

Mandates of the Working Group on Arbitrary Detention; 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; the Special Rapporteur on freedom of religion or belief; 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 discrimination against women and girls

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AL IRN 16/2021

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Excellency,

We have the honour to address you in our capacities as Working Group on Arbitrary Detention; Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health; 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 freedom of religion or belief; 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 discrimination against women and girls, pursuant to Human Rights Council resolutions 42/22, 43/4, 42/16, 43/16, 44/8, 46/18, 40/10, 43/20, 41/17 and 41/6.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning the **imprisonment of Ms. Nasrin Sotoudeh, a lawyer and woman human rights defender, in connection with her work in defence of human rights, including on legal cases defending women and girls criminalised for protesting compulsory veiling laws, and the related harassment of her husband, Mr. Reza Khandan.**

Ms. Sotoudeh has been the subject of several communications, most recently sent on 27 May 2021, 6 May 2021, 25 August 2020, 2 April 2020, 26 September 2018 and 6 July 2018 (IRN 14/2021, IRN 12/2021, IRN 21/2020, IRN 6/2020, IRN 11/2018, IRN 10/2018). We thank your Excellency's Government for the replies received to one of these communications, informing of the measures taken to provide Ms. Sotoudeh with access to healthcare. 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 in contravention of international law, as it was due to the exercise of the rights to freedom of thought, opinion and expression, peaceful assembly and association, and her work as a human rights defender.

According to information received:

Ms. Nasrin Sotoudeh, a prominent lawyer and human rights defender in the Islamic Republic of Iran, was first detained from September 2010 to September

2013, on charges of “propaganda against the system” and “gathering and colluding with the aim of harming State security”. On 13 June 2018, Ms. Sotoudeh was allegedly arrested again by unidentified agents and taken to Evin prison. On 11 March 2019, Ms. Sotoudeh was sentenced by the Revolutionary Court to a combined 33 years in prison and 148 lashes. She was allegedly sentenced on nine charges, including “encouraging people to corruption and prostitution”, for which she received 12 years in prison. Under Iranian law, she would have to serve 12 of the 38 years in prison, which corresponds to the longest of the sentences she received.

Since her arrest, Ms. Sotoudeh’s health deteriorated. Ms. Sotoudeh was transferred on 13 October 2020 from Evin prison to Qarchak prison. Ms. Sotoudeh was transferred to Qarchak after the authorities told her to get ready to go to the hospital. On 7 November 2020, Ms. Sotoudeh was released on temporary furlough, and shortly after went to the hospital for a medical check on her heart issues. She took a COVID-19 test, which came back positive on 10 November 2020.

Qarchak prison, where Ms. Sotoudeh is now detained, is located in the city of Varamin, south of Tehran. The transfer of Ms. Sotoudeh and other political prisoners to distant prisons is reportedly aimed at harassing them and restricting interaction and access to their families. This transfer has a disproportionately adverse impact on women including Ms. Sotoudeh given her recognised role as a caregiver within the family.

Qarchak is reportedly one of the women’s prisons with the worst condition in the Islamic Republic of Iran. It is located in a desert, and detainees report the presence of wild animals, such as snakes, on the grounds. The unrelenting climate, next to structural issues such as low ceilings, faulty sewage systems and poor ventilation, make the prison very unhealthy for detainees and contribute to the rapid spread of diseases, including COVID-19. There is a recurrent lack of access to health care for inmates, and there is insufficient and/or non-nutritional food which also leads to health issues.

The prison is overcrowded and does not have the capacity to accommodate its current prison population. Initially intended for common criminals, Qarchak prison has been receiving more political prisoners recently. Ms. Sotoudeh was reportedly initially detained in a ward for political prisoners, but has now been transferred to the common criminal ward, in contradiction with what Iranian law stipulates regarding the separation of prisoners according to the type of crime.

Over the past months, Ms. Sotoudeh has written several letters to Iran’s State Prisons Organization and engaged with prison administrators, calling for Qarchak prison’s closure due to serious sanitary and structural issues. Allegedly, no measures have been taken in response to her requests. Ms. Sotoudeh received veiled threats by a prison official, Ms. ██████████ not to speak publicly anymore about the conditions of the prison, implying that her husband could be imprisoned in retribution.

