

# Lawyers' Rights Watch Canada

*NGO in Special Consultative Status with the Economic and Social Council of the United Nations*

## **Attacks on Lawyers in Iran over the past 6 years (2004-2009)**

by Tina Prabhakar

### **Summary of Trends on Attacks on Lawyers**

During this period, lawyers in Iran who act for social activists have been vulnerable to a pattern of attacks that often results in imprisonment and loss of the right to practice law. Attacks on lawyers by the government of the Islamic Republic of Iran, as exemplified by the nine case studies in this report, have frequently involved:

- arrest, detention on false charges, high bail, unfair trial, conviction on false charges and imposition of lengthy sentences on conviction; and,
- mal-treatment while detained including denial of access to lawyers and family, denial of medical treatment, torture and other treatment prohibited by the Convention against Torture; and,
- travel restrictions; and,
- threats, impediments and limits to the practice of law.

### **Judicial Involvement in Human Rights Violations**

On November 21, 2008, for the fifth consecutive year, the UN General Assembly adopted a resolution expressing concern at ongoing violations of human rights in the Islamic Republic of Iran.<sup>1</sup> Trends to note include the authority's systemic use of high bails, increased use of fear tactics against youth and their families, as well as its anticipatory approach to peaceful civil action which attempts to eliminate events before they can begin.

In its 2006 Country Report, Human Rights Watch (HRW) stated that the judiciary, which is accountable to Ayatollah Khamenei, has been at the center of many human rights violations.<sup>2</sup> Prominent violations include: the use of the death penalty without adequate trial, especially for children; *gozinesh* or "selection" provisions that prohibit individuals from working for state bodies, entering higher education and similar laws for professional bodies including the Bar Association; discrimination against women in the justice system and in some criminal cases; arbitrary arrest; torture and other cruel, inhuman and degrading punishments.<sup>3</sup>

<sup>1</sup> Edwards, Steven. "Canada's leads victory over Iran on rights." 24 Nov. 2008 *Montreal Gazette*. Available at: <<http://www2.canada.com/montrealgazette/news/story.html?id=8c6e2039-3a11-4fcd-b8e3-13706d8f180c>>.

Hakimian, Yasmine S. "Canada's Resolution on Human Rights Violations in Iran Approved." 2 Jan. 2009 *Impunity Watch Middle East*. Available at: <[http://www.impunitywatch.com/impunity\\_watch\\_middle\\_eas/2009/01/canadas-resolution-on-human-rights-violations-in-iran-approved.html](http://www.impunitywatch.com/impunity_watch_middle_eas/2009/01/canadas-resolution-on-human-rights-violations-in-iran-approved.html)>.

<sup>2</sup> <http://www.payvand.com/news/06/jan/1151.html>

<sup>3</sup> <http://web.amnesty.org/report2005/irn-summary-eng>

A wide-spread mistrust of the judiciary and a culture of impunity continue to grow, as there are no mechanisms for monitoring and investigating violations by state agents.<sup>4</sup> Lawyers who represent social activists are most likely to face problems and restrictions similar to their clients. For example, they may be held on false charges pending a judicial trial, imprisoned on such charges, their travel may be restricted and their right to practice law may be suspended.

For example, LRWC has been tracking the situations of Nasser Zarafchan, Shirin Ebadi and Abdolfatteh Soltani, who in representing religious minorities, women rights activists and others seeking redress from the government, have faced continuing incidents of harassment.

### Case Studies

**Nasser Zarafchan:** LRWC wrote multiple letters for Mr. Zarafchan's release and safety while he was imprisoned on false allegations for five years and denied adequate medical attention.

Mr. Zarafchan, a prominent lawyer, was sentenced in March 2002 by a Military Court to two years for publicizing state information, three years for possession of firearms and 70 lashes for illegally possessing alcohol. He was also banned from practicing law for five years.

In December 2004 Mr. Zarafchan's lawyer, Dr. Shirin Ebadi, made a request that he be allowed to be hospitalized outside of Evin prison, where he was being held. This request was refused by the Tehran Prosecutor, Said Motazavi. In April 2005, Mr. Zarafchan wrote a letter detailing his need and denial of medical attention for his kidney disorder and outlining his repeated attempts to bring this to the attention of prison officials.

