhtari Rad asked for an explanation.²¹⁴ In a meeting scheduled to discuss this matter, the representative of the Children and Adolescents' Intellectual Development Center told Akhtari Rad that the content of his book was "Western."²¹⁵ She added that the concept of removing the wall between men and women does not conform to Iranian culture.²¹⁶ Furthermore, she saw removing the wall between men and women as a political issue.²¹⁷

Later on Akhtari Rad tried one more time to publish his book. He contacted Nader Ebrahimi, a well-known author who had connections in the MOCAIG.²¹⁸ According to Akhtari Rad, Ebrahimi went to the MOCAIG after President Khatami's election in 1997, hoping that the new leadership at the Ministry would increase the chances of the book's approval. Nevertheless, Ebrahimi was told that the book would not be approved.²¹⁹

3.2.4. Isa Saharkhiz

Isa Saharkhiz is a former MOCAIG official and a journalist, and his account is discussed in sections 2.2.1. and 3.1.4. *supra*. Saharkhiz also wrote a book discussing the situation of the press and the mass closure of 2000.²²⁰ The book's cover depicted a cemetery with newspaper logos as grave stones.²²¹ According to Saharkhiz, Ataollah Mohajerani, the Minister of Culture and Islamic Guidance, opposed to the publication of this book. Mohajerani argued that this book was a one-sided portrayal of the situation of the press in Iran.²²² Despite Saharkhiz's suggestion that Mohajerani could write an introduction for the book reflecting his views, he did not allow the book to get published.²²³

²¹² *Id.*

²¹³ *Id.*

²¹⁴ *Id.*

²¹⁵ *Id.*

²¹⁶ *Id.*

²¹⁷ *Id.*

²¹⁸ *Id.*

²¹⁹ *Id.*

²²⁰ Witness Testimony of Isa Saharkhiz, *supra* note 30.

²²¹ *Id.*

²²² *Id.*

²²³ *Id.*

3.3. Restriction on Academic Freedom

3.3.1. Cultural Revolution

The assault on Iranian universities can be traced to Ayatollah Khomeini's own remarks. Months before the closure of Iranian universities in the spring of 1980, Ayatollah Khomeini had expressed his misgivings about Western influence in universities. On June 6, 1979, Khomeini said, "The universities must be taken seriously. Every effort should be made to set them right; to make them Islamic. Our country has taken pains for the sake of Islam. Do not expect that only the government be Islamic; no. All the affairs should be so."²²⁴

On March 21, 1980, in his message on the Iranian new year Ayatollah Khomeini stated:

A fundamental revolutionary spirit should be brought into being in the colleges throughout Iran so that the professors having links with East and West to be wiped out [sic]. The college should be made as a safe environment befitting for the higher Islamic sciences to be taught. The detrimental coaching and teaching of the past regime should be strictly avoided. All this misfortune and sufferings of the society throughout the length of the rule of father and son is due to the detrimental training and teaching. Had we practiced a principled teaching in the colleges, today we would not have had any open-minded elements.²²⁵

On April 15, 1980, following a Q&A session with Ali Akbar Hashemi Rafsanjani, who later in the same year became the Speaker of the Iranian parliament, students known as followers of the path of Imam overran the university campus. The head of the University of Tabriz, Dr. Hasan Baroughi, expressed his disapproval of the students who occupied the university campus.²²⁶ He stated that those staging the sit-in were no more than 250 to 300 individuals, and that the University of Tabriz could not be led by the feelings of a small group of students.²²⁷ On the next day, *Ettelaat* reported that Baroughi and two of his deputies had resigned.²²⁸

On April 19, 1980 *Ettelaat* reported that within the previous 48 hours the control of university campuses across the country changed hands several times among rival student groups.²²⁹ *Ettelaat* reported that

²²⁴ 8 ROUHOLLAH KHOMEINI, SAHIFE-YE IMAM 59-60 (THE INST. FOR COMPILATION AND PUBLICATION OF IMAM KHOMEINI'S WORKS TRANS., 2008), available at <http://statics.ml.imam-khomeini.ir/en/File/NewsAttachment/2014/1702-Sahifeh-ye%20Imam-Vol%208%20.pdf>.

²²⁵ 12 ROUHOLLAH KHOMEINI, SAHIFE-YE IMAM 180 (THE INST. FOR COMPILATION AND PUBLICATION OF IMAM KHOMEINI'S WORKS TRANS., 2008), available at [http://statics.ml.imam-khomeini.ir/en/File/NewsAttachment/2014/1706-Sahifeh-ye%20Imam-Vol%2012\(1\).pdf](http://statics.ml.imam-khomeini.ir/en/File/NewsAttachment/2014/1706-Sahifeh-ye%20Imam-Vol%2012(1).pdf).

²²⁶ 12 *Hizār Dānishjū, Nimūtavānand Tābi 'i Ihsāsāti 250 Nafar Bāshand*, ETTELAAT, Apr. 19, 1980, at 3.

²²⁷ *Id.*

²²⁸ *Ra'īs Va Du Mu'āvinī Dānishgāhi Tabriz 'Isti'fā Kardand*, ETTELAAT, Apr. 20, 1980, at 1.

²²⁹ *Dasturi Shūrāyi 'Inqilāb: Danishgāhā Bāyad Ta 15 Khurdād Bāz Bāshand*, ETTELAAT, Apr. 19, 1980, at 1.

clashes at Tarbiat-e Moallem University in Tehran had left one person dead and 25 injured.²³⁰ Clashes at Shiraz University also reportedly left 500 people injured.²³¹

Following these clashes, on April 18 the Revolutionary Council issued an ultimatum to political groups active in the universities and ordered them to leave the campuses within three days.²³² If the political groups did not leave university campuses, the Revolutionary Council warned, members of the Revolutionary Council and the public would go to universities and dismantle the political groups' operations.²³³ In addition to universities in Tehran and Shiraz, Ettelaat reported that universities in Babolsar, Mashhad and Kerman were also overrun by student groups.²³⁴

On April 21, 1980, at the conclusion of the Revolutionary Council's ultimatum, clashes broke out in University of Tehran. *Ettelaat* reported that five persons had died while more than 300 were injured.²³⁵ Leftist and Islamist student groups were among the main groups involved in these clashes. On April 22, *Ettelaat* published a statement by the student branch of the Islamic Republic Party. In this letter, the student branch of the Islamic Republic Party asked Ayatollah Khomeini to establish a Cultural Revolution Council.²³⁶

Clashes in other Iranian universities continued. Ahmad Jannati, a current member of the Guardian Council and a former Friday Prayer Leader in Ahvaz, played an important role in the clashes that took place in Ahvaz. He invited citizens of Ahvaz to join him at the Jondi Shapour University for the noon congregational prayer.²³⁷ In clashes that ensued between student groups and those who went to the university on Jannati's urging five people were reportedly killed, about 270 were injured, and a few hundred were arrested.²³⁸ Further clashes on April 24 led to four more deaths and caused injuries to another 20 persons.²³⁹ Meanwhile, clashes in Rasht left five people dead and 431 injured.²⁴⁰ Sistan and Balouchistan University in Zahedan also saw unrest: one person was reported killed and more than 50 were injured after a group led by clerics went to the university campus to force out student group.²⁴¹

The chaos led to the mass resignation of the interim board in charge of University of Tehran. In a letter addressed to the Minister of Culture and Higher Education, the members of the interim board criticized those who attacked the universities.²⁴² In a second open letter the members of this interim board criticized

²³⁰ *Id.* Tarbiat-e Moallem University was renamed Kharazmi University in 2012. For further information regarding this university's history see *Pīshīniyi Dānīshgāh*, KHU.AZ.IR, <http://khu.ac.ir/تاریخچه-دانشگاه>.

²³¹ *Dasturi Shūrāyi 'Inqilāb: Dānīshgāhhā Bāyad Ta 15 Khurdād Bāz Bāshand*, *supra* note 229.

²³² *Dasturi Shūrāyi 'Inqilāb: Dānīshgāhhā Bāyad Ta 15 Khurdād Bāz Bāshand*, *supra* note 229 at 1-2.

²³³ *Dasturi Shūrāyi 'Inqilāb: Dānīshgāhhā Bāyad Ta 15 Khurdād Bāz Bāshand*, *supra* note 229 at 2.

²³⁴ *Id.*

²³⁵ *Guzārishi Lahẓih Bi Lahẓih Az Barkhurdhāyi Dānīshgāh*, ETTELAAT, Apr. 22, 1980, at 2.

²³⁶ *Taqāẓāyi Tashkīli Shūrāyi 'Inqilābi Farhangī Az 'Imām*, ETTELAAT, Apr. 22, 1980, at 3.

²³⁷ *Dargīrī Khūnīn Dar Dānīshgāhi Jundīshāpūr*, ETTELAAT, Apr. 23, 1980, at 3.

²³⁸ *Asāmī Kushtih Shudīgān Va Majrūhāni Dānīshgāhi Jundīshāpūr*, ETTELAAT, Apr. 23, 1980, at 2.

²³⁹ *Dar Dargīrī Va Tīrandazī Rūzi Panjshanbihi Ahvāz 4 Tan Kushtih Va 20 Nafar Majrūh Shudand*, ETTELAAT, Apr. 24, 1980, at 2.

²⁴⁰ *Dar Jaryāni Dargīrī Khūnīni Rasht 5 Nafar Kushtih Va 431 Nafar Majrūh Shudand*, ETTELAAT, Apr. 23, 1980, at 3.

²⁴¹ *Dargīrī va Zadukhurd Dar Dānīshgāhi Zāhidan*, ETTELAAT, Apr. 23, 1980, at 11.

²⁴² *Istī jāyi Dastijam 'tī Mudīrīati Muvaqqati Dānīshgāhi Tīhrān*, ETTELAAT, Apr. 26, 1980, at 2.

Ali Khamenei and Ali-Akbar Hashemi Rafsanjani for making false allegations regarding the university system.²⁴³

On June 13, 1980 Ayatollah Khomeini established the Cultural Revolution Task Force.²⁴⁴ This task force was charged with training and selecting suitable professors, selecting students, creating an Islamic atmosphere in universities, and changing the universities' curricula.²⁴⁵ In September 1983 Iranian universities finally reopened, but many former professors had been terminated. Some had left after recognizing that they were no longer accepted in the new environment.²⁴⁶ Abdolkarim Soroush, a member of the Cultural Revolution Task Force, stated that some individuals who were involved in the Cultural Revolution wanted to keep universities closed for twenty years.²⁴⁷ However, Soroush added that he and others met with Ayatollah Khomeini and persuaded him that the universities should be reopened as soon as possible.²⁴⁸ In 1984 the Cultural Revolution Task Force was reorganized as the Supreme Cultural Revolution Council, and it was given legislative authority.²⁴⁹ The Supreme Cultural Revolution Council has remained a powerful institution up to the present, and it continues to influence the affairs of Iranian universities.

The circumstances of a number of university professors who faced consequences in their academic careers because of their opinions or political actions are discussed below.

