



Ctrl+Alt+Delete: Iran's Response to the Internet



Iran Human Rights Documentation Center

The Iran Human Rights Documentation Center (IHRDC) believes that the development of an accountability movement and a culture of human rights in Iran are crucial to the long-term peace and security of the country and the Middle East region. As numerous examples have illustrated, the removal of an authoritarian regime does not necessarily lead to an improved human rights situation if institutions and civil society are weak, or if a culture of human rights and democratic governance has not been cultivated. By providing Iranians with comprehensive human rights reports, data about past and present human rights violations and information about international human rights standards, particularly the International Covenant on Civil and Political Rights, the IHRDC programs will strengthen Iranians' ability to demand accountability, reform public institutions, and promote transparency and respect for human rights. Encouraging a culture of human rights within Iranian society as a whole will allow political and legal reforms to have real and lasting weight.

The **IHRDC** seeks to:

- Establish a comprehensive and objective historical record of the human rights situation in Iran since the 1979 revolution, and on the basis of this record, establish responsibility for patterns of human rights abuses;
- Make such record available in an archive that is accessible to the public for research and educational purposes;
- Promote accountability, respect for human rights and the rule of law in Iran; and
- Encourage an informed dialogue on the human rights situation in Iran among scholars and the general public in Iran and abroad.

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The front cover photograph is of the reflection of the main building of the Telecommunication Company of Iran. The portrait is of the Chief Prosecutor of Tehran, Saeed Mortazavi.

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Introduction

On September 27, 2007, in an appearance at the National Press Club in Washington D.C., Iranian President Mahmoud Ahmadinejad responded to a question regarding limits on expression by asserting that “freedom is flowing at its highest level” in Iran. He later insisted that “all voices should be heard.”¹ Despite these declarations and notwithstanding the Islamic Republic’s international and constitutional obligations, the Islamic Republic of Iran consistently violates the fundamental human right to freedom of expression of its residents. In fact, Iran has been called the Middle East’s biggest prison for journalists and regularly ranks close to the bottom in the annual Worldwide Press Freedom Index published by Reporters Without Borders (RWB).²

Iranians have been battling for their rights to free expression for over a century. Periods of relative freedom have been followed by severe crackdowns on expression of dissent. Iran experienced a period of relatively free and open expression following the election of President Khatami in 1997. However, within a few years, conservative elements aligned with the Supreme Leader cracked down on traditional media outlets—newspapers, radio and television. To survive, many editors resorted to self-censorship. Journalists and others engaged in expression faced enormous obstacles in reaching their audiences. At the same time, the Internet was becoming a viable means of mass communication. Consequently, many journalists and others migrated to the Internet, creating blogs and websites.

The regime has responded by controlling and altering the Web accessed by Iranians through several overlapping strategies. It applies existing laws that severely regulate traditional expressive activity—newspapers, radio and television—to Internet expression. It is also developing Internet-specific laws and creating multiple regulatory bodies charged with Internet oversight. Thus, simply to access the Internet, Iranians must often navigate through a legal and administrative maze.

In addition to using laws that restrict content, the regime is experimenting with technical methods to control and alter the Web. These include shutting down websites at their sources, blocking specific websites so users cannot access them, filtering out large parts of the Web, restricting Internet speeds, and flooding the Web with the regime’s ideas and opinions.

At the same time, Iran has continued to use some of the more traditional means of repression: cyber-journalists and bloggers have been arrested, detained and tortured. Faced with threats against their lives and the safety of their families, many engaged in self-censorship or fled Iran. Some paid with their lives.

All of these methods are intended to increase the price of expression in general, and Internet expression in particular. As Sina Motalebi, an Iranian blogger who was arrested and interrogated for his Internet activity, explained:

I had written in my weblog [that] blogging is a free way for expressing your views and beliefs, without any costs, without any need [for] technical knowledge or financial power, things like that; and the [interrogator] told me: “we want to prove that you are wrong. There are several costs; there are very high costs to blogging, and we want to make you an example of that. Yes, we can’t trace every single blogger who criticizes our government, but we can scare them out.”³

¹ Mahmoud Ahmadinejad, President of the Islamic Republic of Iran, Remarks at the National Press Club (Sept. 24, 2007), in *President Ahmadinejad Delivers Remarks to the National Press Club*, WASH. POST, Sept. 24, 2007, available at <http://www.washingtonpost.com/wp-dyn/content/article/2007/09/24/AR2007092401084.html> (last visited Apr. 23, 2009).

² REPORTERS WITHOUT BORDERS, IRAN – ANNUAL REPORT (2006), available at http://www.rsf.org/article.php3?id_article=17198 (last visited Apr. 15, 2009); see also *id.*, WORLD PRESS FREEDOM INDEX (2007), available at http://www.rsf.org/article.php3?id_article=24025 (last visited Apr. 15, 2009).

³ Event video: Irrepressible podcast, held by Amnesty and *The Observer* (June 6, 2007) available at <http://www.amnesty.org.uk/content.asp?CategoryID=10905> [hereinafter Amnesty Event].

This report documents and analyzes the suppression of Iranian bloggers, journalists and other Internet users by the Islamic Republic. A brief overview of the history of expressive freedom in Iran before the 1979 revolution is followed by a more detailed description of repression by the Islamic Republic. This is followed by brief descriptions of the more prevalent laws used by the regime to suppress Internet expression and an analysis of their legal legitimacy. The final sections document and analyze the regime's attempts to control the Internet through technical means, such as site blocking and content filtration, and through traditional repressive measures, including the arrest, detention and torture of bloggers and journalists.

Much of the material presented in this report originated in interviews conducted by IHRDC with targeted bloggers and journalists who were forced to flee Iran.

1. The Challenge Presented by the Internet in Iran

The Internet has had a major impact on the global marketplace of ideas by enabling massive worldwide exchanges of information. Before the advent of the Internet, the three primary methods used for public dissemination of information were print, radio and television. The centralized technical structure and transmittal systems of these platforms lent themselves to relatively easy control of information by authoritarian regimes who could dominate public discourse through control of state-owned radio, television and newspapers. As passive consumers of information, the general public could be managed through careful control of the information that reached the public sphere. This control helped create a more compliant citizenry, thereby limiting the need for more repressive actions and overt human rights abuses.⁴

The Internet is technically harder to control than traditional mass media. Its decentralized nature and the sheer volume of information it makes accessible both increase the cost and decrease the efficacy of control measures. An authoritarian regime must be willing to both devote greater resources to technical measures of control as well as restrict its residents' access to the Internet in order to maintain control over expression. For example, the government of Myanmar permits only one Internet service provider (ISP)⁵ to operate. It is owned by the government, and every person accessing the Internet or creating a website within the country must be authorized by the government.⁶

Few nations have been willing to sacrifice the economic and social benefits brought by the Internet through such heavy-handed regulation.⁷ Some regimes have opted for more subtle methods of control. China, for example, uses registration, sophisticated filtration and cooperative ISPs to manage Internet content.⁸

The Islamic Republic of Iran, traditionally preoccupied with monopolizing public discourse, initially recognized the economic and social benefits of the Internet and encouraged its growth. However, it soon began instituting controls and engaging in censorship. The following subsections provide brief discussions of the proliferation of the Internet, and the history of freedom of expression in Iran, followed by a description of the migration to the Internet in early 21st century Iran.

1.1. Proliferation of Internet Access

Iran was the first Muslim nation in the Middle East to gain access to the Internet.⁹ Its network emerged in 1993 and grew out of the university system.¹⁰ Demand for computers and access to the Internet grew

⁴ YOCHAI BENKLER, *THE WEALTH OF NETWORKS: HOW SOCIAL PRODUCTION TRANSFORMS MARKETS AND FREEDOM* 197, 270 (2006); *see also* REZA AFSHARI, *HUMAN RIGHTS IN IRAN: THE ABUSE OF CULTURAL RELATIVISM* 210 (2001).

⁵ An ISP is a company that provides individual user accounts for access to the Internet.

⁶ BENKLER, *supra* note 4, at 267.

⁷ *Id.* at 177-80.

⁸ *See generally* Rebecca MacKinnon, *Flatter world and thicker walls? Blogs, censorship and civic discourse in China*, 134 *PUB. CHOICE* 31 (2008).

⁹ Babak Rahimi, *The politics of the Internet in Iran*, in *MEDIA, CULTURE AND SOCIETY IN IRAN: LIVING WITH GLOBALIZATION AND THE ISLAMIC STATE* 37, 37-38 (Mehdi Semati ed., 2008). After Israel, Iran was the second nation in the Middle East to provide access to the Internet.

¹⁰ *See* BENKLER, *supra* note 4, at 269.

rapidly, and by 2003, Iran had close to 5,000 Internet hosts.¹¹ This growth, the most explosive in the Middle East, resulted in a 2,900% increase in Internet use between 2000 and 2005.¹²

Several factors contributed to this rapid growth. The demographic terrain of Iran provided fertile soil for growth. The average age in Iran is only 28.¹³ This young population is much better educated than that before the revolution due to Ayatollah Khomeini's emphasis on universal education.¹⁴ Another contributing factor is the urbanization of Iran. Close to 70% of the population lives in cities. While 22% of the households in Iran have computers, the same is true of almost 40% of households in Tehran.¹⁵ In addition, Tehran boasted approximately 1,500 cybercafés by 2003.¹⁶ Still, even the rural populations are beginning to gain access to the Internet. By attending universities in larger cities, younger rural Iranians come to use and depend on the Internet, and employ the technology at home, thereby exposing their families to the outside world at unprecedented levels.¹⁷

Initially, this expansion was not only tolerated by the government, but actively encouraged. The Islamic Republic was unwilling to forgo the benefits of the Internet in order to maintain tight control. For example, ISPs were allowed to operate without serious interference from the late 1990s until 2003.¹⁸ At that point, Iran had 650 ISPs, the largest of which was the Data Communication Company of Iran (DCI), a company run by the Ministry for Information and Communication Technology (ICT). The OpenNet Initiative (ONI),¹⁹ reported that in 2004, the *Majlis*²⁰ passed Iran's fourth Five-Year Development Plan calling for 1.5 million high-speed Internet ports throughout the country.²¹ These policies can be explained by a widespread belief that technological advances would help Iran overcome its economic difficulties.²² However, they also grew out of the belief of the clerical establishment that the Internet could be used to stimulate Islamic dialogue and spread revolutionary ideology.²³

1.2. Freedom of Expression

Freedom of expression is universally recognized as a fundamental human right. It is considered as much a right of the audience to seek and receive information as of those engaging in expression. In 1948, Article 19 of the Universal Declaration of Human rights recognized that

¹¹ See Rahimi, *supra* note 9, at 40; OPENNET INITIATIVE, INTERNET FILTERING IN IRAN IN 2004-2005 4 (2005), available at http://opennet.net/sites/opennet.net/files/ONI_Country_Study_Iran.pdf (last visited Apr. 15, 2009). An Internet host is a computer or an application that serves clients or customers. One example could be a mail server that provides customers with e-mail.

¹² OPENNET INITIATIVE, IRAN 1-2 (2007), available at <http://opennet.net/research/profiles/iran> (last visited Apr. 15, 2009). In 2001, only about 1 million Iranians were online compared to approximately 25 million in 2007. See *Markaz-i Amar-i Iran: Miyangin-i Sinniyih Jam'iyat-i Iran dar Dah Sal-i Guzashthi az Hudud-i 24 Sal bih Marz-i 28 Sal Risidih Ast* [Iranian Census Bureau: In the Last 10 Years the Average Age in Iran Has Increased from 24 Years to 28 Years], BBC PERSIAN, available (in Persian) at <http://www.ettelaat.net/07-september/news.asp?id=23991> (last visited Apr. 15, 2009); see also MARKAZ-I AMAR-I IRAN, NATAYIJ-I SARSHUMARIYIH UMUMIYIH NUFUS VA MASKAN: JADAVIL-I MUNTAKHAB [IRAN CENSUS BUREAU, CENSUS RESULTS RELATING TO THE POPULATION AND HOUSEHOLDS] 1385 [2006], available (in Persian) at <http://www.sci.org.ir/portal/faces/public/census85/census85.natayej> (last visited Apr. 15, 2009).

¹³ See *Markaz-i Amar-i Iran: Miyangin-i Sinniyih Jam'iyat-i Iran dar Dah Sal-i Guzashthi az Hudud-i 24 Sal bih Marz-i 28 Sal Risidih Ast* [Iranian Census Bureau: In the Last 10 Years the Average Age in Iran Has Increased from 24 Years to 28 Years], BBC PERSIAN, available (in Persian) at <http://www.ettelaat.net/07-september/news.asp?id=23991> (last visited Apr. 15, 2009).

¹⁴ MEHDI SEMATI, MEDIA, CULTURE AND SOCIETY IN IRAN: LIVING WITH GLOBALIZATION AND THE ISLAMIC STATE, at 1, 8 (2008).

¹⁵ See *Markaz-i Amar-i Iran: Miyangin-i Sinniyih Jam'iyat-i Iran dar Dah Sal-i Guzashthi az Hudud-i 24 Sal bih Marz-i 28 Sal Risidih Ast* [Iranian Census Bureau: In the Last 10 Years the Average Age in Iran Has Increased from 24 Years to 28 Years], BBC PERSIAN, available (in Persian) at <http://www.ettelaat.net/07-september/news.asp?id=23991> (last visited Apr. 15, 2009); see also MARKAZ-I AMAR-I IRAN, NATAYIJ-I SARSHUMARIYIH UMUMIYIH NUFUS VA MASKAN: JADAVIL-I MUNTAKHAB [IRAN CENSUS BUREAU, CENSUS RESULTS RELATING TO THE POPULATION AND HOUSEHOLDS] 1385 [2006], available (in Persian) at <http://www.sci.org.ir/portal/faces/public/census85/census85.natayej> (last visited Apr. 15, 2009).

¹⁶ OPENNET INITIATIVE, *supra* note 11, at 4.

¹⁷ Rahimi, *supra* note 9, at 41.

¹⁸ *Id.* at 42.

¹⁹ ONI is an organization that investigates, exposes and analyzes Internet filtering and surveillance practices.

²⁰ The *Majlis* is the parliamentary legislative body in Iran.

²¹ OPENNET INITIATIVE, *supra* note 12, at 2.

²² Rahimi, *supra* note 9, at 40.

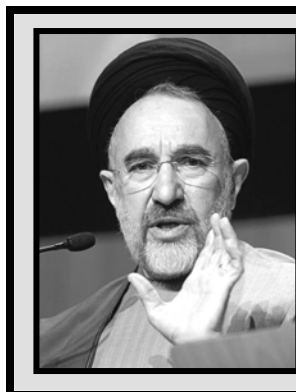
²³ See *id.* at 42.

[e]veryone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers.

The International Covenant on Civil and Political Rights (ICCPR), which has been ratified by Iran, Article 19 in conjunction with Article 25,²⁴ reaffirms that people should be guaranteed wide access to information that will allow them to participate in the social and political sphere of their society.²⁵

In the Islamic tradition, expression is considered an important blessing bequeathed by God.²⁶ Consequently, the Quran takes the right to freedom of expression as a given, evidenced by its persistent prescription of rational argumentation of religious matters and its strong support for investigations into all the facets of creation.²⁷ Further avowal of the freedom of expression is found in principles such as the promotion of good and the prevention of evil (*hisbah*), sincere advice (*nasihah*), consultation (*shura*), personal reasoning (*ijtihad*), and the liberty to censure government leaders.²⁸ The latter is emphasized in Islam, as Muslims are advised that the best form of holy struggle is to express “a word of truth to a tyrannical ruler,”²⁹ and that they should leave any community that fails to call a tyrant “tyrant.”³⁰

Contemporary Iranians from different points on the political spectrum recognize this human right and its ability to preserve human dignity and develop a vibrant civil society. For example, at great personal cost, human rights lawyer Shirin Ebadi defends those charged with crimes as a result of the expression of their opinions. Another example is Mohammad Khatami, a cleric who was President of Iran from 1997 to 2005. He explained: “What I mean by freedom is the freedom to think and the security to express new thinking, and instituting a protective system for the security of the free-spirited and of thinkers.”³¹



Mohammad Khatami served two terms as the President of Iran, from 1997 until 2005. Despite Khatami’s intentions to pursue a reformist agenda, resistance by conservative elements blocked any significant reform. During this period, over 150 papers were shut down and more than 200 journalists were summoned, detained and questioned, with 52 receiving prison sentences from 3 months to 14 years.

1.2.1. History of Expression in Iran Before the Internet

Expression has been a dominant part of Iranian culture for centuries. The Persian poetic tradition, both oral and written, is one of the most exceptional in the world, and its literature is considered by many to be a principle legacy of Iranian society.³² In addition, Iran has never lacked important contributors and dissidents in philosophy, religion, and politics.³³ Although poetry prevailed over prose for centuries,

²⁴ Article 25 states: “Every citizen shall have the right and the opportunity, without any of the distinctions mentioned in Article 2 and without unreasonable restrictions: (a) To take part in the conduct of public affairs, directly or through freely chosen representatives; (b) To vote and to be elected at genuine periodic elections which shall be by universal and equal suffrage and shall be held by secret ballot, guaranteeing the free expression of the will of the electors; (c) To have access, on general terms of equality, to public service in his country.” International Covenant on Civil and Political Rights, art. 25, March 23, 1976, 999 U.N.T.S. 171 [hereinafter ICCPR].

²⁵ Robert W. Gauthier v. Canada, Communication No 633/1995, U.N. Doc. CCPR/C/65/D/633/1995 ¶ 13.4 (5 May 1999).

²⁶ QURAN 55:1-4; see also MASHOOD A. BADERIN, INTERNATIONAL HUMAN RIGHTS AND ISLAMIC LAW 126 (2003).

²⁷ MOHAMMAD HASHIM KAMALI, FREEDOM OF EXPRESSION IN ISLAM 15-16 (1997).

²⁸ *Id.* at 12.

²⁹ *Id.* at 11, 50.

³⁰ *Id.* at 38.

³¹ MOHAMMAD KHATAMI, ISLAM, LIBERTY, AND DEVELOPMENT 15 (1998).

³² See NIKKI R. KEDDIE, MODERN IRAN: ROOTS AND RESULTS OF REVOLUTION 172 (2003).

³³ See *id.* at 173.

critical expression of government and culture was historically integrated into fiction and literary criticism through careful use of subtlety and ambiguity.³⁴ The influence of mass media, traditionally an agent of modernization, has played a significant role in the cultural and political development of Iran for only about a century.³⁵

The years directly before and during the Constitutional Revolution (1905-1911) are considered one of the relatively open periods for expression in Iran. During this period, essays critical of the government were published.³⁶ Even after this period, mass media operated under fewer restrictions, and educational reforms fostered the growth of critical public debates about politics, religion, and society.³⁷

In 1943, at a time when its population was only 750,000, there were 47 newspapers in Tehran. By 1951, there were 700 newspapers.³⁸ However, after the Shah of Iran consolidated his power in 1953 and until just before the 1979 revolution that deposed him, newspapers were strictly controlled and monitored by the authorities.³⁹ By the late 1960s, the monarchic regime controlled the media through several methods. It supported and promoted pro-monarchy editors-in-chief of newspapers, and required journalists to attend sessions where they were instructed on the censorship rules. The authorities had daily phone contact with editorial staff.⁴⁰ Between 1974 and 1978, intelligence officers personally monitored the newspapers and “even oversaw the number of columns and the formatting of the pages.”⁴¹

This restriction on free expression was among the primary grievances that led to the 1979 revolution.⁴² Ali Shari’ati, the ideological father of the revolution, believed that society would wither as soon as contentions and contradictions were barred from the social arena.⁴³ He asserted that freedom of thought and expression were hallmarks of the early years of Islam, and that hegemony led to repression and violence.⁴⁴ He emphasized the first of two objectives that are served by freedom of expression: the discovery of truth and the upholding of human dignity.⁴⁵

Ayatollah Khomeini was also concerned with the first objective when he noted that “[the] revolutionary system demands that various, even opposing, viewpoints be allowed to surface, [and] no one has the right to restrict this.”⁴⁶ In an interview before the revolution, he promised that “in an Islamic government, all people have freedom to express any opinion.”⁴⁷ The new Iranian Constitution provided that “[p]ublications 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.”⁴⁸

³⁴ See NAHID MOZAFFARI, *STRANGE TIMES, MY DEAR*, at xv-xvi (2005); KEDDIE, *supra* note 32, at 182.

³⁵ Rahimi, *supra* note 9, at 43.

³⁶ KEDDIE, *supra* note 32, at 182.

³⁷ MOZAFFARI, *supra* note 34, at xvi-xvii.

³⁸ ALI ANSARI, *MODERN IRAN SINCE 1921: THE PAHLAVIS AND AFTER* 79 (2003).

³⁹ ANJUMAN-I SINFIYIH RUZNAH NIGARAN-I IRAN, BARRISIYIH FA’ALIYAT-I MATBU’AT-I IRAN [ASSOCIATION OF IRANIAN JOURNALISTS, OVERVIEW OF THE ACTIVITIES OF IRAN’S PRESS] 19/11/1387 (February, 7 2009), *available (in Persian) at* <http://rooznamenegar.ir/main.php?t=5&id=618> (last visited Apr. 17, 2009).

⁴⁰ TAHMURIS QASIMI, *NIHZAT-I IMAM KHOMEINI VA MATBU’AT-I RIJIM-I SHAH* [IMAM KHOMEINI’S MOVEMENT AND THE PRESS DURING THE SHAH] (2002), *available (in Persian) at* http://www.ghadeer.org/SIYASI/nehzat_a/fehrest.htm (last visited Apr. 17, 2009).

⁴¹ *Massoud Behnoud Chigunih Khabarnigar Shud* [How Massoud Behnoud Became a Journalist], AFTAB, 8/8/1386 [October, 30 2007], *available (in Persian) at* http://www.aftab.ir/articles/applied_sciences/communication/c12c1193759921_masoud_behnoud_p1.php (last visited Apr. 17, 2009).

⁴² Mehrangiz Kar, *Constitutional Obstacles to the Realizations of Human Rights and Democracy in Iran* (unpublished manuscript, on file with Scholars at Risk and Iran Human Rights Documentation Center).

⁴³ ALI RAHNEMA, *AN ISLAMIC UTOPIAN: A POLITICAL BIOGRAPHY OF ALI SHARI’ATI* 137 (1998).

⁴⁴ *Id.* at 137.

⁴⁵ KAMALI, *supra* note 27, at 8.

⁴⁶ KHATAMI, *supra* note 31, at 106.

⁴⁷ RUHOLLAH KHOMEINI, *SAHIFIYIH NUR* [Vessel of Light], Vol. 3 (1983). See “Interview of Imam Khomeini with representative of Amnesty International,” 20/08/1375 [11/10/1978].

⁴⁸ Qanun-i Assasiyih Jumhuriyih Islamiyih Iran [Constitution of the Islamic Republic of Iran] 1358 [adopted 1979, amended 1989] art. 24 [hereinafter IRANIAN CONST.], *available at* <http://iranhrdc.org/httpdocs/English/iraniancodes.htm>.

However, by 1981, the Islamic Republic was quashing expression with which it disagreed. Iran was at war with Iraq, and the regime justified its restrictions by claiming they were part of the war effort.⁴⁹ A distinction was made between insiders and those who thought differently, and the government ordered books by the latter group banned. The Ministry of Culture and Islamic Guidance (MCIG) began rationing paper and used content approval of books, newspapers and magazines as the criterion for allowances.⁵⁰



The Ministry of Islamic Culture and Guidance (MICG) was established in 1979 with the union of the Ministry of Culture and Art, and the Ministry of Information and Tourism. The Ministry of Islamic Culture and Guidance exerts control over the drafting and enforcement of the nation's press laws, the issuing and revoking of licenses of publications and cultural activities, and the content of cultural materials including news reports, books, movies and works of art. Furthermore, the government-owned Islamic Republic News Agency (IRNA), which functions as the "mother source of information dissemination within the country," is under the authority of the Ministry of Islamic Culture and Guidance. The current Minister of Culture and Islamic Guidance is Mohammad Hossein Saffar-Harandi.

Despite these efforts, the regime has never enjoyed absolute control over mass media. Domestic television and radio are under state control, and Article 175 of the Constitution assures that "the appointment and dismissal of the head of the radio and television of the Islamic Republic of Iran rests with the Leader." Still, foreign news agencies such as Radio Farda, the British Broadcasting Corporation (BBC), and various opposition groups have successfully broadcast their radio signals into Iran since the beginning of the revolution.⁵¹ Another important limitation on the regime's monopoly is created by satellite dishes, which, though illegal, are ubiquitous in urban areas and connect their users to television from all over the world.⁵²

Although some commentators justified suppression and censorship of secular publications through the need for public order, this justification became more tenuous as the nineties progressed.⁵³ Labeling critics as anti-Islamic became meaningless in light of the fact that many of the new critics seeking reform were prominent clerics and radical Islamists such as Mohammad Musavi Khu'iniha⁵⁴ and Professor Abdolkarim Soroush.⁵⁵ The Islamists' criticism was substantially the same as criticism that had come from more secular sources, such as a group of intellectuals who, in 1994, openly asked for an end to censorship.⁵⁶ As publicly recognized by even anti-reform newspapers like *Resalat*, these concerns included ending "political monopoly, repression and stifled freedoms."⁵⁷

⁴⁹ See KAR, *supra* note 42, at 26.

⁵⁰ U.N. Commission on Human Rights, *Report on the Situation of Human Rights in the Islamic Republic of Iran*, ¶ 64, U.N. Doc. A/45/697 (Nov. 6, 1990).

⁵¹ *Iran: Country Profile*, BBC, Mar. 11, 1009, available at http://news.bbc.co.uk/2/hi/middle_east/country_profiles/790877.stm (last visited Apr. 27, 2009).

⁵² *Id.*

⁵³ See generally AFSHARI, *supra* note 4, at 185-232.

⁵⁴ Ayatollah Seyyed Mohammad Mousavi Kho'iniha is the General Secretary of the Association of Combatant Clerics and a member of the Expediency Council. He was the founder of the now banned *Salam* newspaper, leader of the Muslim Students Following the Line of the Imam who stormed the U.S. Embassy in 1979, and formerly held the position of Prosecutor General of Iran during the first decade after the revolution. MARK BOWDEN, GUESTS OF THE AYATOLLAH: THE FIRST BATTLE IN AMERICA'S WAR WITH MILITANT ISLAM 13, 627 (2006); GENIEVE ABDO AND JONATHAN LYONS, ANSWERING ONLY TO GOD 187 (2003).

⁵⁵ Abdolkarim Soroush is an academic, philosopher and a well-known figure in the religious intellectual movement in Iran. Appointed by Ayatollah Khomeini to the precursor of the Supreme Council of Cultural Revolution, Abdolkarim Soroush was a driving force behind the expulsion of a significant number of academics and students from universities who he felt lacked the necessary religious credentials. He left Iran in 2000 after he was targeted as a reformer by the regime's conservative establishment. See AFSHARI, *supra* note 4, at 190-91.

⁵⁶ The open letter was presented under the heading "We Are Writers," and was signed by 143 writers and activists including Shirin Ebadi. SHIRIN EBADI, IRAN AWAKENING: A MEMOIR OF REVOLUTION AND HOPE 130 (2006).

⁵⁷ See AFSHARI, *supra* note 4, at 193.

By 1997, this type of criticism in the mass media was common in Iran and inspired a new generation of journalists and activists to claim their rights to free expression. One journalist noted that

[a] new form of press was created that did not fear retaliation by the government and provided information defiantly. In fact, I would go a step further and say that it was such newspapers that removed the fear of imprisonment, torture, etc. from the heart of journalists. I myself feared retaliation by the regime but after seeing the example of Mashallah Shamsolvaezin,⁵⁸ who always had a bag ready to take with him to prison, my fears disappeared.⁵⁹

The growth of mass media in political discourse both resulted in and was nurtured by the landslide victory of reformist cleric Mohammad Khatami, who became President of Iran in 1997. Khatami sought to shift the Islamic Republic from “a system that relies on restriction as its main strategy” to one that uses restriction “occasionally to deal tactically with sensitive and vital matters.”⁶⁰ In line with this goal and in order to create further support for the reformists’ agenda, he appointed Ata’ollah Mohajerani as Minister of Culture and Islamic Guidance. Mohajerani, an academic and historian, reinstated a large number of licenses for publications and generally removed many of the restrictions that had stifled access to expression.⁶¹

These political developments raised the stakes for engaging in expression by threatening the most dangerous elements of the regime with exposure.⁶² A year before the election of Khatami, the *Majlis* had passed Book 5 of the Penal Code, Article 609 of which made it a crime to insult almost any government employee for actions taken during the course of employment.⁶³ The Supreme Leader, Ali Khamenei, publicly warned that “everyone must pay attention to the Red Line.”⁶⁴

The Red Line has never been defined but continues to be used by the regime to denote the official and unofficial censorship rules that writers, editors, artists and publishers must not cross if they hope to avoid retaliation. This lack of definition is made possible by the vague provisions in the Islamic Republic laws that begin with the Iranian Constitution and extend throughout the codes. For example, Article 24 of the Constitution provides that “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,” but fails to define “fundamental principles of Islam.”⁶⁵ In November 2003, Special Rapporteur on Freedom of Expression Ambeyi Ligabo investigated the parameters of the Red Line during his mission to Iran. He found that, even among clerics, there is a wide variety of often-conflicting criteria used to determine when the Red Line is crossed.⁶⁶ He concluded that this subjective and arbitrary interpretation⁶⁷ leads to arbitrary denial of rights.⁶⁸

⁵⁸ Editor of *Jami'i* newspaper.

⁵⁹ Witness Statement of Arash Sigarchi, prepared by IHRDC and approved by witness (January 11, 2009), ¶ 2 [hereinafter Witness Statement of Sigarchi]. IHRDC interviewed Sigarchi on October 23, 2008. A copy of the Statement is on file with IHRDC.

⁶⁰ KHATAMI, *supra* note 31, at 112.

⁶¹ SEMATI, *supra* note 14, at 6.

⁶² See AFSHARI, *supra* note 4, at 188.

⁶³ Qanun-i Mujazat-i Islami [Islamic Penal Code] 1379 [2000], art. 609 (Iran) [hereinafter Iran Penal Code], available at <http://iranhrdc.org/httpdocs/English/iraniancodes.htm>. Article 609 states: “Anyone who insults any of the heads of the three branches, or presidential deputies or ministers, or any of the representatives of the Islamic Consultative Majlis, or members of the Assembly of Experts, or members of the Guardian Council, or the judges or the members of the Accounts tribunals, or employees of ministries, government offices or municipalities in connection with their positions or duties, may be sentenced to three to six months of imprisonment, up to 74 lashes, or fined 50,000 to 1 million *rials*.”

⁶⁴ See AFSHARI, *supra* note 4, at 196.

⁶⁵ IRANIAN CONST., *supra* note 48, art. 24.

⁶⁶ UN Commission on Human Rights, *Report submitted by the Special Rapporteur on the right to freedom of opinion and expression, Ambeyi Ligabo: Addendum Mission to the Islamic Republic of Iran*, ¶ 102, U.N. Doc. E/CN.4/2004/62/Add.2 (Jan. 12, 2004), available at <http://www.unhcr.org/refworld/country,,MISSION,IRN,,4090ffed0,0.html> (last visited Apr. 21, 2009) [hereinafter *Ligabo Report*].

⁶⁷ *Id.* ¶ 95.

⁶⁸ See UN Commission on Human Rights, *Report of the Working Group on Arbitrary Detention: addendum: Visit to the Islamic Republic of Iran (15-27 February 2003)*, ¶ 42, U.N. Doc. E/CN.4/2004/3/Add.2 (and Corr.1) (June 27, 2003), available at <http://www.unhcr.org/refworld/docid/4090ffd30.html> (last visited Apr. 21, 2009).

Crossing the Red Line can result in any number of consequences, the most serious of which—extrajudicial killings—became frequent in the late nineties. Writers were killed in car accidents, shot in staged robberies, stabbed, and injected with potassium to induce heart attacks.⁶⁹ Culminating in a string of murders in late 1998, the coverage of these attacks resulted in such public outrage that they were investigated by Khatami’s government and even denounced by the Supreme Leader.⁷⁰ In fact, media coverage and investigative journalism into the murders expanded the demand for newspapers.⁷¹ Under the new policy, newspapers and magazines were allowed to “grow like mushrooms.”⁷²

The conservative *Majlis* responded to these developments by amending the Press Law in 2000. This allowed conservative elements to use their power base in the Judiciary—specifically the Press Court of then-Judge Saeed Mortazavi—to close dozens of newspapers and magazines and to arrest prominent Islamist reformist editors, including Akbar Ganji.⁷³ After the initial purge, the conservative authorities “resolved to tame the journalists in hopes of controlling the content of newspapers, and preventing them from writing about ‘dangerous’ topics.”⁷⁴ A few newspapers were allowed to reopen, but they were closely monitored by Mortazavi, who was appointed Prosecutor of Tehran in 2003. Those operations that displayed too much independence were shut down as quickly as possible.⁷⁵ Others, whose staff members were deemed unlikely to cooperate, were shut down before they could publish a single issue.⁷⁶ Another common strategy was to regularly call editors and instruct them on how to handle specific news items and demand their presence at instructive meetings on the Red Line.⁷⁷



Faced with the very real threat of being shut down, not to mention being imprisoned, editors and managers began to pay closer attention to the Red Line. For many, there was no value in “heroically crossing the Red Line, getting shut down and losing that vital link with the people.”⁷⁸ Thus, self-censorship became increasingly more prevalent. Editors censored the work of journalists without the need for threatening phone calls or reminders of the Red Line.

[E]very newspaper had its own pawn, who was not necessarily [the Judiciary’s] pawn, but rather the person who received the phone calls and was told what to do ... This person was slowly turned into a small Mortazavi within the newspaper ... and would censor things on his own ... They managed to create a Mortazavi in every newspaper.⁷⁹

⁶⁹ EBADI, *supra* note 56, at 131-32. In a well-known incident that occurred in August 1996, a group of writers woke up to find that their bus driver had abandoned them and the bus was headed toward a ravine. This was the second time he had tried to exit the bus while sending it over a cliff. They were able to stop the bus and were later picked up by a security officer and interrogated. EBADI, *supra* note 56, at 128-29.

⁷⁰ *Id.* at 135-36.

⁷¹ *Id.* at 139.

⁷² AFSHARI, *supra* note 4, at 208.

⁷³ *Id.* at 216.

⁷⁴ Witness Statement Sigarchi, *supra* note 59, ¶ 2.

⁷⁵ “Some examples include the newspaper *Nusazi*, which was shut down after two or three issues, and *Bunyan*, which published four or five issues.” Interview with Roozbeh Mirebrahimi (Feb. 1, 2009).

⁷⁶ “[The team of *Shahrvand-i Imruz*] was supposed to republish *Ariya*. As soon as they attempted to publish an issue, the news was spread on some Internet sites. They were called and told ‘You can’t publish; you are shut down.’” Interview with Roozbeh Mirebrahimi, *supra* note 75.

