

Mandates of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; the Special Rapporteur on the situation of human rights defenders; the Special Rapporteur on violence against women, its causes and consequences; and the Special Rapporteur on the situation of human rights in the Islamic Republic of Iran

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Excellency,

We have the honour to address you in our capacity as Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; Special Rapporteur on the situation of human rights defenders; Special Rapporteur on violence against women, its causes and consequences; and Special Rapporteur on the situation of human rights in the Islamic Republic of Iran, pursuant to Human Rights Council resolutions 34/18, 25/18, 32/19 and 28/21.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning the alleged continuous arbitrary detention of human rights defender Ms. **Fatemeh (Atena) Daemi**, as well as the recent sentencing of her two sisters, Ms. **Hanieh Daemi** and Ms. **Ensieh Daemi**.

Ms. Fatemeh (Atena) Daemi was the subject of two previous urgent appeals, sent by several Special Procedure mandate holders on 24 June 2015 (see case IRN 9/2015, report A/HRC/31/79) and 27 October 2016 (see case IRN 28/2016, report A/HRC/34/75). The first urgent appeal was sent by the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health; the Special Rapporteur on the situation of human rights defenders; the Special Rapporteur on the independence of judges and lawyers; the Special Rapporteur on the situation of human rights in the Islamic Republic of Iran; and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment. The second communication was sent by the Special Rapporteur on the situation of human rights defenders; Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; Special Rapporteur on the independence of judges and lawyers; Special Rapporteur on violence against women, its causes and consequences and Special Rapporteur on the situation of human rights in the Islamic Republic of Iran. We acknowledge receipt of your Excellency's Government reply to our first urgent appeal dated 16 March 2016 but regret, however, that no response was received to the second communication.

In our previous correspondences, we expressed concern at the arrest, detention and conviction of Ms. Daemi, which appeared to be directly related to her human rights

work and the legitimate exercise of her right to freedom of expression. We equally expressed concern at the lack of due process and fair trial guarantees, notably as a consequence of the serious restrictions placed to her legal defence, including various obstacles and intimidations faced by her lawyers, as well as the alleged pressure exerted by security authorities on the courts adjudging her case. On 7 March 2015, Ms. Daemi was tried in a brief hearing on charges of “assembly and collusion against national security”, “propaganda against the state”, “insulting the Supreme Leader and the sacred”, and “concealing crime and evidence”. She was consequently sentenced to seven years in prison and her sentence was confirmed in September 2016 by the Court of Appeal in Tehran.

On 26 November 2016, Ms. Daemi was arrested when three Revolutionary Guard officials reportedly raided her parents’ house and took her to Tehran’s Evin Prison to begin serving her prison sentence. It is reported that she was beaten and pepper sprayed by the officials arresting her after she insisted peacefully that they present an arrest warrant. Her sister was also reportedly punched in the chest when she attempted to intervene to stop the officials. On the way to prison, the Revolutionary Guard officials reportedly blindfolded her and repeatedly threatened her by saying that they would open new cases against her and had “cooked up a plan so that she gets the thought of ever getting released from prison out of her mind”.

According to the new information received:

In January 2017, the authorities charged Ms. Atena Daemi and her two sisters Ms. Hanieh Daemi and Ms. Ensieh Daemi with “insulting the Supreme Leader”, “intentional assault”, “obstructing public officials in the performance of their official duties” and “insulting public officers on duty”. These charges are related to the confrontation between Ms. Daemi’s sisters and three Revolutionary Guards officials on 26 November 2016 when they raided their parents’ house and allegedly violently arrested Mr. Daemi.

Following her arrest in November 2016, Ms. Atena Daemi filed a complaint against the Revolutionary Guards with the Office of the Prosecutor in Evin prison. However, the authorities did not process the complaint and said that “her complaint letter has been lost”. Instead, they started criminal proceedings against Ms. Atena Daemi and her sisters.

In February 2017, the three aforementioned individuals received an official letter from the Office of the Prosecutor indicating that the first two charges had been dropped. However, the other two charges remained open and Ms. Atena Daemi’s sisters were required to pay bail of 400 million rials. On 22 March 2017, they received a summons to appear before Branch 1162 of the Criminal Court in Tehran the next day to stand trial which lasted about an hour. The court issued its verdict on the next day, giving them each a prison term of three months and one

day. In the case of Ms. Atena Daemi, the three-month sentence was added to her current seven-year sentence. The court suspended the sentences of Ms. Hanieh Daemi and Ms. Ensieh Daemi for a period of one year conditional on their “good behaviour”.

On 8 April 2017, Ms. Atena Daemi went on a hunger strike in protest against the suspended prison sentences imposed on her two sisters. Since then, she has lost at least 10 kg) while in detention and her health has seriously deteriorated. Ms. Atena Daemi has also developed heart palpitations as well as kidney and urinary tract infections and prison authorities have allegedly denied her access to specialized healthcare.

On 29 April, Ms. Atena Daemi told her family that prison medical doctors were writing in their reports that her health status was normal and that she was ‘faking’ her illness. In late April, she was transferred to the prison medical clinic to receive an electrocardiogram (ECG) test but the nurse, who was a male, refused to administer the test and reportedly indicated that it is “inappropriate” for male medical staff to carry out these tests as patients are required to remove garments covering their chests.