3.3.2. Mahmoud Sabahy

Mahmoud Sabahy is a former professor at the Art and Architecture School of the Islamic Azad University – Central Tehran Branch. He taught there from 1999 to 2009.²⁵⁰ Philosophy of theatre, sociology of theatre, history of philosophy, and sociology were among the courses he taught.²⁵¹ In his interview with IHRDC he indicated that the university took issue with him from the beginning of his academic career. Sabahy was first suspended from teaching for one year. One of the reasons for his suspension was that he was accused of promoting Marxism. He maintains, however, that he only discussed Marx within the context of teaching sociology.²⁵²

A speech Sabahy gave in Semnan became controversial. His speech discussed Hegel's views. In response to a question from a seminary student during the question and answer session after the speech, Sabahy stated that based on Hegel's view on courage, Shemr bin Dhi al-Jawshan, who killed Imam Hossein in the

²⁴³ *Id.*

²⁴⁴ 'Inqilābi Farhangī 33 Salih Shud, FARARU (Apr. 22, 2013, 05:38 PM), <http://fararu.com/fa/news/147326>.

²⁴⁵ Tashkīlī Shūrāyi 'Alī 'Inqilābi Farhangī, ISLAMIC REVOLUTION DOCUMENT CENTER, <http://www.irdc.ir/fa/calendar/68/default.aspx> (last visited Feb. 16, 2016).

²⁴⁶ Duktur 'Abdulkarīmī Surūsh Dar Barnamiyi Bi 'Ibārati Dīgar (Bakhshi 'Avval), YOUTUBE (Dec. 24, 2009), <https://www.youtube.com/watch?v=jvuKqVu9Odl>.

²⁴⁷ *Id.*

²⁴⁸ *Id.*

²⁴⁹ Tashkīlī Shūrāyi 'Alī 'Inqilābi Farhangī, *supra* note 245.

²⁵⁰ Witness Testimony of Mahmoud Sabahy, (July 2, 2015) (on file with IHRDC).

²⁵¹ *Id.*

²⁵² *Id.*

battle of Karbala²⁵³, was perhaps even more courageous than Imam Hossein because he knew he was killing the Prophet Mohammad's grandson.²⁵⁴ While in Semnan, Sabahy also criticized Ayatollah Khomeini's statement many years prior that Hossein Fahmideh, a 13-year-old boy who had blown up an Iraqi tank in a suicide mission during the war, was worthy of being the country's leader. The seminary student present at the venue of the speech informed the Friday Prayer leader of Semnan about Sabahy's remarks, and the Friday Prayer leader spoke out against Sabahy.²⁵⁵ Upon his return to Tehran, Sabahy was summoned by the *herasat* office and accused of making anti-religion statements.²⁵⁶ The IRGC Intelligence Division of Semnan had filed a complaint against Sabahy.²⁵⁷ This complaint was one of the reasons behind Sabahy's one-year suspension. The *herasat* office told Sabahy that if he went to Semnan and convinced the IRGC Intelligence Division to withdraw its complaint, he could resume teaching.²⁵⁸ Sabahy did not accept this suggestion.²⁵⁹

In 2009, Sabahy was officially expelled from his university due to pressure from the MOI. Prior to his dismissal, Sabahy faced a long session of questioning at an MOI facility separate from the *herasat* office. Sabahy was questioned about a wide variety of topics, including whether he knew how to recite a particular prayer.²⁶⁰ Another question was what he thought about President Ahmadinejad, to which Sabahy replied that he did not believe Ahmadinejad was qualified to represent the Iranian people.²⁶¹ They also asked Sabahy about his private life, including his relationship with his wife. Sabahy was given a sheet of paper including several conditions, and he was told that he could return to work if he pledged to comply by those conditions.²⁶² Sabahy refused to accept their conditions. One of the conditions was loyalty to the Supreme Leader.²⁶³

In a letter dated March 9, 2009 Sabahy was informed that he was being suspended for two semesters. Later on Sabahy was orally informed of his permanent expulsion by the head of his department. Sabahy left Iran in 2010.²⁶⁴

3.3.3. Mohammad Sharif

²⁵³ The Battle of Karbala was waged on October 10, 680 between Hossein, the Prophet Mohammad's grandson, alongside a small number of his followers on one side, and an army sent by Yazid, the second Umayyad Caliph, on the other. For more on this battle, see *Battle of Karbalā'*, ENCYCLOPÆDIA BRITANNICA (Oct. 23, 2015), <http://www.britannica.com/event/Battle-of-Karbala>.

²⁵⁴ Witness Testimony of Mahmoud Sabahy, *supra* note 250.

²⁵⁵ *Id.*

²⁵⁶ *Id.*

²⁵⁷ *Id.*

²⁵⁸ *Id.*

²⁵⁹ *Id.*

²⁶⁰ *Id.*

²⁶¹ *Id.*

²⁶² *Id.*

²⁶³ *Id.*

²⁶⁴ *Id.*

Mohammad Sharif was a law professor at Allameh Tabataba'i University. In April 2010 he was fired from his position without any explanation provided to him.²⁶⁵ Sharif stated that representing prisoners probably was the real reason for which he was terminated.²⁶⁶ His termination occurred two months after remarks by Kamran Daneshjou, Minister of Science, Research and Technology, indicating that university professors should believe in the concept of guardianship of the jurist.²⁶⁷ Sharif lodged a complaint with the Court of Administrative Justice. However, in 2013, more than two years after he was fired, his complaint was not yet considered by this court.²⁶⁸

3.3.4. Morteza Mardiha

Morteza Mardiha was a philosophy professor at Allameh Tabataba'i University. He was terminated from his position in April 2010.²⁶⁹ His termination, like that of Mohammad Sharif, occurred about two months after remarks by Iran's Minister of Science, Research and Technology, who stated that university professors should believe in guardianship of the jurist.²⁷⁰

3.4. Censorship of the Arts

Individuals engaging in various forms of art have been subject to strict censorship since the formation of the Islamic Republic. Censorship has been motivated by both political and religious concerns.

3.4.1. Atena Farghadani

Atena Farghadani, an artist and civil rights activist, was arrested on August 23, 2014.²⁷¹ One of the reasons for her arrest was a cartoon in which she had depicted members of the Iranian parliament as

²⁶⁵ *Duktur Muḥammadi Sharīf, Ustādi 'Ikhrājī Dānishgāhi 'Allāmiḥ Ṭabaṭabayī: Nāmīhyi 'Ikhrāji Man Rā Dānishjūyi Mardūdām 'Imzā Kardih Ast*, INTERNATIONAL CAMPAIGN FOR HUMAN RIGHTS IN IRAN (Apr. 7, 2011), http://persian.iranhumanrights.org/1390/01/mohammad_sharif_expell

²⁶⁶ *Id.*

²⁶⁷ *'Iltizām Bih Vilāyati Faqīh Sharṭi Būrsi Dānishjūyān/Šudūri Mujavvizi Dānishgāhi Takjinsīatī*, MEHR NEWS AGENCY (Feb. 2, 2010, 11:35 AM), <http://www.mehrnews.com/news/1028382>.

²⁶⁸ *Muḥammadi Sharīf, Ustādi 'Ikhrājī Dānishgāh: Bih Darkhāstam Barāyi Bāzgasht Bih Dānishgāh Pāsukhī Dādih Nashudih Ast*, INTERNATIONAL CAMPAIGN FOR HUMAN RIGHTS IN IRAN (Oct. 10, 2013), <http://persian.iranhumanrights.org/1392/07/sharif>.

²⁶⁹ *Hamīd Parniān, Chirā Murtizā Mardīhā Az Dānishgāh 'Ikhrāj Shud?*, RADIO ZAMANEH (Apr. 18, 2010), http://zamaaneh.com/idea/2010/04/post_683.html.

²⁷⁰ *'Iltizām Bih Vilāyati Faqīh Sharṭi Būrsi Dānishjūyān/Šudūri Mujavvizi Dānishgāhi Takjinsīatī*, *supra* note 267.

²⁷¹ *Ātinā Farqadānī Fa'ālī Huquqi Kūdak Bāzdāsh Shudih Ast*, HUMAN RIGHTS ACTIVISTS NEWS AGENCY (Sept. 12, 2014), <https://hra-news.org/fa/thought-and-expression/b-65>.

animals. She had reportedly shared this cartoon on her Facebook page.²⁷² Farghadani had drawn this cartoon in protest to a bill passed by the Iranian parliament aimed at restricting birth control.²⁷³



Figure 5: This cartoon by Atena Farghadani was one of the reasons for her arrest and conviction.

Farghadani, who was being held at ward 2-A of Evin Prison, was released on bail in November 2014.²⁷⁴ However, she was summoned and taken to Qarchak Prison after she posted a video²⁷⁵ on Youtube in which she described how the restrooms in ward 2-A were monitored by cameras.²⁷⁶ Qarchak Prison, primarily used to detain individuals charged with common crimes, is considered to have one of the worst sanitary conditions among prisons in the country. Farghadani went on a hunger strike to protest her detention at Qarchak Prison, and she was eventually transferred to Evin Prison in March 2015.²⁷⁷ In June 2015 it was announced that Farghadani had been sentenced to 12 years and nine months of imprisonment by Branch 15 of the Tehran Revolutionary Court.²⁷⁸ She could be released after seven years under the 2013 Islamic Penal Code. Farghadani's charges were conspiring against national security, disseminating propaganda against the Islamic Republic, and insulting the Supreme Leader, the president, members of

²⁷² *Ātinā Farqadānī Bih 12 Sāl Va 9 Māh Ḥabs Maḥkūm Shud*, DEUTSCHE WELLE PERSIAN (June 2, 2015), <http://www.dw.com/fa-ir/آتنا-فرقدانی-به-۱۲-سال-و-۹-ماه-حبس-محکوم-شد/a-18492330>.

²⁷³ *Ātinā Farqadānī, Barandihī Jāyizihi Shujā'ati Shabakihī Biynulmilālī Mudāfi 'i Huqūqi Kārīkātūrīsthā Shud*, BBC Persian (Aug. 13, 2015), http://www.bbc.com/persian/learningenglish/2015/08/150813_nm_farghadani_atena_cartoon_jail.

²⁷⁴ *Ātinā Farqadānī Āzād Shud*, HUMAN RIGHTS ACTIVISTS NEWS AGENCY (Nov. 6, 2014), <https://hira-news.org/fa/prisoners/b-221>.

²⁷⁵ ²⁷⁵ *Ātinā Farqadānī*, YOUTUBE, (Dec. 29, 2014), <https://www.youtube.com/watch?v=Ybx0HE7ykt8>.

²⁷⁶ *Ātinā Farqadānī Bih 12 Sāl Va 9 Māh Ḥabs Maḥkūm Shud*, *supra* note 272.

²⁷⁷ *Id.*

²⁷⁸ *Id.*

the parliament and officers of ward 2-A of Evin Prison during her interrogations.²⁷⁹ Her appeal is pending in Branch 54 of the Appeals Court.²⁸⁰

3.4.2. Fatemeh Ekhtesari

Fatemeh Ekhtesari, a poet, was arrested in December 2013 by the IRGC intelligence division. She was sentenced to eleven and a half years of imprisonment in October 2015. One of the charges leveled against Ekhtesari was insulting sacred Islamic values, for which she reportedly received seven years of imprisonment.²⁸¹ According to her lawyer, many of her works of poetry were published after being approved by the MOCAIG. He further added that her poetry did not contain material offending sacred religious values.²⁸²

3.4.3. Mehdi Mousavi

Mehdi Mousavi is another poet who received a lengthy prison sentence. Mousavi was first arrested in December 2013 by the IRGC intelligence division. In October 2015 he was sentenced to nine years of imprisonment, six years of which was for the charge of insulting sacred religious values.²⁸³ Mousavi indicated that the court opinion was dated June 22, 2015, which was before the last session of his trial, in which he presented his defense arguments.²⁸⁴

3.5. Censorship of the Internet

Article 21 of the Computer Crimes Law, passed in 2009, provides for the formation of the Task Force to Determine Illegal Content. This Task Force is charged with specifying the websites that should be filtered by internet service providers operating in Iran. The regulatory code promulgated by this Task Force lists numerous examples of content that should be filtered. Some of the topics mentioned by this code are:

- ☐ Promoting illegitimate and illegal luxuries
- ☐ Atheistic and anti-Islamic content
- ☐ Any content harming the foundations of the Islamic Republic of Iran
- ☐ Dissemination of any content aimed at encouraging boycott of elections or a low turnout

²⁷⁹ *Id.*

²⁸⁰ 'Irjā' i Parvandihiyī Ātina Farqadānī Bih Dādgāhi Tajdidi Nazar; Bīmārī Va Dar Intizāri 'Irja' Bih Pizishki Mutikhaṣṣiṣ, INTERNATIONAL CAMPAIGN FOR HUMAN RIGHTS IN IRAN (Aug. 3, 2015), <http://persian.iranhumanrights.org/1394/05/atena-faraghdani-3>.