⁷⁷ *Id.*

⁷⁸ Maggie Pour, *The Art of Journalism*, NAMAQ, 2005, at 18, available at <http://www.namamag.com/issue0102/redlines.html> (last visited Apr. 20, 2009) (quoting the filmmaker Taghi Amirani discussing censorship of journalists in Iran).

⁷⁹ Interview with Roozbeh Mirebrahimi, *supra* note 75.

In light of this editorial censorship, many journalists who were willing to suffer the penalties associated with crossing the Red Line, especially the younger generation, felt marginalized and sought other mediums in which to report and share their opinions.⁸⁰ They migrated to the Internet.

1.2.2. Migration of Expression to the Internet

Web surfers in Iran quickly realized the potential of the Internet. One striking development was the launching of the Iranian Student News Agency (ISNA) on November 4, 1999. This influential news agency, staffed mostly by university students, continues to post breaking news stories on its website but does not publish a physical newspaper.⁸¹ By early 2000, websites were being created by news organizations, and by 2001 a few blogs were being published by individuals.⁸² In September 2001, Hossein Derakhshan,⁸³ an Iranian journalist residing in Canada, set up his own blog in Persian. Shortly thereafter, responding to a request by a reader, he published a guide on creating Persian language blogs. This simple innovation led to an explosion of personal blogs at the same time as Persian newspapers and other media outlets began creating their own commercial sites. While estimates of the numbers of Persian blogs vary greatly between thousands and tens of thousands,⁸⁴ it is undeniable that Persian is overrepresented on the Web and especially in the blogosphere.

Iranians from almost every sector of society began to use this easily accessible means of communication. Consequently, Iranian websites and blogs create a complex online public communications network. This network consists of websites and blogs that are dedicated to discussing varying topics such as politics, religion, sports, movies, arts, culture, and particularly poetry.⁸⁵ For others, blogs serve as a means of communicating with loved ones around the world, either directly or by simply recording activities and thoughts in a daily or weekly journal. There is a great deal of political and theological discourse from commentators representing every imaginable ideology—from secularists to reformists to conservatives—delivering their views on countless issues including human rights, drug abuse and the environment.⁸⁶



Hossein Derakhshan

By posting a how-to guide on establishing Persian language blogs, Hossein Derakhshan is considered by many as the person most responsible for the explosive growth of the Persian-language blogosphere. He was arrested on November 1, 2008, and he remains in custody. He has yet to be officially charged with any crime, but has been allowed to contact his family on several occasions.

As in other countries, Iranian government agencies and politicians began using the Internet as well. Government-controlled news agencies were early adopters of the Internet. The Islamic Republic News Agency (IRNA) began accessing the Internet in 1996 and established its website in 1997. In 2003, Mohammad Ali Abtahi, then-Vice President to Mohammad Khatami, began publishing an influential

⁸⁰ *Id.*

⁸¹ For a review of the Iran Students News Agency website, see generally www.ISNA.ir/ISNA; see also Daniel Engber, *What's with the Iranian Student News Agency?*, SLATE, Feb. 2, 2006, available at <http://www.slate.com/id/2135342/> (last visited Apr. 20, 2009).

⁸² OPENNET INITIATIVE, *supra* note 11, at 5; NASRIN ALAVI, WE ARE IRAN 1 (2005). A blog is a kind of diary or journal posted on the Internet. *Id.*

⁸³ Derakhshan is currently being held in Iran for what seem to be charges of insulting the leadership on his personal blog. *Quvviyih Qaza'iyih Iran Bazdasht-i Hossein Derakhshan ra Ta'id Kard [Hossein Derakhshan's Arrest Confirmed by the Judiciary]*, BBC PERSIAN, Dec. 30, 2008, available (in Persian) at http://www.bbc.co.uk/persian/iran/2008/12/081230_ag_jb_derakhshan.shtml (last visited Apr. 20, 2009).

⁸⁴ Sources range from close to twenty thousand to nearly seventy thousand blogs. See, e.g., ALAVI, *supra* note 82, at 1.

⁸⁵ JOHN KELLY & BRUCE ETLING, BERKMAN CENTER FOR INTERNET & SOCIETY (HARVARD UNIVERSITY), MAPPING IRAN'S ONLINE PUBLIC: POLITICS AND CULTURE IN THE PERSIAN BLOGOSPHERE 7 (2008), available at http://cyber.law.harvard.edu/publications/2008/Mapping_Irans_Online_Public (last visited Apr. 20, 2009).

⁸⁶ *Id.*

blog, which he continues to maintain. On his blog, he shares anecdotes, relates his daily activities and



Mohammad Ali Abtahi is the current director of the “International Institute for Interreligious Dialogue,” an organization that supports the role of religion in civilization by promoting dialogue among different faiths. He served as both the chief of staff and as Vice President under President Khatami. Since 2003, Abtahi has authored a popular blog called *Webnevesht*, on which he comments on national and international news and current events.

expresses his frustrations with Iranian politics.⁸⁷ The Supreme Leader has a website where one can ask him questions regarding *Sharia* law. It also features recent news stories, a biography, a library of Islamic laws, and a photo gallery. Similarly, the Office of the Presidency has a website. However, from mid-2006 until the end of 2007, President Ahmadinejad also blogged on a separate website.⁸⁸

Predictably, activists and journalists resorted to publishing their materials online after facing

censorship in the traditional media.⁸⁹ Sina Motalebi, a journalist working for reformist newspapers in Tehran, began his blog in 2001 because online, he finally felt “free and uncensored.”⁹⁰ Arash Sigarchi, a journalist and editor of *Gilan-i Emrooz*, began blogging in March 2002, and only a few months later realized the potential of this new medium:

On November 29, 2002, a series of telephone poles were installed in Rasht. In appearance they were cell phone towers, but in reality they served to interrupt the reception of satellites, so people couldn’t watch satellite TV. One of those poles was placed in front of a girls’ school, which could affect the fertility of the girls. I did some research on this issue and prepared a controversial report that was to be published by our newspaper. The night before distribution, the general manager removed the story and said if it was published we would be shut down. I retorted that reporting on the news was a worthwhile cause to be shut down for. When I couldn’t run the report, I put the article on my weblog that evening to spite the general manager of the newspaper. Immediately, other news agencies picked up the report. Other cities began to realize the same thing was being done in their area, and understood what the real situation was. From that point on, whenever my general manager disagreed with me, I resisted fighting him on it—I would just put the article on my blog.⁹¹

These developments did not go unnoticed by conservative elements aligned with the Supreme Leader who began to see the Internet’s growing popularity and influence as a threat. They had concerns regarding pornography and foreign news sources but also realized that as the domestic print media had been systematically muzzled beginning in 2000, dissident and reformist ideas and news stories had migrated to the Internet.⁹²

⁸⁷ Nazila Fathi, *An Iranian Cleric Turns Blogger for Reform*, N.Y. TIMES, January 16, 2008, available at http://www.nytimes.com/2005/01/16/international/middleeast/16iran.html?_r=1 (last visited Apr. 21, 2009); see also <http://www.webneveshteha.com/> (last visited Apr. 21, 2009). Abtahi later resigned from his post in protest.

⁸⁸ See <http://www.ahmadinejad.ir/> (last visited Apr. 21, 2009). It seems that Mr. Ahmadinejad stopped blogging around December 2007.

⁸⁹ ALAVI, *supra* note 82, at 1; Mark Glaser, *Iranian Journalist Credits Blogs for Playing Key Role in His Release from Prison*, ONLINE JOURNALISM REV., Jan. 9, 2004, available at <http://www.ojr.org/ojr/glaser/1073610866.php> (last visited Apr. 21, 2009); see generally Witness Statement of Sigarchi, *supra* note 59.

⁹⁰ Clark Boyd, *The Price Paid for Blogging Iran*, BBC, Feb. 21, 2005, available at <http://news.bbc.co.uk/2/hi/technology/4283231.stm> (last visited Apr. 21, 2009) [hereinafter *Price Paid for Blogging*].

⁹¹ Witness Statement of Sigarchi, *supra* note 59, ¶ 6.

⁹² See Rahimi, *supra* note 9, at 45 (discussing the migration of reformist and pro-reformist factions to the Internet).

2. Iran's Regulation of Internet Expression

The Islamic Republic has responded to the rise of the Internet by altering and dominating the Web's landscape and increasing the price of Internet expression. Through filtering,⁹³ blocking,⁹⁴ and censoring content, the regime substantially dominates and alters the Web that Iranians access. Through arrests, detentions and torture, the regime has sought to quash dissenting views on the Internet. However, the regime has also sought to control and dominate the Internet accessed by Iranians through use of criminal laws. It uses established laws that traditionally regulate the press and expression, but is also developing Internet-specific laws and creating multiple regulatory bodies charged with Internet oversight. As a result, Iranians must navigate through a maze of legal and bureaucratic obstacles simply to exercise their fundamental right of expression on the Internet.

This section catalogues the more prominent press and Internet-specific laws that comprise the obstacles facing Iranian Internet users. The next section of this report, Section 3, describes and analyzes the regime's attempts to control and dominate the Internet accessed by Iranians through blocking, filtration and censorship. The last section, Section 4, documents arrests, detention and torture of bloggers and journalists.

2.1. Laws Regulating Expression

In the absence of a comprehensive law addressing Internet or cyber-crimes, the Judiciary has shut down websites and prosecuted individual bloggers under the established legal framework, including the Press Law and Islamic Penal Code, both of which apply to the electronic media.

2.1.1. *The Press Law*

The Press Law, enacted in 1986 and amended on April 18, 2000, applies to all "publications that are published regularly and under a permanent name, date and serial number ..."⁹⁵ The press has the right to publish "opinions, constructive criticisms, suggestions and explanations of individuals and government officials for public information while duly observing the Islamic teachings and the best interests of the community." Each publication must enforce one of five goals in such a way that it does not conflict with other goals or the "principles of the Islamic Republic."⁹⁶ The five goals are:

- (a) To enlighten public opinion and increase the level of their knowledge on one or several topics mentioned in Article 1;
- (b) To advance the objectives outlined in the Constitution of the Islamic Republic;



⁹³ Filtering refers to the use of Web filtering software, content control software or censorware that is designed to limit the content that can be accessed by a user through the use of various means such as key words.

⁹⁴ Blocking refers to the practice of specifically targeting a website so that users cannot access it. This can be done by individuals on their home computers, by system administrators and ISPs.

⁹⁵ Qanun-i Matbu'at [Press Law] 1364 [ratified 1986, amended 2000], art. 1, available at <http://iranhrdc.org/httpdocs/English/iraniancodes.htm> [hereinafter Press Law].

⁹⁶ *Id.* art. 2, note.

- (c) To endeavor to negate the drawing up of false and divisive lines, or pitting different groups of the community against each other by practices such as dividing people by race, language, customs, local traditions, etc.;
- (d) To campaign against manifestations of imperialistic culture (such as extravagance, dissipation, love of luxury, spread of morally corrupt practices, etc.) and to propagate and promote genuine Islamic culture and sound ethical principles; and
- (e) To preserve and strengthen the policy of neither East nor West.

Article 6 of the Press Law provides that the media may publish “news items except in cases when they violate Islamic principles and codes and public rights” as described in the Article. The prohibited subjects include:

- Publishing atheistic articles or issues that are prejudicial to Islamic codes, or promoting subjects that might damage the foundation of the Islamic Republic,
- Encouraging and instigating individuals and groups to act against the security, dignity and interests of the Islamic Republic of Iran within or outside the country,
- Insulting Islam and its sanctities, or offending the Leader of the Revolution and recognized religious authorities, and
- Publishing statements against the Constitution.

In order to publish, a license must be obtained from the MCIG. To be eligible, one must be at least 25 years old and financially stable, be “free of moral corruption,” possess at least a bachelor’s degree, and support the Constitution.⁹⁷ Anyone who has publically spoken in favor of the former regime is prohibited from publishing.⁹⁸

The law creates a Press Supervisory Board (PSB), which consists of “devoted Muslims who possess the required scientific and moral competence and are committed to the Islamic Revolution.” The PSB has the power to examine press violations. The 2000 amendment bestowed the PSB with power to shut down a publication and, within a few weeks, transfer the file to a court for further review.⁹⁹ The law provides that crimes “can be examined by competent general or Revolutionary courts in accordance with the laws pertaining to inherent competency.” “Either way, the court must be open and in the presence of a jury.”¹⁰⁰

The 2000 amendment also expanded the reach of the Press Law to cover all electronic publications.¹⁰¹ If the writings of bloggers and journalists on the Internet are considered “publications,” they must secure licenses from the PSB. Yet notwithstanding the discretionary powers granted regulatory agencies under the Press Law, examination of the regime’s record of prosecutions of bloggers suggests that the Judiciary generally avoids prosecutions under this law. This is presumably because Article 168 of the Iranian Constitution mandates that “political and press offenses will be tried openly and in the presence of a jury, in a court of justice.”¹⁰² In order to circumvent the requirements of an open court and a jury, prosecutors generally bring charges under the more restrictive Penal Code—and not the Press Law—when targeting individuals for their expressive activities.¹⁰³

⁹⁷ *Id.* art. 9.

⁹⁸ *Id.* art. 9, note 5.

⁹⁹ *Id.* art. 12, note.

¹⁰⁰ *Id.* art. 34.

¹⁰¹ *Id.* art. 1, note 3.

¹⁰² IRANIAN CONST., *supra* note 48, art. 168; Press Law, *supra* note 95, arts. 36-44. Article 168 of the Iranian Constitution requires that the government specifically define “political offenses” in order to protect political prisoners. Despite this mandate, however, the government has failed to pass any laws addressing this particular issue. According to Iranian legal scholar Mehrangiz Kar, the government’s failure to define political offenses has allowed the regime to abuse the system and crush political dissent. Mehrangiz Kar, *The Silencing of Dissidents: A Legal Analysis*, at 14-15 (published by IHRDC, 2007 at www.iranhrdc.org).

¹⁰³ See, e.g., Press Law, *supra* note 95, art. 1, note 2; see also Namihyih Shahrudi darbarihyih Tuqif-i Saythayih Interneti [Shahrudi’s Letter Regarding the Closure of Internet Sites], BBC PERSIAN, 9/6/1387 [Aug. 30, 2008], available (in Persian) at

The Press Law, on its face, fails to meet Iran's international legal obligations. Article 19 of the ICCPR protects political expression.¹⁰⁴ It provides as follows:

1. Everyone shall have the right to hold opinions without interference.
2. 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.
3. 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.

The Human Rights Committee (HRC)¹⁰⁵ has made it clear that in conjunction with Article 25, Article 19 affirms that citizens should be granted wide access to information that will allow them to participate in the social and political sphere of their society.¹⁰⁶

The broad discretionary powers of the PSB to grant and revoke licenses, and refer cases for prosecution, violate Article 19 of the ICCPR. Under the Press Law, the PSB may disqualify or refer an applicant based on such vague offenses as publishing articles prejudicial to Islamic codes, promoting subjects that might damage the foundation of the Islamic Republic, encouraging and instigating individuals and groups to act against the dignity and interests of the regime, insulting Islam and its sanctities, offending the Leader of the Revolution or recognized religious authorities, and publishing statements against the Constitution.¹⁰⁷ This discretionary power to grant or revoke licenses without procedures for effective review is a major impediment to the free exercise of expression.¹⁰⁸

The vague content prohibitions also violate international law.¹⁰⁹ The extensive list of prohibited subjects severely quashes expression that has no connection to pornography, national security or any other potentially legitimate reason to limit expression. Under the Press Law, most political philosophies, large portions of Iranian law and many important political leaders are prohibited topics. Moreover, even if these draconian restrictions were permissible, they are so vague as to be meaningless and are therefore unenforceable. They fail to provide adequate notice to Iranian citizens as to what subjects are off-limits, thereby promoting arbitrary arrests and prosecutions.

http://www.bbc.co.uk/persian/iran/story/2008/08/080830_shahroudi_filtering.shtml (last visited Apr. 22, 2009) (discussing the Prosecutor General of Tehran's attempt to indict website administrators under the Penal Code instead of the Press Law). It should be noted, however, that the Press Law references the Islamic Penal Code. See, e.g., Press Law, *supra* note 95, art. 6, note 2.

¹⁰⁴ Nqalula Mpandanjila et al. v. Zaire, Communication No. 138/1983 (26 March 1986), U.N. Doc. Supp. No. 40 (A/41/40) at 121 (1986). Henry Kalenga v Zambia, Communication No 326/1988 U.N. Doc. CCPR/C/48/D/326/1988, Aduayom et al. v. Togo, Communications Nos. 422/1990, 423/1990 and 424/1990 U.N. Doc. Communications Nos. 422/1990, 423/1990 and 424/1990.

¹⁰⁵ The HRC was established to monitor compliance with the ICCPR. It is empowered to comment on communications received from individuals from states that have ratified the Optional Protocol to the Covenant who claim to have suffered violations of any of the rights protected by the Covenant. Iran has not ratified the Optional Protocol. See ICCPR, *supra* note 24, arts. 28-45.

¹⁰⁶ Robert W. Gauthier v. Canada, Communication No 633/1995, U.N. Doc. CCPR/C/65/D/633/1995 ¶ 13.4 (5 May 1999), ("citizens, in particular through the media, should have wide access to information and the opportunity to disseminate information and opinions about the activities of elected bodies and their members.") Article 25 of the ICCPR guarantees that "[e]very citizen shall have the right and the opportunity, without any of the distinctions mentioned in Article 2 and without unreasonable restrictions."

¹⁰⁷ Press Law, *supra* note 95, art. 6.

¹⁰⁸ Concluding observations of the Human Rights Committee: Lesotho, U.N. Doc CCPR/C/79/Add.106 ¶ 23 (1999) available at: [http://www.unhchr.ch/tbs/doc.nsf/\(Symbol\)/CCPR.C.79.Add.106.En?Opendocument](http://www.unhchr.ch/tbs/doc.nsf/(Symbol)/CCPR.C.79.Add.106.En?Opendocument).

¹⁰⁹ See, e.g., Press Law, *supra* note 95, art. 2, note. The note states: "Each publication should at least enforce one of the above goals, and such a goal must in no way be in conflict with the other goals specified above or with the principles of the Islamic Republic."

The registration requirement is particularly restrictive when applied to bloggers. Though the HRC has not taken up a case on the registration of bloggers, it has ruled on the limits of registration in what could be an analogous practice: leafleting. In *Laptsevich v. Belarus*, the HRC ruled that an individual handing out leaflets in a public square should not be forced to register and that such a requirement was not legitimate under Article 19 paragraph 3.¹¹⁰ Similarly, blogs are usually published by individuals to express personal opinions and beliefs. The broad registration requirement creates an obstacle that is not necessary but severely restricts the freedom of bloggers to express their views, as well as the rights of others to receive their communications.

2.1.2. *The Islamic Penal Code*

The regime has also relied on the Penal Code of the Islamic Republic to severely repress expression on the Internet. Criminal sanctions for criticism of and opposition to the regime, real and imagined, are all-encompassing. Bloggers and cyber-journalists have been charged and convicted of serious crimes including endangering national security,¹¹¹ insulting Islam's holy figures or the Supreme Leader,¹¹² propaganda against the regime,¹¹³ membership in groups dedicated to the overthrow of the regime,¹¹⁴ and spying for foreign governments.¹¹⁵ In addition, provisions in the Penal Code outlaw criticism of state employees, whether elected or appointed, in high or low office.¹¹⁶ The Code also criminalizes libel and defamation.¹¹⁷

The criminalization of all criticism of the Islamic Republic fails to meet any definition of “necessity” under Article 19, paragraph 3 of the ICCPR as defined by the HRC.¹¹⁸ Paragraph 3 provides that restrictions must be provided by law and be necessary for the respect of the rights and reputation of others or for the protection of national security.¹¹⁹ In *Kim v. Republic of Korea*, the HRC upheld a man's right to distribute material labeling the South Korean government, among other things, a “military-fascist regime.”¹²⁰ It explained that South Korea had failed to establish that his actions posed a serious threat to

¹¹⁰ Vladimir Petrovich Laptsevich v. Belarus, Communication No. 780/1997, U.N. Doc. CCPR/C/68/D/780/1997 ¶ 8.1 (2000).

¹¹¹ Iran's Penal Code addresses crimes against national security. Iran Penal Code, *supra* note 63, arts. 498-512. It includes article 498 (mandating two to three years' imprisonment for conspiring with another (or others) to disrupt the national security of the nation), article 499 (mandating three months to five years' imprisonment for being a member of a group identified in article 498, unless unaware of the group's objectives), and article 500 (mandating three months' to a year imprisonment for propagandizing against the Islamic Republic, or in favor of a group or organization who acts against the Islamic Republic). The national security provisions also address acts that constitute espionage, *see, e.g., id.* arts. 501-02, 510, and instigating others to disrupt the nation's security. *See, e.g.,* arts. 504, 512. For the purposes of the Penal Code's national security provisions, a “group” is defined as a gathering of two or more persons. *Id.* arts. 610-611.

¹¹² Iran's Penal Code criminalizes insults against Islam's holy figures (i.e., the twelve Imams, the great prophets and their kin, etc). If the insults are directed at the Prophet Muhammad, the crime is punishable by death. Otherwise the individual is subject to one to five years' imprisonment. *Id.* art. 513. Insulting Khomeini or the Supreme Leader is punishable by six months' to two years' imprisonment. *Id.* art. 514.

¹¹³ *Id.* art. 500 (“Anyone who engages, in any manner, in propaganda against the Islamic Republic of Iran or does so on behalf of dissident groups or organizations is condemned to imprisonment for a period of three months to one year.”)

¹¹⁴ *Id.* art. 499.

¹¹⁵ *Id.* arts. 501-02.

¹¹⁶ *Id.* art. 609.

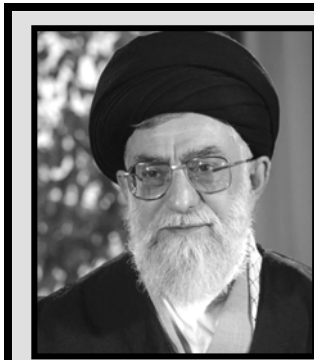
¹¹⁷ *See, e.g., id.* art. 700 (“Anyone who satirizes another person, either orally or in writing, through poetry or prose (or publishes such satire) will be subject to imprisonment from one to six months.”)

¹¹⁸ Rafael Marques de Morais v. Angola, Communication No. 1128/2002, U.N. Doc. CCPR/C/83/D/1128/2002 ¶ 6.8 (2005) [hereinafter *Morias v. Angola*].

¹¹⁹ ICCPR, *supra* note 24, arts. 19(3).

¹²⁰ Keun-Tae Kim v. Republic of Korea, Communication No 574/1994 U.N. Doc. CCPR/C/64/D/574/1994 ¶ 10.4 and 12.5 (1999) [hereinafter *Kim v. Republic of Korea*]. *See also Dergachev v. Belarus* where the HRC found that a poster instructing fellow citizens to “Stop listening to lies” of the government was well within the rights of an individual. Alexandre Dergachev v. Belarus, Communication No. 921/2000, U.N. Doc. CCPR/C/74/D/921/2000 ¶ 2.1 (2002).

national security,¹²¹ even in light of the fact that he had previously been convicted of participating in illegal demonstrations and instigating acts of violence.¹²²



Ayatollah Ali Khamenei is the successor of Ayatollah Ruhollah Khomeini and the current Supreme Leader of Iran. It is forbidden to insult or disparage him or his predecessor. The powers of the Supreme Leader include formulating government policies and overseeing their implementation, commanding and mobilizing the armed forces, declaring war and peace, and resolving differences between the three branches of government and regulating their relations. The Supreme Leader also possesses the authority to appoint and dismiss the head of the Islamic Republic of Iran Broadcasting and the power to direct national press policy. When the *Majlis* sought to increase freedom of speech in 2000, Khamenei publically declared that “any re-interpretation of the press law is not in the interests of the country and the system,” thereby ending the attempt at reform.

Likewise, even if prevention of insults of the Supreme Leader were a legitimate interest of the Islamic Republic of Iran, the scope of restrictions on expression must be proportional to the value of that interest.¹²³ In a case involving several news articles criticizing the President of Angola, the HRC explained that prison sentences for insulting the symbols of the state (such as the President) cannot be considered proportionate since the individuals, whether alive or dead, are considered public figures and are therefore subject to criticism and opposition.¹²⁴ Thus, it was a

violation of international law to charge Rafael Marques de Morias with “defamation and slander against His Excellency the President of the Republic” based on several articles accusing the Angolan President of destroying the nation, and promoting incompetence, embezzlement and corruption.”¹²⁵

The HRC has found that laws criminalizing expression stifle political discourse¹²⁶ and has urged states to abolish them and to find other means to ensure accountability of the press.¹²⁷ Echoing this view, in 2004, the UN Special Rapporteur on the Right to Freedom of Opinion and Expression urged Iran to refrain from punishing the peaceful expression of opinion with prison sentences.¹²⁸ He explained that the proper tools for dealing with abuse of the freedom of expression are civil suits and that, while prison terms are clearly disproportionate, floggings are even more so and can amount to cruel, inhuman or degrading treatment or even torture.¹²⁹

2.1.3. Other Laws

The Special Rapporteur also noted that, in addition to running afoul of the Press Law and the Penal Code, expression in Iran is prosecuted under the Preventative Restraint Act.¹³⁰ This law, passed in 1960 to deal with dangerous criminals and repeat offenders, has been used repeatedly to ban publications for indefinite periods of time.¹³¹ Article 1 provides that courts may impose restraints to prevent the repetition of crimes

¹²¹ *Id.* ¶ 10.4.

¹²² *Id.* ¶ 4.2.

¹²³ *Morias v. Angola*, *supra* note 118 ¶ 6.8.

¹²⁴ *Id.* ¶ 6.8. *See also* Concluding observations of the Human Rights Committee: Tajikistan, U.N. Doc. CCPR/CO/84/TJK ¶ 22 (2005), where the HRC expressed concern regarding the existence of crimes such as “injuring the honour and dignity of the President,” which limit freedom of speech.

¹²⁵ *Morias v. Angola*, *supra* note 118 ¶ 2.6.

¹²⁶ Concluding observations of the Human Rights Committee: Croatia, U.N. Doc. CCPR/CO/71/HRV ¶ 17 (2001).

¹²⁷ Concluding observations of the Human Rights Committee: Zambia, U.N. Doc. CCPR/C/ZMB/CO/3 ¶ 25 (2007).

¹²⁸ *Ligabo Report*, *supra* note 66, at 2.

¹²⁹ *Id.* ¶¶ 33-34.

¹³⁰ Qanun-i Iqdamat-i Ta’mini [Preventative Restraints Act] 1339 [1960], art. 1. (“Preventative restraints are measures taken by the court to prevent the repetition of the crime (offense or felony) in the case of dangerous criminals. Dangerous criminals are persons whose background and personality, as well as their crime and the manner in which it was committed, make them susceptible to becoming repeat offenders. Irrespective of their legal responsibility, a preventative restraint measure may only be issued by the court when the person has committed the crime.”).

¹³¹ *Ligabo Report*, *supra* note 66, ¶ 42.

in the cases of dangerous criminals. Dangerous criminals are persons whose background and personalities, as well as crimes and manners in which they were committed, raise the chances that they will become repeat offenders. A measure for preventative restraint can only be taken after a person has committed a crime.¹³²

In addition, clerics are prosecuted under the Procedural Law for Establishing Special Prosecutors and Clerical Courts. Under Article 18, “Every action or failure of action that is punishable and amenable to prosecution according to civil or *Shari’a* laws shall constitute a crime.”¹³³ The accompanying note to the Article further provides that “actions [by clerics] that insult the dignity of the clerical establishment and the Islamic Republic shall constitute a crime.”¹³⁴

Other rules are simply announced by government organs such as the Supreme Council for Cultural Revolution (SCCR) and the Supreme National Security Council (SNSC). For example, in February 2003, the SNSC ordered that members of the press were prohibited from speaking to a list of foreign media outlets including Radio Farda.¹³⁵

2.2. Internet-Specific Laws

The root of the Islamic Republic’s legal response to the Internet lies in a May 2001 order by the Supreme Leader entitled “Overall Policies on Computer-based Information-providing Networks.” He ordered that access to the World Wide Web be provided only by authorized entities.¹³⁶ By November 2001, the SCCR responded with a resolution called “Regulations and Conditions Related to Computerized Information Networks.”¹³⁷ It ordered that access service providers (ASP)¹³⁸ be placed under state control and that ISPs remove all anti-government and all anti-Islamic websites from their servers.¹³⁹ The resolution also required ISPs to use filtration technology, and to monitor and record Internet use of their customers.¹⁴⁰ Finally, it specified that individuals applying for ISP licenses cannot be members of anti-revolutionary or illegal groups. To obtain a license, one must be an Iranian citizen, committed to the Constitution, and a member of one of the officially accepted religions.¹⁴¹

2.2.1. The Cyber Crime Penal Code

In early 2002, the head of the Judiciary, Ayatollah Shahroudi, established the Committee for Combating Cyber Crimes to work on a cyber crime penal code,¹⁴² and proposed the creation of a new judicial office

¹³² *Id.*

¹³³ Ay’in Namihyiyh Dadsiraha va Dadgahhayih Vijihyiyh Ruhaniat [Procedural Law for Establishing Special Prosecutors and Clerical Courts] 1384 [ratified 1990; amended 2005], art. 18, *available (in Persian) at* http://daneshpajuh.ir/Ghavanin/Ghavanin_6_1.html (last visited Apr. 22, 2009).

¹³⁴ *Id.*

¹³⁵ Witness Statement of Sigarchi, *supra* note 59, ¶ 8; Interview with Roozbeh Mirebrahimi, *supra* note 75.

¹³⁶ IRAN’S CSOs TRAINING & RESEARCH CENTER, A REPORT ON THE STATUS OF THE INTERNET IN IRAN 8 (2005), *available at* http://www.frontlinedefenders.org/files/en/2506_Report%20on%20Internet%20Access%20in%20Iran.pdf (last visited Apr. 22, 2009) [hereinafter ICTRC REPORT].

¹³⁷ See Supreme Council of Cultural Revolution Regulations of 6 November 2001 (regarding conditions related to computerized information networks) (Iran), *available (in Persian) at* <http://www.iranculture.org/provs/view.php?id=1230> (last visited Apr. 22, 2009).

¹³⁸ In Iran, ASPs provide the bandwidth to ISPs who then sell accounts to users.

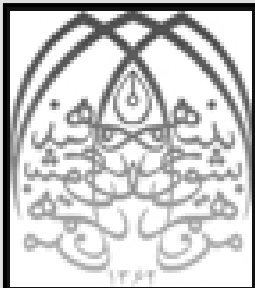
¹³⁹ Rahimi, *supra* note 9, at 46. Websites are not allowed to publish material that is in conflict with or insulting to Islamic doctrine, the revolution’s values, the thoughts of Imam Khomeini, or the Constitution. They are also prohibited from publishing material that jeopardizes national solidarity, instills cynicism in the public regarding the legitimacy or efficiency of the ruling government, propagates a good image of illegal groups, reveals classified information or promotes vices such as smoking. ICTRC REPORT, *supra* note 136, at 9.

¹⁴⁰ *Id.* at 8.

¹⁴¹ *Id.* at 9. Under the Iranian Constitution, the only officially accepted religions are Twelver Shi’ism, other “Islamic schools” (i.e. Sunni), Zoroastrianism, Judaism and Christianity. IRANIAN CONST., *supra* note 48 arts. 12-13.

¹⁴² Rahimi, *supra* note 9, at 46-47; OPENNET INITIATIVE, *supra* note 12, at 3.

to deal with cyber offenses.¹⁴³ In 2006, the Committee prepared a draft Cyber Crime Penal Code and submitted it to the *Majlis*.¹⁴⁴ Though most of the draft bill's provisions concern issues such as information security, several important articles directly impact freedom of expression on the Internet. For example, Chapter Four (Articles 13-17) defines crimes related to content.¹⁴⁵



The Supreme Council for Cultural Revolution (SCCR), originally known as the Cultural Revolution Headquarters, was established in Tehran in the spring of 1980. The Council directs the cultural policies of the Islamic Republic through its control of the nation's education system, including the curriculum, campus activities, and the admissions and hiring practices of Iranian universities.

The SCCR is made up of 37 members, including the President of Iran, the head of the Judiciary, and representatives of the Ministry of Culture and Islamic Guidance, the Management and Planning Organization, the Ministry of Science, Research and Technology, the Islamic Propagation Organization, the University Jihad, the seminaries, the Ministry of Education, the Islamic Republic of Iran Broadcasting (IRIB), the Socio-Cultural Council for women, the Islamic Azad University, the office for Investigating Mosque-related Affairs, and the Office of Women Participating Affairs. The representative of the Ministry of Culture and Islamic Guidance also serves as the SCCR's chairman.

Article 14 outlaws the production, transmission and publication of “obscene” content.¹⁴⁶ Article 14(c) criminalizes the commission of “crimes against morality” and other illegal or violent activities, and the incitement of others to commit such crimes.¹⁴⁷ Article 17 outlaws the publication of “lies” that cause “public anxiety.” Article 18 provides that ISPs are punishable for failing to prevent the transmission of prohibited content. They are to report illegal content to law enforcement officials and do what is necessary to stop and, if possible, preserve the offending content.¹⁴⁸

In December 2008, Tehran's Public Prosecutor Mortazavi announced that his office had set up a special prosecutorial division for Internet and cyber crimes.¹⁴⁹ The division was established in anticipation of the final ratification of the draft Code.¹⁵⁰ Pursuant to Article 27 of the draft bill, the Judiciary must allocate special divisions of the Public and Revolutionary courts to prosecute Internet crimes.¹⁵¹ Legal scholars have criticized the government's establishment of a cyber crimes office as premature, considering that there is currently no law on the books that specifically defines Internet crimes.¹⁵² The draft Code remains under review.

¹⁴³ Rahimi, *supra* note 9, at 47; OPENNET INITIATIVE, *supra* note 12, at 3.

¹⁴⁴ OPENNET INITIATIVE, *supra* note 12, at 3.

¹⁴⁵ See, e.g., Qanun-i Jarayim-i Rayanih'i [Cyber Crimes Penal Code] (Draft) arts. 13-17, available (in Persian) at <http://www.ictna.ir/summon/archives/001089.html> (last visited Apr. 27, 2009).

¹⁴⁶ “Obscene” content is defined as material that is pornographic or sexual in nature. *Id.* art. 14.

¹⁴⁷ “Crimes against morality” include but are not limited to drug use, suicide and “sexual deviancy.” *Id.* art. 14(c).

¹⁴⁸ *Id.* art. 19.

¹⁴⁹ *Layihyiyh Jarayim-i Rayanih'i dar Iran: Gam-i Aval [The Cyber Crimes Bill in Iran: The First Step]*, RADIO FARDA, 27/9/1387 [Dec. 17, 2008], available (in Persian) at http://www.radiofarda.com/content/f1_computer_crimes/477374.html (last visited Apr. 23, 2009); see also *Tashkil-i Dadsarayih Vijihyiyh Jarayim-i Rayanih va Internet dar Iran [Establishment of Special Prosecutor's Office for Cyber Crimes in Iran]*, RADIO FARDA, 11/9/1387 [Dec. 1, 2008], available (in Persian) at http://www.radiofarda.com/content/f3_internet_filtering_trial/475223.html (last visited Apr. 23, 2009).

