

Mandates of the Special Rapporteur on the situation of human rights defenders; the Working Group on Arbitrary Detention; the Special Rapporteur on extrajudicial, summary or arbitrary executions; 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 right of everyone to the enjoyment of the highest attainable standard of physical and mental health; 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

REFERENCE:
UA IRN 21/2020

8 September 2020

Excellency,

We have the honour to address you in our capacity as Special Rapporteur on the situation of human rights defenders; Working Group on Arbitrary Detention; Special Rapporteur on extrajudicial, summary or arbitrary executions; 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 right of everyone to the enjoyment of the highest attainable standard of physical and mental health; Special Rapporteur on the independence of judges and lawyers; Special Rapporteur on the situation of human rights in the Islamic Republic of Iran and Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, pursuant to Human Rights Council resolutions 43/16, 42/22, 35/15, 43/4, 41/12, 42/16, 35/11, 43/24 and 34/19.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received regarding the deteriorating circumstances of human rights defenders who remain in prison during the COVID-19 pandemic.

Ms. **Nasrin Sotoudeh** is a lawyer and woman human rights defender who has worked on legal cases defending individuals who have challenged compulsory veiling laws for women and others who have been denied the right to a fair trial. She has also advocated against the death penalty, particularly when the sentence was handed down to individuals for crimes they allegedly committed before the age of 18. Ms. Sotoudeh has been the subject of nine previous communications, most recently IRN 6/2020 sent on 2 April 2020, IRN 11/2018 sent on 26 September 2018 and IRN 10/2018 sent on 6 July 2018. We regret not having received replies to the four most recent communications. Ms. Sotoudeh was also the subject of Opinion No. 21/2011 by the Working Group on Arbitrary Detention. The Working Group found that her detention on that occasion was arbitrary and because of her exercise of the rights to freedom of thought, opinion and expression, peaceful assembly and association, and her work as a human rights defender. Ms. Sotoudeh is currently serving a 33-year sentence for national security and public

order-related offences, of which 12 years are enforceable under Iranian law, handed down in March 2019.

Ms. **Atena Daemi** is a woman human rights defender who promotes children's and women's rights in Iran as well as being a vocal advocate against the death penalty in the country. Ms. Daemi was the subject of four previous communications, IRN 3/2018 sent on 31 January 2018, IRN 17/2017 sent on 9 May 2017, IRN 28/2016 sent on 27 October 2016 and IRN 9/2015 sent on 24 June 2015. We thank your Excellency's Government for the replies received to three of these communications. Ms. Daemi was also the subject of Opinion No. 83/2018 by the Working Group on Arbitrary Detention. The Working Group found that her deprivation of liberty is arbitrary, being in contravention of international law. Her detention was found to be lacking a legal basis; being due to her exercise of the rights to freedom of thought, opinion and expression, peaceful assembly and association; featuring serious violations of the right to a fair trial as well as due to her work as human rights defender. In 2015, Ms. Daemi was sentenced to seven years in prison, five of which are enforceable, for "assembly and collusion against national security" and "insulting the Supreme Leader".

Mr. **Jafar Azimzadeh** is a labour rights defender and Secretary of the Board of Directors of the Free Union of Iranian Workers (FUIW), a trade union that advocates for improved working conditions and labour rights as well as freedom of association for workers.

Mr. **Esmail Abdi** is a labour rights defender and former Secretary General of Iranian Teachers' Trade Association (ITTA), the largest teachers' rights organisation in the country. Mr. Abdi was the subject of two previous communications, IRN 10/2016 sent on 28 April 2016 and IRN 23/2015 sent on 3 December 2015. He was sentenced to six years' imprisonment in 2016 for "propaganda against the State" and "collusion against national security". We thank your Excellency's Government for the reply received to IRN 10/2016.

Mr. **Arash Sadeghi** is a human rights defender who documents and advocates against human rights violations that occur in Iranian prisons. He has also supported several campaigns for the release of human rights defenders who were imprisoned for their work. Mr. Sadeghi was the subject of six previous communications, most recently IRN 6/2020 sent on 2 April 2020, and previous to that IRN 13/2018 sent on 19 November 2018 and IRN 9/2017 sent on 23 March 2017. We thank your Excellency's Government for the responses received to four of these communications. In Opinion No. 19/2018, the Working Group on Arbitrary Detention found that Mr. Sadeghi is being arbitrarily deprived of his liberty and called for his immediate release.

