

**Mandates of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; the Special Rapporteur on the rights to freedom of peaceful assembly and of association; the Special Rapporteur on the situation of human rights defenders; the Special Rapporteur on the independence of judges and lawyers and the Working Group on the issue of discrimination against women in law and in practice**

REFERENCE:  
AL IRN 10/2018

6 July 2018

Excellency,

We have the honour to address you in our capacities as Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; Special Rapporteur on the rights to freedom of peaceful assembly and of association; Special Rapporteur on the situation of human rights defenders; Special Rapporteur on the independence of judges and lawyers; and Working Group on the issue of discrimination against women in law and in practice, pursuant to Human Rights Council resolutions 34/18, 32/32, 34/5, 35/11 and 32/4.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning the arrest and charges against Ms. **Nasrin Sotoudeh**.

Ms. Nasrin Sotoudeh is an Iranian human rights defender and human rights lawyer who has engaged in a number of human rights activities including legally representing women rights' human rights defenders who were prosecuted for protesting the compulsory veil. Ms. Sotoudeh has been the subject of six previous communications sent by Special Procedures mandate holders dated 19 November 2010, case no. IRN 32/2010; 19 November 2010, case no. IRN 33/2010; 23 December 2010, case no. IRN 35/2010; 11 October 2011, case no. IRN 13/2011; 27 July 2012, case no. IRN 18/2012 and 6 November 2014, case no. IRN 26/2014. We thank your Excellency's Government for the responses dated 31 May 2012 and 28 November 2012, but remain concerned in light of the recent developments.

According to the new information received:

On 13 June 2018, Ms. Nasrin Sotoudeh was arrested for a second time by security forces at her home in Tehran. An arrest warrant was presented, although it is not clear if she was made aware of the charges against her, and she was informed that she had been convicted in absentia and sentenced to five-years imprisonment. She had not previously been informed of the conviction or the ruling, nor was she shown the court's ruling at the time of her arrest. That day, she was taken to the prosecutor's office at Evin prison. The Iranian judiciary did not disclose the sentencing procedure and did not inform Ms. Sotoudeh as to whether she would have the right to appeal the court's decision.

Since December 2017, a number of Iranian women have been arrested for peacefully protesting the country's compulsory veil law by removing and waving their headscarves on busy streets. According to Article 638 of Iran's Penal Code, "Women, who appear in public places and roads without wearing an Islamic hijab, shall be sentenced to ten days to two months' imprisonment or a fine of 50 thousands to five hundred rials". At the time of her arrest, Ms. Sotoudeh was the lawyer of one woman human rights defender who had been arrested for protesting the compulsory veil.

Ms. Sotoudeh was previously arrested in 2010 and sentenced to six years imprisonment on the basis of national security charges following her work as human rights lawyer. She was released in 2013.

We express our concern over the arrest and detention of Ms. Nasrin Sotoudeh for reasons seemingly linked to the exercise of her legal profession and her legitimate and peaceful work in defence of human rights. Furthermore, we are concerned at the lack of due process in connection with her arrest, and at the allegations that her conviction was made in absentia and the failure of Iranian authorities to disclose the procedure that has led to her conviction and to provide information to Ms. Sotoudeh regarding her rights of appeal. More broadly, we reiterate our serious concern at the continuing closed space for human rights defenders in Iran, including with regard to respect for the rule of law.

Without expressing an opinion at this stage on the facts of the case and on whether Ms. Sotoudeh's detention is arbitrary or not, we would like to appeal to your Excellency's Government to take all necessary measures to guarantee her right not to be deprived arbitrarily of her liberty and to fair, in-person proceedings before an independent and impartial tribunal, in accordance with articles 9 and 10 of the Universal Declaration of Human Rights and articles 9 and 14 of the International Covenant on Civil and Political Rights (ICCPR), ratified by Iran on 24 June 1975.

While we do not wish to prejudge the accuracy of these allegations, we would like to draw the attention of your Excellency's Government to the relevant international norms and standards that are applicable to the issues brought forth by the situation described above.

Please refer to the **Reference to International Law Annex** attached to this letter which cites international human rights instruments and standards relevant to these allegations.

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, therefore we would be grateful for your observations on the following matters:

1. Please provide any additional information and/or any comment(s) you may have on the above-mentioned allegations.
2. Please provide detailed information on the legal and factual bases for the arrest, detention and conviction of Ms. Sotoudeh.

3. Please provide detailed information on the trial and conviction in absentia of Ms. Sotoudeh.
4. Please kindly indicate what measures have been taken to ensure that human rights defenders and lawyers 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.

We would appreciate a response within 60 days.

While awaiting a reply, we urge that all necessary interim measures be taken to halt the alleged violations and prevent their re-occurrence and in the event that the investigations support or suggest the allegations to be correct, to ensure the accountability of any person(s) responsible for the alleged violations.

We may publicly express our concerns in the near future as, in our view, the information upon which a press release would be based is sufficiently reliable to indicate a matter warranting immediate attention. We also believe that the wider public should be alerted to the potential implications of the above-mentioned allegations. The press release would indicate that we have been in contact with your Excellency's Government's to clarify the issue/s in question.

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.