¹⁵⁰ Cyber Crimes Penal Code (Draft), *supra* note 145, arts. 26-29.

¹⁵¹ *Id.* art. 27.

¹⁵² *Iran az Barnamihyiyh Barkhurd ba Saythayih “Ilhadi” Khabar Dad [Iran Announces Campaign Against “Apostasy” Sites]* BBC PERSIAN, 20/9/1387 [Dec. 10, 2008], available (in Persian) at http://www.bbc.co.uk/persian/iran/2008/12/081210_m_internet_mortezavi.shtml (last visited Apr. 23, 2009).

2.2.2. The Urgent Bill Regarding Punishment for Crimes Disturbing the Public Mind

Iran's *Majlis* is also considering a bill addressing particularly heinous crimes intended to undermine public order and security. On February 22, 2009, a commission of the *Majlis* approved the Urgent Draft Bill Increasing Penalties for Crimes Related to Disturbing the Public Mind.¹⁵³ Although the draft bill's ratification is under review in conjunction with the Cyber Crime Penal Code, it is a separate piece of legislation intended to expand the categories of crimes that qualify someone as *muharib*¹⁵⁴ or as *mufsid-i fil arz* (thereby subjecting the convicted person to capital or corporal punishment)¹⁵⁵ under the Penal Code.¹⁵⁶

Article 2(4) of the draft bill makes "establishment and commissioning of blogs and websites promoting corruption, prostitution and apostasy" a serious crime.¹⁵⁷ The draft bill requires the creation of judicial commissions tasked with determining which crimes render a defendant *muharib* or as *mufsid-i fil arz*.¹⁵⁸ Prosecutions of such crimes would be given priority in special divisions of the public and revolutionary courts.¹⁵⁹ According to news reports, these commissions would provide official or legal legitimacy to existing organs within the Judiciary currently tasked with defining and identifying the aforementioned crimes.¹⁶⁰

Iran's *Association of Human Rights Defenders* released a statement indicating that the final passage of this law will "limit the freedom of expression, jeopardize citizen's rights and increase the number of executions."¹⁶¹ *Reporters Without Borders* has also criticized the draft bill on the basis that it is "based on ill-defined concepts and giv[es] judges a lot of room for interpretation ... [and] would have disastrous consequences for online freedom."¹⁶²

The Iranian regime's legal and administrative scheme unduly burdens the exercise of expression and access to information on the Web, and goes beyond what is considered legitimate under Article 19, paragraph 3 of the ICCPR. In 2002, the UN Special Rapporteur on Freedom of Opinion and Expression affirmed that, with regard to dissemination and access, the Internet is recognized as an important means to

¹⁵³ *Ra'y-i Comission-i Farhangiyeh Majlis bih "Tashdid-i Mujazat-i Ikhlah dar Amniyat-i Ravani"* [The Cultural Commission of the *Majlis* Votes for the Urgent Draft Bill Increasing Penalties for Crimes Related to Disturbing the Public Mind], RADIO FARDA, 5/12/1387 [Feb. 23, 2009], available (in Persian) at http://www.radiofarda.com/content/F7_Iran_Parliament_/1497931.html (last visited Apr. 23, 2009); see also *Establishment of Special Prosecutor's Office for Cyber Crimes in Iran*, *supra* note 149.

¹⁵⁴ The Penal Code defines a *muharib* and *mufsid-i fil arz* ("one who sows corruption on Earth") as "anyone who pulls weapons with the intention to intimidate, create fear, deny freedom to the public and disrupt public security." *Id.* art. 183. Article 187 of the Code defines *muharib* and *mufsid-i fil arz* as "anyone or any group that plans to overthrow the Islamic Republic and for this purpose arranges weapons and ammunition, and also anyone who, with full awareness and free will, provides them with effective financial assistance, weapons and other necessary tools."

¹⁵⁵ Articles 190-96 of the Penal Code lay out the various punishments for *muharib* and *mufsid-i fel arz*, which include execution, amputation and exile.

¹⁵⁶ *The Cultural Commission of the Majlis Votes for the Urgent Draft Bill Increasing Penalties for Crimes Related to Disturbing the Public Mind*, *supra* note 153.

¹⁵⁷ *Tarh-i Tashdid-i Mujazat-i Ikhlah dar Amniyat-i Ravani* [Urgent Draft Bill Increasing Penalties for Crimes Related to Disturbing the Public Mind] 1387 [2009], art. 2(4) (Iran), available (in Persian) at <http://isna.ir/ISNA/NewsView.aspx?ID=News-1157320> (last visited Apr. 23, 2009).

¹⁵⁸ *Id.* arts. 9-10. Articles 183-188 of Iran's Penal Code address the criteria used to convict someone of being a *muharib* or *mufsid-i iel arz*.

¹⁵⁹ Urgent Draft Bill Increasing Penalties for Crimes Related to Disturbing the Public Mind, *supra* note 157, art. 9; see also *Establishment of Special Prosecutor's Office for Cyber Crimes in Iran*, *supra* note 149.

¹⁶⁰ See *Sitadhayih Tashkhis-i Muharib dar Rahand?* [Are the Offices Tasked with Identifying Muharib Up and Running?], ROOZ ONLINE, 5/12/1387 [Feb. 23, 2009], available (in Persian) at http://www.roozonline.com/archives/2009/02/post_11744.php (last visited Apr. 23, 2009).

¹⁶¹ *Establishment of Special Prosecutor's Office for Cyber Crimes in Iran*, *supra* note 149.

¹⁶² Press Release, Reporters Without Borders, Parliament passes bill that would extend death penalty to include online crimes; court re-imposes death penalty on journalist (July 7, 2008), available at <http://www.ifex.org/en/content/view/full/95122/> (last visited Apr. 23, 2009).

gain information and ideas to pursue social justice and respect for human rights.¹⁶³ He agreed that some controls on the content of the Web, such as limits on neo-Nazi propaganda, were both appropriate and welcome,¹⁶⁴ but opined that any restriction must be legitimate under paragraph 3 of Article 19. The HRC has also found that safeguarding and strengthening national security, unity, and public order cannot be achieved by forbidding expression on democratic tenets and human rights.¹⁶⁵

3. Technical Methods Used to Control and Alter the Web in Iran

As part of the Islamic Republic's effort to maintain control and dominance over public expression in Iran, it alters and censors the Web that is accessed by Iranians. Methods used include shutting down websites at their sources, blocking specific websites so users cannot access them, filtering out large parts of the Web, restricting Internet speeds, and altering the Web by filling it with the regime's ideas and opinions.

3.1. During the Reformist Era (1997-2005)

As early as 2000, Iranian authorities shut down affiliated websites of several reformist newspapers that had been closed.¹⁶⁶ Over the next couple of years, website banning became more organized and pronounced. In December 2002, the Committee Responsible for Determining Unauthorized Sites (CCDUS) was established.¹⁶⁷ Made up of representatives from the Ministry of Culture and Islamic Guidance (MCIG), the Ministry of Intelligence, the Ministry of ICT, and the Ministry of Justice,¹⁶⁸ the Committee identifies both the criteria for identifying illegal websites, and reports such websites to the Ministry of ICT to be censored accordingly.¹⁶⁹

In March 2003, the authorities blocked dozens of websites because of their political or allegedly pornographic content.¹⁷⁰ These included websites of United States radio and TV stations broadcasting in Persian, which were quite popular with the general public.¹⁷¹ By May, ISPs were being threatened with legal action if they failed to filter out a list of 15,000 sites.¹⁷² In December, Internet users in Iran noticed that large parts of the Google search engine had become inaccessible and responded by venting their frustration online during the World Summit on the Information Society.¹⁷³ At the summit, President

¹⁶³ UN Commission on Human Rights, *Report of the Special Rapporteur on the promotion and the right to freedom of opinion and expression, Civil and Political Rights, Abid Hussain, Including the Question of Freedom of Expression*, ¶ 88, U.N. Doc. E/CN.4/2002/75 (Jan. 30, 2002), available at [http://www.unhcr.ch/huridocda/huridoca.nsf/e06a5300f90fa0238025668700518ca4/9c822779c7f603b2c1256b9d004c8f56/\\$FILE/G0210396.pdf](http://www.unhcr.ch/huridocda/huridoca.nsf/e06a5300f90fa0238025668700518ca4/9c822779c7f603b2c1256b9d004c8f56/$FILE/G0210396.pdf) (last visited Apr. 23, 2009) [hereinafter *Abid Hussain Report*].

¹⁶⁴ *Id.* ¶ 93.

¹⁶⁵ *Womah Mukong v. Cameroon*, Communication No. 458/1991, U.N. Doc. CCPR/C/51/D/458/1991 ¶ 4.1 (1994). This case was brought by a journalist and political activist who had criticized public policy while speaking with a foreign news media outlet. He was arrested and charged with "intoxication of national and international opinion" by the government of Cameroon. Although Cameroon contended that the exercise of the right to freedom of expression must take into account the political context and situation prevailing in a country, the HRC disagreed.

¹⁶⁶ Rahimi, *supra* note 9, at 46.

¹⁶⁷ ITCRC Report, *supra* note 136, at 9.

¹⁶⁸ ITCRC names the members of the committee as representatives of the Ministry of Information, the Ministry of Culture and Islamic Guidance, the Islamic Republic of Iran's Broadcasting, the Supreme Council of the Cultural Revolution and the Islamic Propagation Organization. ITCRC REPORT, *supra* note 136, at 9.

¹⁶⁹ *Id.* at 9; see also Rahimi, *supra* note 9, at 47.

¹⁷⁰ Rahimi, *supra* note 9, at 46-47.

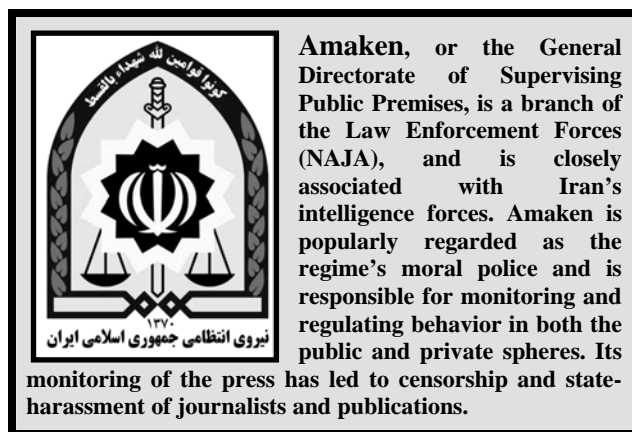
¹⁷¹ *Id.* at 47, 55 n.28.

¹⁷² *Iran Steps Up Net Censorship*, BBC, May 12, 2003, available at <http://news.bbc.co.uk/2/hi/technology/3019695.stm> (last visited Apr. 23, 2009).

¹⁷³ *Iranian Bloggers Rally Against Censorship*, BBC, Dec. 11, 2003, available at <http://news.bbc.co.uk/2/hi/technology/3310493.stm> (last visited Apr. 23, 2009).

Khatami faced questions regarding Iran's blocking practices, which he claimed were only aimed at pornographic material.¹⁷⁴ Answering questions at a related forum, the Minister of ICT, Ahmad Motamedi explained that the blacklist was given to private ISPs and that the press knew its contents. However, this list was never published.¹⁷⁵

Censorship of both traditional media and the Internet increased before the February 2004 parliamentary elections.¹⁷⁶ Although by this point there were several legal avenues for blocking specific websites, technology officials, including the Minister of ICT, noted that some blocking occurred outside the established legal framework.¹⁷⁷ For example, before the elections, the news sites *Emrooz* and *Rooydad* were blocked under orders of the Judiciary. Both of these sites represented reformist political associations. The former was the news site for the Islamic Revolution Mujahedin Organization and the latter was the website of the Islamic Participation Front. Both sites were high-profile news sources run by prominent reformist political advocates. The editor-in-chief of *Rooydad* was Seyyed Mohammad Reza Khatami, the brother of President Khatami.



The blocking of the websites was challenged as an illegal decision made unilaterally by the Judiciary.¹⁷⁸ However, the action was defended by Tehran Chief Prosecutor Mortazavi, who claimed that the authority for the blocking was forthcoming.¹⁷⁹ It is unclear whether such authorization ever materialized, and Mortazavi was repeatedly accused of trying to shut down websites without legal authorization.¹⁸⁰

Undeterred, in August 2004, Mortazavi escalated his campaign against *Rooydad* and *Emrooz*. At the time, they were blocked by several ISPs but they had not been officially banned. Seyyed Mohammad Reza Khatami, the editor of *Rooydad*, complained that Amaken officers had begun harassing IT companies that provided services to *Rooydad*.¹⁸¹ Within a few days of each other, Asghar Vatankhah, in charge of advertising for the *Emrooz*

¹⁷⁴ Mohammad Khatami, Former President of Iran, Remarks at the World Summit on the Information Society (Dec. 11, 2003), available (in audio format) at http://www.itu.int/wsis/geneva/coverage/archive.asp?lang=en&c_type=pc|11 (last visited Apr. 23, 2009) [hereinafter Khatami Remarks at World Summit].

¹⁷⁵ *Iran's ICT Minister Confronted*, THE DAILY SUMMIT, Dec. 11, 2003, available at http://www.dailysummit.net/english/archives/2003/12/11/irans_ict_minister_confronted.asp (last visited Apr. 23, 2009) (including the transcript of an interview with Iran's ICT Minister, Ahmad Motamedi). Minister Motamedi insisted that Iran only banned 240 sites. This seems an incredibly small number considering the emphasis on blocking pornographic content.

¹⁷⁶ OPENNET INITIATIVE, *supra* note 11, at 12.

¹⁷⁷ *Vazir-i Irtebatat va Fanavari: Zahiran Filtering-i Barkhi Saytha az Taraf-i Dastgah-i Ghaza'i va Ru'asa Surat Giriftih; Bihtar ast Filtering bar Asas-i Musavvehbiyyih Shurayih Aliyih Inqilab-i Farhang Bashad* [Ministry of Information Technology: Apparently Some Sites Have Been Filtered Pursuant to Orders from the Judiciary; It is Better if Filtering is Administered Pursuant to Regulations Passed by the Supreme Council of the Cultural Revolution] ISNA, 21/10/1383 [Jan. 10, 2005], available (in Persian) at <http://isna.ir/Isna/NewsView.aspx?ID=News-479646>; see also *Didgahhayih Dadsitan-i Tehran va Ra'is-i Shurayih Hamahangiyih Nizaratbar Fa'aliyathayih Irtebatiyih Vizarat-i Irtebatat Darbarihyiyih Filtering* [The Views of Tehran's Prosecutor's Office and the Head of the Coordinating Council for Communication Activities (of the Ministry of Communication and Information Technology) Regarding Filtering], ISNA, 22/10/1383 [Jan. 11, 2005], available at <http://isna.ir/Isna/NewsView.aspx?ID=News-480466> (last visited Apr. 23, 2009).

¹⁷⁸ *Iranian Official Advocating Press Freedom Deplores Closure of Websites*, PAYVAND'S IRAN NEWS, Feb. 23, 2004, available at <http://www.payvand.com/news/04/feb/1172.html> (last visited Apr. 23, 2009).

¹⁷⁹ *Id.*

¹⁸⁰ OPENNET INITIATIVE, *supra* note 11, at 12.

¹⁸¹ *Dabir-i Kul-i Musharikat dar Namih'i bih Mu'avin-i Ra'is Jumhur; az Izhari Telephonyih Ti'dadi az Afrad-i Muntasib bih Jibhiyyih Musharikat Khabar Dad va Khahan-i Risidigi Shud* [In a Letter, the Head of the Islamic Iran Participation Front Informed the Vice President of the Telephonic Summoning of Several Members Linked to the Participation Front and Requested an Investigation Into the Matter], ISNA, 1/6/1383 [Aug. 22, 2004], available (in Persian) at

website, and Masood Ghoreishi, a website technician at the same news outlet, were arrested. Their homes were searched and their computers and files were seized.¹⁸² This was followed by the arrest of six members of *Rooydad's* technical staff: Farid Sani, Arash Naderpour, Mani Javadi, Kiavash Ghadmeli, Mozghan Ghavidel, and Mehdi Derayati.¹⁸³ Although most of the charges were ultimately dropped, these arrests of technicians—instead of editors or journalists—were part of a practical strategy to eliminate the news sites. The technicians were forced to relinquish passwords and other important data, which were then used to monitor and shut down the websites.¹⁸⁴

In early 2005, the Islamic Republic publically admitted to using filtering software—SmartFilter produced by a company called Secure Computing in the United States. That year, the OpenNet Initiative (ONI) studied the effects of the use of this software in Iran and Saudi Arabia, and found that it was designed to over-filter.¹⁸⁵ For example, the software blocks sex education sites, sites that deal with sexual identity and preference, women's rights sites, and even translation sites.¹⁸⁶ The study also showed that many other sites were targeted and blocked, such as the Voice of America news site.¹⁸⁷

3.2. Post-Reformist Era

After the election of Mahmoud Ahmadinejad to the presidency in the summer of 2005, and with the conservatives firmly in control, the authorities recommitted to using technological and bureaucratic means to contain expression on the Internet. In May 2006, the Ministry of ICT announced the formation of an office charged with filtering unlawful content, identifying trouble users, and tracking the sites they visit.¹⁸⁸

Prosecutor Mortazavi emphasized that illegal and anti-religious websites are under the Judiciary's authority.¹⁸⁹ Before the presidential election, Iran's Telecommunications Company had ignored many judicial orders to block the social networking site *Orkut* and the blog hosting site *Persian blog* that were used by Iranians to set up personal pages and blogs.¹⁹⁰ However, following Ahmadinejad's election, officials from the same organization prided themselves on filtering 10 million websites and admitted that the Judiciary orders them to block about a thousand pages every month.¹⁹¹ Additionally, though the targeting of websites is the duty of the CCDUS, recent reports indicate that the intelligence office of the Islamic Revolutionary Guard Corps (IRGC) has set up its own cyber crimes office.¹⁹²

<http://isna.ir/Isna/NewsView.aspx?ID=News-422135> (last visited Apr. 23, 2009) [hereinafter *Islamic Iran Participation Front Letter*]

¹⁸² HUMAN RIGHTS WATCH, FALSE FREEDOM: ONLINE CENSORSHIP IN THE MIDDLE EAST AND NORTH AFRICA 49-50 (2005), available at http://www.hrw.org/reports/2005/mena1105/5.htm#_Toc119125729 (last visited Apr. 23, 2009) [hereinafter FALSE FREEDOM].

¹⁸³ *Id.* at 50.

¹⁸⁴ OPENNET INITIATIVE, *supra* note 11, at 12-13.

¹⁸⁵ *Id.* at 18-19.

¹⁸⁶ *Id.*

¹⁸⁷ *Id.*

¹⁸⁸ *See generally*, OPENNET INITIATIVE, *supra* note 11.

¹⁸⁹ UN HIGH COMMISSIONER FOR REFUGEES, CHRONOLOGY OF EVENTS IN IRAN, JANUARY 2005 3 (2006), available at <http://www.unhcr.org/refworld/docid/447fef1e4.html> (last visited Apr. 23, 2009) [hereinafter JANUARY 2005 CHRONOLOGY].

¹⁹⁰ *Id.*

¹⁹¹ *Mudir-i Kul-i Mudiriyat va Pushtibaniyih Fanniyih Shabakihyih Shirkat-i Fanavariyih Ittila'at Khabar Dad: Filtering-i Bish az 10 Milyun Sayt-i Interneti/Bish az 90 Darsad-i Saythayih Filter Shudih Qayr-i Akhlaqi Budihnd/Mavarid-i I'tirazi bih Masdudsaziyyih Saythayih Khabari, Ijtima'i va Siyasi Bazmigardad* [The Filtering of More than 10 Million Internet Sites/More than 90 Percent of the Filtered Sites Were Immoral/Objections Related to the Shutting Down of News, Social and Political Sites, CITNA, 20/6/1385 [Sept. 11, 2006], available (in Persian) at <http://www.citna.ir/435.html> (last visited Apr. 23, 2009).

¹⁹² *Sipah-i Pasdaran 'Shabakihyih Barandaziyyih Interneti ra Munhadim Kardih' ast* [The Revolutionary Guards Have 'Destroyed Subversive Networks on the Internet'] BBC PERSIAN, 29/12/1387 [Mar. 19, 2009], available (in Persian) at http://www.bbc.co.uk/persian/iran/2009/03/090319_he_pasdars_internet.shtml (last visited Apr. 23, 2009). The report discusses the IRGC's arrest and detention of several individuals allegedly involved in using the Internet to promote a velvet revolution in Iran.

Over the last few years, the blocking and filtering has become bolder, often targeting major news sites. For example, in early 2006, BBC's Persian language Internet site was blocked for the first time.¹⁹³ The trend continued, and in January 2009, the news sites of the Deutsche Welle, RFI and Al-Arabiya were targeted for filtration.¹⁹⁴ Smaller Persian language news sites and websites continue to be regularly targeted as well. For example, the literary website *Haftan* and two sites supportive of Mohammad Baqer Qalibaf, the mayor and a political rival of Ahmadinejad were blocked in early January 2009.¹⁹⁵ A month later, in February 2009, two sites promoting the short-lived presidential bid of Mohammad Khatami were blocked.¹⁹⁶ The websites *Yaarinews* and *Yaari* had been set up specifically in anticipation of Khatami's candidacy, and though they were available from outside the country, they could not be accessed from within Iran.¹⁹⁷

Under Ahmadinejad's administration, there has also been a greater focus on slowing technological progress. On October 4, 2006, the Information Technology News Agency (ITNA), reported on an order by the Ministry of ICT that resulted in a limitation on high-speed access to the Internet.¹⁹⁸ A week later, authorities confirmed that ISPs would no longer provide public or private users access at speeds higher than 128kb/s, claiming that higher speeds are unnecessary.¹⁹⁹ There are reports of numerous exceptions for government offices and some private companies.²⁰⁰ ONI has pointed out that this order conflicts with Iran's Five-Year Development Plan passed by the *Majlis* in 2004 that called for 1.5 million high-speed Internet ports throughout the country.²⁰¹ The new order also hampered the private companies that had purchased licenses two years earlier and had since made heavy investments to provide broadband service to the private market.²⁰²

In an attempt to place an even greater burden on Internet expression and obtain a better map of Iran's blogosphere,²⁰³ the MCIG issued a notice on January 1, 2007, requiring all owners of blogs and websites to register them within three months.²⁰⁴ The notice required registrants to provide personal information and commit to abstaining from posting some types of information. Under the notice, all blogs that failed to meet this deadline were to be considered illegal and could be shut down.²⁰⁵ Although some websites were shut down partly because they failed to register (including *Baztab*, a conservative news outlet),²⁰⁶

¹⁹³ *Iran Blocks BBC Persian Website*, BBC, Jan. 24, 2006, available at http://news.bbc.co.uk/2/hi/middle_east/4644398.stm (last visited Apr. 23, 2009).

¹⁹⁴ Press Release, Reporters Without Borders, More websites blocked, including RFI and Deutsche Welle (Jan. 28, 2009), available at http://www.rsf.org/print.php3?id_article=30131 (last visited Apr. 23, 2009) [hereinafter More websites blocked].

¹⁹⁵ *Id.*

¹⁹⁶ *Iran Blocks Web Sites Promoting Reformist Khatami*, ASSOCIATED PRESS, Feb. 21, 2009, available at http://www.cbsnews.com/stories/2009/02/21/world/main4817728.shtml?source=related_story (last visited Apr. 23, 2009).

¹⁹⁷ *Id.*

¹⁹⁸ *Internet-i Pursur'at Hanuz dar Dastris Nimibashad [High-Speed Internet is Still Not Available]*, ITNA, 24/11/1385 [Feb. 13, 2007], available at <http://www.itna.ir/archives/report/006301.php> (last visited Apr. 27, 2009).

¹⁹⁹ *Id.* The public affairs director of the office to coordinate radio regulations and communications said the order is temporary. Later, Soleymani, Minister of ICT, said the directive may be permanent. He encouraged people who have problems to report them to the MICT, but said that private home users don't need speeds higher than 128 kb/s.

²⁰⁰ *Kahish-i Sur'at Barayih Internet-i Pursur'at dar Iran [Slowing Down High-Speed Internet in Iran]*, BBC PERSIAN, 28/7/1385 [Oct. 20, 2006], available at http://www.bbc.net.uk/persian/science/story/2006/10/061020_fb_rsh_adsl.shtml (last visited Apr. 23, 2009).

²⁰¹ OPENNET INITIATIVE, *supra* note 12, at 2.

²⁰² *Slowing Down High-Speed Internet in Iran*, *supra* note 200. Although it varies, a typical definition of broadband is a speed equal to or faster than 256 kbit/s. See http://www.oecd.org/document/7/0,3343,en_2649_34225_38446855_1_1_1_1,00.html

²⁰³ The blogosphere refers to all publically available blogs covering all subject matters and their interconnections.

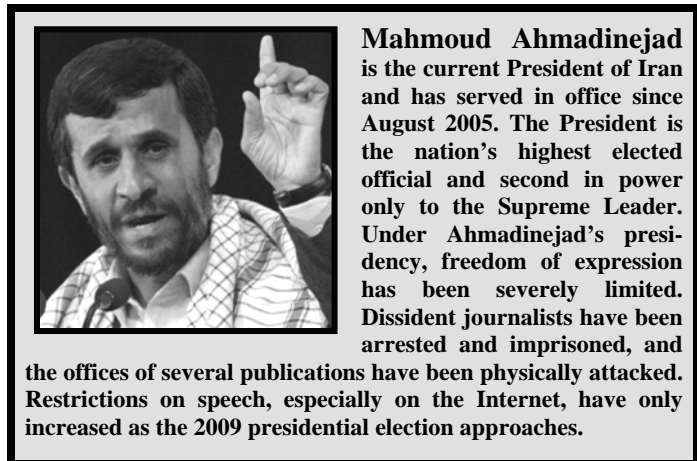
²⁰⁴ This policy contrasts with the one based on the Press Law. The Press Law covers websites (news sites or blogs) that are regularly updated and reach an audience large enough for the authorities to consider them electronic publications.

²⁰⁵ See OPENNET INITIATIVE, *supra* note 12, at 3.

²⁰⁶ *Baztab* appealed to the Supreme Court and was reinstated. OPENNET INITIATIVE, *supra* note 12, at 4.

the registration campaign itself was generally unsuccessful and was quietly dropped after only a few bloggers complied.²⁰⁷

Finally, the regime seeks to alter the Web by expanding its own presence. This tactic goes beyond the setting up of websites for government offices and ministries. Recent research has shown that the blogosphere of Iran is not simply a home for online dissent; “religious conservatives have a very strong presence in the Iranian blogosphere.”²⁰⁸ This religious presence could be interpreted as representative of the conservatives’ desire for dialogue on this new and alternative platform for expression. Indeed, conservative websites and pro-regime blogs engage in criticism of prominent politicians and branches of government. However, one must also consider announcements such as one made in



November 2008 by the Revolutionary Guard Corps, in which it claimed that the Internet is a tool for a velvet revolution in Iran, and that the Corps was launching 10,000 blogs as a countermeasure.²⁰⁹

3.3. Legal Analysis of Iran’s Technical Methods

The extensive filtering, blocking, and other methods meant to control and dominate the Web accessed by Iranians violate both international and Iranian law. There is no practical difference between the banning or blocking of websites, and the banning of newspapers or other more traditional sources of information. Such measures are violations of the rights of both the disseminators of the information and those seeking access to it. Consequently, blocking access to websites of human rights defenders and political activists has been specifically cited as a breach of Article 19 by the HRC.²¹⁰

The UN Special Rapporteur on Freedom of Opinion and Expression found that Iran’s filtering of gateways constitutes excessive control of access to the Web.²¹¹ The regime’s justification for this practice, namely the control of immoral websites that are incompatible with Islam,²¹² fails to meet the necessity standard in paragraph 3 of Article 19. Filtration is excessively stringent and frustrates the Internet’s potential to ensure “respect in practice for the right to freedom of expression.”²¹³ Considering the diversity of content and the high number of sites that are filtered out, the Islamic Republic is breaching its obligation under the ICCPR to guarantee its citizens wide access to information.

In addition, the creation and use of executive agencies charged with controlling the Internet potentially violates the Iranian Constitution. Article 168 of the Constitution provides that

²⁰⁷ Evan Derkacz, *Iranian Bloggers Defy Censorship*, ALTERNET, Jan. 12, 2007, available at <http://www.alternet.org/module/printversion/46639/?type=blog> (last visited Apr. 23, 2009); *Iran’s Bloggers Thrive Despite Blocks*, BBC, Dec. 15, 2008, available at http://news.bbc.co.uk/2/hi/middle_east/7782771.stm (last visited Apr. 23, 2009).

²⁰⁸ KELLY & ETLING, *supra* note 85, at 7.

²⁰⁹ Shahram Rafizadeh, *Passdaran [sic] Warns About a Velvet Internet Revolution*, Nov. 23, 2008, available at http://www.roozonline.com/english/archives/2008/11/passdaran_warns_about_a_velvet.html (last visited Apr. 23, 2009).

²¹⁰ Concluding observations of the Human Rights Committee: Syrian Arab Republic, U.N. Doc. CCPR/CO/84/SYR ¶ 13 (2005).

²¹¹ *Abid Hussain Report*, *supra* note 163, ¶ 91.

²¹² Khatami Remarks at World Summit, *supra* note 174.

²¹³ *Abid Hussain Report*, *supra* note 163, ¶ 93.

[p]olitical and press offenses will be tried openly and in the presence of a jury, in courts of justice. The manner of the selection of the jury, its powers, and the definition of political offenses, will be determined by law in accordance with the Islamic criteria.

Rather than provide open trials in the presence of juries, the regime created the Committee Responsible for Determining Unauthorized Sites (CCDUS), an executive committee devoted solely to banning and blocking websites. The aggressive actions taken by the CCDUS have prompted legal critics inside Iran to question the legitimacy of an executive organization involved in making legislative and judicial decisions in violation of the Iranian Constitution.²¹⁴ They argue that decisions regarding limits and restrictions of the rights of the people are the responsibility of the Judiciary under Article 156 of the Constitution.²¹⁵

Prosecutor Mortazavi has claimed inherent jurisdiction over all illegal sites, stating that he does not need the Committee's approval. He has also claimed that "the Committee itself has issued a general statement which authorized the Judiciary to independently block the websites it finds in contradiction with the religious and moral principles of Iranian society."²¹⁶ However, regardless of which government branch blocks or bans websites, such actions fail to meet Iran's obligations under Articles 19 and 25 of the ICCPR, even if the underlying laws were valid. The lack of trials to determine the legality of blocking news sites such as *Rooydad* and *Emrooz*, and the more recent blocking of sites such as *Yaarinews* and *Yaari*, violates Iran's Constitution.

4. Arrest, Detention and Torture of Cyber-Journalists and Bloggers

Individual cyber-journalists and bloggers were targeted even as the regime began developing the complicated legal and bureaucratic framework meant to control and dominate the Internet accessed by Iranians. Since at least 2002 and continuing into the present, cyber-journalist and bloggers have been arbitrarily arrested, detained and subjected to cruel and inhumane treatment. These actions are intended to increase the price of expression in general and Internet expression in particular.

4.1. Arrests in Tehran During the Reformist Era

On December 12, 2002, Ghasem Sholeh Sadi, a former member of *Majles*, a law professor, and a journalist, published an open letter online to Supreme Leader Ali Khamenei. The letter questioned Khamenei's clerical legitimacy²¹⁷ as well as his foreign and domestic policies.²¹⁸ It was widely circulated

²¹⁴ See OPENNET INITIATIVE, *supra* note 12, at 4.

²¹⁵ Article 156 of the Iranian Constitution reads: "The Judiciary is an independent power, the protector of the rights of the individual and society, responsible for the implementation of justice, and entrusted with the following duties: (1) investigating and passing judgment on grievances, violations of rights, and complaints; the resolution of litigation; the settling of disputes; and the taking of all necessary decisions and measures in probate matters as the law may determine; (2) restoring public rights and promoting justice and legitimate freedoms; (3) supervising the proper enforcement of laws; (4) uncovering crimes; prosecuting, punishing, and chastising criminals; and enacting the penalties and provisions of the Islamic penal code; and (5) taking suitable measures to prevent the occurrence of crime and to reform criminals."

²¹⁶ JANUARY 2005 CHRONOLOGY, *supra* note 189, at 3.

²¹⁷ At the time of his appointment to the Office of Supreme Leader, Ali Khamenei did not have the overwhelming support of the clerical establishment because he had not obtained the necessary clerical credentials. The Constitution was amended in order to pave the way for his selection as the Supreme Leader. MAJID MOHAMMADI, JUDICIAL REFORM AND REORGANIZATION IN 20TH CENTURY IRAN: STATE-BUILDING, MODERNIZATION AND ISLAMICIZATION 157-58 (2008); AFSHARI, *supra* note 4, at 17-18, 225; Sanam Vakil, *Iran's Master Puppeteer*, ASIA TIMES, Jan. 20, 2006, available at http://www.atimes.com/atimes/Middle_East/HA20Ak01.html (last visited Apr. 24, 2009).

²¹⁸ Letter from Ghassem Sholeh Sadi, former member of Majlis, to Ayatollah Ali Khamenei, Supreme Leader of the Islamic Republic of Iran (Dec. 7, 2002), *reprinted in and available at* <http://www.iranian.com/Opinion/2002/December/Sadi/index2.html> (last visited Apr. 24, 2009).

through e-mail and garnered much attention. On February 24, 2003, upon his return from a trip to Paris, Sholeh Sadi was arrested in Tehran's Mehrabad airport.²¹⁹ He was allowed only one phone call to his wife, permitted no visits, and was held in solitary confinement for several weeks. In reaction to his treatment, he began a hunger strike on March 8.²²⁰ He was released and later explained in an interview with Radio France International (RFI) that he was tortured and forced to tape a confession while being held in Evin prison.²²¹

Sina Motalebi, a print journalist who had a blog, was arrested a month later on April 20, 2003. He is considered to be one of the first people in the world arrested for the contents of a blog.²²² He had begun writing his blog in 2001 after facing censorship as a journalist.²²³ For five months leading up to his arrest, Motalebi was repeatedly summoned to an office of the Judiciary.²²⁴ He was told the meetings were to remain secret and that he was not to report them on his blog.²²⁵ However, Motalebi posted a blog entry expressing his suspicions that he would be arrested when summoned to the Amaken office:²²⁶

They questioned me about my Weblog, and they accused me of counter-security activities ... both for my Weblog entries and for my interviews with foreign radio ... They summoned me [for questioning] five times before arresting me April 20. On April 19, they called me and asked me to go to a special office of the law enforcement ... because they summoned me not to court but to [the Amaken] office—where another journalist was arrested—I was almost sure this time they wanted to arrest me. So I put an entry about it on my Weblog ... I think that entry helped me very much, because at the interrogation when they arrested me, they said 'Nobody knows about your case.' And I said, 'No, I wrote something about that on my Web site.'²²⁷

Motalebi was repeatedly questioned about his newspaper articles, interviews with foreign radio stations, and blog entries. Indeed, his interrogators referred to a printed and marked-up copy of his blog entries.²²⁸ At one point, he was interrogated about his blog by Tehran Chief Prosecutor Saeed Mortazavi.²²⁹ His interrogators told him that he would be held responsible not only for his own writings on the blog, but for comments posted by visitors in response to his blog entries.²³⁰ Because of the sheer number of posts about which he was questioned, he never identified a specific entry



Sina Motalebi

Journalist and blogger Sina Motalebi was arrested on April 20, 2003 and released on May 12, 2003. He was aggressively interrogated and spent the majority of his time in solitary confinement. Upon his release, he left Iran for the Netherlands, where he resides. He is currently a director at Persian TV, a BBC satellite TV channel.

