

Mandates of the Working Group on Arbitrary Detention; the Special Rapporteur in the field of cultural rights; 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 the independence of judges and lawyers; the Special Rapporteur on the situation of human rights in the Islamic Republic of Iran; the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment; the Special Rapporteur on violence against women, its causes and consequences; and the Working Group on the issue of discrimination against women in law and in practice

REFERENCE:
UA IRN 11/2018

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Excellency,

We have the honour to address you in our capacity as Working Group on Arbitrary Detention; Special Rapporteur in the field of cultural rights; 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 the independence of judges and lawyers; Special Rapporteur on the situation of human rights in the Islamic Republic of Iran; Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment; Special Rapporteur on violence against women, its causes and consequences; and Working Group on the issue of discrimination against women in law and in practice, pursuant to Human Rights Council resolutions 33/30, 37/12, 34/18, 34/5, 35/11, 37/30, 34/19, 32/19 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 reported arrest and arbitrary detention of human rights defenders Ms. **Hoda Amid**, Ms. **Najmeh Vahedi** and Ms. **Rezvaneh Mohammadi**, by the Iranian authorities, as well as the continued detention and aggravated charges brought against human rights defender Ms. **Nasrin Sotoudeh**, and the subsequent arrest of her husband, Mr. **Reza Khandan**.

Ms. Nasrin Sotoudeh has been the subject of seven 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, 6 November 2014, case no. IRN 26/2014 and 6 July 2018, case no. IRN 10/2018. 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 new information received:

The case of Ms. Nasrin Sotoudeh and Mr. Reza Khandan

Ms. Nasrin Sotoudeh is an Iranian human rights defender and human rights lawyer who has represented minors on death row, political opposition figures, journalists, and women human rights defenders who were prosecuted for protesting the compulsory veil.

On 13 June 2018, as referenced in the prior communication of July 2018, Ms. Sotoudeh was arrested, and was informed that she had been convicted in absentia and sentenced to five years imprisonment. Since that time she has been held in Evin Prison in Tehran.

On 25 August 2018, Ms. Sotoudeh began a hunger strike in protest of her arrest and the treatment of herself and her family. On 26 August 2018, the authorities filed three new charges against her for “urging a referendum,” “assisting in the formation of house churches” and “organising protest rallies.” According to the information received, Ms. Sotoudeh’s hunger strike is ongoing.

On 4 September 2018, Mr. Reza Khandan, the husband of Ms. Sotoudeh, was arrested and taken to the Office of the Prosecutor in Evin Prison where he was charged with “spreading propaganda against the system” and “colluding to commit crimes against national security.” He has also been accused of “promoting the practice of appearing in public without a veil.” Prior to his arrest he had raised concerns about human rights violations in Iran, including the prosecution of women protesting the compulsory veil, and had campaigned for the release of his wife.

The case of Ms. Hoda Amid, Ms. Najmeh Vahedi, and Ms. Rezvaneh Mohammadi

Ms. Hoda Amid is an attorney who works primarily on behalf of vulnerable women. She has advocated for equality in marriage and led a number of workshops regarding the use of equitable marriage contracts.

Ms. Najmeh Vahedi is a sociologist and a scholar of gender studies, and has published a number of articles relating to these topics. She has worked particularly on advocacy around women’s labour rights, and has also been active in organizing workshops on gender discrimination.

Ms. Rezvaneh Mohammadi is a student of gender studies and a gender equality activist. She has previously faced arrest for failure to wear a hijab, but was acquitted of those charges by the Gorgan city court.

On 1 September 2018 Ms. Amid and Ms. Vahedi were arrested by officers of the Iranian Revolutionary Guard Corps (IRGC) in their homes in Tehran. On 3 September 2018, Ms. Mohammadi was also arrested in her Tehran home by IRGC officers. In the case of all three arrests, the officers did not present a warrant or inform the women of any charges against them.

All three women are believed to be currently held in Tehran's Evin Prison. Ms. Amid and Ms. Mohammadi have each been able to make one short phone call to their families, while Ms. Vahedi was able to make two short phone calls. They have otherwise been denied visitation rights and further phone calls. Their families have been informed that they may only seek legal representation for the women from a list of 20 attorneys that have been approved by the Government.

Based on prior reports of conditions at Evin Prison, there is a credible risk that Ms. Amid, Ms. Vahedi and Ms. Mohammadi may be held in solitary confinement and may be subject to ill-treatment and torture including gender-based violence.

We express serious concern at the reported arrest, detention, and conditions of detention of Ms. Sotoudeh, Ms. Amid, Ms. Vahedi, Ms. Mohammadi, and Mr. Khandan which appear to be directly related to their work and advocacy related to the protection and promotion of human rights and gender equality and the legitimate exercise of their right to freedom of expression. Moreover, we express concern at the apparent lack of due process guarantees, notably as a consequence of the serious restrictions placed on seeking legal defense as well as the alleged failure to present Ms. Amid, Ms. Vahedi and Ms. Mohammadi with the specific charges or the legal basis for their detention. We express concern that these arrests are the latest in a series of reported arrests of human rights defenders and human rights lawyers in the country, in what appears to be an intensified crackdown on civil society.