²⁸¹ Mihdī Mūsavī Va Fāṭimih 'Ikhtīṣārī Bih Zindāni Ṭulānīmuddat Va Shallāq Maḥkūm Shudand, RADIO FARDA (Oct. 12, 2015), <http://www.radiofarda.com/content/f9-iranians-poets-mehdi-mousavi-fatemeh-ekhtesari-sentenced-jail-lash/27302538.html>.

²⁸² *Id.*

²⁸³ *Id.*

²⁸⁴ *Id.*

- Using images of women as means in election campaigns
- Publishing any insulting or destructive content about candidates in a presidential election²⁸⁵

As it is evident by the examples provided above, this regulatory code can be used to filter a wide array of websites. In practice, filtering of websites has been an arbitrary process in the past few years.

3.5.1. Examples of Filtered Websites

Numerous websites are filtered by the Iranian government. In this section, a few instances of filtering and the reasons behind their censorship are briefly discussed.

3.5.1.1. Jamaran News

Jamaran News, a website affiliated with Hasan Khomeini, the grandson of Ayatollah Khomeini, was briefly filtered in February 2015. The filtering was reportedly due to the website's publishing of former President Mohammad Khatami's pictures.²⁸⁶ The Iranian judiciary had declared that the media were prohibited from publishing Mohammad Khatami's name or picture.²⁸⁷ This decree was not issued after a trial or any other judicial process. Jamaran News was unfiltered after it promptly removed Mohammad Khatami's pictures.²⁸⁸

3.5.1.2. Entekhab

In October 2014, Entekhab, a news site considered as moderate, was filtered after it criticized a number of officials in the Rouhani administration.²⁸⁹ The filtering ended after 90 days when the government officials who had filed complaints withdrew their complaints.²⁹⁰

3.5.1.3. WhatsApp

In May 2014 the secretary of the Task Force to Determine Illegal Content announced that WhatsApp, a popular messaging app, was being filtered. He stated that the main reason for filtering of foreign mobile

²⁸⁵ *Fihristi Maṣāḍīqi Muḥtavāyi Mujrimānih*, INTERNET.IR, http://internet.ir/crime_index.html (last visited Feb. 16, 2016).

²⁸⁶ *Pas Az Ḥaẓfī Taṣāvviri Khātāmī*, "Jamārān" *Raf'i Filtir Shud*, DEUTSCHE WELLE PERSIAN (Feb. 28, 2015), <http://www.dw.com/fa-ir/حذف-تصاویر-خاتمی-جماران-رفع-فیلترشود/a-18286581>.

²⁸⁷ *Risānihā Ḥaqqi 'Intishāri Taṣvīr Yā Maṭlabī Az Muḥammadi Khātāmī Nadārand*, RADIO FARDA (Feb. 16, 2015), http://www.radiofarda.com/content/f4_ejei_ban_khatami_text_picture/26852598.html.

²⁸⁸ *Pas Az Ḥaẓfī Taṣāvviri Khātāmī*, "Jamārān" *Raf'i Filtir Shud*, *supra* note 286.

²⁸⁹ *'Intikhāb Filtir Shud*, ASR IRAN (Oct. 2, 2014, 08:05 AM), <http://www.asriran.com/fa/news/358404>.

²⁹⁰ *Raf'i Filtiri «'Intikhāb» Ba 'd Pas Az 90 Rūz/Mudīri «'Intikhāb» : Ba 'zī Dūstāni Dulatī Ba Bīma 'rifatī, Kārshikanīhāyi 'Ajībī Kardand/«Buzurgān» Lutf Dāshand/Hamchinān Dar Masīri «'Ītidāl» Qadam Bar Khāhīm Dāshd*, ENTEKHAB (Jan. 1, 2015), <http://www.entekhab.ir/fa/news/183150>.

messaging apps is “uncontrollable sharing” of illegal content.²⁹¹ He also mentioned the acquisition of WhatsApp by Facebook CEO Mark Zuckerberg, who, according to him, is a “Zionist.”²⁹²

3.5.2. Cyber Police

Iran’s Cyber Police was established in January 2011.²⁹³ According to its website, the Cyber Police’s duties include protecting religious and national identity and stopping attacks against social values and mores.

3.5.2.1. Sattar Beheshti

In 2012, Sattar Beheshti, an Iranian blogger, was arrested by the Cyber Police. Beheshti died a few days later while in custody. Beheshti’s death caused engendered a strong scrutiny of the Cyber Police. Beheshti was arrested on October 30, 2012 by the Cyber Police.²⁹⁴ He was charged with disseminating propaganda against the Islamic Republic, insulting the values of the Islamic Republic, and conspiring to act against national security.²⁹⁵ After being arrested, Beheshti was taken to the Cyber Police detention facility.²⁹⁶ Beheshti was subsequently taken to Evin Prison, where he underwent a medical examination. At the request of the Cyber Police, a procurator signed an order sending Beheshti to the detention facility of police headquarters on Shahpour Avenue. The Cyber Police, however, violated this order and transferred Beheshti back to the Cyber Police’s own detention facility on November 1, 2012.²⁹⁷ Two days later Beheshti was found dead. Signs of physical abuse were found on Beheshti’s body.²⁹⁸ After an investigation, one police officer was charged and convicted of semi-intentional murder, and he was sentenced to three years of imprisonment.²⁹⁹ A number of political prisoners held in ward 350 of Evin Prison, stated that during the short period that Beheshti had spent there they had seen signs of torture on his body. They also quoted him as saying, “They want to kill me.”³⁰⁰

3.5.2.2. The Bloggers’ Case

With the advent of the internet the Iranian government was faced with a new platform for speech that it deemed undesirable. One of the early cases of prosecution of individuals for online activity was the

²⁹¹ *Dalāyili Filtirīngi Vāts Āp ‘I’lām Shud*, FARARU (May 30, 2014, 02:26 PM), <http://fararu.com/fa/news/188396>

²⁹² *Id.*

²⁹³ *Mu‘arrifī Pulīsi Fatā (Fazāyi Tulīd Va Tabāduli ‘Ittilā‘āt) Nīrūyi ‘Intizāmī*, CYBERPOLICE.IR, <http://www.cyberpolice.ir/about> (last visited Feb. 16, 2016).

²⁹⁴ *Matni Kāmili Guzārishi Majlis Darbāriyi Margi Sattāri Bihishti/Fatā Khalāfi Dastūri Qazā‘ī ‘Amal Kard*, Mehr News Agency (Jan. 6, 2013, 09:17 AM), <http://www.mehrnews.com/news/1784226>.

²⁹⁵ *Id.*

²⁹⁶ *Id.*

²⁹⁷ *Id.*

²⁹⁸ *Qātili Sattāri Bihishti Bih Sih Sāl Zindān Maḥkūm Shud*, BBC PERSIAN (Aug. 7, 2014), http://www.bbc.com/persian/iran/2014/08/140807_nm_sattar_beheshti_court.

²⁹⁹ *Id.*

³⁰⁰ *Id.*

“bloggers’ case.” A 2009 IHRDC report entitled *Forced Confessions: Targeting Iran’s Cyber-Journalists* explored the developments in this case in significant detail.³⁰¹

In 2004, twenty individuals including journalists, bloggers and activists were arrested.³⁰² Shahram Rafizadeh, Babak Ghafouri Azar, Hanif Mazroui, Roozbeh Mirebrahimi, Omid Memarian, Fereshteh Ghazi, Javad Gholam Tamimi and Mahboubeh Abbasgholizadeh were among those arrested.³⁰³ After the arrested individuals were gradually released, allegations of abuse against them surfaced. Eventually they met with the head of the Iranian judiciary.³⁰⁴ The judiciary admitted that certain violations had taken place, and that only four persons were to face charges.³⁰⁵ These four individuals were forced to confess to their crimes in TV interviews.³⁰⁶ Several years later, on February 5, 2009, Javad Gholam Tamimi was sentenced to three years and three months of imprisonment and ten lashes; Shahram Rafizadeh was sentenced to nine months of imprisonment and twenty lashes; Roozbeh Mirebrahimi was sentenced to two years of imprisonment and 84 lashes; and Omid Memarian was sentenced to two years and six months of imprisonment, 10 lashes, and a fine of 500,000 toumans (approximately \$518 per the exchange rate at the time).³⁰⁷ By the time these sentences were issued, however, Rafizadeh, Mirebrahimi, and Memarian had already left Iran.³⁰⁸

4. Restrictions Imposed on Freedom of Expression through Iran’s Domestic Law

The laws of the Islamic Republic of Iran contain explicit violations of the freedom of expression. These laws, which govern various aspects of life, serve the government’s purposes through curbing both political and religious speech.

4.1. Restrictions Imposed on Freedom Of Expression through Iran’s Criminal Code

Iran’s criminal code, known as the Islamic Penal Code, imposes serious penalties for certain kinds of religious and political speech. Based on Shari’a law, the Islamic Penal Code contains provisions that severely punish anti-religious speech. Iran’s penal code also treats the Islamic Republic as a “holy”

³⁰¹ IRAN HUMAN RIGHTS DOCUMENTATION CENTER, FORCED CONFESSIONS: TARGETING IRAN’S CYBER JOURNALISTS (2009), available at <http://www.iranhrdc.org/english/publications/reports/3159-forced-confessions-targeting-iran-s-cyber-journalists.html>.

³⁰² ‘Iz’āni Quvviyi Qazā’īyi Bih Takhalluf Dar Parvandihiyi Viblāgnivisān, BBC PERSIAN (Apr. 20, 2005, 05:25 PM), http://www.bbc.com/persian/iran/story/2005/04/050420_mf_blogger.shtml

³⁰³ Farjāmi Parvandihiyi Viblāgnivisān, ‘Iqbāl, NEWS.GOOYA.COM (Apr. 21, 2005), <http://news.gooya.com/politics/archives/027324.php>. Also see Dādgāhi Tajdīdi Nazari Parvandihiyi Viblāgnivisān Barguzār Mīshavad, RADIO KOOCHÉH (Oct. 27, 2010), <http://radiokoocheh.info/article/66477>.

³⁰⁴ Farjāmi Parvandihiyi Viblāgnivisān, ‘Iqbāl, *supra* note 303.

³⁰⁵ ‘Iz’āni Quvviyi Qazā’īyi Bih Takhalluf Dar Parvandihiyi Viblāgnivisān, *supra* note 302.

³⁰⁶ Arash Sigarchi, Zindān Barāyi Shahrām, Rūzbih Va Dīgarān, SIGARCHI.NET (Feb. 5, 2009), <http://sigarchi.net/blog/?p=2086>.