²¹⁹ Nazila Fathi, *Dissident Arrested at Airport*, N.Y. TIMES, Feb. 26, 2003, available at <http://www.nytimes.com/2003/02/26/world/world-briefing-middle-east-iran-dissident-arrested-at-airport.html?n=Top/Reference/Times%20Topics/People/F/Fathi,%20Nazila> (last visited Apr. 24, 2009).

²²⁰ *Vazi'yat-i Nama'lum-i Sholeh Sadi [Unkown Condition of Sholeh Sadi's]*, PEIKNET.NET, available (in Persian) at http://peiknet.net/v_na_m_saeedi.htm (last visited Apr. 24, 2009).

²²¹ *Nukhustin Guzarish-i Mustaqim-i Shikanjihyiyih Vahshiyanihyiyih Danishjuyan [The First Direct Account of the Violent Torture of Students]*, PEIKNET.NET, available (in Persian) at <http://www.peiknet.com/1382/milla/page0/shekanje.tir.39.htm> (last visited Apr. 24, 2009).

²²² Jeff Black, *Online Dissidents*, THE INDEPENDENT, June 21, 2006, available at <http://www.independent.co.uk/news/world/middle-east/egypt-releases-blogger-jailed-for-45-days-after-insulting-president-404865.html> (last visited Apr. 24, 2009).

²²³ *Price Paid for Blogging*, *supra* note 3.

²²⁴ *Bazdasht-i Yik Viblaghniv va Muntaqid-i Sinima-i [The Arrest of a Blogger and Movie Critic]*, ISNA, 31/1/1382 [Apr. 20, 2003], available (in Persian) at <http://isna.ir/ISNA/NewsView.aspx?ID=News-217268> (last visited Apr. 23, 2009).

²²⁵ Amnesty Event, *supra* note 3.

²²⁶ Glaser, *supra* note 89.

²²⁷ *Id.* (quoting from the edited transcript of a phone interview of Sina Motalebi).

²²⁸ Glaser, *supra* note 89.

²²⁹ *Id.* "One time I was interrogated while blindfolded. Saeed Mortazavi ... was in the room and I easily recognized him from his voice ... He questioned me about some of my posts on my Weblog and then said, 'Now we make you an example for other Webloggers and will show that Weblogging is not a free [means of expression] without any cost. We will show that they must pay the expensive costs of their writings in this way.'" *Id.*

²³⁰ Glaser, *supra* note 89.

or comment that had led to his arrest.²³¹ In fact, it seemed to Motalebi that his arrest was more about sending a message:

I had written in my weblog [that] blogging is a free way for expressing your views and beliefs, without any costs, without any need [for] technical knowledge or financial power, things like that; and the [interrogator] told me: ‘We want to prove that you are wrong. There are several costs; there are very high costs to blogging, and we want to make you an example of that. Yes, we can’t trace every single blogger who criticizes our government, but we can scare them out.’²³²

Motalebi has described the effects of the psychological torture he suffered:

I don’t know. Maybe I was too weak, but after three weeks in prison, I lost my psychological stability. I heard unreal voices, and I had these conflicting ideas and illusions in my head. Sometimes in the cell, I was interrogating myself in my head [until] my conscience came back and I [would] say [to myself]: ‘This is not true. This is what the interrogators want me to believe.’²³³

Motalebi’s arrest resulted in an international outcry, including an electronic petition with thousands of signatures.²³⁴ The day before Motalebi’s first investigative hearing on April 27, 2003, at the Special Court of Merhabad International Airport, Judge Zafarghandi refused to accept his lawyer’s credentials.²³⁵ The Judge rejected the credentials on the grounds that since Motalebi’s case was still in the preliminary stages of investigation, no attorney could take his case.²³⁶ After twenty-three days in detention—almost all spent in solitary confinement and undergoing constant interrogation—he was released from prison on May 12 after a family friend posted his 300 million rials (US\$40,000) bail.²³⁷ Shortly afterward, he left Iran for the Netherlands.²³⁸

The pace of arrests increased in the fall of 2004 as part of the campaign begun by Chief Prosecutor Mortazavi. As described above, in August 2004, Mortazavi directed the arrests of technicians working for the reformist electronic publications *Rooydad* and *Emrooz*.²³⁹ On September 7, 2004, Babak Ghafoori Azar and Shahram Rafizadeh were arrested. Rafizadeh was the editor of the cultural section of *Etemad*, a prominent reformist newspaper. He had also written books and articles on domestic assassinations and other crimes of the regime’s parallel intelligence apparatus.²⁴⁰ Ghafoori Azar is a journalist who was working for the financial daily *Hayateno* but was allegedly detained for his writings on the *Rooydad* news

²³¹ Amnesty Event, *supra* note 3.

²³² *Id.*

²³³ *Id.*

²³⁴ *Bloggers Unite to Fight*, BBC, May 2, 2003, available at <http://news.bbc.co.uk/2/hi/technology/2992401.stm> (last visited Apr. 23, 2009).

²³⁵ *Vikalat-i Heidari Shahbaz dar Marhalihyiyh Muqadamatiyih Parvandihyiyh Sina Motalebi Paziruftih Nashud [Heidari Shahbaz Was Rejected as Sina Motalebi’s Lawyer During the Preliminary Stages of His Case]*, ISNA, 6/2/1382 [Apr. 26, 2003], available at <http://isna.ir/ISNA/NewsView.aspx?ID=News-219404> (last visited Apr. 23, 2009) [hereinafter *Heidari Was Rejected*].

²³⁶ *Id.* The day after this rejection, Motalebi, speaking in front of Judge Zafarqandi, explained that he did not wish to have a lawyer because his case was in its preliminary stages. *Sina Motalebi: Tarjih Midaham Fi’lan Darbarihyiyh Mavarid-i Ittiami Suhbat Nakunam; Nimikhaham dar Afkar-i Umumi Pishdavari bih Vujud Ayad [I Do not Wish to Speak About my Case At the Moment; I Do Not Want to Incite Any Public Speculation]*, ISNA, 7/2/1382 [Apr. 27, 2003], available at <http://isna.ir/ISNA/NewsView.aspx?ID=News-219899> (last visited Apr. 23, 2009) [I Do not Wish to Speak].

²³⁷ Amnesty Event, *supra* note 3.

²³⁸ *Price Paid for Blogging*, *supra* note 90.

²³⁹ *Islamic Iran Participation Front Letter*, *supra* note 181.

²⁴⁰ Witness Statement of Shahram Rafizadeh, prepared by IHRDC and approved by witness (Feb. 26, 2009), ¶¶ 1-2 [hereinafter Witness Statement by Rafizadeh]. IHRDC interviewed Shahram Rafizadeh on September 12, 2008, available at <http://iranhrdc.org/httpdocs/English/pdfs/WitnessStatements/SRWS.pdf>; *Akharin Akhbar az Vaz’iat-i Hanif Mazrui, Babak Ghafoori Azar, va Shahram Rafizadeh [The Latest on Hanif Mazrui, Babak Ghafoori Azar and Shahram Rafizadeh]*, ISNA, 20/6/1383 [Sept. 10, 2004], available at <http://isna.ir/ISNA/NewsView.aspx?ID=News-429185> (last visited Apr. 24, 2009).

site.²⁴¹ Both journalists kept blogs which they regularly updated with their opinions. Azar was released two weeks after his arrest.²⁴² He lives in Iran and continues to publish online.

Rafizadeh was taken into custody by Amaken officers who innocuously asked to speak with him outside his office building. When a co-worker tried to write down the license plate number of the car, an officer confiscated his pad and told him that it was a legal arrest. After being blindfolded, Rafizadeh was taken to an undisclosed location for interrogation.²⁴³

In *Amaken* they forced me to change cars. They sat me in the back of a black car that had curtains. They talked to each other for a while. Then one of them hit me from behind and said “Put your head down.” Their attitude suddenly changed. They blindfolded me and took me to a different location. I think we entered a courtyard. We passed a corridor on the left side of the courtyard, and they took me into a house that appeared to be a detention center. They took my glasses, belt and shoes away. A metal door opened and they threw me in a cell. The cell was very dark. It had a large vent. I stayed there for about two hours. I could hear strange noises, but I couldn’t tell what they were.²⁴⁴

Rafizadeh was imprisoned for 86 days, 73 of which were in solitary confinement. While in prison, physical assaults were not limited to fists, kicks and being thrown against walls:

Physical beatings did not only include punching and kicking. Once they smashed a washbowl that was in the interrogation room on my head. On other occasions, they whipped my back and feet with cable wires. When I resisted, they whipped me all over—on my back, butt, and legs—all the way down to my heels. I don’t know how many times they whipped me. It varied. Sometimes they hit me ten times, sometimes twenty or thirty, and other times more. There were short pauses between the torture sessions, during which the interrogators asked more questions. If they didn’t get the answer they wanted, the torture continued.²⁴⁵

Rafizadeh initially found his arrest puzzling because he had not written a traditional press article in ten months.²⁴⁶ He explained to IHRDC that

[f]or a while I didn’t even know why I had been arrested, until I realized that most of the detainees were bloggers, information technology employees and website designers. Some of the others had been arrested and detained because they had reproduced and published banned books. I was the only one among them who had actually written articles [exclusively] on blogs. This is how I discovered that they had arrested me for my blogging activities.²⁴⁷

However, Rafizadeh had spent some time investigating the strategies of the repressive elements in the Iranian regime and was therefore unsurprised by the tactics used by the parallel intelligence agents who



Shahram Rafizadeh

Shahram Rafizadeh was arrested on September 7, 2004. He was initially charged with numerous crimes including participating in the establishment of illegal organizations, membership in illegal organizations, propaganda against the state, disseminating lies, and disturbing public order. His false confession served as the basis for his February 4, 2009 sentence of 9 months in prison and 20 lashes. He currently resides in Toronto, Canada with his family.

²⁴¹ REPORTERS WITHOUT BORDERS, IRAN – ANNUAL REPORT (2005), available at http://www.rsf.org/article.php3?id_article=13306 (last visited Apr. 24, 2009) [hereinafter RWB 2005 ANNUAL REPORT].

²⁴² Babak Ghafoori Azar Azad Shud [Babak Ghafoori Azar Is Released], ISNA, 1/7/1383 [Sept. 22, 2004], available at <http://isna.ir/ISNA/NewsView.aspx?ID=News-434347> (last visited Apr. 24, 2009).

²⁴³ Witness Statement by Rafizadeh, *supra* note 240, ¶¶ 24-29.

²⁴⁴ *Id.* ¶ 29.

²⁴⁵ *Id.* ¶ 32. Rafizadeh also reported regular threats to his life, the arrest and torture of his father and wife, and threats to the lives of his wife and children: “They threatened to kill my family in a planned traffic accident – hundreds of traffic accidents happen in Tehran every day. This could have been just another one of them.” *Id.* ¶ 33.

²⁴⁶ *Id.* ¶ 23.

²⁴⁷ *Id.* ¶ 36.

arrested him.²⁴⁸ In his view, the suppression of bloggers was a specific and distinct project that the conservative elements in the Islamic Republic had set in motion with detailed plans and with the assistance, if not direction, of Prosecutor Mortazavi and Judge Zafarghandi.²⁴⁹ His arrest and detention conformed to the pattern of the other arrests and confirmed his belief.



Hanif Mazrui

Cyber-journalist Hanif Mazrui was arrested on September 8, 2004, and held for two months without access to a lawyer or contact with his family. He was beaten and forced to confess to moral crimes such as adultery. His father, Rajab Ali Mazrui, was the head of the Journalist Union in Iran and placed pressure on the reformist government to investigate the Internet-related arrests. Both father and son reside in Iran.

On September 8, 2004, a day after the arrests of Rafizadeh and Ghafoori Azar, Hanif Mazrui received a summons for his arrest. Mazrui is a journalist who wrote for several reformist news outlets, including the reformist website *Rooydad*.²⁵⁰ In response to the summons, Mazrui's father, the head of the Journalist Union and former parliamentarian, Rajab Ali Mazrui, escorted his son to the police station where Mazrui was taken into custody. His father was denied the right to visit Mazrui during the entire 66 days of his detention.²⁵¹ Fifty-nine of those days were spent in solitary confinement, in a 2 x 1.5 meter cell. Apart from interrogations, he was only let out of his cell for three visits to the bathroom a day, for three minutes each. During his initial interrogation session, blindfolded and facing a wall, Mazrui asked to know the charges against him. He was told to simply answer the interrogator's questions about his immoral acts and adultery. When he denied such acts, he was beaten.²⁵² He was released after posting 150 million rials (US\$17,000) in bail.

On the same day as Hanif Mazrui's arrest, the authorities arrested Sina Motalebi's father, Saeed Motalebi, and threatened him with imprisonment if his son did not cease his expressive activities in the Netherlands.²⁵³ Sina Motalebi—who had departed for the Netherlands a year before—was running the news site, *rooznegar.com*, from exile.²⁵⁴ As acknowledged by Sina Motalebi, the arrest was a clever strategy:

One year after I was released, when I left the country [and] was living in the Netherlands, ... they arrested my father, and kept him in jail for ten days. And, that was when I thought: 'I cannot. I cannot pay this cost. I can accept whatever they want to do with me, but I cannot put this burden on my family.'²⁵⁵

Saeed Motalebi was released on October 20 and four days later charged with aiding the flight of a fugitive. His case was heard in November by Branch 1159 of the airport court. His lawyer reportedly argued that Sina Motalebi had left Iran legally, and Saeed Motalebi was apparently not convicted.²⁵⁶

²⁴⁸ *Id.* ¶ 30.

²⁴⁹ *Id.* ¶¶ 6-7.

²⁵⁰ RWB 2005 ANNUAL REPORT, *supra* note 241.

²⁵¹ UN HIGH COMMISSIONER FOR REFUGEES, CHRONOLOGY OF EVENTS IN IRAN, SEPTEMBER 6, 2004 (2004), *available at* <http://www.unhcr.org/refworld/docid/43146ce24.html> (last visited Apr. 25, 2009).

²⁵² Letter from Rajab Ali Mazrui, Head of the Journalist Union of Iran, to Mohammad Khatami, President of the Islamic Republic of Iran (Dec. 12, 2004) (on file with IHRDC) [hereinafter Mazrui Letter].

²⁵³ Press Release, Reporters Without Borders, Detention of the father of journalist Sina Motalebi (Sept. 14, 2004), *available at* http://www.rsf.org/print.php?id_article=11384 (last visited Apr. 25, 2009). Said Motalebi was reportedly threatened with becoming "another Pourzand," a reference to Siamak Pourzand who has been imprisoned since 2003. *See* IRAN HUMAN RIGHTS DOCUMENTATION CENTER, MOCKERY OF JUSTICE: THE FRAMING OF SIAMAK POURZAND (2008), *available at* <http://iranhrdc.org/httpdocs/English/reports.htm>.

²⁵⁴ Press Release, Reporters Without Borders, *supra* note 253.

²⁵⁵ Amnesty Event, *supra* note 3.

²⁵⁶ *Dadgah-i Pidar-i Sina Motalebi Tashkil Shud; Vakil-i Mudafi': Ittihad-i "Farari Dadan-i Muttaham" dar Murid-i Muvakkilam Misdaq Nadarad [The Trial of Sina Motalebi's Father Has Convened; The Defendant's Lawyer: The Charge of "Aiding a Suspect's Flight" is Baseless]*, ISNA, 26/8/1383 [Nov. 16, 2004], *available at* <http://isna.ir/ISNA/NewsView.aspx?ID=News-456456> (last visited Apr. 25, 2009).

Twenty days after Saeed Motalebi's arrest, on September 27, 2004, Roozbeh Mirebrahimi, a journalist and blogger, was arrested at his home. Mirebrahimi was the editor of the political desk of *Etemad* and later the deputy editor of *Jomhouriyat*. Although he kept a blog, he never considered himself a blogger until he was labeled one by the authorities who arrested him.²⁵⁷ Over the course of several weeks, he had seen many of his colleagues arrested, but although friends and family advised him to leave Iran, he was determined to remain, as he had broken no laws.²⁵⁸

Amaken officers demanded entry into Mirebrahimi's home and searched his belongings while he and his wife watched and waited.²⁵⁹ One of the officers presented them with a warrant:

It was 8 in the morning ... I was in the bathroom when they rang the doorbell. My wife opened the door ... When I got out of the bathroom, I saw that they were behind the house door ... at first they said nothing. Then they said, "We have a few questions for you." I said, "Where are you coming from? Do you have a warrant?" They said, "We are coming from the Prosecutor's office." My warrant was just a piece of paper. In fact, it was a piece of scrap paper that someone had folded over and scribbled something illegible in very bad handwriting on ... There was no official seal or heading ... The writing said something like go to this person's house and take him to the detention center after searching the house.²⁶⁰

The officers arrested Mirebrahimi and told his wife that he would be released soon, after he was asked a few questions.²⁶¹ As in the case of Rafizadeh, Mirebrahimi was initially driven to the Amaken office. There, he was transferred to a van with tinted windows, blindfolded and restrained with zip tie handcuffs. His head was shoved down below the seat for the 20-minute drive, and after his arrival, he was stripped naked and processed wearing only a blindfold. In fact, he would remain blindfolded for the sixty days he was in custody, except when he was in his unlit cell or in the bathroom.²⁶²

Initially, Mirebrahimi faced interrogation intended to force confessions of moral crimes such as adultery and illicit affairs. Any noncompliance was met with fists, kicks or ramming his head against the wall.

I was sent to my cell ... I think it was around 12 noon. I opened my blindfold to see where I was. Less than a minute had passed when the cell door opened and someone said, "Close your eyes! Are you blindfolded?" I said OK and blindfolded myself ... he took me out of the cell and into the interrogation room. I mean this is one of their techniques that they won't even allow you to find your way around in your new place ... I sat down waiting for the interrogator. ... The guy said, "Write the answer to whatever I write," and wrote on the paper: "Write down your entire illicit affairs." I moved the blindfold high enough to be able to write and wrote I have not had any illicit affairs. He asked me to get up, and I did. As soon as I got up he slapped me hard ... and said, "You are lying." I said that there was nothing to lie about. He slapped me around a little more and then ordered me to sit. He wrote again: Write down your entire illicit affairs and I wrote that I have not had any illicit affairs ... He again asked me to get up and hit me in my stomach and chest

²⁵⁷ Interview with Roozbeh Mirebrahimi, *supra* note 75.

²⁵⁸ *Id.*

²⁵⁹ *Id.*

²⁶⁰ *Id.*

²⁶¹ *Roozbeh Mirebrahimi Bazdasht Shud [Roozbeh Mirebrahimi Has Been Arrested]*, ISNA, 6/7/1383 [Sept. 27, 2004], available at <http://isna.ir/ISNA/NewsView.aspx?ID=News-436208> (last visited Apr. 25, 2009).

²⁶² Interview with Roozbeh Mirebrahimi, *supra* note 75.



Roozbeh Mirebrahimi

A journalist, editor and blogger, Mirebrahimi was arrested September 27, 2004. He was charged with membership in illegal groups, propaganda against the regime, spreading lies, insulting the Supreme Leader and disrupting public order. His false confession served as the basis for his February 4, 2009 sentence of 2 years in prison and 84 lashes. He currently resides in New York City with his wife.

with a few kicks and punches that threw me against the wall ... so he kept hitting me and writing the same question and I kept giving the same response ... This went on until 9 pm that night.²⁶³



Omid Memarian

Omid Memarian was arrested on October 10, 2004 and held in custody until December 2, when he was released on 500 million rials bail. He was charged with membership in illegal groups, participation in illegal groups, propaganda against regime, spreading lies and possession of playing cards, and sentenced to two and a half years in prison. Memarian was also forced to give a false confession.

After resisting for a week, Mirebrahimi agreed to write in short sentences that he had indeed had illicit affairs. This was insufficient for his interrogators, and he was ordered to identify coworkers and in particular, to provide a detailed account of an alleged illicit relationship he had with Fereshteh Ghazi, a fellow journalist. The level of detail demanded by his interrogators began to embarrass Mirebrahimi. Eventually, his role was reduced to that of a scribe writing down the explicit scenarios dictated by his interrogators.²⁶⁴

At the end of September 2004, the state news outlet *Kayhan* published the religious opinions of several high-ranking clerics who insisted that unethical and unreligious websites are taboo and should be filtered.²⁶⁵ This was followed by an editorial by Hossein Shariatmadari, editor-in-chief of *Kayhan*, regarding what he considered the pernicious network made up of Internet journalists and bloggers.²⁶⁶ Directly appointed by the Supreme Leader of Iran to head the *Kayhan* Institute, Shariatmadari represents the most conservative elements of the government. At the time, Hossein Derakhshan, the blogger who had explained how to set up Persian language blogs, was waging an online campaign to stop Internet censorship in Iran. He noted on his blog that

[b]ased on previous experiences, *Kayhan* always illustrates the whole picture after each of these scenarios gets started by several arrests. So we all should be worried about the fate of the young innocent journalists that, probably just for bad luck, have been fitted into this desperate scenario that tries to find the CIA's hand behind the entire politically active part of the Persian Internet.²⁶⁷

Titled *The Spider House*,²⁶⁸ Shariatmadari's editorial set out a conceptual framework for the vilification of cyber-journalists and bloggers, and laid the groundwork for justifying and legitimizing the regime's efforts to silence them. Shariatmadari's main points were as follows:

- Bloggers and journalists are part of an international, foreign-supported network designed to attack the Islamic Republic's government. This network has an "American identity but Iranian identity card."
- Its command center is in the U.S., aided by European offices.
- The network attacks through websites, newspapers, and "extremist" groups "that claim to be reformist ... as well as their people in government." *Emrooz* and *Gooya* are the two main websites involved.

²⁶³ *Id.*

²⁶⁴ *Id.*

²⁶⁵ Posting of Hossein Derakhshan to Stop Censoring Us, available at http://stop.censoring.us/archives/2004_09.php (Sept. 26, 2004) (last visited Apr. 25, 2009).

²⁶⁶ Hossein Shariatmadari, *Yaddasht-i Ruz: Khanihyiyh Ankabut* [Daily Note: The Spider House], KAYHAN, 8/7/1383 [Sept. 29, 2004], available at <http://blog.gooya.com/archives/000108.php> (last visited Apr. 25, 2009).

²⁶⁷ Posting of Hossein Derakhshan to Editor: Myself, available at <http://hoder.com/weblog/archives/012304.shtml> (Sept. 29, 2004) (last visited Apr. 25, 2009).

²⁶⁸ The title references verse 41 of the Qur'an ("The Spider"), which warns that "those who take guardians besides Allah" are like "the spider that makes for itself a house; and most surely the frailest of the houses is the spider's house." QUR'AN 29:41, (translation) available at <http://www.seyed.com/quran2/029ankab.htm> (last visited Apr. 25, 2009).

- Using blogs and chat rooms, the internal members of the network seduce innocent young people and introduce them to prostitution houses and other places of decadence.
- Participants in Iran, directed by outside decision-makers, write about particular subjects. Foreign news agencies, picking up on those reports, then launch criticism and attacks on the Islamic Republic's government, its top officials, and Islam. Some of these participants in Iran are "youngsters in search of fame" who were lured by a promise of high-ranking posts after overthrow of the regime or by the promise of free education in the European or American countries; others are more deliberately involved.
- Some of these sites cannot be filtered.²⁶⁹



Javad Gholam Tamimi

Javad Gholam Tamimi was arrested on October 18, 2004. Eventually, he was charged with membership in illegal groups, treason against country, propaganda against regime and spreading lies, and tried at the Beheshti Juridical Complex. Tamimi was sentenced to a prison term of 3 years and 3 months, and 10 lashes. He was forced to write a letter denying any mistreatment on December 5, which was then faxed to the Islamic Republic News Agency (IRNA) from inside Evin prison.

The editorial demonized dissent as foreign. Ominously, it named individuals and websites that it alleged were collaborators with the Spider House.²⁷⁰ Among those implicated were Rafizadeh (identified as "Shahram R."), Mirebrahimi (identified as "Roozbeh M."), Ghafoori Azar (identified as "Babak Gh."), Derayati (identified as "Mehdi D."), and Mazrui (identified as "Hanif M."), all of whom had already been arrested. All except Ghafoori Azar remained in custody. It also identified Omid Memarian (identified as "Omid M.") who was arrested soon thereafter.²⁷¹

Authorities arrived at Omid Memarian's office on October 10, 2004. A recipient of the Golden Pen at the National Press Festival in Iran in 2001, Memarian was a well-known journalist who had begun blogging in 2002. In his final entry before his arrest, he condemned the arrest of Sina Motalebi's father and concluded that such tactics showed that the conservative elements in the government were worried about the influence of bloggers.²⁷²

His arrest was similar to those of Shahram Rafizadeh and Roozbeh Mirebrahimi. He was arrested following a raid on his home during which his computer and writings were confiscated.²⁷³ After more than a week, Memarian's family was unable to find out where he was imprisoned. His lawyer, Nemat Ahmadi, attempted unsuccessfully to contact him at the airport prosecutor's office. He also objected to the lack of a warrant for Memarian's arrest and asked that his case be transferred out of the airport court.²⁷⁴ In response, he was simply told that Memarian's location would be announced soon.²⁷⁵

²⁶⁹ Shariatmadari, *supra* note 266.

²⁷⁰ *Id.* Included were 13 individuals (named in full) living outside of Iran, 13 individuals (first name, last initial) living in Iran and collaborating with various sites and newspapers, and 7 individuals (first name, last initial) who had posts in the government, including Mohammad Ali Abtahi. *Id.*

²⁷¹ Shariatmadari, *supra* note 266. *Rooydad* was a website linked to the major reformist party, *Islamic Iran Participation Front*. Mazrui and Derayati's fathers were top members of the party and actively negotiated for the release of the website's staff members. See Mazrui letter *supra* note 252.

²⁷² Posting of Omid Memarian to *omidmemarian*, available at http://omidmemarian.blogspot.com/2004_09_01_omidmemarian_archive.html (Sep. 17, 2004) (last visited Apr. 27, 2009).

²⁷³ Press Release, Human Rights Watch, Iran: Journalist Detained in Internet Crackdown (Oct. 13, 2004), available at <http://www.hrw.org/en/news/2004/10/13/iran-journalist-detained-internet-crackdown> (last visited Apr. 25, 2009).

²⁷⁴ *Mahal-i Nigahdariyeh Omid Memarian Farda bih Vakil-i Viy P'lam Mishavad* [Omid Memarian's Place of Detention Will be Revealed to His Lawyer Tomorrow] ISNA, 26/7/1383 [Oct. 17, 2004], available at <http://isna.ir/ISNA/NewsView.aspx?ID=News-444694> (last visited Apr. 25, 2009).

²⁷⁵ *Id.*

On October 18, Javad Gholam Tamimi, an editor for the reformist paper *Mardum Salari*, was arrested after being summoned by the airport branch of the prosecutor's office.²⁷⁶ A little over a week later on October 28, Fereshteh Ghazi, a cyber-journalist, was summoned by telephone to the same prosecutor's office. Ghazi had gained notoriety by writing about women's issues and had helped save the life of Asfaneh Norouzi, a woman sentenced to death for killing her would-be rapist.²⁷⁷ On October 27, she complied with the summons and visited Branch 9, where she was taken into custody. Forty days later, she was released after posting 500 million rials (US\$57,000) in bail. Upon her release, she was taken directly to the hospital due to the effects of a twenty-three day hunger strike and a broken nose.²⁷⁸ She was able to hire a lawyer only after her release.²⁷⁹

Although lumped with the other arrests at the time, some question whether Ghazi's arrest and imprisonment were due to her blogging activities, and believe that she was targeted because she had exposed the ineptitude of the Judiciary and contributed to the reformist publication *Emrooz*. Though she had worked with many of the other cyber-journalists and more avid bloggers, she herself had only sporadically posted on her blog.²⁸⁰ Regardless of the reasons for her arrest, after her recuperation, blogging became an important part of her expression:

[P]rison taught me that you have to write in newspapers, in blogs and on websites, on walls and anywhere you can. I remember the time when [state controlled television] had banned the songs of Hossein Zaman. He said: 'Let them ban my songs. I will sing them in the streets and alleyways.'²⁸¹

In October 2004, in response to the rash of arrests, one speaker at a Journalists' Union meeting advised that all journalists in Tehran should sign a power of attorney appointing a lawyer and leave it with their families in case of arrest. Another joked it would be better to leave behind a will.²⁸² With tensions rising, Judiciary spokesperson Jamal Karimi-Rad met with the Union on November 2 and claimed that fifteen of those arrested had been arrested on security charges, and eight on charges relating to morality violations.²⁸³

In response to this announcement, the Journalists' Union, headed by Hanif Mazrui's father Rajab-Ali Mazrui, delivered a letter to the head of the Judiciary, Hashemi Shahroudi, warning that if the process of summoning, pursuing and detaining journalists and reporters continued, it would be devastating for the country.²⁸⁴ The letter also asked that the arrests and detentions be halted, and a committee be formed to

²⁷⁶ Press Release, Reporters Without Borders, Himayat-i Ruznethayih Mu'tabar-i Jahani az Vibnigaran-i Zindani dar Iran [Respected Web Dailies Around the World Support Imprisoned Bloggers in Iran] (29/7/1383) [Oct. 20, 2004], available at <http://www.rsf-persan.org/article11656.html> (last visited Apr. 27, 2009).

²⁷⁷ ALAVI, *supra* note 82, at 337-338.

²⁷⁸ Posting of Mohammad Ali Abtahi to *Vibnivisht Sayt-i Shakhshiyeh Mohammad Ali Abtahi* [Webnevshst, the Personal Weblog of Mohammad Ali Abtahi], available at <http://webnevshsteha.com/weblog/?id=-1723924679> (Jan. 12, 2005) (last visited Apr. 25, 2009). Unlike many of the male detainees, Ghazi was sent to Evin Prison, though even there she was subject to violence. See *Fereshteh Ghazi: Chira Hamihyeh Raftarhayeh Qiyri Qanuni ra dar Shikastigiyeh Biniyeh Man Khulasih Kardihand?* [Fereshteh Ghazi: Why Have They Summed Up All Their Illegal Activities By Referring Solely to My Broken Nose?], ISNA, 16/11/1383 [Feb. 4, 2005], available at <http://isna.ir/ISNA/NewsView.aspx?ID=News-490239> (last visited Apr. 25, 2009).

²⁷⁹ *Akhbar-i Kutah-i Huquqi: Sayfzadeh, Vikalat-i Fereshteh Ghazi ra Qabul Kard* [Short Legal News: Seifzadeh Has Accepted to Represent Fereshteh Ghazi], ISNA, 21/9/1383 [Dec. 11, 2004], available at <http://isna.ir/ISNA/NewsView.aspx?ID=News-466687> (last visited Apr. 27, 2009).

²⁸⁰ Interview with Roozbeh Mirebrahimi, *supra* note 75.

²⁸¹ ALAVI, *supra* note 82, at 339 (citing from the blog of Fereshteh Ghazi at www.fereshteh.blogfa.com).

²⁸² Frances Harrison, *Protests Against Iran Blog Arrests*, BBC, Oct. 21, 2004, available at http://news.bbc.co.uk/go/pr/fr/-/2/hi/middle_east/376482.stm (last visited Apr. 25, 2009).

²⁸³ *Majlis Nimitavanad dar Umur-i Qaza'i va Ikhtiyarat-i Quvviyyeh Qaza'iyeh Tahqiq va Tafahhus Kunad* [Majlis Cannot Investigate and Scrutinize the Authority of the Judiciary], Fars News Agency, 12/8/1383 [Oct. 20, 2004], available at <http://www.farsnews.net/newstext.php?nn=8308120169> (last visited Apr. 25, 2009).

²⁸⁴ *Namihyeh Sargushadyeh Anjuman-i Sinfiyeh Matbu'at bih Hashemi Shahroudi, Bamdad* [Letter from the Head of the Journalists' Union to Hashemi Shahroudi], GOOYA NEWS, 15/8/1383 [Nov. 5, 2004], available at <http://akhbar.gooya.com/politics/archives/018516.php> (last visited Apr. 25, 2009).

regulate the relationship between the Judiciary and the Journalists' Union.²⁸⁵ Undeterred, prosecutor Mortazavi cautioned the Union that its protests would not be tolerated. A month later, in a letter to the Union and Mazrui, he warned:

You are hereby informed that supporting individuals who have been convicted of espionage and acts of treachery against the country and who have confessed to acting against the law, and where evidence has been discovered and registered, and calling for a gathering, particularly at the Palace of Justice, in support of such criminals, falls under article 618 of the Islamic Penal Code.²⁸⁶ Therefore, should this gathering take place, it will only disturb social peace and order, and your Excellency and other elements responsible for the illegal invitation will be dealt with seriously and legally for disturbing public security.²⁸⁷

Prosecutor Mortazavi also offered a deal to those still in custody—Shahram Rafizadeh, Roozbeh Mirebrahimi, Javad Gholam Tamimi and Omid Memarian.²⁸⁸ Under the deal's terms, they would be released one at a time in exchange for writing letters to the editor describing the humane treatment they enjoyed, the crimes they had committed, and acceptance that their actions were wrong and illegal. If the first blogger released refused to write such a letter and allow it to be published, none of the others would be released. The same would apply to the next person released until they were all free.²⁸⁹

Mirebrahimi was released first on November 25 and his letter to the editor was published five days later. Memarian was released on December 1, and Rafizadeh and Tamimi were released about a week later. They all published letters to the editor that described the good treatment they have received in detention and accepting responsibility for some of the crimes for which they were charged. They also apologized for causing so much trouble. Prosecutor Mortazavi publically claimed to be vindicated.²⁹⁰

However, in a December 12 letter to President Khatami, Rajab Ali Mazrui responded to the letters and described the abuses his son Hanif had suffered while detained.²⁹¹

I would not have the will or determination to openly publish this letter if the Judiciary's propaganda arm had not published letters allegedly written by imprisoned journalists in connection with the project to crack down on Internet sites. But the confusion caused by those who had a hand in this project and attempted to cover up their illegal, immoral and oppressive activities via the publishing of these confession letters left me no choice but to publish this letter. I hope that the Public Prosecutor's Office of Tehran, which forced several newspapers to publish these confession letters, will also allow the publication of my letter without subjecting it to censorship. So that those who "seek truth and love justice" are exposed to an accurate portrayal of what happened to those who were detained in connection with the Internet sites project (despite all the smoke and mirrors).