We have also previously raised concerns about the continued detention of human rights defenders in Iranian prisons in the COVID-19 context in communications IRN 6/2020 sent on 2 April 2020 and IRN 10/2020 sent on 2 June 2020. These concerns have

also been raised in two public statements, dated 17 April 2020 and 22 July 2020. We regret to continue to receive reports of many human rights defenders subsequently suffering serious threats to their lives due to exposure to the virus and, instead of having requests for furlough granted, have new charges brought against them.

According to the new information received:

Ms. Nasrin Sotoudeh

After beginning a hunger strike on 16 March 2020 in protest against the Iranian authorities' refusal at the time to extend the temporary release of political prisoners and prisoners of conscience, Ms. Sotoudeh decided to end it on 30 March due to health concerns in light of the COVID-19 pandemic.

In May 2020, the Tehran Prosecutor's Office issued an order to block access to the bank account of Ms. Sotoudeh. Her family were not informed until late July 2020 and at the time of writing, the reasons for which her accounts were blocked have not been disclosed to them.

On 11 August 2020, Ms. Sotoudeh began another hunger strike, similarly in protest against the continued detention of all human rights defenders and political prisoners in the context of COVID-19. Her decision to begin a hunger strike was allegedly in protest against poor prison conditions, the denial of parole, and denial of the right to a fair trial to detainees detained for exercising their fundamental freedoms, such as human rights defenders. In the previous weeks, she had written several letters to the judicial authorities regarding the poor conditions in Evin prison as well as the lack of medical assistance being provided, particularly to those at risk of COVID-19 or those who had already contracted it. Other prisoners have allegedly joined her hunger strike.

On 18 August 2020, at noon, Ms. Sotoudeh's daughter was arrested at her home without a warrant and without informing her of the charges she faced. She was later told that she was accused of "insult and assault" on allegations that she physically assaulted a security officer at Evin prison the year before. She was brought to the prosecutor's office of Evin prison for questioning and was released the same day on bail.

Although suffering from numerous pre-existing conditions resulting from previous hunger strikes, Ms. Sotoudeh initially refused to go to the clinic at Evin prison due to concerns she had over the level of safety precautions taken in the clinic. However, on 19 August, at around 7:00 p.m. Ms. Sotoudeh was transferred to Evin prison clinic due to her severely deteriorating health condition. Prison clinic doctors have reported that she is affected by low blood pressure and low blood sugar levels and has lost six kilos. Ms. Sotoudeh is refusing family visits in

protest against the treatment of her daughter and family members of other detainees.

Ms. Atena Daemi

On 24 January 2018, Ms. Daemi was transferred from Evin prison in Tehran 60 kilometers away to Qarchak prison in the town of Varamin, where she was reportedly held in very poor conditions and denied medical attention, prompting her to begin a hunger strike. On 12 May 2018, she was returned back to Evin prison.

In mid-July 2019, Branch 26 of the Revolutionary Court of Tehran found Ms. Daemi guilty of “insulting the Supreme Leader” and “promoting propaganda against the state” and sentenced her to an additional three years and seven months in prison, of which two years and one month is enforceable. The convictions relate to an open letter she penned in prison voicing her opposition to the judicial execution of three Kurdish prisoners as well as for singing a revolutionary anthem in their honour. The sentence was confirmed on 5 September 2019 by the Tehran Appeals Court.

On 21 December 2019, detainees of Evin prison organised a sit-in at the Political Bureau in protest against the violence with which the authorities met the protests that took place across the country in November of that year, protesting against the rising price of fuel. On 28 December 2019, Ms. Daemi was transferred to solitary confinement. On 31 December, she was permitted to call her family to inform them that she had been put in solitary confinement in ward 2A of Evin prison. She was reportedly physically abused and denied medical attention. She was transferred back to the ordinary prison ward in the second week of January 2020.

On 13 May 2020, Ms. Daemi was put on trial for “propaganda against the state” and “disturbing order” at Evin prison. She had refused to attend the hearings on three previous occasions citing lack of appropriate time to prepare a defence. The charges allegedly relate to the sit-in protest that took place in December 2019. The case was sent back for investigation due to a lack of supporting evidence.