³⁰⁷ Dādgāhi Tajdīdi Nazari Parvandihiyi Viblāgnivisān Barguzār Mīshavad, RADIO KOOCHÉH (Oct. 27, 2010), <http://radiokoocheh.info/article/66477>.

³⁰⁸ *Id.*

government deserving of respect. Therefore, political speech deemed to challenge this concept, especially speech deemed offensive to Ayatollah Khomeini and his successor, Ayatollah Khamenei, is criminalized.

4.1.1. Article 262 and 263 of the IPC: Insulting the Prophet Mohamamd

Articles 262 and 263 of the IPC address the crime of insulting the Prophet. Article 262 declares:

Anyone who swears at or commits *qazf*³⁰⁹ against the Great Prophet [of Islam] (peace be upon him) or any of the Great Prophets, shall be considered as *Sāb ul-nabi* [a person who swears at the Prophet], and shall be sentenced to the death penalty.

Note- Commission of *qazf* against, or swearing at, the [twelve] *Shia*' Imams (peace be upon them) or the Holy Fatima (peace be upon her) shall be regarded as *Sab-e nabi*.

Article 263 states:

When the accused of a *sabb-e nabi* (swearing at the Prophet) claims that his or her statements have been under coercion or mistake, or in a state of drunkenness, or anger or slip of the tongue, or without paying attention to the meaning of the words, or quoting someone else, then he or she shall not be considered as *Sāb ul-nabi* [a person who swears at the Prophet].

Note- When a *sabb-e nabi* (swearing at the Prophet) is committed in the state of drunkenness, or anger or quoting someone else, if it is considered to be an insult, the offender shall be sentenced to a ta'zir punishment of up to seventy-four lashes.

In recent years, however, the IRI has charged two men with this offense. Both have been sentenced to death; however, neither sentence has been carried out. In October 2011 Rouhollah Tavana, a quality control engineer from Mashhad, was arrested by the Iranian authorities. He was charged with insulting the Prophet when the authorities found a video on his computer in which he made a vulgar comment directed at the Prophet Mohammad.³¹⁰ In August 2013 Tavana was sentenced to death by Fifth Branch of the Khorasan Razavi Criminal Court. His sentence was upheld by the Supreme Court in February 2014, but it has not yet been carried out.³¹¹

Soheil Arabi is another man charged with swearing at the Prophet. He was arrested in 2013 by the Islamic Revolutionary Guard Corps (IRGC).³¹² Arabi reportedly had eight Facebook pages in which he had

³⁰⁹ Article 254 of the IPC defines *qazf* as a false accusation of adultery or sodomy against someone else.

³¹⁰ IRAN HUMAN RIGHTS DOCUMENTATION CENTER, APOSTASY IN THE ISLAMIC REPUBLIC OF IRAN 27 (2014), available at <http://www.iranhrdc.org/english/publications/reports/1000000512-apostasy-in-the-Islamic-Republic-of-Iran.html#3.1.4>.

³¹¹ *Id.*

³¹² *Hukmi 'I'dāmi Suhiyli 'Arabī «Naqz Shud»*, RADIO FARDA (June 28, 2015), <http://www.radiofarda.com/content/f12-soheil-arabi-death-sentence-canceled/27098656.html>.

posted material that insulted the Prophet Mohamamd and Shia' Imams.³¹³ While Arabi told the court that he had written those posts while he was not in a normal state, and that he regretted writing them, he was found guilty and sentenced to death on August 30, 2014 by Branch 76 of the Tehran Criminal Court.³¹⁴ While the Supreme Court had reportedly upheld the sentence, on July 28, 2015 reports emerged that Branch 24 of the Supreme Court has reversed Arabi's sentence.³¹⁵

On remand, Arabi was sentenced to 90 months of imprisonment by Branch 10 of the First Tehran Province Criminal Court.³¹⁶ In addition he has been sentenced to two years of studying Islam so that it can be established that he "regrets" his past behavior. Arabi must study 13 books on religious topics. He should also present a 5-10 page summary of each book, and must present questions to be answered by two religious institutions. He will also be compelled to present these questions and answers to the court in writing. Moreover, Arabi must write an article on religion in which he uses five to ten books as references.³¹⁷



Figure 6: Soheil Arabi, right, was sentenced to death for swearing at the Prophet and Shia' Imams. His sentence has been invalidated by Iran's Supreme Court and he is currently awaiting a new trial.

4.1.2. Article 286 of the 2013 IPC: Spreading Lies

Article 286 of the IPC addresses the serious offenses of "rebellion" and "sowing corruption on earth," both of which are punishable by death. This article states that "spreading lies" may constitute sowing corruption on earth if it results in "severe disruption in the public order of the state and insecurity, or

³¹³ *Id.*

³¹⁴ *Id.*

³¹⁵ *Naqzi Hukmi Suhiyli 'Arabī Dar Dīvāni 'Alī Kishvar*, KALEME (June 28, 2015), <http://www.kaleme.com/1394/04/07/klm-218018>.

³¹⁶ *90 Māh Zindān Va Taḥqīqāti Dīnshināsī Bih Jāyi 'I'dām*, JAME JAM ONLINE (Sept. 27, 2015, 08:48 AM), <http://www.jamejamonline.ir/newspreview/2109441307650708756>.

³¹⁷ *Id.*

causes harsh damage to the bodily entity of people or public or private properties, or causes distribution of corruption and prostitution on a large scale.”³¹⁸

The inclusion of the phrase “spreading lies” among activities that could be considered a capital offense leaves the door open to prosecution of citizens for exercising their right to free expression.

4.1.3. Article 500 of the Fifth Book of the IPC: Disseminating Propaganda against the Islamic Republic

“Disseminating propaganda against the Islamic Republic” is one of the most common charges leveled against political dissidents, journalists, bloggers, lawyers, religious minorities and others whose activities are considered a threat to the Islamic Republic. Article 500 of the Fifth Book of the IPC provides:

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.³¹⁹

The overbroad language of this provision effectively means that any negative comment or statement regarding the Iranian government may be a prosecutable offense. In practice, this provision has been used against a wide array of individuals and activists, including government officials.

In 2014, Ghoncheh Ghavami was arrested days after she attempted to enter a stadium to watch a men’s volleyball match between Iran and Italy. In recent years women have been barred from watching volleyball matches, although no law explicitly bans women from such events. Ghavami was sentenced to one year of imprisonment on the charge of disseminating propaganda against the Islamic Republic.³²⁰ She was also barred from leaving Iran for two years. She was released on bail in November 2014.³²¹

In 2015, Ahmad Tavakkoli, a prominent conservative member of the Iranian parliament, faced the charge of disseminating propaganda against the Islamic Republic. The charge reportedly stemmed from the comments left by users of the website *Alef*, which is closely associated with Tavakkoli.³²²

³¹⁸ *English Translation of Books I & II of the New Islamic Penal Code*, IRAN HUMAN RIGHTS DOCUMENTATION CENTER (Apr. 8, 2014), <http://www.iranhrdc.org/english/human-rights-documents/iranian-codes/1000000455-english-translation-of-books-1-and-2-of-the-new-islamic-penal-code.html>.

³¹⁹ *Islamic Penal Code of the Islamic Republic of Iran – Book Five*, IRAN HUMAN RIGHTS DOCUMENTATION CENTER (July 8, 2013), <http://www.iranhrdc.org/english/human-rights-documents/iranian-codes/1000000351-islamic-penal-code-of-the-islamic-republic-of-iran-book-five.html>.

³²⁰ *Vakili Ghunchih Qavami: Ittihāmi Muvakkilam Fa’āliati Tablīghī ‘Alayhi Nizām Ast*, BBC PERSIAN (Nov. 16, 2014), http://www.bbc.com/persian/iran/2014/11/141116_nm_ghavami_lawyer.

³²¹ *Ghunchih Qavami Āzād Shud*, BBC PERSIAN (Nov. 23, 2014), http://www.bbc.com/persian/iran/2014/11/141123_151_ghoncheh_ghavami_released.

³²² *Muḥākimiyyi Tavakkulī Bih Ittihāmi Tablīgh ‘Alayhi Nizām*, ENTEKHAB (May 17, 2015, 08:55 AM), <http://www.enteckhab.ir/fa/news/204671>.

Tavakkoli was found guilty of insulting the president and the head of the judiciary, but acquitted him of other charges. Tavakkoli was sentenced to six months of imprisonment, but the sentence was suspended for two years.³²³ Tavakkoli stated that the users' comments on his website were the basis for his conviction.³²⁴

Tahmineh Milani, a renowned Iranian director, is facing the similar charge of disseminating propaganda against the Islamic Republic for the content of one of her screenplays. She indicated that she was summoned to the Culture and Media Prosecutor's Office.³²⁵ Milani described the screenplay, which had obtained all the required permits by the MOCAIG, as the "epic tale of a woman who confronts violence and bloodshed through tact, wisdom and the arts."³²⁶



Figure 7: Tahmineh Milani, a renowned Iranian director, is facing the charge of propaganda against the Islamic Republic for a screenplay.

Esmail Abdi, the secretary of the Tehran Teachers' Union, was charged with disseminating propaganda against the Islamic Republic on June 27, 2015.³²⁷ His arrest followed a teachers' rally in Tehran during which teachers demanded higher wages and the release of three teachers imprisoned for their activism.³²⁸ Abdi was reportedly threatened by MOI agents that he would be imprisoned if he continued his activities.³²⁹ This threat was made before the teachers' rally.³³⁰

³²³ *Hukmi Dādgāhi Ahmadi Tavakkulī Šadīr Shud*, MEHR NEWS AGENCY (June 6, 2015, 05:06 PM), <http://www.mehrnews.com/news/2769176>.

³²⁴ *Id.*

³²⁵ *Tahmīnih Mīlānī Bī 'Ittihāmi «Tablīgh 'Alayhi Niẓām» Bih Dādsarā 'Iḥzār Shud*. RADIO ZAMANEH (Jan. 13, 2015), <http://www.radiozameh.com/199122>.

³²⁶ *Id.*

³²⁷ *Bāzdāshti 'Ismā'īlī 'Abdī, Dabīri Kullī Kānūnī Šīnfī Mu'allimānī 'Īrān*, KALEME (June 27, 2015), <http://www.kaleme.com/1394/04/06/klm-218009>.

³²⁸ *Bāzdāshti 'Ismā'īlī 'Abdī, Dabīri Kullī Kānūnī Šīnfī Mu'allimānī 'Īrān*, KALEME (June 27, 2015), <http://www.kaleme.com/1394/04/06/klm-218009>. Also see *Sivvumīn Tajammu'i 'I'tirāzī Mu'allimān Dar Sarāsari 'Īrān*, DEUTSCHE WELLE PERSIAN (May 7, 2015), <http://www.dw.com/fa-ir/سومین-تجمع-اعتراضی-معلمان-در-سراسر-ایران/a-18437554>.

³²⁹ *Bāzdāshti 'Ismā'īlī 'Abdī, Dabīri Kullī Kānūnī Šīnfī Mu'allimānī 'Īrān*, *supra* note 328.

³³⁰ *Id.*

Criticizing former President Ahmadinejad's subsidy reform program resulted in the prosecution of Fariborz Raees Dana, an economist critical of President Ahmadinejad's policies. Raees Dana, who was arrested in 2010, was convicted of disseminating propaganda against the Islamic Republic and served one year of imprisonment.³³¹

4.1.4. Article 513 of the Fifth Book: Insulting Islamic Sacred Beliefs

Article 513 of the Fifth Book of the IPC states:

Anyone who insults the sacred values of Islam or any of the Great Prophets or [twelve] Shia' 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.