He also described his futile efforts to visit his son while he had been detained. He described how he was told to visit the 9th District prosecutor's office located at the airport judiciary facilities to post the bail for his son. There he noticed that none of the registration books of the Public Prosecutor's office showed the names of the Internet-related detainees or prisoners, and that no case file or paperwork existed for them.²⁹² He also reported to President Khatami that the Judiciary refused to identify the prison where his

²⁸⁵ *Id.*

²⁸⁶ Article 618 of the Penal Code deals with public disorder and disorderly conduct.

²⁸⁷ *Tajamu'i Anjuman-i Sinfiyih Ruznamihngaran Qayr-i Qanuni Ast [The Journalist's Union Gathering is Illegal]*, FARS NEWS AGENCY, 14/9/1383 [Dec. 4, 2004], available at <http://www.farsnews.net/newstext.php?nn=8309140272> (last visited Apr. 25, 2009).

²⁸⁸ Interview with Roozbeh Mirebrahimi, *supra* note 75.

²⁸⁹ *Id.*

²⁹⁰ *Id.*

²⁹¹ Mazrui Letter, *supra* note 252.

²⁹² *Id.*

son was held, and claimed that the prison was illegal and operated outside the supervision of the State Prison Organization.²⁹³



Mojtaba Saminejad

A blogger who posted on the arrest and treatment of journalists and other bloggers, Saminejad was arrested on Oct. 31, 2004. He was charged with the most serious crimes available to the Prosecutor and faced the death sentence. With the help of his lawyer, Mohammad Seifzadeh, he succeeded in defending himself against those charges. He was sentenced to two years and ten months of imprisonment, but was released in June, 2006. He remains in Iran and continues to blog.

In response to Mazrui's letter and a similar letter from Fereshteh Ghazi's husband, Ahmad Mohammad-Bayglu, President Khatami instructed a Presidential Commission for the Investigation and Supervision of the Execution of the Constitution (Presidential Commission) to investigate the allegations of abuse in the Internet-related arrests. At the Commission's first hearing, held on December 25, 2004, former detainees, including Hanif Mazrui and Fereshteh Ghazi, testified about their arrests and detention. At the second hearing, on January 1, 2005, after all four prisoners had been released, Mirebrahimi and Memarian testified before the Presidential Commission and promptly retracted their letters.²⁹⁴ The Presidential Commission later reported that

even if a portion of what was said at the meetings were true, it is a sign of a dangerous process in following up crimes and criminals and the prosecution, that is against the Constitution and the Iranian justice system, and encourages all decisive authorities to attempt and resolve it ... Furthermore, it is noteworthy that most of these wrongful acts have occurred in the Amaken office of the NAJA and the detention facilities belonging to the Law Enforcement, and according to the governing law of the Law Enforcement, they belong to the Ministry of Interior.²⁹⁵

The bloggers later appealed to the Article 90 Commission of the *Majlis*, and through continued pressure were able to attend a meeting with the head of the Judiciary, Ayatollah Shahroudi.²⁹⁶ Shahroudi told them to ignore any further summonses, and on January 12, it was announced that Shahroudi had established a three-member commission to investigate and probe the detentions.²⁹⁷

On April 20, 2005, a judiciary spokesperson confirmed that the confessions of Rafizadeh, Mirebrahimi, Memarian and Tamimi had been coerced. However, on February 3, 2009, following closed trials, all four were sentenced to prison terms, fines and floggings.²⁹⁸ Their appeals are pending. Rafizadeh, Mirebrahimi, and Memarian have left Iran.

Mojtaba Saminejad, a student and blogger who posted several articles regarding the arrest and detention of many of the cyber-journalists, was arrested on October 31, 2004 and held for 88 days in solitary confinement, interrogated and tortured. He was released on January 27, 2005 and, though not charged, he remained under investigation and was warned that he would be detained again if he chose to be represented by Shirin Ebadi or Mohammad Seifzadeh, two prominent defense lawyers and human rights activists.²⁹⁹

²⁹³ *Id.*

²⁹⁴ Interview with Roozbeh Mirebrahimi, *supra* note 75.

²⁹⁵ Letter from Dr. Hossein Mehrpour to Mohammad Khatami, President of the Islamic Republic of Iran, (Jan. 4, 2005) (on file with the IHRDC).

²⁹⁶ Interview with Roozbeh Mirebrahimi, *supra* note 75.

²⁹⁷ *Barguzariyeh Dadgah-i Chahar Ruznamih-nigar dar 26 Tir [The Trial of Four Journalists Convenes on July 17th]*, ROOZONLINE, 18/4/1386 [June 26, 2007], available at http://www.roozonline.com/archives/2007/07/_26_1.php (last visited Apr. 25, 2009).

²⁹⁸ *Id.*

²⁹⁹ *Bazkhaniyeh Parvandihiyeh Mojtaba Saminejad Tavasot-i Vakil-i U, Mohammad Seifzadeh [A Review of Mojtaba Saminejad's Case by his Attorney Mohammad Seifzadeh]*, ROOZONLINE, [undated], available at <http://man-namanam.blogspot.com/> (Sep. 22, 2005) (last visited Apr. 27, 2009) [hereinafter Seifzadeh post].

Immediately after his release, Saminejad sought the help of Seifzadeh, and on February 1, 2005, he was summoned by telephone and detained.³⁰⁰ This time, he was indicted for apostasy, insulting the founder of the Islamic Republic (under Article 514 of the Penal Code), acting against national security (Article 500), and a combined charge of having illicit affairs, promoting corruption and prostitution, and causing confusion among the masses (Articles 673, 639 and 698). These charges were distributed among Branch 78 and Branch 1084 of the Provincial Criminal court, and Branch 13 of the Islamic Revolutionary Court.

The first charge, apostasy, carries the death penalty under *Sharia* law, but there is no crime of apostasy in the Islamic Penal Code. This concerned the Chief Judge of Branch 78:

The Chief Judge of the branch, who was a learned, humane and enlightened cleric rejected the case and noted that in the first instance, there is no crime of apostasy pursuant to [Article 36 of the] Constitution and the Islamic Penal Code that provides the legal definition for crimes and punishment. He then indicated that if [the Prosecutor's Office] wishes to investigate the matter, they must issue a charge sheet and transfer the case to a competent court. (Judge Moqaddas and his crew didn't know this basic fact—a fact that even a first year law student should know. Or perhaps they did know and didn't care to uphold it, which is even worse).³⁰¹

The indictment was amended, and Saminejad was charged under Article 513 for insulting the Prophet, a crime that carries the death penalty. His initial trial date was set for June 21, 2005, and over the course of several other sessions, the prosecution was asked to both explain the charge and provide evidence of the crime.³⁰² It responded by misquoting Saminejad's blog and accusing him of denying the existence of the 12th Imam. Saifzadeh recounts the court's response:

The Chief Judge turned to the Prosecutor's representative and said, "Sir, so what you are saying is that he insulted the Twelfth Imam and denied his existence despite the fact that millions of Sunni Muslims don't believe in the Twelfth Imam? Are these [Muslims] apostates? Have they insulted the Prophet? Should they be executed?" He then pointed out that the indictment only mentioned the charge of "insulting the prophet," and that the charge of apostasy had already been rejected.³⁰³

Saminejad was acquitted of insulting the Prophet, and on July 3, 2005, Branch 78 ordered his release. Though the Islamic Revolutionary Court acquitted him of actions against national security, it found him guilty of insulting the founder of the Islamic Republic and sentenced him to two years' imprisonment. In addition, Branch 1084 sentenced him to ten months for causing confusion among the masses. After 18 months' imprisonment, Saminejad was granted home leave in June 2006. He was formally released on September 12, 2006.



Kianoosh Sanjari

Kianoosh Sanjari was an activist in Iran from an early age. He began blogging and publishing online in order to bring attention to political prisoners in Iran. He was arrested numerous times because of his participation in demonstrations and his presence during protests. His blogging activities, however, led to an arrest at his home involving numerous law enforcement officers who ransacked his apartment. After his latest arrest, he left Iran and currently resides in Washington D.C.

³⁰⁰ While detained, Saminejad's blog address was transferred to the blog of a group of hackers linked to the Iranian radical Islamist movement Hezbollah (<http://irongroup.blogspot.com>). After his release, he relaunched his blog using a new address (<http://8mdr8.blogspot.com>), which may have been the reason for his re-arrest. Press Release, Reporters Without Borders, Blogger Mojtaba Saminejad gets early release after nearly 18 months in prison, (Sept. 19, 2006), available at http://www.rsf.org/print.php?id_article=18910 (last visited Apr. 26, 2009).

³⁰¹ Seifzadeh post, *supra* note 299.

³⁰² *Id.*

³⁰³ *Id.*

Another student activist who was a member of the Iranian Political Prisoners Association (IPPA), Kianoosh Sanjari, was arrested on June 23, 2005. Sanjari had been arrested and detained numerous times because of his constant presence at demonstrations and protests.³⁰⁴ His first arrest was in July 2000 at the age of seventeen for participating in protests that commemorated the Tehran University dormitory demonstrations of the year before.³⁰⁵ He served nearly three months in prison. By the summer of 2005, Sanjari was an avid blogger who posted articles online about the condition of political prisoners. Only after he began this activity did he receive calls at his home in Tehran demanding that he turn himself in to the authorities. He refused to go.

On June 23, 2005, Sanjari was arrested at his home. He answered the door and immediately realized that the postman asking him for his identification was not a postman: “His face was vaguely familiar, like the faces I had seen [policing] demonstrations and during my time in prison.” Sanjari refused to let the man enter. Instead, he disposed of his hard drive and called a friend so she could listen in and witness the arrest. After failing to gain entry by pretending to be a postman, the authorities stormed the house:

Seven or eight of them ... broke the door with a kick and came inside the house ... The postman who was the leader of the team grabbed me by the collar and raised his fist to hit me. I told him that if he touched me I would say so in court and that they had just passed a law and that they had no right [to hit me]. [So instead] they threw my stuff around. My whole life, my cupboards, books, handwritten notes, CDs, computer, everything in all the nooks and crannies ... was strewn on the floor and searched. [When] my mother arrived and saw the door was broken, she fainted and fell on the floor [as well].³⁰⁶

Sanjari was arrested based on a charge of threatening national security, but was later told during his interrogation that he was also arrested for the contents of his blog.³⁰⁷ On October 11, he posted 1 billion rials (US\$112,000) in bail and was released.³⁰⁸ He now resides in the Washington, D.C. area.

4.2. Arrests Outside Tehran During the Reformist Era

The capital was not the only place where bloggers and cyber-journalists were arrested and harassed. In Qom, the largest center for Shi'a scholarship in the world, Mojtaba Lotfi, a journalist who had worked for the pro-reform newspaper *Khordad* before it was closed in 2000, posted an article entitled “Respect for Human Rights in Cases Involving the Clergy.”³⁰⁹ As a result, he was arrested in May 2004 and put on trial for spreading lies.³¹⁰ Lotfi was a theology student and a veteran of the Iran-Iraq war who still suffered from the effects of the chemical attacks he had endured during the war.³¹¹ Nonetheless, he was sentenced to three years and ten months’ imprisonment on August 14, 2004. He was released while his appeal was

³⁰⁴ Interview with Kianoosh Sanjari (Oct. 23-24, 2008).

³⁰⁵ The student protests of July 1999 were the most extensive, widespread and violent public protests in Iran since the early days of the Iranian Revolution.

³⁰⁶ Interview with Kianoosh Sanjari, *supra* note 304.

³⁰⁷ *Id.*

³⁰⁸ Sanjari was again arrested and detained on October 8, 2006 due to his coverage of the arrest of a prominent dissident cleric Ayatollah Boroujerdi. Followers of the Ayatollah resisted the authorities during his arrest. The regime responded by sending in a massive force, surrounding the neighborhood and arresting a large number of people. Sanjari was one of those arrested. Interview with Kianoosh Sanjari, *supra* note 304.

³⁰⁹ Lotfi published his post on *Naqshineh*, an electronic news site for Qom. FALSE FREEDOM, *supra* note 182, at 54.

³¹⁰ Press Release, Reporters Without Borders, Appeal court confirms prison for cyber-dissident while blogger is reimprisoned (Feb. 2, 2005), available at http://www.rsf.org/article.php3?id_article=12564 (last visited Apr. 26, 2009) [hereinafter Blogger is Reimprisoned].

³¹¹ *Imprisonment and Banishment for Mojtaba Lotfi*, ROOZONLINE, December 3, 2008, available at http://www.roozonline.com/english/archives/2008/12/imprisonment_and_banishment_fo.html (last visited Apr. 26, 2009).

pending and after posting 650 million rials (US\$75,000) in bail. However, his conviction was upheld and he was again imprisoned on February 5, 2005.³¹²



Mojtaba Lotfi

Mojtaba Lotfi, a journalist and theology student, was first arrested in early May of 2004, for posting a human rights-related article on a news site. He was released from custody two and a half months later. In August, Lotfi was convicted by the Special Court for the Clergy in Qom and sentenced to a prison term of 46 months. He was released on August 28, 2005, following a brief furlough for a religious celebration, but was re-arrested in October 2008. Currently he is serving a four-year sentence he received in December 2008.

Two weeks after Lotfi's initial sentencing, on August 28, 2004, Arash Sigarchi, a journalist and editor-in-chief of *Gilan-i Emrooz*, was summoned, detained and beaten by intelligence agents in the northern province of Gilan.³¹³ Sigarchi had begun blogging in March 2002 and quickly began using the new medium as a platform for dissemination of more sensitive news stories. The night before his arrest, Sigarchi had published an article on his blog discussing the 1988 prison massacre, a controversial and sensitive topic to the regime. The same night, using a pseudonym, he gave an interview to Radio Farda on demonstrations by laborers. Unbeknownst to him, due to a mistake at Radio Farda, his pseudonym was dropped during the rebroadcasting a few hours later.³¹⁴ The following day, he was summoned to the provincial intelligence office in Gilan, and after several hours of waiting in the August heat, he was blindfolded and taken to the basement:

They slapped me around for about two hours and broke my glasses and watch. They splashed me with water and hit me some more—enough to make me cry. The beatings weren't anything like what I had heard about before. They went on for three to four hours. I think it was around 10:00 or 11:00 p.m. when a few people arrived, but I wasn't able to see them. One of them said, "Is this him? He will be dealt with! We'll make him talk; he has to say what the hell he's been up to."³¹⁵

Sigarchi was released the next evening, following more interrogation.³¹⁶ Still, his short experience left him cowed, and he began carefully vetting his own writing.³¹⁷ He was apprehensive about further arrests, and in particular, he feared that his newspaper would be shut down. He therefore limited his subject matter and reduced the number of articles he wrote.³¹⁸

However, as the Presidential Commission was investigating abuses in Tehran, on January 7, 2005, Arash Sigarchi was once again summoned to appear by the judicial authorities in Gilan. His colleagues, family and friends had urged him to flee Iran, but he insisted that he had done nothing wrong and refused.³¹⁹ At the judicial complex in Gilan, he was informed that his case had been assigned to Judge Eskandari who was the head of a branch of the Islamic Revolutionary Court in Gilan.³²⁰

³¹² Blogger is Reimprisoned, *supra* note 310. Lotfi was released again in August 2005, due to medical issues stemming from his exposure to chemical weapons. FALSE FREEDOM, *supra* note 182, at 54. Lotfi remained active after his release. In October 2008, he was once again detained by security forces and held at a detention center run by the Ministry of Intelligence in the city of Qom for fifty days. This arrest came in response to his Internet activities in support of Ayatollah Montezari. On December 10, 2008, Qom's special court for the clergy sentenced Lotfi to four years' imprisonment and five years' banishment from expressive activity. He is currently serving this sentence. *Imprisonment and Banishment for Mojtaba Lotfi*, *supra* note 311.

³¹³ Witness Statement of Sigarchi, *supra* note 59, ¶¶ 13-17.

³¹⁴ *Id.* ¶¶ 11-13.

³¹⁵ *Id.* ¶ 18.

³¹⁶ *Id.* ¶¶ 21-22. On the second day, he was no longer beaten and instead placed in a cell with air conditioning and served a meal of rice and kabob.

³¹⁷ *Id.* ¶ 24.

³¹⁸ *Id.* ¶¶ 24-25 ("Whereas before I would write ten pieces a month, I only wrote five during the next three months.")

³¹⁹ *Id.* ¶ 32.

³²⁰ *Id.* ¶ 28.

Sigarchi immediately suspected that he was in serious trouble. Revolutionary courts are often much stricter and handle only those cases the regime considers the most serious. Also, he knew that Judge Eskandari was close to the intelligence community. After a short interrogation during which Eskandari tried to converse in French and English in an effort to establish that Sigarchi was a spy, Sigarchi asked to be tried in a press court and in front of a jury. His request was harshly refused and he was told to leave but to return the next day.³²¹ The next morning he returned:

In the morning I went back to the court groomed and well-dressed. The court proceedings began. My charges were read one by one. I can't remember what they all were because they never gave them to me in writing. I was charged with fourteen different crimes but ultimately was convicted of four. I remember that one was that I had insulted the Leader (*Rahbar*). They said that I had written in my blog that "Mr. Khamenei is going to drink the cup of poison just like Imam Khomeini drank the cup of poison. And just like Imam Khomeini died a year after that, Khamenei will also die a year later." I corrected them and said, "I wrote in my blog and recommended to Mr. Khamenei that since the world has threatened Iran regarding Iran's nuclear activities and war is looming, it is best to drink the cup of poison before it is too late." But I never wrote "Just like Khomeini died a year after that, Khamenei will also die a year later." He insisted that I had written what he said. I responded that if they had the documents to prove their position, I would willingly go to prison. He replied that they also had "other" charges against me.³²²

Sigarchi demanded to be represented by a lawyer. His request was refused and bail was set at two billion rials (US\$225,000), a staggering amount. Judge Eskandari commented that if Sigarchi managed to pay it, that would be evidence of the involvement of a foreign government and grounds for detaining him.³²³

Unable to make bail, Sigarchi was imprisoned for two months. For the first two days, he was beaten without being asked a single question. His interrogation began on the third day.³²⁴ His treatment grew worse over the course of the next two weeks:

On the fifth day, they hung me from a fan. There was a pole attached to an engine on the ceiling that would propel me around the room. My arms were attached to another pole, as if I was on a cross. The two poles were connected. When the engine was turned on I literally became a human fan. On the sixth day, in the middle of the torture session, they told me that my mother was coming to visit. She came but it was a very short visit and I wasn't allowed to talk. They threatened to torture me if I did. On the seventh day, they made me stand outside in the bitter cold for three hours. On the eighth day, they gave me a photocopy of *Kayhan* newspaper which read: "Arash S, who was collaborating with the CIA in the north of the country, is sentenced to [be] execut[ed]."

On the ninth day, I was taken to a room where the floor was covered with feces. Around 3:00 or 4:00 a.m., they took me out to bathe and sent me back to my cell. I was there for 2-3 hours when they came in and bastinadoed the soles of my feet. On the tenth day, they took me to a room where there was a noose and a video camera. They told me that they would either execute me or film my confession. On the twelfth day, they pulled both of my big toe nails out. That same day, they imposed a form of torture that was literally called *Jujih Kabab*, or grilled chicken. They tied my wrist between my ankles and put a rod through it. Then they fastened my arms and legs to the rod and suspended me upside down.³²⁵

On February 7, 2005, Sigarchi was tried without the assistance of a lawyer before Judge Eskandari. He was sentenced to fourteen years imprisonment,³²⁶ though he was not informed of this sentence until four

³²¹ *Id.* ¶¶ 30-31.

³²² *Id.* ¶ 33.

³²³ *Id.* ¶ 43.

³²⁴ *Id.* ¶ 44.

³²⁵ *Id.* ¶ 45.

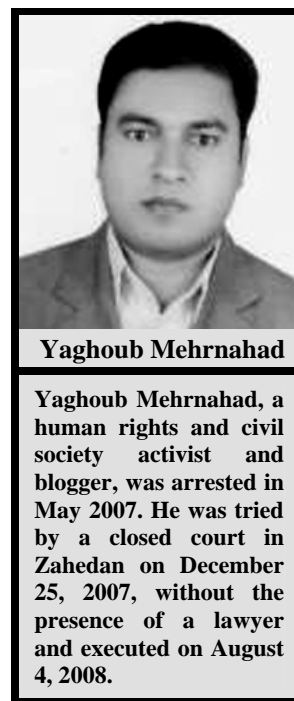
³²⁶ Sigarchi was convicted under articles 508, 514, 500, 512, and 610. *Id.* ¶ 50.

days later when his mother visited him in prison. He was released in late March while his appeal was pending. On appeal, his sentence was reduced to three years, which he began serving in January 2006. Nine months later, he was diagnosed with cancer and released on medical leave. He left Iran on January 10, 2008 to seek treatment in the United States, where he still resides.

4.3. Arrests Post-Reform Era

Following the election of President Ahmadinejad in the summer of 2005, the arrests of cyber-journalists and bloggers continued. Unlike the 2004 arrests, which the government labeled as Internet-related,³²⁷ many of the later arrests were more difficult to categorize, as they were of reformists and activists who kept blogs but also engaged in other forms of dissent.

One example is Yaghoub Mehrnahad, a civil society and human rights activist, who was arrested in May 2007 in Baluchestan. Following a closed trial he was sentenced to death and executed on August 4, 2008. The 28-year-old father of three had kept a blog. Although he vigorously denounced the use of violence in his writings and on his blog, he was charged with being a member of Jundollah, a Sunni Muslim insurgency organization based in Baluchestan.³²⁸ Mehrnahad was the president of the Youth Voice of Justice Association, an organization working toward accountability and civil responsibility.³²⁹



Other examples were more straightforward. In September 2008, four women's rights advocates³³⁰ who had contributed to the online newspapers *Zanestan* and *Tagir Baraye Barabari* (Change for Equality) were sentenced to six months' imprisonment for subversive activities and anti-government propaganda.³³¹ On appeal, their lawyer, Masomeh Sotoudeh, argued that their convictions should be reversed on the grounds that posting articles defending women's rights should not constitute a crime.³³² In January 2009, their convictions were still on appeal.

Similarly, Omidreza Mirsayafi was arrested for his blog, *Rooznegar*, a cultural and artistic blog that sometimes delved into satirical or critical commentary on current events. On April 22, 2008, Mirsayafi was arrested and taken to Evin prison. Forty-one days later he was released after posting bail in the amount of 1 billion rials (US\$100,000).³³³ On November 2, 2008, he was convicted pursuant to articles 500 and 514 of the Islamic Penal Code for insulting the founder of the Islamic Republic [Ayatollah

³²⁷ Letter from Dr. Hossein Mehrpour to Mohammad Khatami, President of the Islamic Republic of Iran, (Jan. 4, 2005) (on file with the IHRDC).

³²⁸ One Person's Story: Mr. Ya'qub Mehrnahad, Bourumand Foundation, available at <http://www.iranrights.org/english/memorial-case-40798.php> (last visited Apr. 26, 2009).

³²⁹ One Person's Story: Mr. Ya'qub Mehrnahad, Bourumand Foundation, available at <http://www.iranrights.org/english/memorial-case-40798.php> (last visited Apr. 26, 2009).

³³⁰ The women were Parvin Ardalan, Jelveh Javaheri, Maryam Hosseinkhah and Nahid Keshavarz. Hosseinkhah had been arrested earlier in the year for attending a gathering to protest the arrest and intimidation of women's rights activists. See One Million Signature Campaign Timeline, Human Rights First, available at http://www.humanrightsfirst.org/defenders/hrd_iran/hrd_iran_page.aspx?item=57&c=i6 (last visited Apr. 26, 2009).

³³¹ One Million Signature Campaign Timeline, Human Rights First, available at http://www.humanrightsfirst.org/defenders/hrd_iran/hrd_iran_page.aspx?item=57&c=i6 (last visited Apr. 26, 2009); see also More websites blocked, *supra* note 194.

³³² *Id.*

³³³ Press Release, Reporters Without Borders, Shock at death of blogger in Tehran prison (Mar. 18, 2009), available at http://www.rsf.org/article.php?id_article=30622 (last visited Apr. 26, 2009) [hereinafter Shock at death of blogger].

Khomeini] and the Supreme Leader [Ayatollah Khamenei], and for propaganda against the regime.³³⁴ At a hearing on December 15, he was sentenced to two and a half years of imprisonment.

Mirsayafi remained puzzled about the specifics of his crime and the evidence against him:

[T]he judgment makes no mention of any specific articles [that were problematic] in my weblog. In reality, there is no explanation regarding how I insulted [the Supreme Leaders and prophets], or why my actions were deemed illegal. Of course, it should also be mentioned that the court relied on confessions that were secured under psychological pressure during my interrogation sessions. Neither I nor my lawyer accepts the [validity of these] confessions. Unfortunately, the judgment relied on these confessions.³³⁵

On March 18, 2009, Omidreza Mirsayafi died in Evin prison due to lack of medical attention.³³⁶

Two weeks before Mirsayafi's conviction, Hossein Derakhshan, perhaps the most prominent Iranian blogger, returned to Tehran after spending years in Canada and England.³³⁷ In 2007, after pointing out that Arash Sigarchi's final sentence was based on his interview with Radio Farda, Derakhshan had claimed that Iran did not have a blogger-specific arrest policy:

I myself have experienced [this] intolerant government—all websites I run, including my blogs, are filtered and I was also detained and forced to sign an apology over my blog posts before I was allowed to leave Iran in June 2005. ... Yes, the government has indeed filtered a lot of political websites, but so has UAE, Saudi Arabia, Turkey, Pakistan, Egypt and many other US allies. But Iran doesn't have a policy of imprisoning young men and women for a few words in their small blogs.³³⁸

On his blog, Derakhshan pronounced that he was enjoying his stay in Iran immensely. However, on November 1, 2008, he was arrested and taken to an undisclosed location.³³⁹ News of his arrest was slow to leak because his family and friends did not wish to complicate Derakhshan's situation.³⁴⁰ Even after his family confirmed his arrest, for two months the Judiciary denied having custody of him. However, *Jahan News*, a conservative website close to Tehran's intelligence community, not only reported on his arrest but also claimed that Derakhshan had already confessed to spying for Israel.³⁴¹



Omidreza Mirsayafi

Omidreza Mirsayafi was arrested on April 22, 2008 and tried on November 2, 2008, for insulting the country's leaders and spreading propaganda against the state. Mirsayafi was found guilty and sentenced to two and a half years' imprisonment, but died on March 18, 2009, due to no longer being able to cope with the treatment and conditions in prison and lack of medical attention.

³³⁴ *Id.*

³³⁵ *Guftugu ba Omidreza Mirsayafi; Hukm-i Zindan bih Ijrayih Ahkam Irsal Shudih Ast [Interview with Omidreza Mirsayafi; The Prison Sentence Has Been Sent to the Judgment Office]*, HUMAN RIGHTS ACTIVISTS IN IRAN, 16/11/1387 [Feb. 4, 2009], available at http://www.hra-iran.org/index.php?option=com_content&view=article&id=444:845&catid=156:47&Itemid=343 (last visited Apr. 26, 2009).

³³⁶ Shock at death of blogger, *supra* note 333.

³³⁷ See generally, Hossein Derakhshan blog, www.Hoder.com.

³³⁸ Hossein Derakhshan, *Cut the Bias*, THE GUARDIAN, May 7, 2007, available at <http://www.guardian.co.uk/commentisfree/2007/may/07/cutthebias> (last visited Apr. 26, 2009).

³³⁹ Press Release, Incommunicado detention/fear of torture or other ill-treatment/possible prisoner of conscience, Amnesty International (Dec. 15, 2008), available at <http://www.amnesty.org/en/library/asset/MDE13/178/2008/en/cfe30c0e-cace-11dd-a6a3-63b538f8816c/mde131782008en.html> (last visited Apr. 26, 2009).

³⁴⁰ Posting of Cyrus Farivar to Cyrusfarivar.com, available at <http://Cyrusfarivar.com/blog/?p=1841> (Dec. 9, 2008) (last visited Apr. 26, 2009) (relaying information provided by a friend of the Derakhshan family).

³⁴¹ Michael Theodoulou, *Iranian 'Blogfather' Hossein Derakhshan is Arrested on Charge of Spying for Israel*, TIMES ONLINE, Nov. 20, 2008, available at http://www.timesonline.co.uk/tol/news/world/middle_east/article5190462.ece (last visited Apr. 26, 2009).

Derakhshan's arrest may have been triggered by his visit to Israel on his way to Iran—an action he had recognized was considered illegal by the Islamic Republic. It should be noted, however, that when announcing his arrest on December 30, the Judiciary spokesperson, Dr. Alireza Jamshidi, explained that Derakhshan was not being charged with crimes related to espionage or travel violations. Rather, he would be charged with offenses related to his sacrilegious comments regarding the Holy Imams.³⁴² Though he has been allowed to contact his family on several occasions, Derakhshan remains in custody.

4.4. Legal Analysis of Arrests, Detention and Torture of Internet Users

The Islamic Republic's arrest, detention and torture of cyber-journalists and bloggers violates Iran's obligations under the Iranian Constitution and international law. As described above and in the IHRDC's report *Covert Terror: Iran's Parallel Intelligence Apparatus*, the Islamic Republic not only beats and flogs detainees but employs sophisticated methods of torture and intimidation. These methods include sleep deprivation, mock executions, foot lashings, and solitary confinement in very tiny cells.³⁴³

Torture is clearly forbidden under international and Iranian law. Article 7 of the ICCPR, ratified by Iran, provides that: "No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment ...". The Iranian Constitution requires law enforcement authorities to protect citizens' freedom from torture and cruel and inhuman treatment.³⁴⁴

Furthermore, the arbitrary arrests and detention deny bloggers the due process rights that are guaranteed by Iranian and international law. Article 9 of the ICCPR outlines Iran's duty to provide due process before it limits, interferes with, or otherwise extinguishes an individual's right to liberty. Article 9(2) requires government agents to promptly inform the accused of the reasons for his arrest at the time of arrest,³⁴⁵ and Article 9(3) obligates the state to promptly bring the accused before a judge so that he shall be subject to trial within "a reasonable time." Article 9(3) also provides that "it shall not be the general rule that persons awaiting trial shall be detained in custody."³⁴⁶

Article 9(4) provides that anyone detained "shall be entitled to take proceedings before a court" in order to decide the "lawfulness of his detention and order his release if the detention is not lawful."³⁴⁷ Article 14(b) mandates that states provide "adequate time and facilities for the preparation of ... defen[s]e and to communicate with counsel of [one's] own choosing."³⁴⁸ In addition to these rights, the ICCPR guarantees the right to counsel (both at trial and at stages prior to trial) and doctor,³⁴⁹ the right to humane treatment,³⁵⁰ and the right to be presumed innocent.³⁵¹

³⁴² *Quvviahyyih Qaza'i Bazdasht-i Hossein Derakhshan ra Ta'id Kard [The Judiciary Confirms Hossein Derakhshan's Arrest]*, BBC PERSIAN, 10/9/1387 [Dec. 30, 2008], available at http://www.bbc.co.uk/persian/iran/2008/12/081230_ag_jb_derakhshan.shtml (last visited Apr. 26, 2009).

³⁴³ See EBADI, *supra* note 56, at 134; see generally IRAN HUMAN RIGHTS DOCUMENTATION CENTER, COVERT TERROR: IRAN'S PARALLEL INTELLIGENCE APPARATUS (2009).

³⁴⁴ IRANIAN CONST., *supra* note 48, art. 38.

³⁴⁵ ICCPR, *supra* note 24, art. 9(2). Article 9(2) provides that "[a]nyone who is arrested shall be informed, at the time of arrest, of the reasons for his arrest and shall be promptly informed of any charges against him." The requirement to state the nature and cause of the allegation goes beyond mere statement of the charge; instead, it requires that the prosecutor provide not only the exact legal description of the offense but also the facts which gave rise to the charge.

³⁴⁶ *Id.* art. 9(3). Article 9(3) provides that "anyone arrested or detained on a criminal charge shall be brought promptly before a judge or other officer authorized by law to exercise judicial power and shall be entitled to trial within a reasonable time or to release."

³⁴⁷ *Id.* art. 9(4). Victims of unlawful arrests are entitled to compensation. See *id.* art. 9(5).

³⁴⁸ *Id.* art. 14(b).

³⁴⁹ In addition to the right to counsel at trial, there is a right to counsel in the stages prior to trial, stemming from Article 14(3)(b). The HRC has stated unequivocally that "all persons who are arrested must immediately have access to counsel, be examined by a doctor without delay and be able to submit promptly an application to a judge to rule on the legality of the detention." Concluding Observations on Georgia, U.N. Doc. A/52/40 ¶ 254 (1997). Presence of counsel is required to ensure that rights of

Iran's Constitution and laws provide a narrower but still significant range of due process protections relevant to arrest and detention, including:

- Prohibition against arbitrary arrests;³⁵²
- Requirement that charges be promptly explained to the accused and provision for judicial oversight;³⁵³
- Punishments stipulated for judicial officers and other agents of government who illegally take people into custody or initiate criminal prosecutions;³⁵⁴
- Presumption of innocence,³⁵⁵ and
- Prohibition on torture for the purpose of extracting confessions or information.³⁵⁶

In addition, Iran's Criminal Code of Procedure (CCP), lays out strict guidelines, which trial judges and law enforcement agencies must follow when conducting criminal investigations. For example, all preliminary investigations leading to temporary arrests and detentions of individuals suspected of committing national security crimes must be conducted pursuant to orders issued by trial judges and overseen by the Judiciary.³⁵⁷ Such orders must conform to due process standards.³⁵⁸ Pretrial arrest warrants are appealable and are only valid for a month unless extended by the issuing judge.³⁵⁹ If the judge fails to extend a warrant, the suspect must be allowed to post bail.³⁶⁰

In almost every instance documented by IHRDC, individuals were subjected to arbitrary arrests in contravention of Article 9 of the ICCPR and Article 32 of the Iranian Constitution, both of which require law enforcement officers to inform the accused of the reason for the arrest and any charges against him or

accused persons are protected, that detainees are not ill-treated and that any confession obtained using impermissible methods is excluded.

³⁵⁰ Article 10(1) of the ICCPR demands that states treat detainees "with humanity and with respect for the inherent dignity of the human person." The accordance of such respect has various components, likely including the prohibition on torture and ill-treatment, as well as adequate due process.

³⁵¹ Two other requirements safeguard the right to treatment with humanity: the right to be presumed innocent (required by Article 14(2); ICCPR General Comment 13 sets the standard of proof at "guilty beyond a reasonable doubt"), and the interconnected right of accused persons to be kept separated from those convicted (Article 10(2)(a)).

³⁵² Article 32 of the Constitution emphasizes that "[n]o one may be arrested except by the order and in accordance with the procedure laid down by law."

³⁵³ Article 32 of the Constitution provides that "[i]n case of arrest, charges with the reasons for accusation must, without delay, be communicated and explained to the accused in writing, and a provisional dossier must be forwarded to the competent judicial authorities within a maximum of twenty-four hours so that the preliminaries to the trial can be completed as swiftly as possible." The article also specifies that violators of the above provisions are "liable to punishment in accordance with the law." In addition, Articles 24, 129, and 192 of Iran's Criminal Code of Procedure oblige the authorities to inform the accused of the charges and the reasons for such charges. Qanun-i Ay'in-i Dadrisiyih Dadgahhayih Umumi va Inqilab dar Umur-i Kayfari [Criminal Procedure Code for Public and Revolutionary Courts] (1379) [2001], arts. 24, 129, 192 (Iran), *available (in Persian) at* http://hoghoogh.online.fr/article.php?id_article=67 (last visited Feb. 23, 2009) [hereinafter Criminal Code of Procedure].