On 27 June 2020, following further investigation, Ms. Daemi appeared in court to stand trial again. On 30 June 2020, Ms. Daemi was convicted by Branch 24 of the Revolutionary Court of Tehran of “propaganda against the state”, for which she received a one-year prison sentence and “disturbing order” for which she also received a one-year prison sentence as well as 74 lashes. As per Article 134 of the Islamic Penal Code of Iran, if the sentence is upheld on appeal, she will only serve the harsher latter sentence.

Ms. Daemi is affected by different health issues resulting from the conditions of detention. She has furthermore been recently recommended for at least 10 days of hospitalization in order to be properly diagnosed and treated for symptoms associated with a serious neurologic problem. Her health status puts her at serious risk if she contracts the COVID-19 virus.

Mr. Jafar Azimzadeh

In 2015, Mr. Azimzadeh was sentenced to five years in prison for “propaganda against the State” and “assembly and collusion against national security”. The charges were allegedly based on his work with the unregistered Free Union of Iranian Workers as well as a 30,000-signature petition he led calling for legislation that would allow the formation of independent labour unions, among other demands. After beginning an open-ended hunger strike in prison on 30 April 2016, he was released on medical furlough two months later on 30 June 2016 due to his severely deteriorating health condition. Mr. Azimzadeh suffers from numerous pre-existing conditions, including heart disease and kidney problems.

On 15 October 2016, Mr. Azimzadeh was found guilty of one more count each of “propaganda against the State” and “assembly and collusion against national security”. On 23 October 2016, Mr. Azimzadeh was summoned by phone to return to Evin prison to serve his new sentence, however he refused to do so until he received a written summons.

In May 2017, Mr. Azimzadeh was acquitted of the 2016 conviction of “assembly and collusion against national security” and “propaganda against the regime”.

On 19 January 2019, Mr. Azimzadeh was rearrested to serve the remainder of his original five-year sentence.

On 12 April 2020, Mr. Azimzadeh’s family were informed that a new charge had been brought against him, which would be heard at the Second Branch of Shahid Moqadas Amniat Court at Evin prison. They were not informed of the nature of the charges or permitted to attend the hearing. Although Mr. Azimzadeh was eligible for temporary release under COVID-19 furlough measures, having served over one-third of his five-year sentence, his release was not granted. It was later revealed that the new charge he faced was “propaganda against the State” in relation to a statement he had signed in 2019 criticising the charging of prisoners for medical expenses and an audio message he recorded later that year condemning the heavy sentences handed down to peaceful protesters at Labour Day demonstrations.

On 8 June 2020, Branch 26 of the Revolutionary Court in Tehran convicted him of “propaganda against the state”, which was confirmed on 1 August 2020 at

Branch 36 of the Court of Appeals in Tehran. The conviction carries a sentence of 13 months.

On 9 August 2020, Mr. Azimzadeh was informed that he tested positive for the COVID-19 virus, based on a test he had taken a few days previously. He was transferred to a clinic in Evin prison to quarantine with 11 other prisoners who had also tested positive, including Mr. Abdi. After being retested on 9 August, both Mr. Azimzadeh and Mr. Abdi tested negative for the virus. Despite their negative results, they were required to stay in quarantine with the other COVID-19 positive inmates.

On 16 August 2020, Mr. Azimzadeh was transferred to Rajaei Shahr prison, despite being told by doctors in the medical clinic of Evin prison that he was being transferred to Taleghani hospital due to the deterioration in his health. In Rajaei Shahr prison, Mr. Azimzadeh was placed in solitary confinement. In protest against being deceived by the prison authorities and placed in solitary confinement, he began a hunger strike. At the time of writing, the human rights defender remains in solitary confinement and has been on hunger strike for over two weeks.

Mr. Esmail Abdi

On 14 May 2016, Mr. Abdi was released on bail until the completion of his sentence. Prior to this, he had been undergoing a hunger strike since April 2016.

On 7 October 2016, Branch 36 of the Tehran Appeals Court confirmed his sentence of “propaganda against the State” and “collusion against national security”. On 9 November 2016, after refusing to go back to prison until presented with a written summons, he was arrested at his home and transferred back to Evin prison to continue his six-year sentence. The Revolutionary Guards allegedly petitioned the Appeals Court for his arrest, alleging that he had broken the terms of his conditional release by visiting Mr. Jafar Azimzadeh in the hospital who was released on medical furlough at the time.