This provision, which provides for the lesser punishment of imprisonment of individuals who insult religious beliefs, is invoked considerably more frequently than the charge of swearing at the Prophet, which carries the death penalty.

Mohammad Hasan Yousefpour, a human rights activist, was arrested in the summer of 2011. He was sentenced to two and half years of imprisonment for insulting sacred Islamic beliefs. This charge was leveled against him for an article on his blog about temporary marriage in the holy city of Mashhad, and for an article entitled "Women's Situation in Iran."³³² He was also sentenced to three years of imprisonment on national security charges.³³³

Soheil Babadi was arrested on May 21, 2012 for posting satirical pieces on a Facebook page entitled "the Campaign to Remind the Shia' of Imam Naghi." The Facebook page, which in September 2015 had more than 33,000 followers, pokes fun at Imam Naghi, the tenth Shia' Imam.³³⁴ Babadi was charged with insulting sacred Islamic beliefs, and he was sentenced to five years of imprisonment.³³⁵

In November 2013 the Public and Revolutionary Prosecutor of Rafsanjan stated that eight individuals were arrested for writing offensive material online.³³⁶ The offensive material included insults to the Prophet Mohammad and Shia' Imams, and it also included denying the existence of God.³³⁷

³³¹ *Farīburzi Ra'īs Dānā Az Zindāni 'Ivīn Āzād Shud*, RADIO FARDA (Apr. 15, 2013), <http://www.radiofarda.com/content/f5-fariborz-raiis-dana-freed-from-prison-in-iran/24958257.html>.

³³² *Zindān Va Shallāq Bih Khāṭiri Tuhīn Bih Aḥmadīnizhād*, ROOZ ONLINE (May 1, 2013), <http://www.roozonline.com/persian/news/newsitem/article/-28d8aa4d8d.html>.

³³³ *Id.*

³³⁴ *Kampiyni Yādāvarū 'Imām Naqī Bih Shī'ayān*, FACEBOOK, <https://www.facebook.com/Emam.Naghi?fref=ts> (last visited Feb. 17, 2016).

³³⁵ *Suhiyli Bābādī Bih Haft Sāl Ḥabs Maḥkūm Shud*, HUMAN RIGHTS ACTIVISTS NEWS AGENCY (Sept. 4, 2015), <https://hra-news.org/fa/prisoners/a-2095>.

³³⁶ *Dastgīrī 8 Nafar Bih Jurmī Tuhīn Bih Muqaddasāti Dīnī Dar Fazāyi Majāzī*, FARS NEWS AGENCY (Nov. 25, 2013), <http://www.farsnews.com/newstext.php?nn=13920904001044>

³³⁷ *Id.*

In November 2014 Khorasan newspaper reported that four individuals were arrested for sending text messages offensive to sacred Islamic beliefs through Viber, a text-messaging application.³³⁸ The arrests of these individuals followed a complaint by another individual who had found the material shared through the Viber group offensive.³³⁹

4.1.5. Article 514 of the Fifth Book: Insulting Ayatollah Khomeini and the Supreme Leader

Article 514 of the Fifth Book of the IPC declares, “Anyone who, by any means, insults Imam Khomeini, the founder of the Islamic Republic, or the Supreme Leader shall be sentenced to six months to two years’ imprisonment.” The law does not define what may constitute an insult. Furthermore, the way in which this provision is drafted implies that it may only be applicable to the current Supreme Leader, Ali Khamenei, and not his future successors.³⁴⁰

A cartoon published in the Farad magazine in 1992 resulted in an uproar among the conservative establishment.³⁴¹ The cartoon depicted a soccer player, but the face of the cartoon was interpreted to be that of Ayatollah Khomeini. Following the publication of this cartoon the office of Farad magazine was vandalized by a mob.³⁴² Hasan Karimzadeh, the 19-year-old cartoonist, was initially sentenced to one year of imprisonment, fifty lashes, and a fine of 50,000 toumans (approximately \$336 per the exchange rate at the time).³⁴³ Tehran’s Revolutionary Prosecutor was not satisfied with this sentence and appealed the decision to the Supreme Court. The Supreme Court sentenced Karimzadeh to ten years of imprisonment; however, he was released after serving two years.³⁴⁴ Farad magazine was never published again.³⁴⁵ Farad’s editor claimed that he had nothing to do with the cartoon, and that he was not aware of it before it was published. He was sentenced to six months of imprisonment and 50 lashes.³⁴⁶

³³⁸ *Chahār Nafar Bih ’Ittihāmi «Tuhīn Bih Muqaddasāt» Dar Vāybir Bāzdāsht Shudand*, RADIO FARDA (Dec. 19, 2014), <http://www.radiofarda.com/content/fl6-iran-viber-arrested/26699420.html>.

³³⁹ *Id.*

³⁴⁰ In the original Persian, the term used for Supreme Leader can be translated as “His Highness, the Leader.” In the Iranian media this phrase is solely used to refer to the current Supreme Leader, Ayatollah Ali Khamenei.

³⁴¹ *Khashmi ’Ummat Az Tuhīni Majjalihi Fārād Bih Ḥaẓrati ’Imām*, HAWZEH.NET <http://www.hawzah.net/fa/magazine/view/130/6463/73742> (last visited Feb. 17, 2016).

³⁴² *Id.*

³⁴³ Farnūsh ’Amīrshāhī, *Janjālḥāyi Kārīkāturī*, BBC PERSIAN (Sept. 30, 2012, 07:29 PM), http://www.bbc.com/persian/iran/2012/09/120930_142_ir_caricature.shtml.

³⁴⁴ *Id.*

³⁴⁵ *Id.*

³⁴⁶ *Id.*



Figure 8: This cartoon was interpreted to depict Ayatollah Khomeini. Hasan Karimzadeh, the 19-year-old cartoonist, spent two years in prison for this cartoon.

Another controversial cartoon that was interpreted as depicting Ayatollah Khomeini caused the closure of *Hayat-e No* newspaper in January 2003.³⁴⁷ The cartoon was from the era of President Franklin Roosevelt's court-packing controversy. However, the image of the Supreme Court, which was depicted as an elderly man, was believed to resemble Ayatollah Khomeini.³⁴⁸ President Roosevelt's figurative thumb on the elderly man's head was perceived as an attempt to humiliate Ayatollah Khomeini. The conservative establishment's backlash against the paper was strong, and it resulted in the closure of the newspaper and the arrest of three staff members.³⁴⁹ Two were released immediately, but one, Alireza Eshraghi, spent 58 days in jail for having selected this cartoon for publication alongside an interview about social capital and the role that it plays in public affairs.³⁵⁰ Eshraghi indicated that he had spent 53 days in solitary confinement in ward 209 of Evin Prison.³⁵¹ Following his release, which was secured on a bail of 25 million toumans (approximately \$31,289 per the exchange rate at the time), Eshraghi stated that there was no intent on his part to insult Ayatollah Khomeini, and the text accompanying the cartoon did not mention Ayatollah Khomeini at all.³⁵²

³⁴⁷ *Hayāti Nu Bastih Shud*, BBC PERSIAN (Jan. 12, 2003, 03:23 PM), http://www.bbc.com/persian/iran/030111_mf-hayat.shtml.

³⁴⁸ Brian Murphy, *Irate Iranians Take to Streets Over Reprinted FDR Cartoon*, STAR NEWS ONLINE (Jan. 13, 2003, 01:32 PM), <http://www.starnewsonline.com/article/20030113/news/201130364>.

³⁴⁹ Farnūsh 'Amīrshāhī, *supra* note 343.

³⁵⁰ *Id.*

³⁵¹ 'Alīrīzā 'Isḥrāqī Bā Sipurdani Vaṣīqih Āzād Shud, Hamshahri Online (Mar. 11, 2003), <http://www.hamshahronline.ir/HAMNEWS/1381/811220/news/ejtem.htm#s11000>.

³⁵² *Id.*



Figure 9: This cartoon, which pertains to President Franklin Roosevelt's disagreements with the U.S. Supreme Court in 1930s, caused the closure of Hayat-e No newspaper and the arrest of three individuals working at the newspaper in 2003. The image of the Supreme Court, depicted as an elderly man, was seen by some as reminiscent of Ayatollah Khomeini.

In September 2014 an IRGC commander in Shiraz announced that eleven individuals were arrested by the IRGC for sending text messages that were offensive to Ayatollah Khomeini.³⁵³ The IRGC commander described these individuals as “swindled” persons who were leading the dissemination of material that insulted the founder of the Islamic Republic.³⁵⁴ Portraying the text messages as a security threat, the IRGC commander said that the messages were possibly an attempt by Western intelligence services to “desensitize” making fun of the “values of the Islamic Revolution.”³⁵⁵ On October 1, 2014 the Fars Province affiliate of the Islamic Republic of Iran Broadcasting (IRIB) showed confessions of some of the arrested individuals.³⁵⁶ The theme of these confessions was that these individuals were mostly not aware of the content of the text messages, and that they were only sending them for fun.³⁵⁷ The faces of these persons were not shown in the news item.

³⁵³ *Dastgīrī Tuhīnkunandīgān Bih 'Imām (Rh) Dar Fārs*, IRANIAN STUDENTS' NEWS AGENCY (Sept. 21, 2014, 04:55 PM), <http://www.isna.ir/fa/news/93063018035>.

³⁵⁴ *Id.*

³⁵⁵ *Id.*

³⁵⁶ *'I'tirāfī Tilivīzyunū 11 Nafar Dar 'Irān Bih 'Ittihāmi 'Intishāri Jukhāyī Darbārihyi Āyatullāh Khumīynī Dar Vāybir Va Vāzāp*, Youtube (Oct. 13, 2014), <https://www.youtube.com/watch?t=2&v=Z2YvO8UHXCU>.

³⁵⁷ *Id.*

The charge of insulting the Supreme Leader was brought against Ghasem Sho'lesa'di, a former member of parliament, in 2002 and again in 2011. In 2002 Sho'lesa'di wrote an open letter³⁵⁸ to Ayatollah Khamenei which led to his arrest. In this letter Sho'lesa'di wrote:

Don't you know that under Article 39 of the Constitution even affronts to the dignity and repute of persons arrested, detained, imprisoned, or banished in accordance with the law, whatever form they may take, are forbidden and liable to punishment, let alone those who feel responsible and do not have anything in their minds except defending this country's national interests? How can you hurl so many insults at those who do not agree with you?³⁵⁹

But his conviction was eventually overturned.³⁶⁰ In 2011, he was convicted of the same crime and the additional charge of disseminating propaganda against the Islamic Republic. His comments in the interviews he had given were the basis of these charges. He was sentenced to one year of imprisonment, and he was barred from practicing law or teaching at universities for ten years.³⁶¹ Sho'lesa'di was released in the summer of 2012.³⁶²

Mehdi Farahi Shandiz, a labor activist who has been arrested on several occasions, has been convicted of insulting the Supreme Leader on three different occasions.³⁶³ Consequently, he has been sentenced to nine years of imprisonment. Two of his three convictions were based on his actions in prison.³⁶⁴ While in prison, uttering slogans such as "death to Khamenei" and "death to dictator" reportedly provoked the authorities.³⁶⁵

Abolfazl Ghadyani, a reformist political prisoner, was sentenced to three years of imprisonment for insulting the Supreme Leader in December 2011.³⁶⁶ The basis for this charge was interviews in which Ghadyani had criticized Ayatollah Khamenei's approach in suppressing protests that ensued following the 2009 presidential election.³⁶⁷ When questioned by the authorities, Ghadyani had stated that Mr. Khamenei is a dictator, and that he has usurped the right of the Iranian people to govern themselves.³⁶⁸

³⁵⁸ *Nāmih 'Īst Sargushādih Bih Jinābih Hujjatulislām Āqāyi Khāminih 'ī Az Bandihyi Khuda Qāsimi Shu 'lih Sa 'dī*, SHOLESADI.COM, <http://www.sholehsadi.com/letter1.php> (last visited Feb. 17, 2016).