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

Clement Nyaletsossi Voule  
Special Rapporteur on the rights to freedom of peaceful assembly and of association

Michel Forst  
Special Rapporteur on the situation of human rights defenders

Diego García-Sayán  
Special Rapporteur on the independence of judges and lawyers

Ivana Radačić  
Chair-Rapporteur of the Working Group on the issue of discrimination against women in  
law and in practice

## **Annex**

### **Reference to international human rights law**

In connection with above alleged facts and concerns, we would like to draw your attention to articles 9,14, 19, 21 and 22 of the ICCPR, which guarantee the rights to liberty, including the right to not be subjected to arbitrary arrest or detention, the right to fair trial and due process, the rights to freedom of expression, peaceful assembly and of association.

We wish to draw specific attention to specific provisions of article 14 with regards to fair trial guarantees:

-14(1), that everyone shall be entitled to a fair and public hearing;

-14(3)(a), that everyone shall have the right to be informed promptly and in detail in a language which he understands of the nature and cause of the charge against him;

-14(3)(d) that everyone shall have the right to be tried in person, and to defend themselves in person or through legal assistance of his own choosing;

-14(5) that everyone convicted of a crime shall have the right to their conviction and sentence being reviewed by a higher tribunal according to law.

The Human Rights Committee, in its General Comment No. 32 on article 14, has made it clear that these guarantees must be respected regardless of legal traditions or domestic law (para. 4). In particular, the Committee has elaborated that the right of all persons charged with a criminal offense to be informed promptly of the nature and cause of criminal charges brought against them is a minimum guarantee that applies to all cases of criminal charges (para. 31). Additionally, the Committee has explained that trials in absentia are only compatible with article 14, paragraph 3(d) when necessary steps are taken to summon accused persons in a timely manner and to inform them beforehand about the date and place of their trial and to request their attendance (para. 36).

We would like to recall to your attention that in its 2011 Concluding Observations regarding the Islamic Republic of Iran (CCPR/C/IRN/CO/3), the Committee expressed its concern regarding frequent violations of fair trial guarantees provided for under the ICCPR, and recommended that Your Excellency's Government ensure that all legal proceedings are conducted in full accordance with article 14 of the Covenant, including guaranteeing (a) the right to legal assistance of one's own choosing, including for pretrial detainees; (b) the right to be informed promptly of the nature and cause of the criminal charges; (c) the intervention and presence of lawyers in all cases, including during the investigation stage; (d) the presumption of innocence; (e) the right to a public hearing; and (f) the right to appeal a ruling. We would also like to recall to your attention recommendations made during the most recent Universal Periodic Review, which were supported by Your Excellency's Government, that Your Excellency's Government take measures to ensure due process and fair trial and guarantee, in compliance with the

ICCPR, the effective independence of the procedures and administration of justice and adequate protection for human rights defenders.

We would also like to refer to Resolution 24/5 of the Human Rights Council which reminds States of their obligation to respect and fully protect the rights of all individuals to assemble peacefully and associate freely, online as well as offline, including in the context of elections, and including persons espousing minority or dissenting views or beliefs, human rights defenders, trade unionists and others, including migrants, seeking to exercise or to promote these rights, and to take all necessary measures to ensure that any restrictions on the free exercise of the rights to freedom of peaceful assembly and of association are in accordance with their obligations under international human rights law.

We would like to draw your attention to General Assembly resolution 68/181 as well as Human Rights Council resolution 31/32, which expressed particular concern about systemic and structural discrimination and violence faced by women human rights defenders. States should take all necessary measures to ensure the protection of women human rights defenders and to integrate a gender perspective into their efforts to create a safe and enabling environment for the defence of human rights. This should include the establishment of comprehensive, sustainable and gender-sensitive public policies and programmes that support and protect women defenders. Such policies and programmes should be developed with the participation of women defenders themselves (OP5, 19 and 20).

General Assembly Resolution 68/181 also urges States to acknowledge publicly the important and legitimate role of women's rights defenders in the promotion and protection of human rights, democracy, the rule of law and development as an essential component of ensuring their protection, including by publicly condemning violence and discrimination against them (OP7). The Working Group on Discrimination against Women in Law and Practice has pointed out that women's human rights defenders are often the target of gender-specific violence, such as intimidation, attacks and death threats, sometimes condoned or perpetrated by State actors. States should eliminate all forms of violence against women in order to fulfil women's human rights and to improve the enabling conditions for women's participation in political and public life (A/HRC/23/50, paras. 65 and 97(i)).

In connection with the above alleged facts and concerns we would like to refer your Excellency's Government to the fundamental principles 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, also known as the UN Declaration on Human Rights Defenders. In particular, we would like to refer to articles 1 and 2 of the Declaration which state that everyone has the right to promote and to strive for the protection and realization of human rights and fundamental freedoms at the national and international levels and that each State has a prime responsibility and duty to protect, promote and implement all human rights and fundamental freedoms.

Furthermore, we would like to bring to the attention of your Excellency's Government the following provisions of the UN Declaration on Human Rights Defenders:

- Article 9(3)(c), which provides for the right to offer and provide professionally qualified legal assistance or other relevant advice and assistance in defending human rights and fundamental freedoms.

- Article 12(2 and 3), which provides that the State shall take all necessary measures to ensure the protection of everyone against any violence, threats, retaliation, de facto or de jure adverse discrimination, pressure or any other arbitrary action as a consequence of his or her legitimate exercise of the rights referred to in the Declaration.