On 30 April 2017, Mr. Abdi commenced a hunger strike against irregularities in the investigation of his case. On 6 June 2017, following 37 days on hunger strike and three days of hospitalisation, he stopped the strike after conversations with the Assistant Prosecutor. Subsequently, on 25 June 2017, Mr. Abdi was granted furlough. He was rearrested after posting bail on the morning of 27 July. In October 2017, a review of Mr. Abdi’s sentence was denied.

On 17 March 2020, Mr. Abdi was furloughed from prison in compliance with COVID-19 temporary release measures. When he sought to extend his release, he was returned to prison on 20 April 2020.

In May 2020, Mr. Abdi was informed that a ten-year suspended sentence handed down to him in 2010 for “gathering information with the intention to disrupt national security” and “propaganda against the regime” had been reopened. At the time of writing, no further information has been communicated about the case.

Mr. Arash Sadeghi

Mr. Sadeghi, who suffers from a rare form of bone cancer, which would appear to qualify him for medical furlough, has remained in prison, despite reports that he was briefly placed on a list for temporary furlough in March 2020. Since April 2020, Mr. Sadeghi’s transfer to the Imam Khomeini hospital for radiotherapy treatment has been repeatedly postponed, on the recommendation of his doctor, for fear he may contract the virus in the hospital. Many ordinary wards in hospital have been temporarily repurposed to treat COVID-19 patients. By remaining in prison, where he is arbitrarily detained, he also remains at serious risk of contracting the COVID-19 virus. At the time of writing, he has reportedly been denied permission to speak with his wife, who is detained in Qarchak prison.

Without prejudging the accuracy of the allegations, we express our serious concern for the continued long-term detention of human rights defenders in Iran. While acknowledging the positive steps the Iranian authorities have taken to temporarily furlough 120,000 prisoners during this health crisis, the COVID-19 pandemic has underscored the ever more urgent need to release human rights defenders, whose lives have been placed at grave and unnecessary risk.

We previously raised concerns for the wellbeing of persons deprived of liberty in Iran, where hygiene and safety measures were reportedly inadequate to protect detainees from an outbreak of the virus. In communications IRN 6/2020 and IRN 10/2020, as well as in public statements dated 17 April 2020 and 22 July 2020, we called on your Excellency’s Government to release those detained without sufficient legal basis, including those whose case is raised in this communication. Now we are concerned that we are witnessing the consequences of this inaction, where human rights defenders with pre-existing conditions are falling seriously ill due to inadequate provision of medical assistance or have gone on hunger strike against such conditions and the unfair judicial procedures that led them there. In light of the poor prison conditions, inappropriate access to medical care, prolonged periods in solitary confinement and ill-treatment suffered by the above-mentioned human rights defenders and others whose cases have been documented by Special Procedures mandate holders, we reiterate our serious concern over the continued detention of so many, or in the case of Mr. Azimzadeh and Ms. Daemi, the extension of their sentences.

A succession of UN individual experts, treaty bodies and agencies have warned against the disproportionate impact of COVID-19 on all persons deprived of their liberty

and on the serious risks to their life. The UN Inter-Agency Standing Committee (WHO and OHCHR); the Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, and the UN Special Rapporteur on Extrajudicial, Summary or Arbitrary Killings have pointed to the specific vulnerabilities of people deprived of their liberty, including their underlying health status and the risks of mass contamination and have called on the authorities to effectively implement their obligations to respect and protect the right to life of detainees, without discrimination. They have specifically requested that States should undertake the immediate, unconditional release of all prisoners whose incarceration is illegal or arbitrary under international law, such as political prisoners, abandon or exclude detention as a sanction for persons found to be in breach of COVID-19 related measures such as curfews, and reduce the overall size of the prison populations and help tackle associated overcrowding, through a review of the prison population and consideration of alternative sentencing to imprisonment for misdemeanor¹.

We appeal to your Excellency's Government to take all necessary measures to guarantee the right of all detained persons in this case not to be deprived arbitrarily of their liberty and to fair proceedings before an independent and impartial tribunal, in accordance with articles 9 and 14 of the International Covenant on Civil and Political Rights (ICCPR), ratified by the Islamic Republic of Iran on 24 June 1975.

