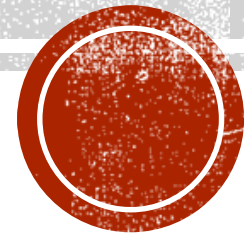


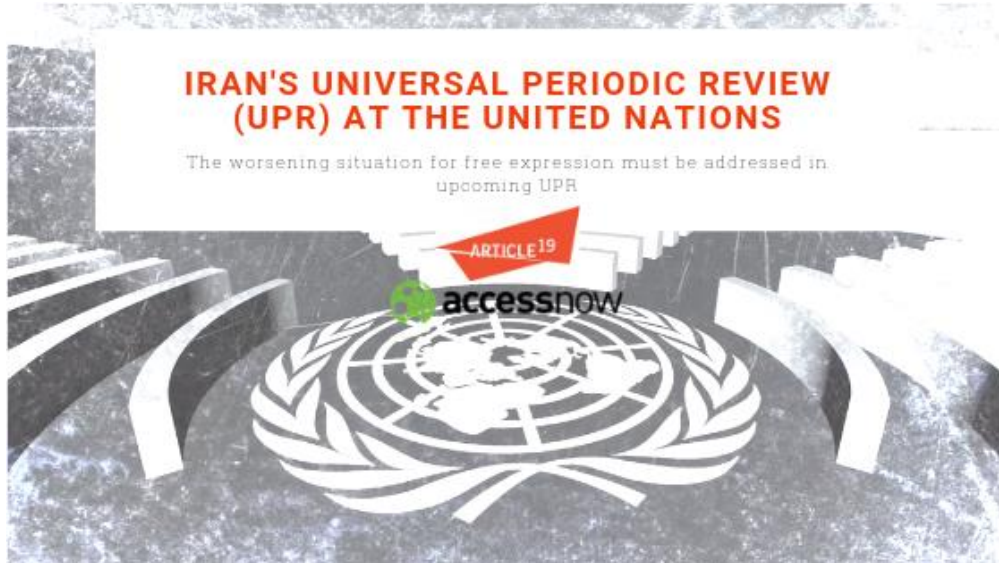
IRAN'S UPR, 3RD CYCLE: FREEDOM OF EXPRESSION

ARTICLE 19



IRAN'S UNIVERSAL PERIODIC REVIEW (UPR) AT THE UNITED NATIONS

The worsening situation for free expression must be addressed in upcoming UPR



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

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

4 April 2019

Executive Summary

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

Iran's problematic legal framework

Arrests and harassment of protesters, lawyers, human rights defenders, minorities, writers and journalists

Freedom of Expression Online

Access to Information

**THEMES DISCUSSED FOR UPR FREEDEX
CONCERNS**





IRAN'S RESPONSE TO 2014 UPR



LEGAL FRAMEWORK SINCE LAST UPR

- In 2014, Iran accepted recommendations to strengthen and promote freedom of expression in the country (138.236); and noted specific recommendations to repeal all provisions which overly restrict it (138.227; 138.232).
- Overbroad and vague restrictions remain both in the constitutional framework and in the Islamic Penal Code, which do not comply with international human rights law.



FREEDEX AND IRAN'S CONSTITUTION

- Repeal of Article 4 of the Constitution that enshrouds all Iranian laws and policies with Islamic principle limitations.
- Amendment of article 24 & 175 to remove restrictions on expression based on Islamic criteria and tenants of Islam: including *“infringement of the basic tenets of Islam or public rights”* and *“Islamic' criteria”*.
 - **Article 24** *Publications and the press have freedom of expression except when it is where there is infringement of the basic tenets of Islam or public rights. In this respect detailed provisions will be laid down by law.*
 - **Article 175** *The freedom of expression and dissemination of thoughts in the Radio and Television of the Islamic Republic of Iran must be guaranteed in keeping with the Islamic' criteria and the best interests of the country.*