³⁵⁴ In addition, Article 575 of the Iran Penal Code provides that "judicial officials or other officers who, contrary to the law, take a person into custody, initiate criminal prosecutions or convict and sentence a person, are liable to a punishment of permanent dismissal from their judicial post and five years ban of serving in governmental positions."

³⁵⁵ Article 37 of the Constitution provides that defendants must be presumed innocent until their guilt has been established by a competent court.

³⁵⁶ Article 38 of the Constitution provides that "[a]ll forms of torture for the purpose of extracting confession[s] or acquiring information" are prohibited, as is "compulsion of individuals to testify, confess, or take an oath." It also states that "any testimony, confession, or oath obtained under duress is devoid of value and credence." In addition, Article 129 of the Criminal Code of Procedure provides that an investigating judge shall not resort to compulsion and duress when interrogating a defendant.

³⁵⁷ Criminal Code of Procedure, *supra* note 353, arts. 38, 42.

³⁵⁸ The requirement to state the nature and cause of the allegation goes beyond mere statement of the charge. *See id.* arts. 37-39 (requiring the Judiciary to act based on evidence, conform to the rule of law, and be impartial during the investigation phase); *see also id.* art. 32 (allowing temporary arrests and detentions of suspects only when circumstantial evidence indicates that a crime has been committed and certain conditions are satisfied).

³⁵⁹ Criminal Code of Procedure, *supra* note 353, art. 33.

³⁶⁰ *Id.* art. 37.

her.³⁶¹ Fereshteh Ghazi and Hanif Mazrui were summoned to a prosecutor's office under the pretext of being asked some questions and then held for several weeks.³⁶² Shahram Rafizadeh and Omid Memarian were arrested at their work places without warrants or even explanations. Rafizadeh was coaxed out for what was to be a short meeting and then forced into a car.³⁶³ When a co-worker tried to write down the license plate number of the car, an officer confiscated his pad and told him that this was a legal arrest. Mojtaba Saminejad was held for 88 days, released and charged only after his second arrest a few days later.³⁶⁴

When law enforcement agents produced arrest warrants, they did so in a substantively and/or procedurally defective manner. For example, Roozbeh Mirebrahimi was presented with a folded piece of scrap paper with illegible print.³⁶⁵ Kianoosh Sanjari was presented with a warrant accusing him of threatening national security and signed by Prosecutor Mortazavi, but he was never given a copy and was only allowed to see and read it once.³⁶⁶

Moreover, cyber-journalists and bloggers who were arrested were not afforded the presumption of innocence required by Article 37 of the Constitution of Iran and Article 14(2) of the ICCPR. The accused has the right to be presumed innocent until the evidence proves the charges beyond a reasonable doubt.³⁶⁷ Yet, witness interviews conducted by IHRDC, news reports and accounts by the bloggers and journalists testifying in front of the Presidential Commission indicate that interrogators presumed detainees were guilty of charges and only sought to force confessions.³⁶⁸

The bloggers and journalists were not provided with prompt access to legal assistance of their own choosing as required under Article 14(3) of the ICCPR. At times, this was done by holding suspects without charge and claiming that until they were officially charged, they did not have rights to counsel. For example, six weeks after Sina Motalebi's arrest, his attorney, Shirzad Haydari Shahbaz, presented Judge Zafarghandi a signed representation form. The Judge rejected it on the grounds that because Motalebi's case was still in the preliminary stages of investigation, no attorney could take his case.³⁶⁹ Fereshteh Ghazi's first opportunity to hire a lawyer was after she posted bail—forty days after her arrest.³⁷⁰

In violation of international law, Article 32 of the Iran Constitution and Article 24 and 129 of the CCP, many of the journalists and bloggers were not told why they were arrested.³⁷¹ None were informed at the time of arrest, and many were held for days, sometimes weeks, without learning of the charges against them. The interrogators demanded confessions to a list of crimes; however, these demands were not formal charges, and the detainees were left with little understanding of the official accusations they faced.³⁷²

³⁶¹ ICCPR, *supra* note 24, art. 9(2); IRANIAN CONST., *supra* note 48, art. 32.

³⁶² Mazrui letter, *supra* note 252.

³⁶³ Witness Statement of Rafizadeh, *supra* note 240, ¶¶ 24-27.

³⁶⁴ See *Price Paid for Blogging*, *supra* note 90. Seifzadeh posting, *supra* note 299.

³⁶⁵ Interview with Roozbeh Mirebrahimi, *supra* note 75.

³⁶⁶ Interview with Kianoosh Sanjari, *supra* note 304.

³⁶⁷ General Comment No. 13: Equality before the courts and the right to a fair and public hearing by an independent court established by law (Art. 14) ¶ 7 (1984).

³⁶⁸ Interview with Roozbeh Mirebrahimi, *supra* note 75.

³⁶⁹ *I Do Not Wish to Speak*, *supra* note 236.

³⁷⁰ *Short Legal News: Seifzadeh Has Accepted to Represent Fereshteh Ghazi*, *supra* note 279.

³⁷¹ See generally Witness Statement of Sigarchi, *supra* note 59; Interview with Kianoosh Sanjari, *supra* note 304; Interview with Roozbeh Mirebrahimi, *supra* note 75.

³⁷² *Id.*

5. Conclusion

Despite the Islamic Republic's continual efforts to increase the costs, Iranians have enthusiastically adopted the Internet. They continue to navigate through the maze of laws restricting expression. They find ways around the regime's efforts to alter and control the Web through the use of proxy servers to gain access to blocked sites and anonymizer proxy tools to avoid being traced online. They even sit in prison and undergo interrogations. Many have paid the heavy price of leaving their homeland in order to express themselves freely. Some have paid with their lives.

However, the regime's severe restrictions on expression impoverish public dialogue and rob Iranian society of the capacity to develop legitimate public opinion. In its very first session in 1946, the UN General Assembly identified freedom of expression as "the touchstone of all the freedoms to which the United Nations is consecrated," because "understanding and cooperation among nations are impossible without an alert and sound world opinion which, in turn, is wholly dependant on freedom of information."³⁷³

The *Majlis* should repeal the most repressive articles of the Press Law and the Islamic Penal Code including Article 609, which makes it a crime to insult almost any government employee, and amend other articles and laws to make them less vague and less susceptible to abusive interpretation. The ministries in charge of restricting access to the Internet through filtration or blocking should clearly define what triggers censorship, and only engage in filtration or blocking of websites and blogs when it is necessary under Article 19, paragraph 3 of the ICCPR. The Judiciary should refrain from expansively interpreting laws limiting freedom of expression. Finally, it should prosecute public officials under Article 570 of the Penal Code for abusing the rights of the people guaranteed under Iran's Constitution, including the right to see a warrant when arrested, the right to counsel, and the right to be free from torture.³⁷⁴

³⁷³ G.A. Res. 59(I), (Dec. 19, 1946).

³⁷⁴ Article 578 of the Islamic Penal Code of 1996 provides that "if any of the juridical or non-juridical authorities or employees inflicts corporal harm and torment upon an accused in forcing him to confess," he shall, in addition to being subject to *qisas* (retribution) or payment of blood money, be sentenced to a term of six months to three years in prison. In addition, superiors who order such acts are clearly liable: "When the accused dies as a result of corporal harm and torment, the perpetrator shall be subject to the penalty for homicide; the person ordering the corporal harm and torment shall be punished for ordering an act of homicide" and "[i]f somebody orders in this respect, only the person who has issued the order shall be subject to the said imprisonment."

Methodology

The IHRDC gathered information for this report from the following sources:

- *Testimony of victims and witnesses.* These include witness statements taken by IHRDC attorneys from former cyber-journalist and bloggers.
- *Government documents.* These include recorded public statements by state officials, statements released by Iranian government agencies, and published legal instruments.
- *Documents issued by non-governmental organizations.* These include interviews, reports and press releases written by organizations such as Amnesty International and Reporters Without Borders.
- *Academic articles.* These include the works of historians and political scientists who have written on Iran.
- *Media reporting.* These include articles and reports by Iranian and other mass media outlets, as well as blog entries by Iranian bloggers.

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, people, organizations, etc. originally written in Farsi have been transliterated using the system of the International Journal of Middle Eastern Studies (IJMES), available at http://assets.cambridge.org/MES/mes_ifc.pdf. Under the IJMES system, names of places with an accepted English spelling and names of prominent cultural or political figures may be spelled according to the English norm.

Abbreviations

ASP.....	Access Service Providers
CAT.....	Convention against Torture
CCDUS.....	Committee in Charge of Determining Unauthorized Sites
CCP.....	Criminal Code of Procedure
DCL.....	Data Communication Company of Iran
HRC.....	Human Rights Committee
ICCPR.....	International Covenant on Civil and Political Rights
IRGC.....	Islamic Revolutionary Guard Corps
IRNA.....	Islamic Republic News Agency
ISP.....	Internet Service Provider
ISNA.....	Iranian Student News Agency
ITNA.....	Information Technology News Agency
MCIG.....	Ministry of Culture and Islamic Guidance
ONI.....	OpenNet Initiative
PIA.....	Parallel Intelligence Apparatus
PSB.....	Press Supervisory Board
RFI.....	Radio France International
RWB.....	Reporters Without Borders
SCCR.....	Supreme Council of Cultural Revolution
SNSC.....	Supreme National Security Council

Ctrl+Alt+Delete: Iran's Response to the Internet

Appendices

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Appendix 1

Letter from Rajab Ali Mazrui, Head of the Journalist Union of Iran, to Mohammad Khatami, President of the Islamic Republic of Iran (DECEMBER 12, 2004)

(Followed by Translation)

«اگر نبود انتشار نامه‌هایی منسوب به روزنامه‌نگاران بازداشتی مرتبط با پروژه برخورد با سایت‌های اینترنتی از سوی خبرگزاری قوه قضاییه، انگیزه انتشار عمومی این نامه را نمی‌یافتیم اما گرد و غباری را که دست‌اندرکاران این پروژه از طریق انتشار این ندامت‌نامه‌ها خواستند بر اعمال غیرقانونی، ضداخلاقی و ظالمانه خود بکشند مرا وادار به انتشار این نامه کرد. امیدواریم همچنان که دادستانی تهران برخی مطبوعات را به چاپ و انتشار آن نامه‌ها اجبار کرد اجازه چاپ و انتشار نامه بنده را بدهد و به سانسور متوسل نشود تا «طالبان حقیقت و دوستداران عدالت» بتوانند در پس گرد و غبارها به واقعیت آنچه بر سر بازداشت‌شدگان مرتبط با سایت‌های اینترنتی آمده، دست یابند و اگر روزگاری در این ملک دستگاه عدالتی به کار افتاد، با رسیدگی به آنچه گزارش کرده‌ام عدالت را جاری سازد. هر چند بازداشتی‌های مورد اشاره با سپردن وثیقه آزادند و در انتظار محاکمه و حکم دادگاه! و طبعاً هر آنچه می‌گویند و می‌نویسند را با ضربی خاص باید تحلیل و باور کرد، اما فردایی هم خواهد بود که حقایق عریان خواهد شد، و نمی‌دانم آنانی که دایم دم از گفتمان عدالت می‌زنند چرا نسبت به ظلم‌هایی این چنین آشکار در حق شهروندان بی‌پناه دم فروبسته‌اند و نظاره‌گرند! والسلام.

رجبعلی مزروعی ۸۳/۹/۲۱»

جناب آقای حجت‌الاسلام والمسلمین آقای خاتمی ریاست محترم جمهوری اسلامی ایران

با سلام و تجدید ارادت

پیرو نامه‌های مورخ ۸۳/۶/۱۴ و ۸۳/۸/۵ بار دیگر مصدع اوقات می‌شوم تا گزارشی در رابطه با آزادی حنیف و دیگر افراد بازداشتی مرتبط با سایت‌های اینترنتی خدمت جنابعالی بدهم تا در جریان قرار گیرید که بر اینها چه گذشته است؟ و پیگیران در پی چه بوده‌اند؟ و چه به دست آورده‌اند؟ و...

حدود ساعت ۶/۵ بعدازظهر روز سه‌شنبه ۸۳/۸/۱۹ فردی از طرف دادسرا با منزل ما تماس گرفته و اعلام می‌کند که فردا ساعت ۹ صبح با سند ملکی برای آزادی حنیف به دادسرای ناحیه ۹ فرودگاه مراجعه کنید. اینجانب ساعت ۹ روز چهارشنبه ۸۳/۸/۲۰ به دادسرای نامبرده مراجعه کردم. در ابتدا مسؤولان دادسرا از موضوع اظهار بی‌اطلاعی کردند اما بنده و خانواده قریشی را به انتظار دعوت کردند و بالاخره پس از یک ساعت و نیم انتظار اعلام کردند که می‌توانید درخواست سپردن وثیقه را بنویسید. در این هنگام آقای درایتی نیز به ما ملحق شدند. هر یک از ما درخواست جداگانه‌ای برای سپردن وثیقه نوشتیم و سرپرست دادسرا با آن موافقت کرد. مراحل اداری سپردن وثیقه تا ظهر روز بعد طول کشید و به ما اعلام شد که این سه نفر (حنیف مزروعی،

مهدی درایتی و مسعود قریشی) امروز آزاد می‌شوند. در مقابل پرسش اینجانب که برای تحویل گرفتن آنها به کجا مراجعه کنیم گفته شد که لازم نیست به جایی مراجعه کنید آنها خودشان می‌آیند. از نکات جالب توجه این بود که در طی مراحل اداری برای سپردن وثیقه معلوم شد که در هیچیک از دفاتر دادسرا ناحیه ۹ تهران اسمی از این افراد به عنوان بازداشتی یا زندانی ثبت نشده و کلاسه پرونده‌ای برای آنها وجود نداشت و تنها بر اساس درخواست هر یک از ما و موافقت سرپرست دادسرا اقدام انجام گرفت.

حدود ساعت ۸ بعدازظهر و در حالی که چند ساعت انتظار سخت کشیدیم و خانواده تقریباً از آزادی حنیف ناامید شده بودند، حنیف با تلفن خبر آزادی خود را داد و گفت که از کلانتری میدان نیلوفر (همانجایی که او را بازداشت کردند) زنگ می‌زند و با تاکسی می‌آید. پس از آمدن تعریف کرد که ما هم دیگر از آزادی مایوس شده بودیم اما ساعت ۷ به ما اعلام کردند که وسایل خود را برداریم و برای آزادی همراه آنها شویم. سه نفر ما را با چشم‌بند در یک ماشین هاپس قرار دادند و حدود یک ساعت ما را در خیابان‌های تهران چرخاندند.

حدود ساعت ۸ بود که در مقابل کلانتری میدان نیلوفر ماشین متوقف شد و به من گفته شد چشم‌بند را بردار و پیاده شو. در موقع خداحافظی از درایتی و قریشی چون می‌دانستم آنها پولی به همراه ندارند به هر یک مبلغ ۵ هزار تومان برای کرایه تاکسی دادم و پیاده شدم. بلافاصله به شما تلفن کردم و با تاکسی آمدم. بعداً معلوم شد که آن دو نفر را با همین شیوه در مقابل اداره اماکن خیابان مطهری پیاده کرده‌اند و چون خانواده قریشی از ساعت ۲ بعدازظهر برپایه حس غریزی در آنجا انتظار فرزندشان را می‌کشیده‌اند او و درایتی را در آنجا درمی‌یابند و به منزل می‌برند. متأسفانه شیوه برخورد پیگیران این پرونده در آزادی افراد نیز اینگونه بود!

خلاصه‌ای از آنچه حنیف در مورد بازجویی‌ها و شرایط زندان گفته به این شرح است:

بلافاصله پس از ورود به زندان بازجویی از او با چشم‌بند و رو به دیوار آغاز می‌شود. اولین سؤال این بوده که کلیه مفاسد اخلاقی‌ات را بنویس. در مقابل این سؤال حنیف می‌پرسد که اتهام من چیست؟ و بازجو در مقابل تشریح می‌زند که به این سؤال جواب بده به آن هم می‌رسیم. وقتی حنیف

پاسخ می‌دهد که مفاسد اخلاقی ندارم. بازجو شروع به کتک زدن او می‌کند و باز سؤالات مشابهی را مطرح می‌کند و سرانجام چون این مسیر به جایی نمی‌رسد بازجو شروع می‌کند به طرح این موضوع که بر اساس اقرار درایتی شما مدیر فنی سایت رویداد بوده‌ای و در این باره باید توضیح بدهی. حنیف با نفی این موضوع به کار در روزنامه یاس نو و مسؤولیت سایت آن اشاره می‌کند و

در همین رابطه توضیح می‌دهد که گهگاه که سایت رویداد دچار مشکل می‌شد از طریق تلفن به من خبر می‌دادند و من نیز از طریق تماس با آقای درایتی رفع مشکل می‌کردم. پس از سه ساعت بازجویی تمام می‌شود. اما نیم ساعت بعد دوباره بازجویی از طریق مواجهه حنیف با درایتی دنبال می‌شود که حدوداً نیم ساعت طول می‌کشد. پس از این بازجویی حنیف را به سلول می‌برند و شب آقای مهدی‌پور جانشین دادسرای ناحیه ۹ تهران برای تفهیم اتهام او را می‌خواهد و به او اتهام «اقدام علیه امنیت ملی از طریق سایت رویداد» را برپایه اقرار درایتی تفهیم می‌کند و حکم قرار بازداشت موقت را به او ابلاغ می‌کند که حنیف بدون اعتراض آن را امضا می‌کند. پس از این تقریباً تا پنج روز به طور مکرر مورد بازجویی در مورد مفاسد اخلاقی، روابط نامشروع و ... قرار می‌گیرد و در این مسیر تا خصوصی‌ترین مسائل خانوادگی مورد پرسش بازجو بوده است. در روزهای بعدی که چشم‌بند و رو به دیوار بودن برداشته شده و مواجهه رویاروی بین حنیف و بازجو صورت می‌گیرد عمده سؤالات در مورد مسائل سیاسی (افراد سیاسی، روزنامه‌ها، جبهه مشارکت و سازمان مجاهدین انقلاب اسلامی) بوده است و از حنیف می‌خواهند که راجع به برخی افراد تک‌نویسی کند. در مورد اینجانب نیز از او می‌خواهند هر آنچه را می‌داند بنویسد.

از اینکه در خانه چه می‌کنم، چه می‌گویم، چه می‌خوانم، با کی‌ها ملاقات می‌کنم تا فعالیت‌های بیرون از خانه در انجمن صنفی روزنامه‌نگاران، روزنامه‌ها، جبهه مشارکت، ... ارتباطاتم با آقای خاتمی، موسوی خوئینی‌ها، ... و بالاخره چون در همه این اقرار مستمسکی برای آویزان شدن پیدا نمی‌کنند دوباره به فعالیت‌ها و نوشته‌های حنیف در روزنامه‌ها برمی‌گردند و سرانجام نوشته‌ای از او در روزنامه یاس نو دستمایه اتهامش می‌شود و آقای مهدی‌پور پس از ۴۷ روز و این بار در دادسرا، که هشت نفر از افراد را به آنجا برده بودند، دو اتهام «اقدام علیه امنیت ملی نظام مقدس جمهوری اسلامی از طریق معاونت در مدیریت سایت غیرقانونی رویداد» و «نشر اکاذیب به قصد تشویش اذهان عمومی از طریق انتشار یادداشت‌هایی در روزنامه‌ها» را به حنیف تفهیم می‌کند و از او می‌خواهد که برای محاکمه در دادگاه حداکثر ظرف یک هفته آماده شود و دفاعیه خود را عرضه کند. پس از این تفهیم اتهام، هشت نفر بازداشتی برای بازگرداندن به زندان سوار ماشین هائیس می‌کنند با چشمان بسته، اما فردی یک گاز اشک‌آور به داخل ماشین می‌اندازد و در را می‌بندد و

اینجا شروع به سرفه و سروصدا می‌کنند که پس از لحظاتی در باز می‌شود و اینها از آن وضعیت رقت بار نجات می‌یابند و این صحنه را افراد حاضر در آنجا می‌بینند و مورد اعتراض قرار می‌دهند. پس از اینکه اعلام می‌شود افراد خود را برای دادگاه آماده کنند دیگر تقریباً کاری با آنها نداشته‌اند و در سلول بوده‌اند. حنیف دفاعیه خود را ارائه می‌کند که مورد قبول بازجو قرار

نمی‌گیرد و گفته می‌شود که مواردی باید حذف و جنبه افشاگرانه آن اضافه شود و سرانجام نیز ماجرا به آزادی به قید وثیقه ختم می‌شود.

از ۶۶ روزی که حنیف بازداشت بوده، ۵۹ روز آن را در یک سلول انفرادی ۲*۱/۵ متر به سر برده و به جز در مواقع بازجویی، در شبانه‌روز فقط ۳ بار آن هم به مدت ۳ دقیقه او را برای دستشویی از سلول خارج می‌کرده‌اند. در ایام بازجویی بارها مورد ضرب و شتم واقع شده و شدیداً تحت فشار بوده است. بر اساس آنچه دریافتی فرد بازجو شخصی به نام کشاورز (تقریباً کوتاه قد، حدود ۵۰ الی ۶۰ ساله با ریش‌های جو گندمی و نسبتاً چاق) بوده است. وضعیت غذا و بهداشت زندان در حد متوسط بوده و به جز افراد بازداشتی مرتبط با سایت‌های اینترنتی افراد دیگر را نیز در آنجا بازداشت می‌کرده‌اند. مدیریت زندان با نیروی انتظامی بوده است.

البته همانگونه که در نامه قبلی متذکر شدم، مسئولان قوه قضاییه به هیچ وجه حاضر به اعلام محل این زندان نشدند و بر پایه قرائن و شواهد یک زندان خارج از مدیریت سازمان زندان‌ها و غیرقانونی است، و البته حنیف برپایه شواهدی که دارد محل دقیق زندان را مشخص کرد.

آنچه بر سر حنیف آورده‌اند کم و بیش بر سر دیگر افراد بازداشتی مرتبط با این موضوع آورده‌اند. ۱۳ نفری که تاکنون آزاد کرده‌اند (به قید وثیقه) تقریباً مسأله دندان‌گیری برای طرح در دادگاه نداشته‌اند، اما برای هشت نفر باقی مانده ظاهراً در تدارک یک اتهام اخلاقی هستند تا از این طریق سرو ته این پرونده را بهم آورند! و البته خدا باید به داد این افراد برسد. آنچه در جریان این

برخوردهای غیرقانونی و ظالمانه انجام گرفته جز «سیاست مرعوب‌سازی» و «عملیات ایدایی» نامی دیگر نمی‌توان بر آن نهاد و نمی‌دانم این آقایانی که شب و روز از گفتمان عدالت دم می‌زنند و ادعای دینداری‌شان گوش فلک را کر کرده است چگونه می‌خواهند در روز قیامت پاسخگوی این اعمال ظالمانه و ضدانسانی‌شان باشند؟ فعلاً در دنیا که خود را پاسخگوی هیچکس و هیچ‌جا نمی‌دانند. قطعاً اینجانب نامه‌ای به رهبری می‌نویسم و در آن به شرح این واقعه در ذیل حکومت ایشان خواهم پرداخت.

حسن ختام هم پیوست کپی دستنوشته‌ای است که از حنیف خواسته‌اند در یک مصاحبه تلویزیونی اینها را بگویند تا آزاد شود اما او زیر بار نرفته است و آنها هم یادشان رفته که این دستورالعمل را از او بازگیرند!

خدا آخر و عاقبت همه ما را ختم به خیر گرداند

I would not have the will or determination to openly publish this letter if the Judiciary's propaganda arm had not published letters allegedly written by imprisoned journalists in connection with the project to crack down on Internet sites. But the confusion caused by those who had a hand in this project and attempted to cover up their illegal, immoral and oppressive activities via the publishing of these confession letters left me no choice but to publish this letter. I hope that the Public Prosecutor's Office of Tehran, which forced several newspapers to publish these confession letters, will also allow the publication of my letter without subjecting it to censorship. So that those who "seek truth and love justice" are exposed to an accurate portrayal of what happened to those who were detained in connection with the Internet sites project (despite all the smoke and mirrors). And so that if one day a system of justice is established in Iran, it can investigate what I am reporting and execute justice accordingly. Despite the fact that the sayings and writings of the aforementioned detainees who have been released on bail and are awaiting trial and sentencing by the courts must be analyzed and interpreted accordingly, we must not forget that there will be a tomorrow and the truth shall be revealed. I just cannot understand how those who continually speak of justice have simply stood by and witnessed the gross miscarriage of justice that has taken place in connection with these vulnerable citizens! May peace be upon you...

Rajabali Mazru'i, 12/11/04

Dear Hojjatolislam-val-muslimin Khatami, Respected President of the Islamic Republic of Iran

Greetings

Pursuant to my letters dated 9/4/04 and 10/26/04, once again I am inconveniencing you to provide you with information on the release of Hanif and the others who were arrested in connection with the Internet sites [case] so that you are informed on what happened to them. What were the authorities after? What did they gain?

Around 6:30 in the afternoon on Tuesday, October 26, 2004, someone from the prosecutor's office called us at home and announced that at 9 a.m. tomorrow morning we should go to of the Prosecutor's Office (District 9 – Airport) in order to post bail for Hanif's release. At 9 a.m. on Wednesday, October 27, 2004, I went to the aforementioned prosecutor's office. At first the prosecutorial authorities said that they did not know anything about the matter but invite me and Qurayshi's family to wait. Finally, after an hour and a half of waiting, they announced that we could request to post bail. At this time Mr. Derayati also joined us. Each one of us wrote a separate request for posting bail and the commanding officer accepted our requests. The administrative paperwork for posting bail took until noon the next day, at which point we were informed that Hanif Mazrui, Mehdi Derayati and Massoud Qurayshi would be released on that day. In response to my question regarding where we should go to receive them, we were informed that there was no need for us to go anywhere; they would join us on their own.

It is interesting to note that during the time it took us to post bail, it became apparent that none of the offices in the District 9 of the Prosecutor's Office had registered the names of these individuals as either arrestees or detainees. No case files existed for any of them; action was taken only in response to our individual requests and the commanding officer's cooperation.

Around 8 p.m., after having endured several long hours of waiting (and after the family had essentially lost hope that Hanif would be released), Hanif called us and informed us of his release. He told us that he was calling from the police station in *Maydan-i Nilufar* (the same place where he was arrested) and that he would take a taxi to join us. After he arrived, he told us that they had also lost hope regarding their release, but that around 7 p.m. [the authorities] had told [them] to gather their belongings so they could be released. He said they blindfolded the three of them, placed them in a [minivan] and drove them around the streets of Tehran for about an hour.

It was around 8 p.m. when the car finally stopped in front of *Maydan-i Nilufar* and they ordered [him] to take off his blindfold and get out. [He] knew that Derayati and Qurayshi had no money with them, so as

[he] was leaving [he] handed each of them 5,000 *toman* so they could pay for taxis. Then [he] immediately called [us] and drove over with the taxi. Later [he] realized that they had used the same methods with the other two. They were dropped off in front of the *Amaken* office on Motahari Street and taken home by Qurayshi's family (who had been anxiously anticipating and waiting for the release of their son). Unfortunately, this was the way they were treated by the authorities – even during their release!

Below is a description provided by Hanif regarding the interrogations and conditions of imprisonment:

The interrogations began as soon as he entered the prison. He was blindfolded and forced to face the wall. During the first question, he was asked to provide a list of his immoral acts. In response, Hanif requested information regarding his charge. The interrogator abruptly ordered him to answer the question before [there was any discussion regarding the charges]. Hanif answered that he had not engaged in any immoral acts, at which point the interrogator beat him and repeated the same question. Once he realized that he wasn't getting anywhere, the interrogator indicated that according to Derayati's confessions [Hanif] was responsible for administering the *Rooydad* site and that [he] should defend his actions. [Hanif] denied this and indicated that he actually worked for *Yas-i No* newspaper and was responsible for running its website. He also mentioned that from time to time the *Rooydad* site experienced [technical] problems and they would contact him by telephone, at which point he would contact Mr. Derayati and they would work to solve the problem. The interrogation lasted three hours. But half an hour later the interrogation continues and again focuses on Derayati's links to Hanif. This lasts another half an hour. After the interrogation they take Hanif to his cell. In the evening Mr. Mehdipour, the successor to the District 9 (Airport) Prosecutor's Office, summons [Hanif] and charges him with "attempts against the national security via the *Rooydad* site." This charge was based on the confessions of Mr. Derayati. Hanif was presented with a temporary detention order, which he signed without objection. During the next five days he was repeatedly interrogated regarding immoral acts, illicit relations, etc., and was asked questions delving into the most private details of his family life. After that he was no longer blindfolded and forced to face the wall. He was directly confronted with his interrogator and the questions mainly focused on political issues (i.e., politicians, newspapers, the Islamic Iran Participation Front, the Islamic Republic Mujahedin Organization, etc.). They wanted Hanif to write down information regarding certain individuals. They also asked him to write down whatever he knew about me.

[They asked Hanif to provide all sorts of information] ranging from what I do at home, what I say, what I read and whom I meet – to [describing] my activities outside the home with the Journalists Union, newspapers, and the Islamic Participation Front. [They also asked about] my relations with Mr. Khatami, Musavi-Khu'iniha, etc. Because they were unable to find anything noteworthy, they returned to [questioning regarding] Hanif's activities and writings for newspapers. Ultimately, one of his writings for *Yas-i No* became the basis of his charges. After 47 days, Mr. Mehdipour charged Hanif (along with eight others who had been taken to the prosecutor's office) with attempts against the national security of the Islamic Republic via the administration and management of the unlawful *Rooydad* website," and "the publication of lies in order to disturb the public mind in connection with the printing of articles in newspapers." Hanif was instructed to prepare his defense and explain his actions in court within one week. After the indictment the eight detainees were boarded onto a [minibus], blindfolded and returned to prison. [But right before heading out] someone sprayed the car with tear gas and closed the door. [Hanif and the others] began to cough and make noise [inside the car]. After a while the door was opened and they [were allowed to escape]. The incident was witnessed by several individuals who issued complaints.

The [detainees] were essentially left alone in their cells after being ordered to prepare themselves for trial. Hanif presented his defense, which was rejected by the interrogator (who told him to eliminate certain things and elaborate on others). Finally the situation came to an end with his release pursuant to our posting bail.

Hanif spent 59 of his 66 days of detention in a solitary cell which measured 2 by 1.5 meters. Aside from his interrogation sessions, he was only allowed to exit his cell on three occasions (and for merely 3 minutes) in order to go to the bathroom. During interrogations he was repeatedly subject to beatings and [psychological] pressure. From what [we] could gather, the interrogator was named “Keshavarz.” He was short, about 50 to 60 years old, had a brown-colored beard and was relatively large. Food and sanitary conditions inside the prison were average. There were others detained there (besides those arrested in connection with the Internet sites). The prison was administered by the Law Enforcement Forces.

Of course as I mentioned in my previous letter, Judiciary officials failed to reveal the location of this detention facility. In light of the observance and evidence, this facility operated outside the jurisdiction of the State Prisons Organization and was illegal. Hanif was able to come up with the exact location of the facility pursuant to the information he gathered [while in detention].

Many of the individuals who were arrested in connection with this issue endured the same consequences as those suffered by Hanif. The 13 individuals who have so far been released on bail didn’t have a serious issue to be taken to court over, but it appears that they are preparing moral charges for the remaining 8 so they can put an end to this case! God save these individuals. These illegal and oppressive actions are nothing more than the “politics of terror” and harassment. How will these individuals, who constantly speak of justice and profess their piety *ad nauseum*, answer for their cruel and inhumane actions on Judgment Day? It is clear that at this point, they do not feel as though they have to answer to anyone or anything. I intend to draft a letter to the Supreme Leader shortly, in which I shall detail the reality that exists under his rule.

I have also enclosed a copy of a handwritten note which they wanted Hanif to read during a televised interview before his release. He resisted, and they forgot to retrieve the [confession letter] from him!

May God end all our affairs in a blessed manner ...

Appendix 2

Yaddasht-i Ruz: Khanihyih Ankabut [Daily Note:
The Spider House], KAYHAN, 8/7/1383 [Sept. 29,
2004]

(Followed by Translation)

خانه عنکبوت

یادداشت روز



در عرف روزنامه نگاری، ستون یادداشت روز یا سرمقاله به تفسیر و تحلیل درباره یکی از اصلی ترین مسائل روز اختصاص داده می شود. اما به استناد به یک یا چند خبر، نوشته می شود. اما یادداشت امروز ما، مجموعه ای از چند خبر است بی آنکه با تحلیل و تفسیر چندانی همراه باشد. در این یادداشت، نشانه ها و مشخصات سنتی از یک شبکه فعال در عرصه سیاسی، فرهنگی و اجتماعی کشور فهرست شده است. این فهرست، اگرچه طولانی است و در نوشته پیش روی فقط به چند نمونه از آن اشاره شده ولی همین مختصر به اندازه کافی گویاست. در خانه عنکبوت، اگر کسی است، با حرف بیست است.

۱- این شبکه، هویت آمریکایی، و شناسنامه ایرانی، دارد مرکز اصلی کنترل و هدایت آن در امریکاست و چند مرکز میانی در کشورهای اروپایی، و طبقه برقراری ارتباط میان مرکز اصلی با اعضای شبکه در داخل کشور را بر عهده دارند. مراکز میانی در شهرهای لندن، برلین، لاهه، بروکسل و پراگ مستقر هستند. هماهنگی میان مراکز اروپایی با مرکز اصلی از طریق مرکز پراگ صورت می گیرد که در محل ساختمان راديو فراد، در مرکز پراگ مستقر است. توضیح آنکه راديو فراد، نه فقط وابستگی خود به سازمان CIA، انکار نمی کند، بلکه بر تعلق این راديو به سازمان اطلاعاتی امریکا CIA تاکید هم می ورزد و این تاکید را برای اطمینان خاطر افرادی که به همکاری دعوت شده اند، ضروری می داند.

۲- بیشترین فعالیت تجاری این شبکه از طریق سایت های اینترنتی، روزنامه زنجیره ای، محفل های دو گروه افراطی مدعی اصلاحات و عواملی که در دولت دارند صورت می پذیرد. سایت امروز، با مرکزیت به ظاهر داخلی و سایت گویانوسوز NEWS.GOOVA که ابتدا، در بانک اطلاعاتی موسسه NIKE در امریکا ثبت شده و بعد از واقعه ۱۱ سپتامبر، محل آن به بروکسل منتقل گردیده است، دو سایت اطلاعاتی متعلق به این شبکه هستند. علاوه بر دو سایت اصلی مورد اشاره، چند سایت اینترنتی دیگر نیز در این شبکه فعالیت دارند و سایت فارسی می بی بی سی نیوز B.B.C. PERSIAN از یک سال قبل این شبکه را زیر نظر حمایت و تبلیغاتی خود گرفته است.