Shortly after the letter was written, prison staff searched through Zarafchan's cell, destroying many of his possessions, while Zarafchan was in a meeting with his lawyer in another room. After this search, Zarafchan was relocated to another part of the prison which houses individuals convicted of violent crimes. Since being relocated, it has been reported that Zarafchan has been repeatedly harassed and threatened by inmates. On April 21, 2005 Zarafchan went on a hunger strike for an undetermined period of time, demanding to be separated from the general population of the prison, access to proper medical treatment outside of the prison and visitation rights to see family members.<sup>5</sup>

Mr. Zarafchan was finally released on March 16, 2007.

**Shirin Ebadi:** LRWC has monitored actions against Dr. Ebadi, who has been threatened with arrest and malicious prosecution (for communicating with UN officials), has faced mob violence which included death threats and has seen her co-workers arrested and her office closed.

Dr. Ebadi is the main founder of the Centre to Defend Human Rights (CDHR) in 2002 as well as a prominent lawyer who has taken on cases for many intellectuals and activists in her legal career. She was summoned by the Revolutionary Court, which deals with security offenses, in January 2005 without explanation, but not arrested due in large part to international outcry. This summons fell on the day after EU representatives resumed trade talks with the Iranian government.

In 2006, the Iranian government declared CDHR banned, yet its members continued their work. In October 2008 Iran's official news agency warned Dr. Ebadi not to "misuse the tolerance of the

<sup>4</sup> <http://www.payvand.com/news/06/jan/1151.html>

<sup>5</sup> <http://web.amnesty.org/appeals/index/irn-010602-wwa-eng>

government.” Under pressure from the Iranian government, the Malaysian foreign ministry forced the International Peace Foundation to cancel a conference that Dr. Ebadi was to attend.<sup>6</sup>

LRWC then received information that Dr. Shirin Ebadi was facing an escalated persecution campaign, which threatened her safety. As a part of this increased harassment, Ms. Jinus Sobhani, the administrative assistant for CDHR and the Centre for the Mine Cleanup Project, both organizations founded by Dr. Ebadi and arbitrarily closed down at the end of December 2008, was arrested. It is notable that Ms. Sobhani was one of six Baha'is arrested in Tehran on the same day, and that the pervasive harassment of Baha'is by the Iranian government has been noted domestically and internationally (see page .

A violent demonstration consisting of approximately 150 people was held outside of her home in Tehran on January 1, 2009. These individuals chanted death threats against her, tore down the sign to her law office, and marked the building with graffiti. This demonstration was the third time in eleven days that Iranian authorities or hard-line groups had targeted Dr. Ebadi, one of the previous incidents involving Iranian authorities raiding her office.

This mob violence is directly linked to intensified government persecution due to her contact with UN officials who were compiling a report on human rights in Iran. The report was released in October 2008 and has contributed to a critical UN General Assembly resolution on Iran. In particular, newspapers and websites close to the Iranian government have been criticizing Dr. Ebadi for months and have been calling for her prosecution for legitimate interactions with UN officials - what they refer to as “transferring or selling information to foreigners.” These continued efforts to interfere with Dr. Ebadi's ongoing work in gender equality, democracy and human rights have even drawn the attention of Secretary General Ban Ki-moon, who called for immediate measures to prevent any further harassment.

During the June 2009 elections, while Dr. Ebadi was located outside of Iran, she voiced concern over the repression of human rights activists and reformist leaders, including Mr. Soltani (see below), and demanded their unconditional release.<sup>7</sup>

**Abdolfatteh Soltani:** LRWC has written multiple letters for Mr. Soltani's release and safety during his arrest and imprisonment from July 2005 to March 2006 on espionage charges as well as his recent arrest without reason on June 16, 2009. In between his 2006 release and his 2009 arrest, Mr. Soltani's travel documents were confiscated and the judiciary disqualified him from elections to the Board of the Bar Association along with three other CDHR members.