Targeting and harassment of family members of Ms. Sotoudeh

Ms. Sotoudeh's husband, Mr. Reza Khandan, has also been allegedly targeted by Iranian authorities for his activities in support of his wife and in protest of the country's compulsory veiling laws. On October 2018, Mr. Khandan was charged with "assembly and collusion against national security" and "promoting non-observance of the hijab". On 22 January 2019, Mr. Khandan was sentenced to six years imprisonment in Iran and banned from leaving the country or engaging in online activities. He must serve five of the six years he was sentenced to, and the ruling can be implemented at any time.

The family's bank accounts have been frozen, which prevents Mr. Khandan from receiving pay for work and from conducting any economic activity.

We express deep concern at what appears to be a case of systematic criminalization of a lawyer for defending women's human rights, including the rights to private life, personal autonomy and freedom of expression, thought, conscience and religion or belief, in connection with the right to decide on hijab observance. Ms. Sotoudeh appears to have been facing arbitrary detention for years solely because of her peaceful defence of human rights, and particularly the rights of women. The severe sentences handed to her, on broad and vague charges, seem intent on silencing her work and intimidating other lawyers and human rights defenders. We are particularly concerned at the apparent use of criminal offences to prevent and hinder the defence of women's rights and the efforts by activists to eradicate discrimination and violence against women. It is to be noted that Ms. Sotoudeh was sentenced on charges related to the incitement of prostitution apparently due to her defence of women protesting the compulsory veiling laws in line with their rights to decide freely. The above-mentioned allegations point to significant violations of Ms. Sotoudeh's rights to a fair trial, including the rights to be informed promptly of the nature and cause of the charge, to have a defence counsel of choice and to be present during trial.

Finally, we are gravely concerned at Ms. Sotoudeh's health condition, and at her recent transfer to Qarchak prison. Special Procedures mandate holders have expressed concern before over conditions in Qarchak and other prisons and detainees' access to healthcare. The allegations suggest that the transfer of Ms. Sotoudeh has aggravated the threats to her life and physical and mental integrity, when her health situation was already rapidly declining. We call on your Excellency's Government to review Ms. Sotoudeh's case in line with international human rights law and in the meantime, to allow her temporary release. We also call on your Excellency's Government to review the case of her husband, Mr. Reza Khandan.

In connection with the above alleged facts and concerns, please refer to the **Annex on Reference to international human rights law** attached to this letter, which cites international human rights instruments and standards relevant to these allegations.

We are issuing this appeal in order to request that your Excellency's Government safeguard the rights of the abovementioned individual from irreparable harm and without prejudicing any eventual legal determination.

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 explain the legal grounds for the arrest and detention of Ms. Sotoudeh and how are they compatible with the Islamic Republic of Iran's obligations under international human rights law.
3. Please provide information on the measures taken to ensure Ms. Sotoudeh's right to a fair trial, including her rights to have a defence counsel of choice and to be present during trial. If no measures were taken, please explain how this is compatible with the Islamic Republic of Iran's obligations under international human rights law.
4. Please provide information on the criminal charges and rulings issued against Ms. Sotoudeh in connection to her work as a lawyer and a human rights defender, particularly the offences under which she was charged and the penalties. Please explain how this is compatible with the Islamic Republic of Iran's obligations under international human rights law.
5. Please provide information on measures taken to ensure Ms. Sotoudeh's access to healthcare, women's specific health services and contact with her family, while in detention.
6. Please provide information on the criminal charges and rulings issued against Mr. Khandan, in connection with his activism and support of his wife's work. Please explain how this is compatible with Iran's obligations under international human rights law.
7. Please provide information on the detention conditions at Qarchak prison and their compatibility with the Islamic Republic of Iran's obligations under international human rights law.
8. Please explain the legal grounds for compulsory veiling laws, as well as the criminalization of unveiling under the offence of "promotion of prostitution". Please explain how this is compatible with the Islamic Republic of Iran's obligations under international human rights law.
9. Please provide information on measures taken to ensure that lawyers and women human rights defenders are able to carry out their work in a safe environment, free from any undue interference or arbitrary detention.