³⁵⁹ *Id.*

³⁶⁰ *Mu 'āvini Dādsitān, Māni 'i Āzādī Shu 'lih Sa 'dī Ast*, ROOZ ONLINE (Apr. 18, 2012), <http://www.roozonline.com/persian/news/newsitem/article/-8ce6157272.html>.

³⁶¹ *Id.*

³⁶² *Qāsimi Shu 'lih Sa 'dī: Bā 'Intishāri Manshūri Huqūqi Shahrvandī Sāzmānhāyi Zīri Nazari Dulat Sakhtgīrī Kamtarī Khāhand Kard*, INTERNATIONAL CAMPAIGN FOR HUMAN RIGHTS IN IRAN (Dec. 26, 2013), http://persian.iranhumanrights.org/1392/10/sholeh-sadi_-moanshour.

³⁶³ *Nuh Sāl Zindān Barāyi Tuhīn Bih Rahbarī*, SAHAM NEWS (June 28, 2015), <http://sahamnews.org/2015/06/285738>.

³⁶⁴ *Id.*

³⁶⁵ *Mihdi Farāhī Shāndīz, Zindānī Sīāsī, Haftihā Dar 'Infirādī Ivīn Nigahdarī Shudih Ast*, KALEME (Mar. 29, 2013), <http://www.kaleme.com/1392/01/09/klm-138268>.

³⁶⁶ *Sih Sāl Habsi Dīgar Barāyi 'Abulfazli Qadyānī*, KALEME (Dec. 28, 2011), <http://www.kaleme.com/1390/10/07/klm-84771>.

³⁶⁷ *Itihāri Dubārihi 'Abulfazli Qadyānī Bā 'Ittihamāti Jadīd; Tuhīn Bih Rahbarī Va Tablīgh 'Alayhi Nizām*, KALEME (Mar. 7, 2011), <http://www.kaleme.com/1389/12/16/klm-50799>.

³⁶⁸ *Id.*

The charge of insulting sacred religious belief was also brought against Atena Daemi, a children's rights activist.³⁶⁹ Daemi, who was arrested in October 2014, faced numerous charges and was sentenced to fourteen years of imprisonment.³⁷⁰ Insulting sacred religious beliefs was one of the charges against her. This charge was based on her opposition to the Islamic veil and the death penalty, and that she had listened to the music of Shahin Najafi³⁷¹, in which Shia' Imams were ridiculed.³⁷²

The charge of insulting the Supreme Leader can ensnare ordinary citizens who are not political activists. In March 2015, Roozbeh Karamjani, a resident of the town of Robat Karim in Tehran Province, was arrested after he allegedly imitated Ayatollah Khamenei in a private gathering.³⁷³ Four of his neighbors, who did not approve of his action, reported him to the authorities and testified against him. Karamjani's bail was set at 200 million toman (approximately \$58,565 per the exchange rate at the time) and he was transferred to Rajaeeshahr Prison.³⁷⁴

An Afghan citizen residing in Iran named Shafiollah Nouri was arrested for insulting both Ayatollah Khomeini and Supreme Leader Ali Khamenei in 2015.³⁷⁵ According to HRANA, Nouri was active in cyberspace. He was taken to ward 8 of Evin Prison after his arrest.³⁷⁶

4.1.6. Article 609 of the Fifth Book: Insulting Government Officials

Article 609 of the IPC states:

Anyone who insults any of the Heads of three powers [of the Executive, Judiciary and Legislature] or Vice-Presidents or Ministers or Members of Parliament or Members of the Council of Experts [for Leadership] or Members of the Guardian Council or judges or Members of the Audit Court or civil servants of Ministries and governmental organizations and companies and municipalities while they are performing their duties, or [if the (offender) insults them] in connection with their duties, shall be sentenced to three

³⁶⁹ *Pas Az Shish Māh Bāzdāsht, Ātinā Dā'imī Bih Chahār 'Ittiḥām Dar Dādgāh Maḥkūm Shud*, INTERNATIONAL CAMPAIGN FOR HUMAN RIGHTS IN IRAN (Mar. 16, 2015), <http://persian.iranhumanrights.org/1393/12/atenah-daemi-3>.

³⁷⁰ *Ātinā Dā'imī Bih Taḥammuli 14 Sāl Zindān Maḥkūm Shudih Ast*, BBC PERSIAN (June 1, 2015), http://www.bbc.com/persian/iran/2015/06/150601_139_atena_daemi_verdict.

³⁷¹ Shahin Najafi is a Germany-based Iranian rapper whose music and lyrics contain sharply-worded political and social criticism. In 2012 Najafi was declared to be an apostate by Iranian clerics after he released a song making controversial references to the tenth Shia' Imam. Apostasy is punishable by death under Iranian law. *See Iranian Rapper Faces Death Threats and Fatwa for 'Blasphemous' Song*, GUARDIAN (May 14, 2012, 01:43 PM), <http://www.theguardian.com/world/2012/may/14/iranian-rapper-death-threat-fatwa>.

³⁷² *Pas Az Shish Māh Bāzdāsht, Ātinā Dā'imī Bih Chahār 'Ittiḥām Dar Dādgāh Maḥkūm Shud*, *supra* note 369.

³⁷³ *Zindānī Shudani Yik Shahrvandi Rubāṭ Karīmī Bih 'Ittiḥāmi Tuhīn Bih Rahbarī*, HUMAN RIGHTS ACTIVISTS NEWS AGENCY (Mar. 11, 2015), <https://hra-news.org/fa/thought-and-expression/b-578>.

³⁷⁴ *Id.*

³⁷⁵ *Bāzdāshti Yik Javāni Afghān Bih 'Ittiḥāmi Tuhīn Bih Rahbarī*, HUMAN RIGHTS ACTIVISTS NEWS AGENCY (July 23, 2015), <https://hra-news.org/fa/thought-and-expression/a-1628>.

³⁷⁶ *Id.*

to six months of imprisonment or up to 74 lashes or a fine of fifty thousand to one million Rials.

In the aftermath of the disputed 2009 presidential election a number of political activists received flogging sentences for allegedly insulting President Ahmadinejad. Somayeh Tohidlou, a Ph.D. sociology student and a member of Mir Hossein Mousavi's presidential campaign, was flogged on September 14, 2011.³⁷⁷ She indicated that her flogging had taken place in a symbolic manner, and that it did not cause physical pain to her. Nevertheless, she also wrote that "the feeling of humiliation burned my entire being."³⁷⁸ The exact act that led to the charge of insulting the president was not specified.

Amin Niayifar, a mechanical engineering student at University of Tehran, was also flogged for insulting President Ahmadinejad.³⁷⁹ Niayifar was arrested during the protests of December 27, 2009, and he was sentenced to two years of imprisonment, 18 months of which were suspended, and 30 lashes. He was flogged on October 17, 2011, in Evin Prison. According to reports he was in severe pain, but was returned to his ward without receiving any medical treatment.³⁸⁰



Figure 10: Peyman Aref, a student activist and a member of the Iran National Front, received 74 lashes for insulting President Ahmadinejad. His flogging sentence was carried out on the day he was scheduled to be released from prison.

³⁷⁷ *Shūrīni 'Ibādī: «'Ijrāyi Hukmi Shallaq 'Alayhi Yik Fa 'ālī Madanī Nishānihiyī 'Za 'fi Hukūmat Ast»*, DEUTSCHE WELLE PERSIAN (Sept. 15, 2011), <http://www.dw.com/fa-ir/-عليه-يك-فعال-مدني-نشانه-ضعف-ا-حکومت-است/a-1538952>.

³⁷⁸ *Id.*

³⁷⁹ «*Dānishjūyi Mumtāzi Dānishgāhi Tihārān*» *Bih 'Ittihāmi Tuhīn Bih Ahmādīnizhād Shallāq Khurd*, RADIO FARDA (Oct. 17, 2011),

http://www.radiofarda.com/content/f12_third_student_lashed_for_insulting_ahmadinejad/24362361.html.

³⁸⁰ *Id.*

Peyman Aref, a student activist and a member of the Iran National Front, was also sentenced to 74 lashes for insulting President Ahmadinejad.³⁸¹ According to his wife, Aref had written an open letter to President Ahmadinejad entitled, “Do You Know What You Did with Universities?” However, she stated, this letter did not contain any insults.³⁸² In this letter Aref wrote:

I never wrote you a letter because I truly did not consider you worthy of being addressed as a person in power. But today, as your administration is its twilight and the era of your “dark cabinet” at its end, I decided to write this letter for the historical record, and for you to understand what you have done to universities.³⁸³

Aref’s flogging sentence was carried out on October 9, 2011, the day he was scheduled to be released from prison.³⁸⁴ President Ahmadinejad was quoted as saying that he was not pleased that a young person was flogged for insulting him when the rich and the powerful were getting away with making false accusations against him.³⁸⁵ After his flogging Aref stated, “Here, in an Iran that Ahmadinejad says is the freest country in the world, I have been flogged on the charge of insulting Ahmadinejad.”³⁸⁶

Abbas Salimi Namin, a conservative figure who heads the Office of the Study and Writing of Iranian History, was also prosecuted for insulting President Ahmadinejad. Criticizing President Ahmadinejad, Salimi Namin had stated that Ahmadinejad had become delusional.³⁸⁷ Branch 1057 of the Government Employees’ Public Criminal Court tried Salimi Namin for this and other charges. The court found Salimi Namin guilty of insulting the president and sentenced him to six months of imprisonment. He was also found guilty of insulting Abdollah Jasbi, the former head of the Azad University, and he was sentenced to 74 lashes.³⁸⁸ He was also fined for making statements against the Iranian judiciary and the Islamic Republic as a whole.³⁸⁹

4.1.7. Article 698 of the Fifth Book: Dissemination of Falsehood for the Purpose of Inflicting Harm or Disturbing Public Opinion or that of the Authorities

Article 698 of the IPC declares:

³⁸¹ *Piymāni Ārif Pīsh Az Āzādī Az Zindāni ‘Ivīn 74 Žarbiḥ Shallāq Khurd*, RADIO FARDA (Oct. 9, 2011), http://www.radiofarda.com/content/f4_peyman_aref_lash_evin_prison/24353940.html.

³⁸² *Id.*

³⁸³ *Piymān Ārif, Āqāyi ‘Aḥmadīnizhād Mīdānīd Bā Dānishgāh Chih Kardīd?!*, BALATARIN, <https://www.balatarin.com/permlink/2009/5/29/1601974> (last visited Feb. 18, 2016).

³⁸⁴ *Id.*

³⁸⁵ *Vākūnishi Maḥmūdī Aḥmadīnizhād Bih ‘Ijrayi «Ḥukmi Shallāqi» Piymāni Ārif*, RADIO FARDA (Oct. 12, 2011, 04:27 PM), http://www.radiofarda.com/content/f4_ahmadinejad_reaction_peyman_aref_lash/24356339.html.