۳- اساسی جزو از همکاران ایرانی سایت های گویانوسوز و امروز، که در خارج از کشور حضور دارند به شرح زیر است. راديو فراد (مقیم امریکا) سابق احمدی (مقیم امریکا)، احمد فرحان بیان (مقیم بروکسل)، حمیدرضا (مقیم پاریس)، حسین شادمان (مقیم برنو)، علیرضا نوروزی (مقیم لندن)، حمید محمدی (مقیم نیویورک)، سنا مطلسی (مقیم لاهه و بروکسل)، حمید بزگر (مقیم لندن)، ابراهیم نقوی (مقیم پاریس، برلین و مسعود بیهود (مقیم لندن) و...
برخی از افراد فوق الذکر بستن از این، در داخل کشور با روزنامه های زنجیره ای همکاری نزدیک و مستمر داشته اند و شماری از آنان هم در حالی که مقیم خارج از کشور بودند، برای روزنامه های زنجیره ای، مقاله می فرستادند که با نام و مشخصات خود آنها و با نام های مستعار به چاپ می رسید.

۴- تا زمان اختیاری تعدادی از اعضای این شبکه که هم اکنون به طومرمان روزنامه های زنجیره ای و سایت های این شبکه همکاری فعالیت می کنند به شرح زیر است:

«بیگ»، «ف»، «فراد»، «ر»، «نیما»، «بهم»، «ف»، «زبلا»، «شادی»، «سی»، «امید»، «م»، «شهرام»، «ر»، «مغز»، «م»، «روزبه»، «م»، «جلال»، «ح»، «حنیف»، «م»، «مهدی»، «د»، «اکثر این افراد، جوانان جوانی نامی بوده و هستند که ابتدا از طریق عوامل این شبکه، مخصوصا عوامل شبکه مزبور در دو گروه افراطی مدعی اصلاحات به عنوان خبرنگار جذب روزنامه های زنجیره ای شده و سپس با ترغیبی ناچوارانه دانه ای نظیر آلودگی به فساد اخلاقی و تهیه فیلم از این صحنه ها، و یا وعده فریبناستی قرب الوقوع نظام و فول پست و مقام و یا تحصیل رایگان در کشورهای اروپایی و امریکا و... وادار به همکاری با این شبکه کننده اند.

۵- برخی از افراد شاخص این شبکه که در مراکز نظامی اطلاعاتی بوده و یا هستند عبارتند از: محمدعلی، «الف»، «عمیدی»، «سی»، «مطلسی»، «ت»، «بهرزاد»، «ن»، «مجنن»، «م»، «مصطفی»، «د»، «مسعود»، «ج» و...
این افراد، بعد از جذب اعضای جدید که عمدتا از طریق روزنامه های زنجیره ای صورت می پذیرد یا بر پایایی جلسات و توجیهی آنها را به شبکه وصل می کنند.

۶- اعضای جذب شده بعد از فعالیت در روزنامه های زنجیره ای، با کمک عوامل این شبکه در وزارت ارشاد، انجمن صنفی روزنامه نگاران، کانون نویسندگان و حمایت برخی از نفوذی های شبکه در سیستم اجرایی و... از جشنواره مطبوعات و جشنواره های هنری دیگر جایزه دریافت می کنند و یا به روش های دیگری به عنوان روزنامه نگار برجسته معرفی می شوند، سپس با کمک مراکز یاد شده به خارج از کشور اعزام گردیده و در اینجا با مشتمل کننده ترین لمن و قلم به لجن پرکنی

علیه نظام، مسئولان عالی رتبه و ارزش ها و مقدسات اسلامی و انقلابی منقول می شوند. که افراد زیر از جمله این نمونه ها هستند علی باستانی، جمشید بزگر، کاملیا تفریحی، فرید سعید رضوی قتیبه، نوشابه امیری، مهدی خلجی، نیما تمدن، کیوان حسینی، فرین عاصمی، حمید محمدی و...
۷- افرادی از این شبکه که در مدیریت های نظام نفوذ کرده اند، و با مسئولیت های نظیر نمایندگی مجلس، معاونت وزیر و... داشته و دارند، اعضای جدید شبکه را به عنوان خبرنگار، گزارشگر، محقق و... همراه با هیئت های رسمی به مسافرت های خارج از کشور می فرستند. اعزام به خارج یا دو هدف صورت می پذیرد. جاذبه های سفر خارجی و منظور تشویق و ترغیب افراد جذب شده، زمینه سازی برای نفوذ و حضور بعدی آنها به عنوان خبرنگار و گزارشگر در مراکز رسمی نظام و...
۸- شرکت هایی که به سایت ها و وبلاگ های این شبکه، سرویس می دهند، و سرویس های مورد نیاز این سایت ها و وبلاگ ها را تأمین می کنند، اگرچه شناسنامه ایرانی دارند در مراکز رسمی کشور ثبت شده اند ولی سایت ها و وبلاگ های این شبکه، عضویتی قابل کنترل و یا فیلترنگ نبوده و بستن، چراغ برای آنها، سرویس دهی آنها بسوزن از حوزه رسمی کشور (شرکت مختار) بوده است و این شرکت ها به طور غیر قانونی و پنهانی با برخی از مراکز ماهواره ای در اروپا و امریکا رابطه داشته و از سایت های ماهواره ای و خدمات آنها استفاده می کنند، بنابراین خطوط ارتباطی سایت ها و وبلاگ های این شبکه از دیدگاه NATO، رسمی کشور عبور نمی کنند که قابل کنترل و فیلترنگ باشد. به بیان دیگر، این شبکه بر خلاف قوانین جاری کشور، یک دایره مختاری خصوصی و جداگانه دارد که از سوی شبکه های ماهواره ای و مختاری امریکا و اروپا در اختیار آن قرار گرفته است.

نام اختیاری برخی از شرکت ها که به طور غیر قانونی و پنهانی از شبکه های خارجی برای تغذیه سایت های این شبکه عنکبوتی سرویس می گرفته اند به شرح زیر است: شرکت «ب»، شرکت «الف»، شرکت «پ»، «اف»، «مصطفی»، «د»، عضو شورای انفورماتیک و عضو سابق کمی ستگاه اجرایی و با تأسیس یکی از شرکت فوق الذکر، نیز مختاری سایت ها و وبلاگ های این شبکه عنکبوتی را تأمین می کرده است. «ج»، «فرزند یکی از اعضای انجمن صنفی روزنامه نگاران با القاب «ر» و «پ»، و «رایجی یکی از گروه های افراطی جهه موسوم به اصلاحات از افراد فعال در این شرکت ها بوده اند.

۹- مرکز کنترل و هدایت این شبکه در امریکا، بعد از دریافت گزارش اعضای داخلی شبکه از ایران، خط تبلیغاتی مورد نیاز خود را به صورت خبر، گزارش، تحلیل، مقاله... و... به سرپل های اروپایی و... و... از اینجا به رابطین اصلی شبکه در ایران منتقل می کند. این خط تبلیغاتی، مثلا فلان باد داشت یا گزارش- با اعضای یکی از اعضای دست چندم شبکه روی سایت های «امروز»، «گویانوسوز»، «پیک نت» و... می رود و یا در یکی از روزنامه های زنجیره ای چاپ می شود و سپس خبر گزاران ای خارجی و مقامات امریکایی، اروپایی و اسرائیلی با استناد به این اخبار و گزارش ها که ساخته و پرداخته خود آنها بوده است، تبلیغات گسترده ای را علیه نظام، اسلام و مسئولان عالی رتبه کشور تدارک می گیرند.

۱۰- شبکه یاد شده، از طریق وبلاگ ها و بیخ های اینترنتی، ابتدا تبلیغات جنسی جوانان را تحریک می کند و سپس برخی از اعضای داخلی شبکه، با افرادی که از این طریق آدمی جذب شده دارند، تماس گرفته و آنها را به مراکز فساد و خشونت و... معرفی می کند و...
۱۱- چند سال قبل، جناب آقای بونسی وزیر معترم اخلاعات، اعلام کرد که این وزارتخانه عوامل نفوذی در برخی از مطبوعات را شناسایی کرده است! و معلوم نیست که اگر آن اظهارات بود داشتند - است - که نمی تواند صحت نداشته باشد- چرا کپتین پر خردی با این شبکه صورت نپذیرفته و یا چه توجیهی جوانان مظلوم امروز بوم در چنگال این گرگ های درنده داشته اند؟!
۱۲- درباره این شبکه و اهداف و چگونگی فعالیت آن گذشتی های دیگری نیز هست که در آینده ای نزدیک با جزئیات بیشتر به آن خواهیم پرداخت.

۱۳- خانه عنکبوت، باتوجه به آیه چهل و یکم از سوره مبارکه عنکبوت به عنوان نام این شبکه انتخاب شده است، آنجا که می فرماید: «داستان آنی که خدا را فراموش کرده و غیر او را دوستی گرفته اند، شبیه خانه ای است که عنکبوت می سازد و حال آنکه سبب ترن این خانه، خانه عنکبوت است.
۱۴- و بالاخره... این روز ها، با سالروز میلاد مراد غایبمان حضرت بقیةالله اعظم ارواحنا تحت مقدسه القاد، همزمان گشت همه تلاش خود را بر این است تا با شناسایی، حذف و سرکشی تمام عناصر دشمن و با همکاری و مساعدت مردم و با همکاری و مساعدت مردم و با همکاری و مساعدت مردم...

حسین شریعتی در آرزوی...

اخبار کشور

ایران جزو ۳۰ کشور برتر تولید کننده علم است

ایران سالانه با ارائه ۳ هزار مقاله علمی جزو ۳۰ کشور برتر تولید کننده علم در جهان است. معاون فرهنگی وزیر علوم، حسن آغاز سال تحصیلی دانشجویان دانشگاه زنجان با اعلام این خبر گفت: با فراهم شدن امکانات تحرک علمی، ایران در رتبه یک جهش علمی قرار گرفته است. دکتر هادی خابگی افزود: برای تحقق رهنمود رهبر معظم انقلاب در زمینه حساسیت سرمایه انسانی و توسعه علمی و فناوری، تلاش می شود نامه های دانشجویی مناسب با نیاز کشور باشد.

گفت و شنود

گفت: بسیاری از سربازان نسلد و از ارزش فرا می کنند گفتیم: نظامیان امریکایی هم فردی و برخی سواستفاده می فرستند.
گفت: ولی حالا می دانند که آنها «فقی» به امریکا بر گردد.
گفت: در یکی از رستوران زرتشتی هر روز به اینجا رفته و پرویز صاحب رستور...
گفت: زرتشتی ریخت و بازو بعد از خوردن خارش شد ولی... در همین جا سرخس جانی های بود به او که با زرتشتی در مسیر از کوچه همین خط را بگیرد پرو...

رئیس مجلس: مهدویت و انتظار، اعتقاد به کرا

مجلس شورای اسلامی امروز تشکیل جلسه داد. در این جلسه چند طرح و لایحه از تصویب نمایندگان گذشت و همچنین سیوال از وزیر بهداشت مطرح شد.

در این جلسه رئیس مجلس طی سخنانی تأکید کرد اعتقاد به مهدویت، اعتقاد گرامت انسانی و پیروزی نهایی عدالت و حقیقت بر ظلم و دروغ است. گزارش ابن جلسه را می خوانید:
سخنران نماینده ششمین کتیم هیاتی مراد نماینده مردم شستر نختسین سخران جلسه بود. وی گفت امروز مین اسلامی حساس ترین شرایط را دارد که می توان به اهتمام عمر دولت فعلی و انتخابات ریاست جمهوری آینده شرایط حاکم بر مجلس، تعامل مجلس و دولت و چنانچه هر دو با هم انتظار مردم از حاکمیت و خصوصاً از مجلس غنم در کنار اتفاقات جهان و مشکلات همسایگان و مسائل فقهی NPT اشاره کرد. وی گفت نوبتت جفرافیهی سیاسی و نمط های بی گران و استراتژیک کشور از نظر خدادادی آن با نیروی انسانی متعادل متنوع و سرشار طبیعی و خدادادی آن با نیروی انسانی متعادل در ایجاد امید که باید با برنامه ریزی صحیح و با قانونمندی و تعامل با هدفگیر به جای پرداختن به تسکرات انتقام چوه و با استفاده از اصل شایسته سالاری و توسل به نخبگان و استفاده از پتانسیل های موجود سازگار جایگاه واقعی مین اسلامی را تهیه و با تکیه بر علم و صنعت می سازد تا خود را عملی سازد داشته باشد.
سخنران نماینده ششمین کتیم هیاتی مراد نماینده مردم شستر نختسین سخران بود. وی گفت امریکا و کشورهای اروپایی همه تلاش خود را بر این است داشته باشند که با موقبت جمهوری اسلامی در امر دستگیری و تسلط بر تکنولوژی های فناوری هسته ای گردند. هر چند که مسئولان بلندپایه نظام اعلام نمودند با توجه به استناد و مدارک موجود ما قصد بهره برداری...

مختلف به شخصیت ها و است و معنای آن است که تنها سخرانی در روزنامه ها، را در این جهان بر توتوب نجات و کشادگرفشی ها و دستمها، نماز جمعه ها حمله کرده و دست حرمت و مرتب و جرح افراد و شخصیت ها شکنند اشیا، و تحریک اماکن به زعم خود به دنبال دفاع از اسلام و انقلاب و ارزش های آن هستند.
موسی قربانی نماینده مردم قلانات آخرین سخنران بود. وی گفت امروز نباید از نظر دور داشت که مجلس دوره هفتم علاوه بر تصویب چند طرح مهم حداقل کاری که کرده است به خاطر بهره از طرح مسائل جنجالی، نطق ها و طرح ها قضایی همراه با ازمن در جامعه ایجاد کرده است که تگرانی آن به اضطراب هایی ناشی از اظهارات نمایندگان از بین رفته است. این فضا بخوبی از همان روزهای اول تشکیل مجلس در جمله ملموس بود که جای سرکشی قرار گرفت و وی گفت نمایندگی منتر باید همان حساسیت را که قبیل از (شش کتیمی آب و فاضلاب، سازمان آب و برق خراسان و سازمان آب استان خراسان) اجازه داده می شود در مناطق متنوع حل منطقی برای آن بیابند. باید شرب و بهداشت واحدهای...

شادمان، معلما، حقه التند، سد، سد، مصه ده، مجلس

Daily Note: The Spider House

In journalism, it is customary that the daily note or the editorial attempt to analyze and interpret one of the main issues of the day with reference to one or several news stories. Today's note, however, is a collection of a few news stories that is not accompanied by any interpretation or analysis. This note lists the documented specifications and characteristics of an active political, cultural and social network. Even though this list is long and the following note includes but a few examples, its brevity is sufficiently telling ... if only one person is in the house, one word is enough.¹

1 - This network has an American identity and an Iranian ID card. Its main center of command and control is in the United States. A few centers are located in Europe and act as middlemen. They are responsible for establishing contacts between the main center and members of the network inside Iran. These middlemen are located in cities such as London, Berlin, the Hague, Brussels and Prague. The coordination of activities between the European centers and the main center takes place via the *Radio Farda* building located in Prague. It must be noted that *Radio Farda* not only fails to deny its connection to the CIA, but in fact stresses its relationship in order to gain assurances from those who have been invited to collaborate [with the network].

2 - Most of the harmful activities of this network are carried out by Internet sites, reformist newspapers, gatherings by two allegedly "reformist" extremist groups and their agents in government. *Emrooz* (which is supposedly based inside Iran) and *Gooya News* (which was initially registered in the information bank of the NIKE institute in the United States and was moved to Brussels after the events of September 11) are the two main sites linked to this network. In addition to the aforementioned sites, several other Internet sites are also active participants in this network. As of a year ago, the BBC Persian site has taken over this network and placed it under its protection and advertising wings.

3 - The following are the names of some of the collaborators of this network who are currently living outside of Iran: Dariush Sajjadi (US), Abbas Ahmadi (US), Farshad Bayan (Brussels), Jamshid Asadi (Paris), Ahmad Salamatian (Paris), Nima Rashedan (Sweden), Hossein Derakhshan (Toronto), Alireza Nourizadeh (London), Majid Mohammadi (New York), Sina Motallebi (Hague; Brussels), Jamshid Barzegar (London), Ebrahim Nabavi (Paris; London; ...), Masoud Behnoud (London), and ...

In the past, some of the aforementioned individuals collaborated closely and continuously with reformist newspapers inside Iran, and a number of them wrote articles for these newspapers while residing abroad. These articles were published either under their own names or pseudonyms.

4 - The abbreviated names of some of these members who are active with both the reformist newspapers and websites affiliated with this spider-like network are as follows: Babak Q., Farhad R., Nima R., Bahman A., Zhila B., Shadi S., Omid M., Shahram R., Ja'far G., Roozbeh M., Jalal Kh., Hanif M., Mahdi D., and ... Most of these individuals were (or are) youngsters in search of fame who were first drawn to work as journalists for these reformist newspapers by the agents of this network – particularly agents of this network who belonged to the two extremists groups which allege to be "reformists." They were then forced to collaborate with this network through deceitful acts such as moral corruption, and preparing video of these acts, the guarantee of rising to high-ranking posts after the impending overthrow of the regime or the promise of a free education in Europe or America.

5 - A few of the more infamous members of this network who held or continue to hold posts in this regime include "Mohammad Ali A., Isa S., Mostafa T., Behzad N., Mohsen M., Mostafa D., Massoud, H., and ...

¹ Persian proverb

After attracting new members (which mainly occurred via the reformist newspapers), these individuals conduct informational sessions designed to bring new members into the network.

6 - After a period of activity with the reformist newspapers, the newly absorbed members receive awards from media and cultural festivals with the assistance of the network's agents in the Ministry of Culture and Islamic Guidance, Journalists Union, Writers Union and [other] influential members in the government. Or they receive accolade and praise as influential journalists! And then with the help of the previously identified agents they are sent abroad, where they engage in digging up dirt against the regime, high-ranking officials, and [this regime's] sacred and revolutionary values in the most abhorrent fashion. The following are examples of such people: Ali Bastani, Jamshid Barzegar, Camilia Entekhabifar, Sa'id Razavi Faqih, Nushabeh Amiri, Mehdi Khalaji, Nima Tamadon, Kayvan Hosseini, Farin Asemi, Majid Mohammadi, and ...

7 - Individuals from this network who have infiltrated positions of authority within the regime or have (or had) responsibilities such as representative of the *Majlis*, vice minister, and ... send these new members of the network abroad as part of official delegations. Dispatching [these members] serves two objectives: the attractions of the trips abroad are used to encourage and persuade the recruited members, and [the trip] paves the way for their future presence and influence as reporters and journalists inside important power centers within the regime ...

8 - Even though the companies who offer services to these websites and blogs and provide them with necessary servers are Iranian and have been officially registered in Iran, the sites and blogs of this spider-like network cannot be filtered or blocked. Why? Because their service is provided outside of the country's official authority (the Telecommunications Company of Iran), and these companies have illegal and secret contact with some satellite offices in Europe and abroad (and use these offices and their services). Therefore, the communication lines of the websites and blogs belonging to this network do not pass the country's official data points and cannot, therefore, be controlled or filtered. In other words, this network has its own special and distinct telecommunications circuit, which is accessed via telecommunications and satellite networks in the United States and Europe, and operates in violation of this nation's current laws.

The abbreviated names of some of the companies that have illegally and secretly received services from foreign providers in order to administer the sites of this spider-like network are as follows: Company N, Company B, Company A, Company P, and ... Mr. Mostafa D. (a member of the Informatic Council and a government member of the Islamic Iran Participation Front, who founded one of the aforementioned companies and provided the sites and blogs of this network with their communication needs), H. N. (the child of one of the members of the Journalists Union), and Reza V (a contact of one of the extremist "reformist" front groups) are some of the more active members of these companies.

9 - After receiving news from members of this network inside Iran, the command and control center of the network in the United States transfers its propaganda in the form of news, reports, analysis and articles to European centers, and from there sends it to main network contacts inside Iran. This propaganda – usually an article or a report – then appears with the signature of a low-level member of the network on sites such as *Emrooz*, *Gooya News*, *PeykNet* and ... or is published in one of the reformist newspapers. And after that, foreign news agencies and American, European and Israeli officials rely on these news reports (which are fabricated and disseminated by them) in order to launch widespread propaganda campaigns against the regime, Islam and high-ranking Iranian officials.

10 - The aforementioned network uses blogs and Internet chat [rooms] to stimulate the sexual desires of the youth. Then certain domestic members of the network contact those who are more likely to be recruited in this way and introduce them to houses of corruption, prostitution ...

11 - A few years ago Mr. Younesi, the honorable Minister of Intelligence, announced that his ministry had identified influential members of some of these media outlets. If these allegations are true – and how

can they not be – it is not clear why nothing was done to combat these networks. How can [the responsible authorities] explain releasing our innocent youth into the clutches of these wild wolves?!

12 - There are many more things to say about this network, its objectives and the nature of its activities. We will address these issues in further detail in the near future.

13 - The name “Spider House” was selected for this network in light of verse 41 of the *Surah Ankabut*, which reads: “The tale of those who shunned God and took other than him as friends is similar to the house that the spider builds and this is while the frailest of houses is that which the spider builds.”

14 - And finally ... these days coincide with the impending anniversary of the birth of our absent desired [leader] – may our spirits be sacrificed to the ground he walks on. Perhaps it would have been more appropriate to write today’s note in his holy honor, but to the extent that battling what he won't approve of is a sign of waiting, we hope that he doesn't fault us and accepts our excuse since we put pen to paper in hopes of his approval.

Hossein Shariatmadari

Appendix 3

Itiraf-i Yiki az Muttahaman-i Saythayih Interneti bih Jasusi barayih Biganigan [One of the Accused in the Internet Sites Case Confesses to Spying for Foreign Powers], JOMHOURI ESLAMI, 15/9/1383 [DECEMBER 5, 2004]

(Followed by Translation)

Rajabali Mazrui Mentioned in a Complaint Letter by One of the Accused in the “Internet Case”

One of the Accused in the Internet Sites Case Confesses to Spying for Foreign Powers

In a letter addressed to Rajabali Mazrui (the head of the Journalists Union), Javad Gholam Tamimi, one of the accused who is being detained in the case of the “internet sites,” confessed to spying for foreign powers and requested that Mazrui cease any and all action in his defense.

A copy of this five-page letter was sent to the Islamic Republic News Agency by the head of Evin Prison, and parts of the letter have been printed by various news outlets. Gholam Tamimi, who is also a member of the Journalists Union, referred to the announcement of the aforementioned union in calling for a gathering and demonstration in support of the detainees of the “Internet sites” case and said, “In order to correct the misunderstanding of some colleagues, I declare that a gathering in support of me is nothing more than a deceitful attempt.”

In his letter, Tamimi identified his charges as spying and treachery and said: “The mistakes I made during the past several years as a result of being misled by certain individuals have ultimately led me to commit crimes against the security of the nation. These crimes included dealing with, receiving money from and collaborating with the military attaché of a foreign embassy. In the course of forging these unlawful and illegitimate ties, I handed over documents and evidence which were requested by the military attaché.”

In his letter, Tamimi has apologized to the Iranian nation for his actions. In addressing Mazrui and the Journalists Union, Tamimi wrote: “I express my disgust at you and your union for attempting to take advantage of my name, and call for the prosecution of those individuals who seek to disrupt society in the name of protecting a criminal.”

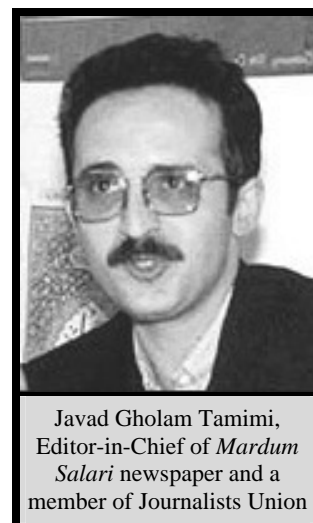
In his letter, the detained journalist added: “If I had committed these crimes in any other nation, I would have been sentenced to death or life imprisonment. Yet instead of punishing me, the [benevolent] actions of the Islamic Republic, those in charge of my case, and prison officials have made me ashamed of [what I have done].

Tamimi wrote that he had never spent any time in solitary confinement and considered such reports to be mere speculation.

In his letter to Rajabali Mazrui, the detainee reminded Mazrui that “we have, on numerous occasions, recited the rejuvenating *Kumayl* prayer while in prison – your son (Hanif Mazrui) was one of those reciting this prayer.”

In another part of his letter, Tamimi indicated: “A while ago, a reporter from one of the news outlets who carried a message from you (Mazrui) and one of your colleagues urged me to say that I had spent time in solitary confinement and suffered psychological torture. But I refused because I could not disregard the most humanitarian and moral values, and shun the truth in an effort to damage the institutions of the Islamic regime.”

Gholam Tamimi also noted that prison officials treated him with kindness and worked with him so that he could rehabilitate himself.



Javad Gholam Tamimi,
Editor-in-Chief of *Mardum Salari* newspaper and a
member of Journalists Union

Tamimi also wrote, “I don’t know what to do in response to all this kindness bestowed upon me by regime officials.” At the end of his letter he addressed the Iranian nation and insisted: “The honorable nation of Iran must know that I have no affiliation with these wayward unions (Journalists Union) and do not need the support of anyone but Almighty God and regime officials. I only request that each of them forgive me for my transgressions.”

Fifteen of the Accused in the Internet Sites Case Released on Bail

The supervisor of the Special Prosecutor of District 9 (Airport) announced that 15 of those accused in connection with the Internet websites case have been temporarily released on bail. In an interview with the Central News Unit, Saberi Zafarqandi said that about two months ago, complaints were filed by a private complainant and the Ministry of Communication Innovation and Technology. A case file was established and indictments were issued for about 17 of the accused in the Airport prosecutor’s office.

He explained: “After discovering certain shortcomings in the case file, and the type of crimes listed in the indictment, it was determined that these matters should be returned to the relevant branch and accompanied with documentation and evidence.”

He added: “Seventeen people were charged in relation to the Internet sites case file, and that two additional suspects were being held in temporary detention – Mr. Javad Gholam Tamimi because there was a need to conduct more investigation, and Ms. Fatimah Ghazi because she has not yet posted bail.”

It should be noted that prior to their arrests these individuals acknowledged, in interviews conducted with the media, that they had engaged in political and propaganda activities for several years, [and that these actions were] aimed at tainting the regime’s image, instigating public dissatisfaction and creating confusion amongst the masses through articles and reports published on personal blogs and sites such as “*Gooya*,” “*Iran Emrooz*” and “*Rooydad Emrooz*.”

These sites were connected to the Islamic Iran Participation Front.

Interview with One of the Accused

During his transfer from Special Prosecutor of District 9 (Airport) to Evin Prison, Javad Gholam Tamimi, one of the accused in the Internet sites case said: “I wanted to join the radical reformers and play the role of the opposition.”

In an interview with the Central News Unit, he said, “In 2000, along with Mr. Sazegara, Mr. Sa’id Haqqi, and Mr. Sholeh Sa’di, we formed the [United] Republican Party so that we could take a share of the government’s power. From this point onward, my press and political activities became intertwined.”

He considered the case of the accused to have two distinct faces; one involved the secular and republican forces, and the other, the radical reformists, both of whom had engaged in a media war against the regime.

Tamimi said, “When Mohsen Sazegara introduced me to Sa’id Haqqi at *Mellat* (newspaper), we collaborated with each other at this newspaper (and later at *Mardom Salari*) in an effort to taint and destroy the regime’s image.”

With regard to his other covert activities, Tamimi referred to manipulation of the media during Sazegara’s imprisonment through the [United] Republican Party and the newspaper *Mardom Salari*, [both of which] suggested that there was an absence of freedom in the country.

Tamimi said, “When the representatives of the Sixth *Majlis* protested, I spoke to Setareh Derakhshan of Voice of America and said that the actions of the reformists were not enough. When Zahra Kazemi passed away and events unfolded in the universities, I meticulously and artfully wrote many reports in order to put more pressure on the regime.”

This accused added, “Sa’id Haqqi, Sazegara and Sholeh Sa’di played an active role in creating a media war regarding the aforementioned issues, and I was their pawn in the war they waged against the regime of the Islamic Republic.”

In response to the question of whether such acts were premeditated, Tamimi acknowledged, “In the incident of Zahra Kazemi’s death, a meeting was formed along with members of the [United] Republicans Party in which Sa’id Haqqi decided to write an article titled *Mourning for Estefan* (Zahra Kazemi’s son), in which he aggressively accused the Judiciary.”

He said, “Under the supervision of progressive folks such as Tajzadeh and Behzad Nabavi, we attempted to publish articles condemning the regime on Internet websites because it was less likely that the newspapers, which were more cautious, would publish them.”

Appendix 4

*Bazkhaniih Parvandihih Mojtaba Saminejad
Tavasut-i Vakil-i U, Mohammad Seifzadeh* [A
Review of Mojtaba Saminejad's Case by his
Attorney, Mohammad Seifzadeh] (Source:
ROOZONLINE), [SEPTEMBER 22, 2005]

(Followed by Translation)



Thursday, September 22, 2005

بازخوانی پرونده‌ی مجتبی سمیعی نژاد توسط وکیل او، محمد سیف‌زاده - منبع: سایت روز

آقای مجتبی سمیعی نژاد دانشجوی ویلاگ نویس در تاریخ ۱۰ آبان ۸۳ توسط چهارنفر از مامورین دادسرای تهران در خانه بازداشت و کیس کامپیوتر و تعدادی کتاب و نوشته‌های او توقیف و به زندان تحویل شد. وی مدت ۸۸ روز در سلول انفرادی توام با بازجویی گذراند و حسب اظهاراتش در دادگاه کیفری استان تحت شکنجه قرار گرفت و روزهای سختی را گذراند، تا اینکه بالاخره در تاریخ ۸ بهمن ۸۳ با قرار وثیقه ۵۰ میلیون تومانی آزاد شد و به او گفته شد اگر به خانم عبادی یا سیف زاده وکالت بدهی، دوباره بازداشت خواهی شد!

به هر حال، بعد از آزادی بلافاصله با نامه ای که به کانون مدافعان نوشته بود به دفترم آمد و وکالت داد، لذا در تاریخ ۱۳ بهمن ۸۳ تلفنی احضار و پس از تفهیم اتهام مجدد به اتهام:

- ۱- توهین به امام خمینی و مقام رهبری ماده ۵۱۴
- ۲- اقدام علیه امنیت داخلی کشور از طریق تبلیغ علیه نظام بوسیله شایعه پراکنی و انتشار مطالب خلاف واقع موضوع ماده ۵۰۰
- ۳- توهین به مقدسات اسلام و اهانت به مقررات نورانی اسلام موضوع ماده ۵۱۳
- ۴- نشر اکاذیب از طریق تشویش اذهان عمومی
- ۵- برقراری رابطه نامشروع و تشویق به فحشاء و فساد (عموم اتهامات فوق با عناوین معنون قانونی انطباق ندارد به خصوص آنکه اتهامات جدید بعد از سه ماه از زمان دستگیری تفهیم می شود و این عمده ترین دلیل بر ساختگی بودن اتهامات جدید است). وی با تشدید قرار به وثیقه ۱۵۰ میلیون تومانی در بازداشت مانده و تاکنون در زندان به سر می برد.

بدنبال رسوایی اعمال خلاف قانون مامورین دادسرای تهران آقای شاهرودی کمیته ای متشکل از سه نفر تعیین و پرونده ها را از دادسرای تهران گرفتند. و سپس تمام ویلاگ نویس‌ها آزاد شدند. وکالتنامه تنظیمی را به مجتمع ارشاد نزد بازپرس شعبه دوم برده، ایشان گفت نزد قاضی مقدس ریاست مجتمع بروید، گفتیم به ایشان چه ارتباطی دارد، شما بازپرس شعبه هستید و قانونا نمیتوانید وکالتنامه را نگیرید. گفت آقا بحث نکنید، بروید نزد ایشان، ناچار نزد ایشان رفتیم، که با چند نفر از اتاقش بیرون آمد، گفت آقای سیف زاده شما بازداشت هستید. گفتیم قانونش را بیاورید، اگر جرم بود، آنرا بازخواهم نمود گفتیم ظاهرا اصل قانونی بودن جرم را قبول ندارید اصل ۳۶ قانون اساسی و ماده ۲ قانون مجازات اسلامی آنرا به رسمیت شناخته، شما می توانید بگویید من قانون را قبول ندارم. گفت شما توقیف هستید و دستور توقیف مرا به افسری داد، که مدتی در توقیف بوده و آزادم کردند و وکالت روی پرونده به اتفاق همکار محترم جناب آقای فریدون شامی گذاشتیم. فشار به موکل جهت عزلم از وکالت فزونی یافت و آقای سمیعی نژاد هم مقاومت می کرد. با خانواده او صحبت کرده، آنها زیر بار این فشار نرفتند و مجتبی هم از زندان تماس می گرفت و بر ادامه وکالت اصرار و تاکید داشت.

لذا برای فشار و آزار و اذیت بیشتر برای موکل سه پرونده به شرح زیر ساختند:

- ۱- اتهام ارتداد: پرونده تشکیلی با قرارعدم صلاحیت به نفع دادگاه کیفری استان ارسال و به شعبه ۷۸ دادگاه کیفری استان ارجاع گردید، ریاست شعبه که روحانی باسواد و روشن ضمیر و انسانی بود، پرونده را مسترد داشت و نوشت اولاً بر طبق اصل قانونی بودن جرم ومجازات جرمی بنام ارتداد نداریم، ثانیاً اگر در جرمی اعتقاد به تعقیب دارند باید با صدور کیفرخواست پرونده را به دادگاه صالح بفرستید [قاضی مقدس و ابواب جمعی او این امور ابتدایی را که دانشجوی سال اول حقوق میدان را هم نمیدانستند و با اگر میدانستند، قبول نداشتند که آن بسیار بدتر است] پرونده به شعبه دوم بازپرسی

اعاده گردید. قاضی مقدس دوباره دست به کار شد و بدون احضار موکل و وکلا در سطری که قبلا تفهیم اتهام به موکل کرده بود، اتهام ساب النبی را داخل پرانتزی الحاق و کیفرخواست جدیدی به استناد ماده ۵۱۳ قانون مجازات اسلامی تقاضای مجازات برای موکل نمود. [توجه داشته باشیم مجازات ارتداد در مقررات شرعی و ساب النبی در شرع و قانون اگر ثابت شود اعدام است] پرونده به کلاس ۸۳/۶ در شعبه ۷۸ تشکیل و وقت رسیدگی برای ۲۱/۳/۸۴ ساعت ده صبح تعیین شد. در وقت مقرر در دادگاه حاضر شدیم، نظر به اینکه در مجازات اعدام باید پنج قاضی حضور داشته باشند، دادگاه با تاخیر تشکیل شد.