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.

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 would like to inform your Excellency's Government that after having transmitted the information contained in the present communication to the Government, the Working Group on Arbitrary Detention may also transmit the case through its regular procedure in order to render an opinion on whether the deprivation of liberty was arbitrary or not. The present communication in no way prejudices any opinion the Working Group may render. The Government is required to respond separately to the allegation letter 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 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.

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

Miriam Estrada-Castillo
Vice-Chair of the Working Group on Arbitrary Detention

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

Tlaleng Mofokeng
Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health

Mary Lawlor
Special Rapporteur on the situation of human rights defenders

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

Javaid Rehman
Special Rapporteur on the situation of human rights in the Islamic Republic of Iran

Ahmed Shaheed
Special Rapporteur on freedom of religion or belief

Nils Melzer
Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment

Dubravka Šimonovic
Special Rapporteur on violence against women, its causes and consequences

Elizabeth Broderick
Chair-Rapporteur of the Working Group on discrimination against women and girls

Annex

Reference to international human rights law

In connection with above alleged facts and concerns, we would like to refer your Excellency's Government to the International Covenant on Civil and Political Rights (ICCPR or "the Covenant"), ratified by the Islamic Republic of Iran on 24 June 1975.

We wish to emphasize that the prohibition of arbitrary deprivation of liberty is absolute and universal, noting that detention for peaceful exercise of rights is arbitrary in accordance with article 9 of the Covenant, Human Rights Council Resolution 24/5 and Human Rights Committee, General comment No. 35, and General Comment 37 (2020) as well as the jurisprudence of the Working Group on Arbitrary Detention.

We would like to refer to article 9 of the ICCPR enshrining the right to liberty and security of person and establishing in particular that no one shall be deprived of his or her liberty except on such grounds and in accordance with such procedure as are established by law as well as the right to legal assistance from the moment of detention. Article 9 (4) also entitles everyone detained to challenge the legality of such detention before a judicial authority. United Nations Basic Principles and Guidelines on Remedies and Procedures of Anyone Deprived of Their Liberty to Bring Proceedings Before a Court state that the right to challenge the lawfulness of detention before a court is a self-standing human right, the absence of which constitutes a human rights violation.

Furthermore, in its General Comment No. 35, the Human Rights Committee has found that arrest or detention as punishment for the legitimate exercise of the rights as guaranteed by the Covenant is arbitrary, including freedom of opinion and expression (art. 19), freedom of peaceful assembly (art. 21), freedom of association (art. 22) and freedom of religion or belief (art. 18). This has also been established in consistent jurisprudence of the Working Group on Arbitrary Detention. It has also stated that arrest or detention on discriminatory grounds in violation of article 2, paragraph 1, article 3 or article 26 is also in principle arbitrary. Furthermore, article 14 upholds the right to a fair trial and equality of all persons before the courts and tribunals, the right to a fair and public hearing by a competent, independent and impartial tribunal established by law, as well as the right to legal assistance.

In addition, the Working Group on Arbitrary Detention has stated in its jurisprudence its concerns that "the presence of multiple cases found in violation of international norms on detention indicates a systemic problem with arbitrary detention."¹

We also recall article 19 of the ICCPR, which guarantees that everyone shall have the right to hold opinions without interference, and the right to freedom of expression; which includes 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 one's choice. We note with concern the apparent retaliatory measures taken against prisoners, in the abovementioned cases, for exercising their right to freedom of expression. Legitimate restrictions to freedom of expression may be implemented in accordance with the requirements of article 19 (3)

¹ See A/HRC/WGAD/2019, 20, para. 92.

of the Covenant, also in the context of the management of the prison population. However, the use of force or involuntary transfer of individuals in retaliation for legitimately exercising their freedom of expression to criticize the acts of the authorities constitutes acts incompatible with the Covenant, see paragraph 23 of General Comment 34 (CCPR/C/GC/34) of the Human Rights Committee.