Article 19 of the ICCPR grants the right to freedom of opinion and expression. Legitimate restrictions to freedom of expression may be implemented in accordance with the requirements of Article 19(3) of the ICCPR, including in the context of management of the prison population. However, the use of force or involuntary transfer of individuals in retaliation of legitimate expression to criticise the acts of the authorities constitutes acts incompatible with the Covenant, see General Comment no 34 (CCPR/C/GC/34) of the Human Rights Committee, para. 23. While a number of provisions of the ICCPR enable limitations on the basis of national security, any such limitations must be non-discriminatory, provided by law, pursue a legitimate aim, and be necessary and proportionate to achieve their protective function, see e.g. General Comment no 31 of the Human Rights Committee (CCPR/C/21/Rev.1/Add. 13), para 6.

We recall Iran's obligation under article 12 of the International Covenant on Economic, Social and Cultural Rights (ICESCR, ratified by Iran on 24 June 1975), to refrain from denying or limiting equal access for all persons, including prisoners or detainees, to health preventive, curative and palliative services (Committee on Economic, Social and Cultural Rights, CESRC, General Comment 14, para. 34). Further, the UN

¹ <https://interagencystandingcommittee.org/system/files/2020-03/IASC%20Interim%20Guidance%20on%20COVID-19%20-%20Focus%20on%20Persons%20Deprived%20of%20Their%20Liberty.pdf>;
<https://undocs.org/CAT/OP/10>;
https://www.ohchr.org/Documents/Issues/Executions/HumanRightsDispatch_2_PlacesofDetention.pdf

Standard Minimum Rules for the Treatment of Prisoners (“Mandela Rules”), adopted unanimously by the UN General Assembly (A/RES/70/175), establish States’ responsibility to provide equivalence of care to prisoners i.e. the same standards of health care that are available in the community (Rules 24(1). They require prisons to evaluate, promote and protect the physical health of detainees, paying particular attention to prisoners with special health-care needs (Rule 25(1)), and ensure continuity of treatment and care (Rule 24. 2), as well as prompt access to medical attention in urgent cases and to specialized treatment where needed (Rule 27.1).

We wish to also remind your Excellency’s Government that conditions of detention can amount to inhuman and degrading treatment and thus States must respect the dignity and human rights of persons deprived of their liberty by preventing conditions that are in contravention of the absolute and non-derogable prohibition of torture and other cruel, inhuman or degrading treatment or punishment as codified in Article 7 of the ICCPR.

Furthermore, we would also like to draw the attention of your Excellency’s Government to article 12 of the Deliberation No. 11 on prevention of arbitrary deprivation of liberty in the context of public health emergencies, which calls upon all States to pay particular attention to the requirements of necessity and proportionality of deprivation of liberty in the context of public health emergencies, such as the newly emerging emergency related to the COVID-19 pandemic.

We would also 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, particularly articles 1, 2, 5, 6, 9, 12 and 18.

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 the observations of your Excellency’s Government on the following matters:

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

mentioned individuals, as well as how they were provided guarantees of due process and fair trial, and indicate how their alleged offences are compatible with international human rights law.

3. Please provide information about the measures taken to provide appropriate access to healthcare to all individuals mentioned above and as to why Mr. Sadeghi, who is in need of cancer treatment, as well as Ms. Sotoudeh, Ms. Daemi, Mr. Azimzadeh, and Mr. Abdi, are not currently on temporary furlough from prison, so as to reduce their risk of contracting the COVID-19 virus.
4. Please provide information on the measures being taken in prisons to protect prisoners and prison staff from the COVID-19 virus, including the free provision of hygiene products, social distancing measures, and procedures to separate those who contract the virus from the rest of the prison population, including by disinfecting areas with which they have come in contact.
5. Please provide information on the condition of their detention, including allegations about time spent in solitary confinement, lack of continuous access to adequate medical treatment, ill-treatment or punishment, as well as the state of their physical and mental integrity. Please provide details and the results of any investigations and inquiries undertaken in relation to these concerns. If no inquiries have taken place, or if they have been inconclusive, please explain the reasons.

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 for the alleged violations.

We may publicly express our concerns in the near future as, in our view, the information upon which the press release will 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 will indicate that we have been in contact with your Excellency's Government's to clarify the issue/s in question.

This communication and any response received from your Excellency's Government will be made public via the communications reporting [website](#) within 60 days. They will also subsequently be made available in the usual report to be presented to the Human Rights Council.

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

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Special Rapporteur on the situation of human rights defenders

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