FREEDEX AND THE ISLAMIC PENAL CODE

- Many problematic IPC provisions. Here is a sample. Please Read our UPR for a comprehensive overview.
- **Article 286** criminalises “sowing corruption on earth” (*efsad-e fel arz*), punishable by the death penalty.
 - Captures “spreading lies,” “aiding and abetting in, places of corruption and prostitution,” and “disruption of the economic system”, where it causes “severe disruption in the public order of the state and insecurity” of “distributes” corruption .
Applied against human rights defenders, and individuals expressing critical views
- **Article 513** criminalises “insult” of the “sacred values of Islam” as well as of officials and religious leaders, punishable by one to five years’ imprisonment.
- **Article 500** broadly criminalises “any type of propaganda against the state” or “in support of opposition groups and associations”, punishable by imprisonment of three months to one year. This provision is routinely used against peaceful protesters, human rights lawyers, and other dissenting voices.
- **Article 610** criminalises collusion and conspiracy to “commit crimes against the state”, punishable by two to five years’ imprisonment. This is one of the most frequently applied to target expression; in practice, simply expressing or being perceived to hold oppositional views is sufficient cause for prosecution.
- **Article 500** applies to 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.”
- **Article 610** When two or more individuals collude and conspire to commit crimes against the national or foreign security of the country or prepare the facilities to commit the aforementioned crimes, unless they are regarded as *mohareb*, shall be sentenced to two to five years’ imprisonment.



LEGAL FRAMEWORK RECOMMENDATIONS

- Fully guarantee the right to freedom of expression, online and offline, including through the urgent review and reform of the IPC and strengthening of the constitution to bring it in line with international human rights law and standards, in particular to repeal
- Repeal all constitutional provisions that limit freedom of expression failing to comply with the three-part test provided by ARTICLE 19(3) of the ICCPR.



HARASSMENT FOR EXPRESSION

- Tendencies during this review period
 - 1. Extremely long sentences (10-30 years)
 - 2. Targeting of lawyers
 - 3. Targeting of environmentalists
 - 4. Targeting of protesters and activists (women's rights; labour; economic protesters)
 - 5. Targeting of dual nationals/foreigners/or Iranians spending time abroad



CASES OF CONCERN

- **Nasrin Sotoudeh:** a human rights lawyer sentenced on 11 March 2019 for “inciting corruption and prostitution” (Article 639 of the IPC), “openly committing a sinful act by... appearing in public without a hijab” (Article 638 of the IPC) and “spreading lies” with intent to disrupt public order under Article 286 of the IPC. Sotoudeh was initially handed the extraordinarily harsh sentence of 33 years’ imprisonment, and 148 lashes, subsequently reduced to 11 years’ imprisonment.
- **Amir Salar Davoudi:** a human Rights lawyer sentenced to 30 years in June 2019 for “insulting officials” (Article 513 of the IPC), “propaganda against the state” (Article 500 of the IPC), “cooperating with enemy states” (Article 510 of the IPC), and “forming a group to overthrow the state” (Article 504 of the IPC). The charges relate to his creation of a Telegram group channel for Iranian lawyers.
- **Sina Dehghan:** convicted in April 2018 for “insult” of the Prophet, under Article 262 of the IPC, in relation to posts on social media and messaging apps. His conviction is based on a forced confession, in contravention of international standards against torture. Dehghan is currently awaiting an appeal against his sentence, of the death penalty.
- **Soheil Arabi:** convicted of insulting the Supreme Leader (Article 514 of the IPC) and propaganda against the state (Article 500 of the IPC) in 2015. He was sentenced to ten and a half years’ imprisonment. Arabi staged a hunger strike in June 2019, and is in deteriorating health. Originally sentenced to death in relation to Facebook posts alleged to “insult” the Prophet, under Article 262 of the IPC.
- **Kioomarz Marzban:** a satirist who worked with diaspora Persian media was convicted and sentenced on a variety of charges in relation to his satirical writing, published online. 11 years for “communication with America’s hostile government”, 7 years and 6 months for “insulting the sacred” (under Article 513), 3 years for “insulting the [supreme] leader” (under Article 514), 1 year and 6 months for “propaganda against the state”, and 9 months for “insulting officials” (under Article 513)