In connection with the right to decide on hijab observance and the compulsory veiling laws, we wish to reiterate that article 18 of the ICCPR guarantees everyone's right to freedom of religion or belief that includes the freedom not be exposed to any pressure of performing religious or belief activities against one's own will (A/HRC/16/53, para.39). This becomes particularly relevant in the context where women and girls are coerced to wear religious symbols that they consider not essential or even contrary to their convictions. Furthermore, a woman's choice in manifesting or expressing her identity, including her convictions, is also protected under freedom of expression provided by article 19 of the ICCPR.

We would like to further refer your Excellency's Government to article 12 of the International Covenant on Economic, Social and Cultural Rights (CESCR), ratified by the Islamic Republic of Iran on 24 June 1975, which establishes the obligation of States to respect the right to health by, inter alia, refraining from denying or limiting equal access for all persons, including prisoners or detainees, to preventive, curative and palliative health services (Committee on Economic, Social and Cultural Rights, General Comment No. 14, para. 34). We would also like to specifically highlight article 12(2)(c), which obliges States to take the steps necessary for "the prevention, treatment and control of epidemic, endemic, occupational and other diseases" (General Comment No. 14, para. 16).

We also draw your attention to Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment (adopted by General Assembly resolution 43/173 of 9 December 1988) in particular to principle 19 that establishes the right of prisoners to be visited by and to correspond with, in particular, members of his family and to be given adequate opportunity to communicate with the outside world, and principle 20 that states If a detained or imprisoned person so requests, he shall if possible be kept in a place of detention or imprisonment reasonably near his usual place of residence. In addition, we would like to underline the UN Standard Minimum Rules for the Treatment of Prisoners (reviewed on 5 November 2015 and renamed the "Mandela Rules") in particular to Rule 27(1), which provides that all prisons shall ensure prompt access to medical attention in urgent cases as well as Rule 58 which establishes that prisoners shall be allowed to communicate with their family and friends.

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 23 establishing that disciplinary sanctions for women prisoners shall not include a prohibition of family contact, especially with children and Rule 26 which recognizes the significant impact that loss of contact with children has on mothers.

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.

We would like to draw your attention to Human Rights Council resolution 31/32, in which 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. 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.

We would also like to refer to General Assembly resolution 68/181, adopted on 18 December 2013, on the protection of women human rights defenders. Specifically, we would like to refer to articles 7, 9 and 10, whereby States are called upon to, respectively, publicly acknowledge the important role played by women human rights defenders, take practical steps to prevent threats, harassment and violence against them and to combat impunity for such violations and abuses, and ensure that all legal provisions, administrative measures and policies affecting women human rights defenders are compatible with relevant provisions of international human rights law.

As stressed by the Working Group on discrimination against women and girls in one of its reports to the Human Rights Council (A/HRC/23/50), stigmatization, harassment and outright attacks are used to silence and discredit women who are outspoken as leaders, community workers, human rights defenders and politicians. Women human rights defenders are often the target of gender-specific violence, such as verbal abuse based on their sex, sexual abuse or rape: they may experience intimidation, attacks, death threats and even murder. Violence against women defenders is sometimes condoned or perpetrated by State actors. The Working Group recommended to accelerate efforts to eliminate all forms of violence against women, including through a comprehensive legal framework to combat impunity, in order to fulfil women's human rights and to improve the enabling conditions for women's participation in political and public life.

In a joint declaration, the Working Group on discrimination against women and girls emphasized that women human rights defenders face unique challenges, driven by deep-rooted discrimination against women and stereotypes about their appropriate role in society. Today's rising fundamentalisms of all kinds and political populism, as well as unchecked authoritarian rule further fuel discrimination against women, intensifying the obstacles facing women human rights defenders. In addition to the risks of threats, attacks and violence faced by all human rights defenders, women human rights defenders are exposed to specific risks, such as misogynistic attacks, gender-based violence (including sexual violence), lack of protection and access to justice as well as lack of resources.