³⁸⁶ *Id.*

³⁸⁷ *Maḥkūmīati Salīmī Namīn Bih Zindān Bā Shikāyati Aḥmadīnizhād Va Jāsbī*, ALEF (Jan. 31, 2015), <http://alef.ir/vdcb9wb5zrhbsfp.uiur.html?258397>.

³⁸⁸ *Maḥkūmīati ‘Abbāsi Salīmī Namīn Bih 6 Māh Ḥabs Va 74 Žarbiḥ Shallāq*, RADIO FARDA (Jan. 31, 1393), <http://www.radiofarda.com/content/f12-abbas-salimi-nami-sentenced/26823441.html>.

³⁸⁹ *Id.*

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, whether signed or without a signature, lies or falsely attributes some acts to an individual or a legal person or officials, whether explicitly or implicitly or whether directly or indirectly, and whether or not it causes material or spiritual damages, in addition to restitution of the prestige [of the victim] if possible, shall be sentenced to two months to two years' imprisonment or up to 74 lashes.

This provision, which broadly targets anyone who writes a false statement, has been used to stifle dissenting voices. In September 2012, for instance, ten employees of a government agency in Ardabil were arrested because they had allegedly created a blog in which they had “disseminated falsehoods” regarding their workplace.³⁹⁰

An incident in the town of Andimeshk in Khuzestan Province demonstrates the extent to which the definition of “dissemination of falsehoods” can be extended. On May 4, 2015, the Andimeshk Public and Revolutionary Prosecutor announced that two individuals who had spread false news online had been arrested.³⁹¹ He stated that these individuals had taken this action to create an atmosphere of insecurity and to disturb the public opinion. The false news referred to by the prosecutor was the news that eleven individuals had been killed in a fight between two families. This incident had actually taken place in 2009.³⁹² The Andimeshk governor stated that spreading this story, which was several years old, amounted to disturbing public opinion.³⁹³

4.2. Restrictions Imposed on Freedom of Expression by the Press Law

Article 24 of the Iranian Constitution declares:

Publications and the press have freedom of expression except when it is detrimental to the fundamental principles of Islam or the rights of the public. The details of this exception will be specified by law.

Over the years what can be considered “detrimental to the fundamental principles of Islam” has been defined very broadly, and it has even included various expressions of Islamic belief.

The Press Law, last amended in 2009, expands the constitution's constraint on freedom of expression. Publishing atheistic articles or content that is prejudicial to Islamic codes, propagating luxury and extravagance, insulting Islam and its sanctities, offending senior Islamic jurists, quoting articles from the

³⁹⁰ *Dastgīrī Dah Kārmānd Dar Ardabīl Bih 'Ittihāmi 'Nashri Akāzīb Dar Viblāg'*, BBC PERSIAN (Sept. 1, 2012, 04:51 PM), http://www.bbc.com/persian/rolling_news/2012/09/120901_145_rln_ardebil_eployee_arrest.shtml

³⁹¹ *Dādsitāni Andīmeshk: 'Avāmili Nashri 'Akāzīb Dar Fazāyi Majāzī Dar 'Andīmeshk Dastgūr Shudand*, IRNA (May 4, 2015, 12:48 PM), <http://www.irna.ir/fa/News/81594665/>.

³⁹² *Takzībī Khabari Kushtih Shudani Chand 'Andīmeshkī*, ALEF (May 1, 2015, 05:40 PM), <http://alef.ir/vdcccxoqip2bqe18.ala2.html?269305>.

³⁹³ *Id.*

“deviant press, parties and groups which oppose Islam,” and publishing statements against the Constitution are among actions expressly prohibited by Article 6 of this law.³⁹⁴

The press law also restricts the individuals who may own or operate a media outlet. To be able to obtain a permit, a person must be a citizen of Iran and at least 25 years of age.³⁹⁵ Furthermore, he or she should not be in bankruptcy due to his or her own mistake. He or she should also not be publicly known for “deviance,” and nor should he or she have been convicted of a crime that is punishable by loss of social rights.³⁹⁶ Other conditions are having a bachelor’s degree or its equivalent from a religious seminary and acceptance of the constitution of the Islamic Republic.³⁹⁷ In order to make a decision regarding these qualifications, the Press Oversight Board should request a background check from the MOI, the police, and the Ministry of Justice.³⁹⁸

4.2.1. The Press Oversight Board

The Press Oversight Board, the key institution responsible for regulation of the press, is comprised of the following:

1. A judge selected by the head of the judiciary.
2. Minister of Islamic Culture and Guidance or his or her fully authorized representative.
3. A Majlis deputy selected by the Majlis.
4. A university professor appointed by the Minister of Culture and Higher Education.
5. One of the press managing editors elected by managing editors of the press.
6. One of the teachers of the Qom religious seminary as elected by the Supreme Council of the Religious Seminary of Qom.
7. One of the Members of the Supreme Council of the Cultural Revolution selected by that council.³⁹⁹

The judiciary, the parliament, the Qom religious seminary, and the Supreme Council of the Cultural Revolution—all conservative centers of power—are represented in the Press Oversight Board. Therefore, even when a relatively moderate administration takes control of the executive branch, religious conservatives maintain a strong presence at the Press Oversight Board.

4.2.2. The Press Court

³⁹⁴ Press Law of 18 Apr. 2000, available at <http://press.farhang.gov.ir/fa/rules/laws2>.

³⁹⁵ Press Law of 18 Apr. 2000, article 9, available at <http://press.farhang.gov.ir/fa/rules/laws2>.

³⁹⁶ *Id.*

³⁹⁷ *Id.*

³⁹⁸ *Id.*

³⁹⁹ Press Law of 18 Apr. 2000, article 10, available at <http://press.farhang.gov.ir/fa/rules/laws2>

Article 168 of the Iranian Constitution declares that offenses related to the press should be tried in Ministry of Justice courts.⁴⁰⁰ While the term “press court” is often used in the Iranian context, in reality there is no special court specifically designed to hear press cases. In cases brought against the press, the trial is held in public courts, but a jury is also convened in accordance with Article 168 of the Iranian Constitution.⁴⁰¹ In fact, the press cases are the only cases in which a jury is used.⁴⁰²

The Press Law specifies that jurors should have these qualifications:

1. Being at least 30 years old.
2. Being married.
3. Not having a serious criminal record.
4. Being known for trustworthiness, honesty and good character.
5. Scientific qualification and familiarity with cultural and press-related issues.⁴⁰³

The court will have quorum with the presence of seven jurors, and the jury can reach a decision with a majority.⁴⁰⁴

4.2.2.1. Punishments under the Press Law

Article 35 of the Press Law delineates some of the punishments that offending media outlets may face. According to this article, an offending media outlet may be sentenced to a fine between 100,000 to 2 million toumans (approximately \$30 to \$593 per the 2015 exchange rate), or the closure of the publication for a maximum of six months or a year, respectively. In addition, the law states that when an offense is punishable by imprisonment or flogging, the court may alternatively sentence the offending media outlet to a fine between 200,000 to 5 million toumans (approximately \$59 to \$1483 per the 2015 exchange rate), the closure of the publication for six months, if it is a newspaper, and for one year if it is another type of publication.⁴⁰⁵ Furthermore, an offending individual may be banned from all kinds of press activity for five years.

⁴⁰⁰ QANUNI ASSASSI JUMHURI ISLAMI IRAN [THE CONSTITUTION OF THE ISLAMIC REPUBLIC OF IRAN] 1358 [1980], ARTICLE 168 available at <http://www.iranhrdc.org/english/english/human-rights-documents/iranian-codes/3017-the-constitution-of-the-islamic-republic-of-iran.html?p=21>.

⁴⁰¹ While Article 35 of the Press Law states that Revolutionary Courts may hear press cases, Article 302 of the Code of Criminal Procedure explicitly states that press-related cases are to be heard at public criminal courts.

⁴⁰² According to the Press Law the jury is to be selected biennially in the following manner: In Tehran, the Minister of Culture and Islamic Guidance invites, or takes part in the committee along with, the head of the Ministry of Justice provincial office, the head of the city council, the head of the Islamic Development Office, and a representative of the National Friday Prayer Leaders' Policy Council. The above-mentioned persons are to select 21 persons from various groups in the society. The groups that the Press Law mentions for this purpose are the clergy, university professors, physicians, engineers, writers, journalists, attorneys, teachers, trade associations, civil servants, laborers, farmers, artists, and members of the Basij. In provincial capitals, the head of the MOCAIG provincial office invites, or takes part along with, the head of the Ministry of Justice provincial office, the head of the city council of the provincial capital, the head of the provincial Islamic Development Office, and the Friday Prayer Leader of the province or his representative. The above-mentioned individuals are to select 14 persons to serve as jurors in cases brought against the press in the provinces. Jurors serve for two-year terms. See Press Law of 18 Apr. 2000, article 36, available at <http://press.farhang.gov.ir/fa/rules/laws2>.

⁴⁰³ Press Law of 18 Apr. 2000, article 37, available at <http://press.farhang.gov.ir/fa/rules/laws2>.

⁴⁰⁴ Press Law of 18 Apr. 2000, article 38, available at <http://press.farhang.gov.ir/fa/rules/laws2>.

⁴⁰⁵ Press Law of 18 Apr. 2000, article 35, available at <http://press.farhang.gov.ir/fa/rules/laws2>.

The more serious punishment of cancelling a publication's permit may be imposed when a publication commits one of the offenses mentioned in Article 6 of the Law. In addition, the Press Supervisory Board may revoke the license of a publication whenever it finds that the person holding the license no longer possesses the required qualifications mentioned in Article 9.⁴⁰⁶

4.2.2.2. Judge Mortazavi and Mass Closure of Newspapers

In the spring of 2000 Saeed Mortazavi, who was the judge in charge of the Press Court, began what became known as the “mass closure” of newspapers. The law that Mortazavi relied on was a Pahlavi-era statute meant for prosecution of dangerous criminals.⁴⁰⁷ The law, passed in April 1960, was meant to prevent repeat offences by dangerous criminals, and it defined dangerous criminals as individuals who their records, characters, and the crimes that they had committed rendered them “under suspicion” for committing crimes in the future.⁴⁰⁸ Judge Mortazavi relied on Article 13 of this law to shut down newspapers on the pretense of fighting crime.⁴⁰⁹ Article 13 actually addressed devices that could be utilized in commission of a crime.⁴¹⁰ Therefore, Mortazavi's legal justification for shutting down newspapers was that they were devices with which criminal activity could take place. Article 13 of this statute specifically stated that with the request of the prosecutor and approval of a judge a device could be confiscated even though it might not be possible to prosecute or convict a person in connection with a crime.⁴¹¹ About twenty publications were closed by Mortazavi in this manner.⁴¹²

5. Freedom of Thought, Conscience and Religion and Freedom of Expression under International Law

Articles 18 and 19 of the International Covenant on Civil and Political Rights (ICCPR), to which Iran is a party, address the rights to freedom of thought, conscience, and religion, and the right to freedom of expression, respectively. Article 18 of the ICCPR declares, “Everyone shall have the right to freedom of thought, conscience and religion. This right shall include freedom to have or to adopt a religion or belief of his choice, and freedom, either individually or in community with others and in public or private, to manifest his religion or belief in worship, observance, practice and teaching.” Article 19 of the ICCPR states, “Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice.”

⁴⁰⁶ Press Law of 18 Apr. 2000, article 11, available at <http://press.farhang.gov.ir/fa/rules/laws2>.

⁴⁰⁷ Security Measures Law of 2 May 1960, article 1, available at <http://www.dastour.ir/brows/?lid=50705>.