At the beginning of May, the head of Evin Prison reportedly acknowledged that the cases of Ms. Atena Daemi and her sisters were marred with procedural irregularities and promised to follow it up with the Prosecution authorities. However, recently, the Associate Prosecutor of Evin prison informed Ms. Daemi’s family that they had no other solution but to wait for the Court of Appeals to review the convictions and sentences. The lawyer of Ms. Atena Daemi and her sisters has already expressed concern that the appeal may be rejected.

Without making any judgment as to the accuracy of the information made available to us, we would like to express concern at the arrest, charges and convictions of Ms. Atena Daemi, Ms. Hanieh Daemi and Ms. Ensieh Daemi. These actions appear to be in reprisal to the complaint submitted by Ms. Atena Daemi in relation to the reported violence against her and her family during her arrest.

We express equal concern that the legal basis upon which Ms. Daemi’s conviction and sentence are founded do not meet Iran’s obligations under international human rights standards as they represent a criminalization of legitimate expression. The charges pressed and the sanctions imposed in these cases do not pursue objectives that are considered legitimate under international human rights law, nor do they conform to the strict test of necessity and proportionality, as required for any restriction to freedom of expression.

The above allegations appear to contravene the prime responsibility and duty of the State to protect, promote and implement all human rights and fundamental freedoms

set forth in the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, in particular articles 1, 2, 6 and 12.

They also appear to be in contravention with the right not to be subjected to torture or to cruel, inhuman or degrading treatment or punishment, the right not to be deprived arbitrarily of liberty, to fair proceedings before an independent and impartial tribunal, and the right to freedom of expression, in accordance with articles 7, 9, 14 and 19 of the International Covenant on Civil and Political Rights (ICCPR), to which Iran is a State party, and articles 9, 10 and 19 of the Universal Declaration of Human Rights (UDHR). We would like to remind your Excellency's Government that any limitation to the right to freedom of expression must meet the high standard established under Article 19(3) of the ICCPR. We also reiterate the statement by the Human Rights Committee in General Comment 34 that article 19(3) may never be invoked as a justification for the muzzling of any advocacy of human rights (CCPR/C/G/34).

We appeal to your Excellency's Government to take all necessary measures to guarantee to the above-mentioned persons the right to be free from any gender-based violence, discrimination and abuse. Towards that end, we would like to draw your Excellency's attention to the Declaration on the Elimination of Violence against Women, which was adopted by the United Nations General Assembly and states that women are entitled to the equal enjoyment and protection of all human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field. These rights include, inter alia, (a) the right to equality; (b) the right to liberty and security of person; and (c) the right to equal protection under the law.

We would like to also underline the United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (the Bangkok Rules) adopted by the General Assembly in resolution 65/229, which complement the UN Standards Minimum Rules for the Treatment of Prisoners, providing guidance for specific characteristics and needs for women in prison, in particular Rule 13 which states that Prison staff shall be made aware of times when women may feel particular distress, so as to be sensitive to their situation and ensure that the women are provided appropriate support.

We would like to call your Excellency's Government attention to the duty of all States to ensure, in accordance with the UN Basic Principles on the Independence of the Judiciary establish that the judiciary decide matters before them impartially and without any restrictions, improper influences, inducements, pressures, threats or interferences, direct or indirect, from for any reason (Principle 2).

We would also like to recall that the best way to try to end a hunger strike is to address the underlying human rights violations that are the basis of the protest. Authorities have a duty to look for solutions to extreme situations created by a hunger

strike, including through good faith dialogue about the grievances, and always respecting the wishes of those who use this form of protest.

The full texts of the human rights instruments and standards recalled above are available on www.ohchr.org or can be provided upon request.

In view of the urgency of the matter, we would appreciate a response on the initial steps taken by your Excellency's Government to safeguard the rights of the above-mentioned persons in compliance with international instruments.

As it is our responsibility, under the mandates provided to us by the Human Rights Council, to seek to clarify all cases brought to our attention, we would be grateful for your observations on the following matters:

1. Please provide any additional information and any comment you may have on the above-mentioned allegations.
2. Please indicate whether an investigation was opened into the violence which reportedly took place during the arrest of Ms. Atena Daemi and if so, what has been its outcome.
3. Please provide information about the legal basis for not processing the complaint filed by Ms. Daemi.
4. Please provide information on the measures in place to protect persons who denounce violence from law enforcement authorities as well as measures taken to protect human rights defenders from reprisal against them or members of their family in accordance with international human rights norms and standards.
5. Please indicate which measures, legislation, and policies your Excellency's Government has adopted to comply with article 23 of the Constitution of the Islamic Republic of Iran, and articles 7, 9, 10, 14, 18 and 19 the International Covenant on Civil and Political Rights.
6. Please indicate what measures have been taken to ensure that human rights defenders in Iran are able to carry out their legitimate work in a safe and enabling environment without fear of threats or acts of intimidation and harassment of any sort.

While waiting for your response, we urge your Excellency's Government to take all necessary measures to halt the alleged violations prevent their re-occurrence and in the event that investigations support or suggest the allegations to be correct, to ensure the

immediate and unconditional release of Ms. Atena Daemi and annul the convictions and sentences Ms. Hanieh Daemi and Ms. Ensieh Daemi.

Your Excellency's Government's response will be made available in a report to be presented to the Human Rights Council for its consideration.

Please accept, Excellency, the assurances of our highest consideration.

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Special Rapporteur on the promotion and protection of the right to freedom of opinion
and expression

Michel Forst
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