Mr. Abdolfattah Soltani was handcuffed and arrested in front of his home by four plainclothes persons on June 16, 2009. There is no information available as to his whereabouts. Like many other targeted individuals, he has been harassed on several occasions in the past. LRWC recently wrote a letter to the Iranian government demanding information regarding his whereabouts on June 19, 2009.<sup>8</sup>

Mr. Soltani was the lawyer for both 'dissident' journalist and writer Mr. Akbar Ganji and the family of the Canadian-Iranian photo-journalist Ms. Zahra Kazemi. He was unlawfully arrested and detained on July 30, 2005, but was released on bail on 5 March, 2006, after 219 days in

<sup>6</sup> Human Rights Watch, *World Report 2009 - Iran*, 14 January 2009. Online. UNHCR Refworld, available at: <http://www.unhcr.org/refworld/docid/49705f9d5f.html> [accessed 28 January 2009].

<sup>7</sup> <http://www.rferl.org/content/feature/1755897.html>

<sup>8</sup> <http://www.omct.org/index.php?id=&lang=eng&actualPageNumber=1&articleSet=Appeal&articleId=8611&PHPSESSID=24960536728211f9b091c4c84a7a9ece>

prison. LRWC wrote letters demanding his release in August and October. While in detention, he was allowed only limited access to his family and was not granted access to his lawyer for over five months. He is the co-founder of CDHR alongside Dr. Ebadi, and was reportedly accused of releasing “classified national intelligence,” alongside allegations of disclosing information in a nuclear espionage case in which he was a defense counsel. Upon his release, Mr. Soltani reportedly said: “... my court trial will probably begin after the Iranian new year (March 21st). The court will determine whether I can have my lawyer to defend me or not. No lawyer has been given access to my files during the past seven months. I too have not been given my file to read.”<sup>9</sup> Mr. Soltani went on to tell Radio Farda in a March 31 interview that his lawyers asked for two months to review such files but had only been given two weeks instead. He noted that not allowing the accused to see or read his file was a clear violation of Article 190 of Iran’s Criminal Code.<sup>10</sup> On May 6, 2006 the EU expressed serious concern about a fair hearing for Mr. Soltani by a “competent, independent and impartial tribunal established by law.” The EU release, in particular, regretted the disbaring of Mr. Soltani from holding his elected position in the Iranian Bar Association and asked that this decision be reconsidered.<sup>11</sup>

Although Mr. Soltani was acquitted on May 28, 2007 of all charges that were pending against him since July 2005, the Iranian authorities did not return his identity documents (i.e. passport and family record book), thus preventing him from exercising his freedom of movement, in violation of Article 12.2 of the *International Covenant on Civil and Political Rights*. Furthermore, in the 2008 elections to the Board of the Central Bar Association (*Kanoon-e Vokala*), Mr. Soltani was one of four lawyers - the others being Mohammad Dadkhah, Dr. Hadi Esmailzadeh and Fatemeh Gheyreat - who were disqualified from standing by order of the judiciary. It is noted that these lawyers were all members of the CDHR.

### ***Lawyers affiliated with Religious Groups***

Under the Constitution of 1979, Article 13, religious minorities such as Zoroastrians, Christians (including Armenians, Assyrians, Chaldean Catholics and Protestants), Jews and Sunni Muslims are recognized and allowed to practice their religious faith.<sup>12</sup> Baha’is and Sufis, however, are not. In September 2005 an Islamic scholar in Qom, Ayatollah Nouri-Hamedani, reportedly called for a crackdown on Sufi groups. On February 4, 2006, Channel 5 of Iranian television ran a video clip of the Nematollahi Sufi order, citing them as “instruments of foreign powers.”<sup>13</sup> Of particular concern to LRWC were charges against two lawyers for the Nematollahi Sufi group, **Farshad Yadollahi** and **Omid Behroozi**. On May 3, they were charged in the General Criminal Court of Qom for “disobeying the orders of government officials” and “disturbing public order.” They were disqualified from the legal profession for five years and may have been tortured. Amnesty International put out an urgent appeal regarding this case on May 16, 2006.<sup>14</sup>

