

ARTICLE19 Statement on Iran's UPR in relation to freedom of expression

[Slide 1 with Intro]

ARTICLE19 is a human rights organisation focusing on freedom of expression internationally. I am part of the MENA team and my expertise and work mainly covers freedom of expression online in Iran.

[Slide 2 of the A19/Access UPR report]

We have submitted a joint ARTICLE19 and Access Now UPR submissions. We covered various themes, which will discuss today.

[Slide 3 on the outline]

These include concerning legal frameworks that limit or allow for abuse of freedom of expression; the harassment of individuals in Iran for their expression; the repression of peaceful protest; and the limits and human rights concerns for expression and access to information online.

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Our monitoring has shown that there has been no progress - and even regression - on the implementation of the vast majority of freedom of expression related recommendations that were accepted by Iran in 2014.

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Freedom of expression online and offline is under growing pressure.

[Slide 6 on constitution]

However, the highly restrictive legal framework for expression, underpinned by weak constitutional protections for expression, effectively criminalises a vast range of expression lawful under international human rights law.

[Slide 7 on IPC]

The majority of the provisions we've seen used to target individuals for expression are in the Islamic Penal Code. These include the Code's and include extraordinarily vague concepts like "sowing corruption on earth", "commit crimes against the state" or "disrupting public order".

[Slide 8 legal recommendations]

These provisions are incompatible with Article 19 of the ICCPR - they don't pursue a recognised legitimate aim, nor follow the necessary or proportionality test. These laws facilitate the authorities' efforts to silence any expression they do not like.

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Arbitrary arrests and detention remain the most widely used tool to silence any criticism of the state and its policies, and intimidate others into self-censorship. Sentences seem to be getting harsher, as a form of deterrent.

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Our submission details several emblematic cases, including the extraordinarily harsh sentencing of renowned human rights lawyer Nasrin Sotoudeh on 11 March 2019, to 38 years' imprisonment and 148 lashes, in relation to her work defending women charged for protesting against the compulsory hijab. Sotoudeh was initially handed the extraordinarily harsh sentence of 33 years' imprisonment, and 148 lashes, subsequently reduced to 11 years' imprisonment. The subsequent sentencing of Amir Salar Davoud, another lawyer, to 30 years is concerning .

We are also concerned by the situation of environmental human rights defenders, hijab activists, and labour unionists. We have particularly been following the cases of Sina Dehghan and Soheil Arabi for their harsh sentencing for their social media posts. We are concerned about the targeting of dual nationals or anyone with diaspora ties, such as the recent harsh sentencing of over 20 years for Kioomars Marzban.

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Peaceful protests that have flared in the last 3 years have been harshly repressed, including through the use of mass arbitrary arrests, as well as the use of excessive force. 21 protesters were killed in December 2017, predominantly at the hands of state forces. There have been no investigations, or accountability, in these cases. The most harrowing case is the protester Vahid Heydari who was killed in custody after being arrested during a protest. His lawyer, Mohammad Najafi, is currently serving a 3 year sentence related to his work to bring justice for Vahid.

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Iran's hallmark of digital rights abuses remains to be the Computer Crimes Law that needs to be reformed. Especially problematic provisions such as Article 10 which seeks to facilitate state surveillance by effectively prohibiting internet users and companies from using encryption, or protecting data, in a manner that would "deny access of authorised individuals to data, computer and telecommunication systems".

Authorities have also sought closer control over access to, and sharing of, information online. The most harrowing example was during the 2017/18 nationwide protests, where Internet was disrupted and cut off from the global internet on the last day of December in a deliberate attempt to prevent information flows during the protest.

The government has blocked access to Twitter and Facebook in the leadup to the 2009 Presidential Elections, and YouTube at a later time. During the 2017/18 Protests, Telegram and Instagram were momentarily blocked. Telegram, the most widely used messaging and social media application was later blocked permanently in May 2018, with talks intensifying to do the same on Instagram. The collateral effects of the Telegram block on the Iranian Internet on the days Iran's Internet Service Providers had to roll out the court mandate blocking were experienced all throughout the country. While Iran's educated and middle to upper middle classes are never far from accessing circumvention tools, these blockings come to a significant detriment to large underserved demographics without these resources.

These efforts play to the larger fears of the National Information Network, and it's feared aim of disconnecting Iranians from the larger global Internet. Efforts to subsidize and provide discounts for local alternatives to Iranian platforms, that are subject to Iran's problematic Computer Crimes Law, which compromises international standards of privacy and freedom of expression are particularly of concern. Significant disruptions and talks to cut off international internet by the government have intensified these fears of the National Information Network.

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Iran must refrain from all measures to intentionally disrupt access to the Internet or mobile networks including Internet shutdowns and disruptions, blocking and filtering measures –in particular during protests, and elections, and lift blocking orders on Telegram, Facebook and Twitter.

Iran must also 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.

Iran should also 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 before it is put forward in parliament. Iran should also completely withdraw the ‘Social Media Organisation Bill’, pending its comprehensive reform to ensure its compliance with international human rights law and standards, especially in its concerning provisions to criminalize use of blocked content, and place Iran’s Telecommunication Infrastructure Company in the hands of the the Armed Forces.

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We recognise Iran’s Access to Information law as a positive step the efforts towards establishing and implementing a right to information framework in the country, however we encourage Iran to continue to reform the act, especially in withholding information based on the broadly termed and arbitrarily applied exemptions, such as withholding “classified information,” give access rights to all in Iran, and the provision that allows the Supreme Leader to object the release of information belonging to bodies under his supervision.

We hope these issues and frameworks are useful in making this UPR cycle a productive and positive step for freedom of expression in Iran.