Without making any judgment as to the accuracy of the information made available to us, the above allegations appear to be in contravention of provisions of international law, in particular the right not to be deprived arbitrarily of liberty, to fair proceedings before an independent and impartial tribunal, to freedom of expression, to freedom from torture and cruel, inhuman or degrading treatment and to non-discrimination in accordance with articles 7, 9, 14, 19 and 26 of the International Covenant on Civil and Political Rights (ICCPR), to which Iran is a State party, and articles 2, 5, 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).

Likewise, we would like to call your Excellency's Government attention to the duty of all States to ensure that all persons are entitled to call upon the assistance of a lawyer of their choice to protect and establish their rights, and to ensure that lawyers are able to perform all of their professional functions without intimidation, hindrance, harassment or improper interference established in the UN Basic Principles on the Role of Lawyers (Principles 1 and 16).

Moreover, we would like to remind your Excellency's Government of the absolute and non-derogable prohibition of torture and other cruel, inhuman or degrading treatment or punishment, as an international norm of *jus cogens*, and as mirrored, inter alia, in Human Rights Council Resolution 25/13 and General Assembly Resolution 68/156. In this context, we would also like to draw the attention of your Excellency's Government to Article 7 of the International Covenant on Civil and Political Rights, , provides that "[n]o one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment

Moreover, with regards to the alleged use of solitary confinement, we would like to refer to the report by the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment (A/66/268), which states that the use of prolonged solitary confinement in itself violates the absolute prohibition of torture and other ill-treatment. Moreover, due to the prisoner's lack of communication, and the lack of witnesses, solitary confinement significantly increases the risk of other acts of torture or ill-treatment.

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.

With regard to the alleged connection between the apparent violations and the individuals' human rights work, we would like to refer to 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 articles 1, 2, 6, 8 and 12. We would also like to draw your attention to General Assembly resolution 68/181 whereby States 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.

The Special Rapporteur in the field of cultural rights has previously raised her concerns about the imposition of restrictive garments on women and its impact on their right to take part in cultural life without discrimination and on other human rights. (A/72/155) “Through the imposition of “modest” dress codes, fundamentalist groups promote the idea that women are limited to a stereotypical, subordinated position in society and limited in their bodily autonomy, cultural choices and ability to do such things as ride bicycles or play sports” and “promote a culture of shame about women’s bodies.” (para 73) She has also expressed concern in particular about the arrest, reprimanding and prosecution of Iranian women for not wearing the hijab (para. 76). Human rights defenders acting to challenge such restrictions are acting in defense of universally guaranteed human rights and should not face retribution for doing so.

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 provide information about the legal basis for the arrests and detention of Ms. Hoda Amid, Ms. Najmeh Vahedi, Ms. Rezvaneh Mohammadi, and any charges that have been brought against them.
3. Please indicate the basis for the new charges brought against Ms. Nasrin Sotoudeh on 26 August 2018 and the charges brought against Mr. Reza Khandan on 4 September 2018.
4. Please provide detailed information on the measures taken to provide to Ms. Hoda Amid, Ms. Najmeh Vahedi, Ms. Rezvaneh Mohammadi, and Mr. Reza Khandan, the guarantees of due process and fair trial, and effective access to a counsel of their choosing as established in international human rights law, and in particular articles 9 and 14, of the ICCPR.

5. Please provide information relative to the measures taken by your Excellency's Government to ensure the physical and psychological well-being of Ms. Nasrin Sotoudeh, Ms. Hoda Amid, Ms. Najmeh Vahedi Ms. Rezvaneh Mohammadi, and Mr. Reza Khandan, while in detention.
6. Please indicate what measures your Excellency's Government has adopted or is planning to adopt in order to bring its Criminal Code into line with its obligations under international human rights law.
7. Please indicate what measures your Excellency's Government has adopted or is planning to adopt in order to ensure that human rights defenders, including women human rights defenders and those advocating for gender equality are able to carry out their legitimate human rights work free of repression or threat.

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 responsible of the alleged violations.

We would like to inform your Excellency's Government that after having transmitted an urgent appeal to the Government, the Working Group on Arbitrary Detention may transmit the case through its regular procedure in order to render an opinion on whether the deprivation of liberty was arbitrary or not. Such urgent appeals in no way prejudice any opinion the Working Group may render. The Government is required to respond separately for the urgent appeal procedure and the regular procedure.

We may publicly express our concerns in the near future as, in our view, the information upon which the 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.

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Vice-Chair of the Working Group on Arbitrary Detention

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Special Rapporteur in the field of cultural rights

David Kaye
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