هنگام ورود به دادگاه دیدیم علاوه بر نماینده دادستان، مقدس معاون مرتضوی هم با پرونده ای در دادگاه حاضر شد و در گوشه ای نشست. حضور ایشان با توجه به حضور نماینده دادستان قانونی نبود، به این امر اعتراض داشتیم که مورد قبول واقع نشد. نماینده دادستان از کیفرخواست دفاع کرد. اتهامی که مجازات آن اعدام بود، متکی به هیچ دلیل قانونی و محکمه پسندی نبود. ضمن آنکه چند لحظه قبل از شروع دادگاه مجتبی را با غل و زنجیر و دستبند و پا بند آورده بودند که به آن اعتراض کردیم. رئیس دادگاه خطاب به مامور گفت این چه وضعی است؟ اینها را باز کنید. مقدس گفت نیروی انتظامی حرف ما را هم گوش نمی کند، ما هم می گوئیم این کار خلاف قانون است، ولی نیروی انتظامی دستور ما را اجرا نمی کند؟ گفتیم وای به حال جامعه ای که مامورین انتظامی دستور دادستان را اجرا نکنند. مطمئن بودم که دروغ می گوید.

به هر حال غل و زنجیر از دست و پای مجتبی برداشته شد و محاکمه ادامه یافت. رئیس دادگاه خطاب به نماینده دادستان گفت شما که به اتهام ساب النبی تقاضای اعدام برای متهم نموده اید میتوانید ساب النبی را توضیح دهید؟ نماینده دادستان و قاضی مقدس منتظر چنین سووالی نبودند. دو نفر از مستشاران دادگاه به داد آنها رسیدند و گفتند دادگاه حق ندارد چنین مطلبی را از نماینده دادستان ستوال کند. رئیس دادگاه بر سووال خود استوار بود، ناچار نماینده دادستان مطالب موهومی را سرهم کرد و تحویل دادگاه داد و گفت مقصود ماده ۵۱۳ قانون مجازات اسلامی اهانت به امام زمان بوده، که بحث قانونی و فقهی در گرفت. من هم اضافه کردم آقای رئیس دادگاه آن کلمات موهن و مصادیقش را هم از ایشان بخواهید ارائه نمایند. این موضوع بیشتر قاضی مقدس و نماینده دادستان را مشوش و عصبانی کرد. قاضی مقدس با عصبانیت بلند شد و در دادگاه را محکم به هم کوبید و از دادگاه خارج شد. پس از مباحثاتی، دادگاه حدود ساعت ۴ بعدازظهر بعنوان تنفس تعطیل و مجتبی را با خود بردند و وقت رسیدگی برای چهارشنبه ۱/۶/۸۴ تعیین و به همه مامورین ابلاغ گردید. چهارشنبه وقت کمی به رسیدگی گذشت و وقت برای پنج شنبه ۲/۴/۸۴ تعیین گردید، که مقامات دادسرا با زندان تماس و میگویند سمیع نژاد را پنج شنبه به دادگاه نیاورید. لذا وقت رسیدگی برای شنبه مورخ ۴/۴/۸۴ تعیین شد.

وقت دفاع به وکلا رسید. برخاستم و شرح مفصلی از اعمال خلاف قانون و شرع دادسرا را به عرض دادگاه رساندم و اصول مربوطه در قانون اساسی و قانون آیین دادرسی کیفری و قانون احترام به حقوق شهروندی را تشریح نمودم. در هنگام تشریح قانون اساسی و اعلامیه جهانی حقوق بشر مرتب با تذکر مستشاران روبرو شده، که رئیس دادگاه به آن وقعی نمی گذاشت تا بالاخره سه نفر از مستشاران به دفاعیاتم معترض شده، من هم با ناراحتی گفتم برای انسانی تقاضای اعدام شده، حال اجازه دفاع مشروع و آزاد بما نمی دهید!

رئیس دادگاه متاثر شد و گفت جناب سیف زاده! شما چرا ناراحت هستید؟ گفتم آقای رئیس دادگاه ما در مورد جان انسانی صحبت می کنیم. مگر می شود اینهمه ظلم و ستم را دید و سکوت کرد؟ نماینده دادستان گفت وکیل محترم خطابه سیاسی خواندند. گفتم باعث تأسف است که استناد به قانون اساسی و قانون آیین دادرسی کیفری و اعلامیه جهانی حقوق بشر به زعم حضرتعالی خطابه سیاسی است. نماینده دادستان گفت موکل شما ضمن اهانت به امام زمان منکر وجود ایشان نیز شد. اولاً مصداقش را خواستم ارائه کند که شعری را ارائه کرد، ثانياً قسمتی از ویلاگ موکل را از نویسنده ای تحت عنوان [امام زمان میخواهی بیایی چه کنی؟] نقل و مورد نقد موکل قرار گرفته تقدیم دادگاه نمود. رئیس دادگاه خطاب به نماینده دادستان گفت آقا پس شما مدعی هستید که ایشان به امام زمان توهین کرده و نیز وجود امام زمان را منکر شده که اولاً یک میلیارد مسلمان اهل تسنن معتقد به امام زمان نیستند، آیا اینها مشمول ارتداد و یا ساب النبی هستند؟ و باید اعدام شوند؟ ثانياً موضوع کیفرخواست فعلی فقط ساب النبی است و موضوع ارتداد منتفی شده.

نماینده دادستان به تناقض گویی عجیبی افتاد. دفاعیاتم تمام شد. جناب آقای شامی همکار محترم موازین شرعی ساب النبی و ارتداد را بخوبی تشریح نموده و دفاعیات پایان پذیرفت. نماینده دادستان وقت خواست و سخنرانی غرایبی علیه من به عرض دادگاه رساند. خواستم پاسخ بگویم، رئیس دادگاه

موافق و مستشاران مخالف بودند، گفتم آقای رئیس دادگاه! نماینده محترم دادستان مطالب خلاف و کذب را بعرض دادگاه رساند، که عدل و قانون حکم می کند اظهارات ایشان پاسخ داده شود. گفتم بعد از اظهارات وکلای مدافع نماینده دادستان حق صحبت نداشت، حال که به او اجازه دادید، باید جهت ایجاد تعادل در دفاع و بیطرفی اجازه پاسخ بدهید که موافقت نشد، دادگاه آماده اخذ آخرین دفاع گردید. آماده آخرین دفاع شدم و پشت میز خطابه قرار گرفتم که با اعتراض مستشاران روبرو شدم!

رئیس دادگاه موافق بود. بالاخره با اجماعی که بین مستشاران ایجاد شد، از ما خواستند یا یکی از وکلاء صحبت کند یا موکل. چون راهی برایمان باقی نگذاشتند صلاح دیدیم که مجتبی صحبت کند. مجتبی شرح مبسوطی بعرض دادگاه رساند که در دوران دانش آموزی برنده بزرگترین جایزه فهم و درک نهج البلاغه شده و از اعمال خلاف شرع و قانون بازپرس و قاضی مقدس و بازجویان او پرده برداشت که دادگاه را بسیار تحت تاثیر قرار داد. سپس لایحه ای فوراً تهیه و پاسخ اظهارات نماینده دادستان داده شده و به استناد موازین قانونی و شرعی تقاضای برائت موکل را نمودیم. دادگاه خاتمه پذیرفت و بعد از چند روز دادنامه برائت موکل از اتهام ساب النبی صادر و ابلاغ گردید. یکی از مستشاران بعد از ختم رسیدگی و قبل از صدور حکم مرا خواست و گفت شما از قضا با سواد، و از حقوقدانان مطرح کشور هستید. چرا اجازه می دهید چنین مطالبی در دادگاه گفته شود؟ موکل را می آوردید معذرت می خواست و کار را تمام می کردید! وظیفه من دفاع از حق و قانون و حقوق موکل است، و با مامورین و قضات متخلف مماشات نخواهم کرد. گفت کار ما ساده تر می شد. گفتم شما وجدان خودتان را قاضی قرار دهید و با توجه به خدا و قانون و حق رای دهید و دادگاه را ترک کردم. بر طبق دادنامه شماره ۹ مورخ ۱۲/۴/۸۴ در پرونده کلاسه ۸۲/۶۰ با توجه به دفاعیات وکلای وی و مجتبی سمیع نژاد و رعایت اصول حقوقی حکم برائت موکل صادر شد. دادگاه معتقد بود نظر به برائت مجتبی سمیع نژاد از مجازات حکم ساب النبی و ارتفاع موضوع ارتداد و برائت حکم اقدام علیه امنیت، باید نامبرده آزاد شود. لذا جهت آزادی فوری وی حکم برائتیش به دادسرای ارشاد، اعلام و با عصبانیت بازپرس و قاض مقدس روبرو شد. که چرا سمیع نژاد در دادگاه کیفری استان صحبت از شکنجه خود کرده، لذا باید مجازات شدیدتری شده و آزاد نخواهد شد، لذا فعالیتهای ما تا به امروز مثمر ثمر واقع نشد.

۲- اتهام توهین به رهبری و اقدام علیه امنیت ملی: دومین پرونده ای که برای مجتبی سمیع نژاد ساخته و به شعبه ۱۳ دادگاه انقلاب ارسال شد توهین به رهبری و اقدام علیه امنیت ملی بود که تحت این عناوین کیفرخواستی علیه مجتبی سمیع نژاد از طرف قاضی مقدس صادر و به مرجع فوق ارسال شد و به کلاسه ۸۲/۷۵۱۵/ط/د ثبت شعبه فوق شد. وقت رسیدگی برای ۹ صبح مورخ ۲/۲/۸۴ تعیین شد. من چون دادگاههای انقلاب را به استناد اصول ۱۵۹ و ۱۷۲ قانون اساسی از زمان تصویب قانون اساسی سال ۵۸ غیر قانونی می دانم، همکار محترم جناب آقای شامی عهده دار دفاع از موکل در شعبه مذکور بودند. طبق معمول موکل را با غل و زنجیر به دادگاه آوردند و چند نفر از بازجویان او را هم در دادگاه حاضر کردند تا امکان دفاع مشروع را از وکیل و موکل سلب کنند. همکار محترم به این نحوه دادرسی اعتراض کرد که مورد توجه قرار نگرفت.

نهایتاً موکل به اتهام توهین به بنیانگذار جمهوری اسلامی ایران و رهبری بدون کوچکترین دلیل محکمه پسندی به استناد ماده ۵۱۴ قانون مجازات اسلامی مطابق با دادنامه شماره ۷۰ مورخ ۸۴/۱/۳ حداکثر مجازات یعنی دو سال حبس محکوم و از اتهام اقدام علیه امنیت ملی تبرئه شد. در اثر اعتراض به رای صادره پرونده در شعبه ۲۶ دادگاه تجدید نظر استان تهران که مقر آن در دادگاه انقلاب است، مطرح رسیدگی قرار گرفت. کلاسه پرونده ۸۴/۴۱۸ بوده که بموجب دادنامه شماره ۵۷۳ دادنامه شعبه ۱۳ دادگاه عمومی تهران بدون تعیین کردن کلمات موهن علیرغم تکلیف قانونی بموجب قانون استفساریه نسبت به کلمه اهانت، توهین و یا هتک حرمت (از نظر مقررات کیفری اهانت و توهین و... عبارت است از بکار بردن الفاظی که صریح یا ظاهر باشد و یا ارتکاب اعمال و انجام حرکاتی که به لحاظ عرفیات جامعه و با در نظر گرفتن شرایط زمانی و مکانی و موقعیت اشخاص موجب تخفیف و تحقیر آنان شود و با عدم حضور الفاظ، توهین تلقی نمی شود) رای صادره عیناً تأیید و نتیجتاً موکل به دو سال حبس قطعی محکوم شد. در حواشی این دادگاه گفته شد در هنگام صدور رای یکی از مقامات دادسرای تهران در دادگاه حاضر شد و با ارائه مصاحبه های اینجانب در مورد سمیع نژاد خواهان برخورد شدید با موکل شده، که دادگاه با توجه به این وضعیت حکم حبس حداکثری را تأیید کرد.

۳- اتهامات برقراری رابطه نامشروع، تشویق به فساد و فحشاء و تشویش اذهان عمومی موضوع مواد ۶۷۳ و ۶۳۹ و ۶۹۸ قانون مجازات اسلامی بود که از طرف قاضی مقدس علیه موکل، کیفرخواست صادره پرونده به شعبه ۱۰۸۴ دادگاه عمومی جزایی تهران مستقر در مجتمع ارشاد (محل استقرار قاضی مقدس) مورد رسیدگی قرار گرفت. دو اتهام اول و دوم به استناد عکسهای خانوادگی که از منزل موکل برده بودند، دختران فامیل موکل را به دادگاه احضار و تحت فشار قصد داشته اند اقا بری علیه مجتبی جمع آوری کنند. این عمل قاضی مقدس و شعبه دوم بازپرسی خلاف شرع و اخلاق به

صراحت مغایر با بندهای ۱ و ۳ و ۴ و ۶ و ۸ و ۱۱ ماده واحده قانون احترام به آزادیهای مشروع و حفظ حقوق شهروندی بوده و جالب توجه آنکه دادگاه، کوچکترین توجهی به اعمال خلاف دادرسی نکرده و در محاکمه ای فوری که ابتدا هم قصد داشتند بدون حضور موکل بر پا کنند، مجتمع سمیع نژاد از اتهامات اول محکوم به جزای نقدی و دوم تبرئه و در مورد اتهام سوم به ۱۰ ماه حبس محکوم شد. این دادگاه نیز علیرغم برائت موکل از اتهامات ارتداد، ساب البنی، اقدام علیه امنیت، تشویق به فحشاء علیرغم تصریح قانونی حاضر به تخفیف قرار تامین و آزادی موکل نشد، تا همچنان فشار روی موکل ادامه داشته باشد.

چند نکته ظریف:

۱- اتهامات مجتبی سمیع نژاد بر مبنای وبلاگ وی بود که پس از دستگیری password آنرا بزور از موکل گرفته و با استخراج مقالات ایشان چنین اتهاماتی برای او می سازند. در هر سه دادگاه بعد فنی قضیه تشریح شد که وبلاگ دفترچه خاطرات خصوصی افراد است که با دسترسی به password میتوان مطالب آنرا مطالعه و ملاحظه کرد. بدون داشتن آن کلید رمز امکان دسترسی به آن مقالات وجود نداشت، لذا در صورتی که اکثر جرایم فوق در وبلاگ محقق می شد. رکن مادی حقیقی جرم یعنی نشر و انتشار اصولا واقع نشده تا بتوان متهمی را تحت تعقیب قرار داد. به این موضوع در دادگاه بدوی شعبه ۱۳ و ۱۰۸۴ و شعبه ۳۶ دادگاه تجدید نظر مطلقا توجهی نکرده و شعبه ۷۸ این دفاع را قبول نمود، چه پس از دسترسی دادرسی به رمز مقالات، وبلاگ مجتبی سمیع نژاد در معرض دید و مطالعه و بعضا تغییر و تحریف قرار گرفته است.

۲- در تمام دادگاهها قاضی مقدس یکی از بازجویان را بعنوان اهل خیره به دادگاه تحمیل می کرد که علاوه بر نماینده دادستان او هم علیه متهم مطالبی به عرض می رساند، که با اعتراض وکلا روبرو، زیرا دادرسی را از حالت انصاف و تعادل به نفع دادرسی خارج می کرد، که دادگاهها به این اعتراض توجهی نکردند. اما شعبه ۷۸ دادگاه کیفری استان مانع حضور وی در دادگاه نشد ولی اجازه نطق هم در اثر اعتراض، به وی نداد.

۳- گر چه سالهاست انتظار عدالت و اجرای قانون از قوه قضاییه ندارم، اما به رعایت و غبطه و صلاح موکل به هیات تشخیص و دادگاه تجدید نظر استان تهران نسبت به دو رای محکومیت اعتراض خواهیم نمود.

مدتی است فاجعه ای نامبارک بصورت ترور قضات در جامعه شروع شده، این امر موجب نگرانی مردم شده، در لحظه نوشتن این سطور رئیس دادگاه ملارد هم ترور نافرجام شد، که امیدوارم قوه قضاییه با کاری فنی و بدون بحران سازی انگیزه این ترورها را دقیقا روشن و به مردم شریف ایران اعلام و متهمان این وقایع زشت بدون سوء استفاده سیاسی به مردم معرفی شوند. به عنوان فردی که که سالها در پست دادستانی و بازپرسی بوده و هزاران پرونده جنایی را رسیدگی و رمز آنرا گشوده، اعتقاد دارم این ترورها مطلقا جنبه سیاسی نداشته، بلکه ناشی از نظرات شخصی بوده است. در این زمینه بد نیست به سوابق اخلاقی و رفتاری و دفاعیات مجتبی توجه کافی مبذول گردد. قاضی مقدس رفتاری بسیار خشن و تند با مراجعین داشته و به اصول قانونی و حقوقی و شرعی کاری نداشت، او اکنون دستش از دنیا کوتاه شده و قطعاً باید پاسخگوی اعمال خود در پیشگاه حضرت باریتعالی باشد، چه بگفته حضرت حق:

" اليوم نخیم علی افواههم و نُکَلِّمنا ایدیههم و تَشْهَدُ ارجُلهم بما کانوا یکسبون "

چون نیک نظر کرد بر خویش در آن دید
گفتا زکه نالیم که از ماست که بر ماست

تصمیم امروز قوه قضاییه مبنی بر تسلیح قضات دادرسی صرفنظر از آن که به هیمنه و شکوه و اقتدار قوه قضاییه صدمه جبران ناپذیری وارد خواهد کرد، پی آمدهای جبران ناپذیری بر قوه قضاییه تحمیل خواهد کرد، چه آن که قضات به آیین نامه نحوه استفاده از سلاح گرم آشنایی نداشته و با کوچکترین امکان تحقق ظن، اقدام به تیراندازی کرده و خدای ناکرده اگر خون از دماغ کسی ریخته شود قوه قضاییه با نارضایتی های گسترده ای روبرو خواهد شد. چاره حل مشکل حفظ امنیت کامل قضات توسط نیروهای انتظامی و رعایت قانونی، اخلاقی، حق و عدالت از طرف قضات دادرسی است، باید قضات دادرسی از سلاح تندخویی که اثرش زودگذر بوده استفاده نکرده و به سلاح حلم و علم و قانون مجهز و پایدار شوند.

Thursday, September 22, 2005

A Review of Mojtaba Saminejad's Case by his Attorney, Mohammad Seifzadeh (Source: Roozonline)

Mr. Mojtaba Saminejad, blogger and student, was arrested in his house on October 31, 2004 by four officers of Tehran's Public Prosecutor's Office. His computer case and several of his books and writings were seized and transferred to prison. He spent 88 days in solitary confinement, during which time he was also interrogated. According to a statement he provided in the provincial criminal court, he was tortured and suffered greatly until he was finally released on January 27, 2005 after posting 50 million *toman* in bail. He was told that he would again be arrested if visited the homes of Mrs. Ebadi or Seifzadeh!

Despite this, he came to my office immediately after his release (with a letter addressed to the Human Rights Defenders) and requested that I represent him. He was telephonically summoned on February 1, 2005 and charged with the following:

- 1- Insulting Imam Khomeini and the Supreme Leader (Article 514);
- 2- Attempts against national security by way of propaganda against the regime (in the form of spreading rumors and publishing lies) (Article 500);
- 3- Insulting the sanctities of Islam and disrespecting the laws of Islam (Article 513);
- 4- Publishing lies and disturbing the public mind;
- 5- Engaging in an illicit relationship and promoting prostitution and corruption (none of these aforementioned charges are related to the legal definitions, especially in light of the fact that the new charges were communicated three months after the arrest – proof that they were fabricated). He was kept in detention after his bail was increased to 150 million, and remains there to this day.

After the disgraceful and illegal activities of officials linked to Tehran's Public Prosecutor's Office, Mr. Shahrودي created a three-member committee and seized the case files from the prosecutor's office. After this, all the bloggers were released. I took the attorney retainer to the *Ershad* complex next to the Second Branch of the Investigator's Office. He told me to take it to Judge Moqaddas, the person in charge of the complex. I asked him what this had to do with [Moqaddas], and [reminded him that he was the branch investigator and could not legally reject the retention letter. He told me not to argue with him and to go see [Judge Moqaddas]. I didn't have a choice, so I went to see him. He came out of his office with several people. [When he saw me] he told me I was under arrest. I said according to what law – if I have committed a crime, I will review it. I also told him that he apparently doesn't recognize Articles 36 of the Constitution and Article 2 of the Islamic Penal Code, which require punishment in accordance with the law. [He said] you can say [whatever you want]. Then he informed me that I was under arrest, and ordered one of the officers to arrest me. I was in detention for a while, after which I was released. We transferred the case file to my colleague, Mr. Fereydoun Shami. The pressure to remove me as the attorney on the case increased, but Mr. Saminejad resisted. I spoke to his family – they weren't buckling under the pressure. Mojtaba would also call me from prison and insist that I continue to represent him.

In an effort to put more pressure and harass my client, they fabricated the following charges:

- 1- Apostasy: Due to the lack of jurisdiction, the case was sent to Branch 78 of the provincial criminal court. The Chief Judge of the branch, who was a learned, humane and enlightened cleric rejected the case and noted that in the first instance, there is no crime of apostasy pursuant to [Article 36 of the] Constitution and the Islamic Penal Code, which provides the legal definition for crimes and punishment. He then indicated that if [the Prosecutor's Office] wishes to investigate the matter they must issue a charge sheet and transfer the case to a competent court. (Judge Moqaddas and his crew didn't know this basic fact – a fact that even a first-year law

student should know. Or perhaps they did know and didn't care to uphold it, which is even worse.) The case was sent back to the Branch 2 Investigations office. Judge Moqaddas went to work again. Without the presence of the client and his attorneys, he amended the line that previously included the explanation of the charges and added the charge of "insulting the prophet" in parentheses. He then prepared a new indictment and requested punishment for my client in accordance with Article 513 of the Islamic Penal Code. It should be noted that the punishment for apostasy (pursuant to *Shari'a* law) and insulting the prophet (according to Islamic law), if proven, is death. Docket Number 83.6 was prepared in Branch 78 and scheduled to be heard at 10 a.m. on June 21, 2005. We appeared in court on time, but the proceedings were delayed because in death penalty cases five judges must be present [before the court convenes].

When we entered the court, we noticed that in addition to the Prosecutor's representative, Moqaddas (who was Mortazavi's deputy) was also present. He was carrying a file, and sat in the corner. His attendance was illegal in light of the representative's presence. I objected, but was overruled. The Prosecutor's representative defended the indictment. The charge, which carried the death penalty, was not founded on any acceptable laws or evidence. In addition to this, Mojtaba was brought in a few minutes before the proceedings began in handcuffs and chains. We complained. The judge addressed the officer and asked, "What is this about? Unchain him." Moqaddas explained that the Law Enforcement Forces [LEF] had failed to listen to them. He said they had told the LEF that [chaining the defendant] was illegal, but that the LEF had refused to obey the order. I said, "Woe unto the society in which the police fail to abide by the prosecutor's orders." I was sure he was lying.

In any case, the chains were removed from Mojtaba's hands and feet, and the trial continued. The judge addressed the Prosecutor's representative and said, "You have requested execution for the accused based on the charge of [insulting the prophet]—can you explain what 'insulting the prophet' means? The Prosecutor's representative and judge Moqaddas were not expecting such a question. Two advisors came to their rescue and argued that the court does not have the right to ask such a question from the Prosecutor's representative. But the Judge was dead set on his question, so the Prosecutor's representative put together some unconvincing arguments and presented them to the court. He said that Article 513 of the Islamic Penal Code was meant to address insults to the twelfth Imam. A religious and theoretical debate ensued. I requested that the Judge ask the [Prosecutor's representative] to provide a list of insulting terms, along with examples. This really upset and angered judge Moqaddas and the Prosecutor's representative. Judge Moqaddas stood up and left the court, slamming the door behind him. After some discussion, the court adjourned at 4 p.m. and Mojtaba was taken away. The next appointment was set for Wednesday, August 23, 2005; the date was communicated to all the court officers. On Wednesday, very little time was set aside for investigation, and a new appointment was set for Thursday August 24, 2005. The court officers contacted the prison and told them not to bring Saminejad to court on Thursday, so a new time was set for Saturday, August 26, 2005.

It was time for the defense team [to present]. I got up and gave the court a detailed description of the illegal and un-Islamic activities of the Prosecutor's Office, while referring to relevant articles in the Constitution, Code of Criminal Procedure, and the Citizen Rights Law. During my discussion regarding the Constitution and the Universal Declaration of Human Rights, I was repeatedly interrupted by the objections of the advisors. The judge dismissed them. Finally three of the advisors objected [again] to my defense, at which point I forcefully reminded [the court] that the state is requesting that a man be put to death, and I can't even defend him freely and effectively!

The judge showed concern and asked, "Mr. Seifzadeh – why are you upset?!" I responded: "Sir, this court is considering the life or death of an individual. How can we witness so much cruelty

and oppression and remain silent?” The Prosecutor’s representative [interrupted and] said that I was giving a political sermon. I responded by saying that it was unfortunate that in his opinion my reliance on the Constitution, the Code of Criminal Procedure, and the Universal Declaration of Human Rights amounted to a political sermon. The Prosecutor’s representative then said that my client not only insulted the twelfth Imam, but also denied his existence. I asked him to provide us with an example, and instead he came up with a poem. Then he presented to the court a passage from my client’s weblog, which included a quote from an article entitled *Twelfth Imam, What do you Want to Do Upon Your Return?* [The article had been] written by another writer and was critiqued by my client. The judge turned to the Prosecutor’s representative and said, “Sir, so what you are saying is that he insulted the Twelfth Imam and denied his existence despite the fact that millions of Sunni Muslims don’t believe in the Twelfth Imam? Are these [Muslims] apostates? Have they insulted the Prophet? Should they be executed?” He then pointed out that the indictment only mentioned the charge of “insulting the prophet,” and that the charge of apostasy had already been rejected.

[In response], the Prosecutor’s representative started making strange contradictory statements. I finished my defense. Mr. Shami, my respectful colleague, satisfactorily explained the *Shari’a* bases for “insulting the prophet” and apostasy and the defense rested its case. The Prosecutor’s representative asked for extra time and delivered a fervent speech attacking me. I asked for permission to respond. The Judge was in agreement, but the advisors objected. I said: “Judge! The Prosecutor’s representative has made false and inaccurate statements to this court. I must respond to these allegations in the name of Justice and the Rule of Law.” I also reminded him that the Prosecutor’s representative should not have been allowed to speak after the defense rested its case. And that in light of the fact that such permission had been granted, and in the interest of fairness and impartiality, I should be allowed to respond. My request was denied. The court prepared to hear closing arguments. I prepared for my closing statement and positioned myself behind the table. The advisors objected [again]!

The Judge agreed. Based on the consensus reached among the advisors, they allowed only one of the attorneys or the client to speak. They left us no choice, so we thought it best if Mojtaba addressed the court. Mojtaba provided a detailed account to the court involving his receiving an important award for successful understanding and analysis of the *Nahj’ul balaghih*. He then revealed the unlawful and illegitimate actions of the investigator, judge Moqaddas and the interrogators. The court took notice. A motion was quickly drafted, the statements of the Prosecutor’s representative were addressed, and we requested our client’s acquittal in accordance with the [rule of] law. The court adjourned, and after a few days issued its judgment acquitting our client of the charge of “insulting the prophet.” After the proceedings ended and before the judgment was issued, one of the court advisors summoned me. He said I was one of the learned judges and notable lawyers in this country – how could I allow such things to be discussed in court? He said I could have simply brought my client to court, asked him to repent and the whole thing would have been resolved. [I responded] that my responsibility is the defense of my client’s rights, and that I would not cooperate with law-breaking officers and judges. He said things would have been simpler for us [had we chosen a different path]. I told him to put his conscience on trial, and judge based on God, the rule of law and justice. Then I left the court. According to Judgment No. 9, dated July 3, 2005, in case file 83.6, the judgment acquitting the defendant was issued based on the defense provided by his lawyers, Mojtaba Saminejad [’s own testimony] and the rule of law. The court was of the opinion that Mojtaba Saminejad must be released because he was acquitted of the charge of “insulting the prophet,” the apostasy charge was dismissed, and he was acquitted of the charge of attempts against the national security. In order to release him immediately, his acquittal order was sent to the *Ershad* Prosecution Office. This angered the investigator and judge Moqaddas, partly because Saminejad had spoken of his torture while in

court. [They decided that] he had to be punished further, so he was not actually released. To this day our efforts [to secure his freedom] have been unsuccessful.

- 2- Insulting the Supreme Leader and attempts against the national security: The second case file that was fabricated for Saminejad and sent to Branch 13 of the Islamic Revolutionary Court was the one involving insulting the Supreme Leader and actions against the national security. An indictment to this effect was issued against Mojtaba Saminejad by judge Moqaddas and sent to the aforementioned office. It was registered in that branch under Docket No. d/ta/83/7515. The proceedings were scheduled for 9 a.m. on April 22, 2005. Because of my belief that, pursuant to articles 159 and 172, the Revolutionary Courts were illegal from the time of the Constitution's ratification in 1979, my respectable colleague Mr. Shami took on the responsibility of defending the client in the aforementioned branch. As before, they brought the client in with handcuffs and chains. A few of his interrogators were also present in court (so as to prevent a legitimate defense by the attorney and client). My respectable colleague objected, but his concerns were not addressed.

Finally, according to judgment No. 70, dated May 22, 2005, the client was sentenced to the maximum penalty of two years' imprisonment for the charge of insulting the founder of the Islamic Republic of Iran. This was done without the slightest reliance on legitimate evidence, and pursuant to Article 514 of the Islamic Penal Code. He was acquitted of the charge of attempting to disrupt the national security. Following an appeal of the issued judgment, the case was tried in Branch 36 of the Appeals Court of Tehran Province (which is located in the Revolutionary Court building). The Docket No. was 84.418. In accordance with judgment no. 573, the verdict of Branch 13 of the Public Court of Tehran was affirmed without any reference to the [alleged] insulting words [used by my client]. This was done in contravention of the law of inquiry regarding insulting words or defamation. (According to criminal law, insulting and offensive words are defined in reference to terminology that is clear or apparent, or the commission of acts which, in light of social customs and time, place and personal restrictions, lead to the silencing or defaming of others. If such words do not exist, there can be no [charge] of insult.) As a result, the [lower court's] ruling was affirmed and the client was sentenced to two years' definite term. It is believed that the court affirmed the maximum allowable term of imprisonment in part because one of the officials from the Prosecutor's Office referred to the interviews I had conducted in connection to Saminejad's [case], and requested that my client be dealt with severely.

- 3- The charges related to engaging in an illicit affair, promoting corruption and prostitution, and causing confusion amongst the masses were related to articles 673, 639 and 698 of the Islamic Penal Code. The indictment against my client was prepared by judge Moqaddas and sent for processing to Branch 1084 of the Public Criminal Court of Tehran, located in the *Ershad* Complex (where judge Moqaddas is stationed). The first and second charges were based on family photos taken from the defendant's house. The female members of the client's family were summoned to court in an attempt to extract forced confessions from them against Mojtaba. The actions of judge Moqaddas and Branch 2 of Investigations violated *Shari'a* law and morality, and clearly breached articles 1, 3, 4, 6, 8, and 11 of the Citizen Rights Law. It is noteworthy that the court refused to pay any attention to the illegal activities of the Prosecutor's Office, and in a speedy trial (which at first it intended to convene without the presence of the client) Saminejad was fined for the first crime, acquitted of the second crime and sentenced to 10 months imprisonment for the third. Notwithstanding his acquittal on the charges of apostasy, insulting the prophet, attempts against the national security and promoting prostitution, and despite the rule of law, this court was unwilling to reduce the amount of bail and order the release of my client. Instead, [it opted to] continue applying pressure on him.

A few interesting points:

- 1- Mojtaba Saminejad's charges were based on [the content] on his weblog. The blog's password was taken from him by force after he was arrested and the content was manipulated in order to fabricate charges against him. In all three courts, the technical aspect of the situation was analyzed and it was established that a blog is a person's private journal, and with a password the content of the blog may be accessed and observed. Without the password, it would have been impossible to access those articles. Therefore, since all the aforementioned "crimes" occurred inside the blog, the actual crime – which is publishing and disseminating – never took place and the accused should not have been prosecuted. This matter was not paid any attention to in Branches 13 and 1084 of the lower courts and Branches 1084 and 36 of the appeals court. But Branch 78 accepted this defense – that it was only after the Prosecutor's Office gained access to the articles' password that Mojtaba Saminejad's blog came under review, and was altered and tampered with.
- 2- In all the trials, judge Moqaddas would present an interrogator in court, claiming that he was an expert. In addition to acting as the Prosecutor's representative, this person also testified against the accused. This matter was objected by the [defense] attorneys because it upset the balance and impartiality of the trial in favor of the Prosecutor's Office, but the courts rejected this argument. However, due to the [attorneys'] objections, Branch 78 of the Provincial Criminal Court did not allow [the interrogator] to speak, although he was allowed to be present in court.
- 3- Despite the fact that it has been years since I've expected the Judiciary to administer justice and follow the rule of law, I will appeal the two convictions of my client to the Discernment Committee and the Appeal Court of Tehran Province in accordance with my client's wishes and rights.

For a while now [we have had to deal with] the terrible reality of [attempted] assassinations of judges in this society. This matter has caused people great worry. While I am writing these lines, there was an unsuccessful attempt on the life of the Chief Judge of the Malarad Court. We hope that the Judiciary acts effectively, and without creating havoc clarifies the motivations behind these assassinations and reports [its findings] to the nation. And that those responsible for such revolting acts are revealed to the people without the involvement of political dishonesty.

As someone who has served in prosecution and investigative posts for many years and has investigated and unlocked the secrets of thousands of criminal cases, I believe that these assassinations are not linked to a particular political agenda, but are based on personal vendettas. In this regard, it is perhaps useful to pay adequate attention to the defense of Mojtaba in light of his honest and decent past. Judge Moqaddas has exhibited a very harsh and tough attitude toward those who enter his office, and has refused to pay any attention to fundamental rights according to the rule of law and *Shari'a* law. His life has now been cut short, and he must answer for his actions in the presence of God, as He has said:

“On the day, we will seal their mouths and their hands will talk and their feet would bear witness to what they have done.” [Surah Yasin, Ayih 65]

When he looked closer, he saw his own feather on it
He said, of whom shall I complain, as what is done unto us comes from us.

Today, the Judiciary's decision to arm the prosecutors will not only irreparably damage the grace and authority of the Judiciary, but will take the Judiciary to the point of no return. Judges are simply not informed regarding the proper use of arms pursuant to the relevant procedural code and will likely shoot as soon as they detect the slightest evidence of foul play. If, God forbid, this

leads to even a nosebleed, the Judiciary will face widespread condemnation. The only solution to this is the complete protection of the judges by the LEF. And these judges must have respect for the law, the moral code and the principles of justice. They must employ the everlasting weapons of forbearance, knowledge and law instead of relying on the ineffective weapons of anger [and revenge].

Look for the following forthcoming IHRDC Reports:

- The Islamic Republic's systematic cleansing of its prisons during the **1988 prison massacres**, which resulted in the summary execution of thousands of the regime's political prisoners.



Omidreza Mirsayafi, a cultural blogger who occasionally delved into satire, was arrested on April 22, 2008 and tried on November 2, 2008. He was convicted of insulting the country's leaders and spreading propaganda against the state, and sentenced to two and a half years' imprisonment. He died in Evin Prison on March 18, 2009, because he was no longer able to cope with conditions in prison and due to lack of medical attention.