⁴⁰⁸ *Id.*

⁴⁰⁹ Mihrangīzi Kār, *Difa 'ī 'ī Barāyi Sa 'īdi Murtaẓavī*, IRANWIRE (Nov. 17, 2014), available at <http://iranwire.com/legal-blogs/9743/30>.

⁴¹⁰ Security Measures Law of 2 May 1960, article 13, available at <http://www.dastour.ir/brows/?lid=50705>.

⁴¹¹ *Id.*

⁴¹² Mihrangīzi Kār, *supra* note 409.

To evaluate the Islamic Republic of Iran's compliance with its international obligations under the ICCPR, it is necessary to discuss the extent to which the rights mentioned in Articles 18 and 19 of the ICCPR are limited under international law.

5.1. Freedom of Thought, Conscience and Religion

The General Comment No. 22 to the ICCPR states:

Article 18 protects theistic, non-theistic and atheistic beliefs, as well as the right not to profess any religion or belief. The terms "belief" and "religion" are to be broadly construed. Article 18 is not limited in its application to traditional religions or to religions and beliefs with institutional characteristics or practices analogous to those of traditional religions. The Committee therefore views with concern any tendency to discriminate against any religion or belief for any reason, including the fact that they are newly established, or represent religious minorities that may be the subject of hostility on the part of a predominant religious community.⁴¹³

The IRI explicitly discriminates against many types of belief, including atheistic belief. As discussed in Section 5, various codes governing employment at state agencies specifically prohibit employment of individuals expressing atheistic beliefs and members of "misguided sects," a term often used to describe members of the Bahá'í Faith.

5.2. Freedom of Expression

Interpreting Article 19 of the ICCPR, the General Comment No. 34 declares:

Paragraph 1 of article 19 requires protection of the right to hold opinions without interference. This is a right to which the Covenant permits no exception or restriction. Freedom of opinion extends to the right to change an opinion whenever and for whatever reason a person so freely chooses. No person may be subject to the impairment of any rights under the Covenant on the basis of his or her actual, perceived or supposed opinions. All forms of opinion are protected, including opinions of a political, scientific, historic, moral or religious nature. It is incompatible with paragraph 1 to criminalize the holding of an opinion. The harassment, intimidation or stigmatization of a person, including arrest, detention, trial or imprisonment for reasons of the opinions they may hold, constitutes a violation of article 19, paragraph 1.⁴¹⁴

Regarding permissible limits on freedom of expression, Article 19.3 of the ICCPR states:

⁴¹³UN Human Rts. Comm., Gen. Comment. No.22, ¶ 2, U.N. Doc. HRI/GEN/1/Rev.1 at 35 (1994), *available at* <https://www1.umn.edu/humanrts/gencomm/hrcom22.htm>.

⁴¹⁴ UN Human Rts. Comm., Gen. Comment No. 34, ¶9, *available at* <http://www2.ohchr.org/english/bodies/hrc/docs/gc34.pdf>.

The exercise of the rights provided for in paragraph 2 of this article carries with it special duties and responsibilities. It may therefore be subject to certain restrictions, but these shall only be such as are provided by law and are necessary:

- (a) For respect of the rights or reputations of others;
- (b) For the protection of national security or of public order (ordre public), or of public health or morals.⁴¹⁵

Iranian law contains some provisions that are drafted in a language resembling Article 19.3. For instance, the Islamic Penal Code criminalizes insulting government officials and speech that threatens national security. However, these restrictions are often overbroad. In addition, in practice, restrictions on freedom of expression far exceed the purpose and spirit of permissible restrictions delineated in Article 19.3 of the ICCPR.

To examine the permissible limits on freedom of expression, reviewing the rulings of the European Court of Human Rights is instructive. Under European Union law, freedom of expression is protected by Article 10 of the European Convention on Human Rights. In language similar to Article 19 of the ICCPR, Article 10 of the European Convention on Human Rights declares:

1. Everyone has the right to freedom of expression. This right shall include freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers. This article shall not prevent States from requiring the licensing of broadcasting, television or cinema enterprises.
2. The exercise of these freedoms, since it carries with it duties and responsibilities, may be subject to such formalities, conditions, restrictions or penalties as are prescribed by law and are necessary in a democratic society, in the interests of national security, territorial integrity or public safety, for the prevention of disorder or crime, for the protection of health or morals, for the protection of the reputation or rights of others, for preventing the disclosure of information received in confidence, or for maintaining the authority and impartiality of the judiciary.⁴¹⁶

In *Dink v. Turkey*, a case involving Turkey's prosecution of an ethnic Armenian writer and the failure to protect his life, the European Court of Human Rights commented on the permissible limits on freedom of expression. The Turkish government had charged Dink with the crime of "denigrating Turkish identity" through making statements such as: "The purified blood that will replace the blood poisoned by the 'Turk' can be found in the noble vein linking Armenians to Armenia."⁴¹⁷ In a unanimous decision the

⁴¹⁵ International Covenant on Civil and Political Rights, Art. 19.3, Dec. 16, 1966, S. Exec. Rep. 102-23, 999 U.N.T.S. 171, available at <http://www.ohchr.org/en/professionalinterest/pages/ccpr.aspx>.

⁴¹⁶ European Convention on Human Rights, art. 10, Nov. 4, 1950, E.T.S. 5, available at http://www.echr.coe.int/Documents/Convention_ENG.pdf.

⁴¹⁷ *Dink v. Turkey*, 2010-II Eur. Ct. H.R. 7124/09, available at <http://hudoc.echr.coe.int/eng-press?i=003-3262169-3640194>.

court held that Dink's conviction was an impermissible restriction on his right to free expression. The court also held that Dink's punishment did not serve any pressing social need.⁴¹⁸

Another case decided by the European Court of Human Rights, however, held that the Austrian government's seizure of a film that was disparaging to Catholic doctrine did not violate Article 10 of the European Convention on Human Rights.⁴¹⁹ In *Otto-Preminger-Institut v. Austria* the court reasoned that government's action against the film was a legitimate exercise of state power because it was aimed at protecting the "right of citizens not to be insulted in their religious feelings by the public expression of views of other persons." Thus, under Article 10-2 of the European Convention on Human Rights, which lists protection of "rights of others" as a legitimate purpose for limiting freedom of expression, the court upheld the Austrian government's action.⁴²⁰ The court, however, also stressed the importance of the proportionality of state's action to the committed offense:

[A]s a matter of principle it may be considered necessary in certain democratic societies to sanction or even prevent improper attacks on objects of religious veneration, provided always that any "formality", "condition", "restriction" or "penalty" imposed be proportionate to the legitimate aim pursued.⁴²¹

Comparing Iranian law and the way it is applied in practice to how the European Court of Human Rights has interpreted the right to freedom of expression demonstrates that the IRI constantly violates the right to freedom of expression through either restricting speech that should be permitted, or through imposing disproportionate punishments where there could be legitimate grounds for restricting speech. By conflating the religious and political spheres, the Iranian government criminalizes political speech as anti-religious. Furthermore, even if one accepts the holding of the European Court of Human Rights in *Otto-Preminger-Institut v. Austria*, the harsh punishments imposed by the IRI for religious offenses are disproportionate. The IPC, for instance, condemns a person who is convicted of swearing at the Prophet to death. For lesser offenses the law imposes imprisonment. In addition, an individual who expresses his or her religious beliefs in an unconventional manner could be precluded from obtaining employment at state agencies.

⁴¹⁸ *Id.*

⁴¹⁹ *Otto-Preminger-Institut v. Austria*, 295-A Eur. Ct. H.R. (ser. A) (1994), available at <http://hudoc.echr.coe.int/eng?i=001-57897>. The court described the movie as follows:

The play on which the film is based was written by Oskar Panizza and published in 1894. In 1895 Panizza was found guilty by the Munich Assize Court (Schwurgericht) of "crimes against religion" and sentenced to a term of imprisonment. The play was banned in Germany although it continued in print elsewhere... The film, directed by Werner Schroeter, was released in 1981. It begins and ends with scenes purporting to be taken from the trial of Panizza in 1895. In between, it shows a performance of the play by the Teatro Belli in Rome. The film portrays the God of the Jewish religion, the Christian religion and the Islamic religion as an apparently senile old man prostrating himself before the Devil with whom he exchanges a deep kiss and calling the Devil his friend. He is also portrayed as swearing by the Devil. Other scenes show the Virgin Mary permitting an obscene story to be read to her and the manifestation of a degree of erotic tension between the Virgin Mary and the Devil. The adult Jesus Christ is portrayed as a low grade mental defective and in one scene is shown lasciviously attempting to fondle and kiss his mother's breasts, which she is shown as permitting. God, the Virgin Mary and Christ are shown in the film applauding the Devil.

⁴²⁰ *Id.*

⁴²¹ *Id.*

Conclusion

As this report demonstrates, freedom of expression is under constant yet unpredictable attack in the IRI. The legal provisions that criminalize certain types of speech are vague, and the charges brought against Iranian citizens based on these provisions are often politically motivated. The prosecutions of journalists, writers, artists and ordinary citizens violate international human rights law because these prosecutions fail to serve a purpose recognized as legitimate under international human rights instruments, or because the punishments carried out by the Iranian government are disproportionate to the alleged crime.

The Iranian government tightly controls speech through the MOCAIG, the security apparatus, and the judiciary. The MOCAIG reviews books before they could be published, grants and revokes newspaper and magazine permits, and oversees musical and theatre performances. The security apparatus and the judiciary also monitor the press and the cyberspace, and they arrest and prosecute individuals who write or post content deemed illegal or inappropriate

As the testimonies in this report show, the restrictions on freedom of expression are often enforced in an arbitrary fashion. Depending on the political climate of the country, the level of criticism against the government that is tolerated could vary. Therefore, it could be argued that more than three decades after the establishment of the Islamic Republic, Iranian citizens cannot fully know the limits of permissible speech or artistic expression.

Methodology

IHRDC gathered and analyzed information for this report from the following sources:

Testimony of victims and witnesses. Former government officials, journalists and authors have been interviewed in preparation for this report.

Government documents. The latest version of the Islamic Penal Code, which became enforceable in 2013, the Press Law, and other laws and regulations have been cited to explain the legal framework within which the Iranian government restricts freedom of expression

Documents issued by non-governmental organizations. Reports by the International Campaign for Human Rights in Iran and the Human Rights Activists News Agency were among sources that have been used in drafting this report.

Media reporting. Various Iranian media sources, as well as non-Iranian media sources, have been used to provide details and context for this report.

Where the report cites or relies on information provided by government actors or other involved parties, it specifies the source of such information and evaluates the information in light of the relative reliability of each source. The IHRDC has meticulously cross-checked all the sources of information used to compile this report to ensure their credibility and accuracy.

All names of places, organizations, etc. originally written in the Persian language have been transliterated using the system of the International Journal of Middle Eastern Studies (IJMES), available at <http://ijmes.chass.ncsu.edu/docs/TransChart.pdf>.



Isa Saharkhiz, a journalist and a former official with the Ministry of Culture and Islamic Guidance, witnessed censorship at various points during his career.

From the infamous incident during which he was bitten by a government official while attending a Press Supervisory Board meeting to his arrests in 2009 and 2015, Saharkhiz has experienced the brunt of the Islamic Republic's efforts to suppress political speech.

He was imprisoned for more than four years on multiple charges after his arrest in 2009. He was arrested again in November 2015 on charges of conspiring against national security, disseminating propaganda against the Islamic Republic, and insulting the Supreme Leader.