CASES OF CONCERN: PROTESTERS

- In late December 2017, protests related to socio-economic concerns erupted across Iran in what became the largest anti-government protests since 2009.
- The response of the government was heavy-handed, marked by the disproportionate and unlawful use of force, including the use of tear gas, water cannons and physical attacks with batons.
- 21 individuals were killed, predominately by security forces; there has been no independent investigation into their deaths, or into the authorities' use of lethal force.
- More than 4,970 people were arrested following the protests. Three protesters, Sina Ghanbari and Vahid Heydari died in custody
- Instead of independently investigating the deaths in custody, officials have alleged that Ghanbari and Heydari died by suicide. In each case, there are reports of signs of torture on the bodies returned to families.
- Mohammad Najafi: a lawyer representing Vahid Heydari's case is serving 5 years' imprisonment, and 40 million rials for "disturbing public opinion" by "spreading lies" (Article 698) for criticism of the Supreme Leader posted on his Instagram page, and "disrupting public order" for his legal defense of Heydari and his murder.



Problems of Computer Crimes Law

2017/18 Protests and Internet Disruptions

Censorship of Popular Tech Platforms (Twitter, Facebook, Telegram)

The National Information Network: problems of localization and disconnecting from the global internet

Revisions or withdrawals of the Data Protection and Data Localisation Bills



**DIGITAL
RIGHTS**

RECOMENDATIONS FOR DIGITAL RIGHTS

- **Comprehensively reform the Computer Crimes Law, in order to align its provisions with international standards on freedom of expression, privacy and anonymity.**
- **Refrain from all measures to intentionally disrupt access to the Internet or mobile networks including Internet shutdowns, blocking and filtering measures –in particular during protests, and elections, and lift blocking orders on Telegram, Facebook and Twitter.**
- **Enact clear laws to ensure online content is only blocked on the basis of CCDOC decisions, and only where it is strictly necessary, proportionate, in compliance with international human rights law and standards;**
- **Guarantee the right to privacy online, including by refraining from introducing measures to restrict online anonymity, including the use of encryption and circumvention tools (repeal Article 19 of the Computer Crimes Law).**
- **Repeal all data localization requirements, and attempts to force the use of local platforms and other efforts to centralize control over the Internet. Refrain from using the National Information Network (NIN) as a tool to disconnect Iranians from the global Internet.**
- **Withdraw the ‘Social Media Organisation Bill’, pending its comprehensive reform to ensure its compliance with international human rights law and standards.**
- **Review the “Preservation and Protection of Personal Data Act” to ensure comprehensive reform and compliance with international human rights law and standards, following the 15 recommendations put forth by ARTICLE19.**

- We must recognise Iran's Access to Information Act as a positive step the efforts towards establishing and implementing a right to information framework in the country, but there is room for improvement:
- Push for public bodies to comply and encourage citizens to make requests for information - this includes explanatory bylaws for appeals processes and the scope of exemptions;
- Repeal Note 1 of Article 10 of the ATI law and seek transparency from the office of the Supreme Leader and all organs under its supervision
 - Article 10: the Supreme Leader is empowered to object and block the proactive release of information by bodies which are under his control (such as the Revolutionary Guard, Ministry of Intelligence and Security, and the Supreme Council of Cyberspace).
- Removal of undue and wide-reaching exemptions that work to the contrary of the initial access to information premise of the Act - such as the broad application of Article 13 of the law, and Note 2 of Article 17 which has been applied without further guidance - and are not recognised as legitimate exceptions to freedom of expression.
 - Article 13: allows withholding information based on the broadly termed and arbitrarily enforced provision of withholding "classified information,"
 - Article 17: exemptions to release information that can compromise "public decency" or "public health risks"
- Task the Information Commission with transparency obligations and independence. The Commission should be comprised of independent experts not directly in high positions in government.

POSITIVE WORK WITH ROOM FOR IMPROVEMENT: IRAN'S ACCESS TO INFORMATION ACT



ARTICLE 19