Meanwhile, according to a confidential letter sent on October 29, 2005 by the Chairman of the Command Headquarters of the Armed Forces to a number of governmental agencies, the Ayatollah Khamenei instructed the agency to identify and monitor those of the Baha’i faith, a community of approximately 300,000-350,000 that do not have the right to practice their religion

<sup>9</sup> <http://web.amnesty.org/library/Index/ENGMDE130262006?open&of=ENG-IRN>

<sup>10</sup> <http://www.rferl.org/reviews/farda2006/20060414.pdf>

<sup>11</sup> [http://www.austria.org/index.php?option=com\\_content&task=view&id=159&Itemid=30](http://www.austria.org/index.php?option=com_content&task=view&id=159&Itemid=30)

<sup>12</sup> <http://web.amnesty.org/library/Index/ENGMDE130102006?open&of=ENG-IRN>

<sup>13</sup> <http://web.amnesty.org/library/Index/ENGMDE130522006>

<sup>14</sup> <http://web.amnesty.org/library/Index/ENGMDE130522006>

under the current regime.<sup>15</sup> Baha'is and those who try to give them adequate legal representation are increasingly under attack by the Iranian news media. Both **Dr. Ebadi** and **Mr. Soltani** have had limited access to their Baha'i clients and have had false and irrelevant allegations put against them. For example, there were rumours spread that Dr. Ebadi's daughter has become a Baha'i, alongside news that Baha'is are agents of Zionism and that when Iranian Baha'is communicate with the International Baha'i governing body it is a "conspiracy."<sup>16</sup>

### **Women Lawyers**

UN Special Rapporteur on violence against women, Yakin Ertuk noted that the previous parliament introduced 33 bills, but many have been rejected by the Guardians' Council as incompatible with Shari'a law, including a proposal to ratify the *Convention on the Elimination of All Forms of Discrimination against Women* (CEDAW) in August 2005.<sup>17</sup> Although new communication technologies are changing cultural norms, this has not been the case in legal affairs. In matters of divorce, child custody, inheritance and the credibility of testimony in court, women still have fewer rights than men.<sup>18</sup>

LRWC received and wrote a letter based on information that **Shadi Sadr**, a lawyer and journalist, was arrested in Tehran on March 4, 2007 during a protest against the trial of six women's rights activists on charges of "propaganda against the system," "acting against national security" and "participating in an illegal demonstration." Ms. Sadr was detained in Ward 209 of Evin Prison without any official charge against her, although she was apparently accused of organizing the protest.

Ms. Sadr has been a central voice against death sentences for women who kill in self-defense against rape, against biased divorce laws, against capital punishment by stoning and against the provision on stoning in the Islamic Punishment Act. In this capacity, Ms. Sadr has represented a number of persecuted activists and journalists and been the director of Raahi, a legal advice centre for women. As the legal counsel for Ashraf Kalahri, a mother of four children who was subject to this cruel and inhuman punishment, Ms. Sadr submitted a petition signed by over four thousand people to Ayatollah Shahroudi, the head of the judicial system of Iran. Although Ms. Sadr's efforts successfully resulted in the stoning being stayed and the Minister of Justice Jamal Karimi Rad's denials of this practice, Ms. Kalahri and others that Ms. Sadr has voluntarily represented remain at risk under unjust sentences and un-amended legal provisions. Ms. Sadr herself was freed on bail on March 19, 2007.

For women who are explicitly demanding equality, such as those in the *One Million Signatures Campaign*, 2007-2008 has been a time of increased state pressure through the use of arbitrary arrests and summons to court. The Observatory for the Protection of Human Rights Defenders recalls that over 100 women have been arrested, interrogated, or sentenced in the past 2 years

<sup>15</sup> [http://www.fidh.org/article.php3?id\\_article=3221](http://www.fidh.org/article.php3?id_article=3221)

<sup>16</sup> "Iranian media attacks on Baha'is and Nobel Prize Winner Shirin Ebadi seek to stir 'irrational fears and prejudices'." 12 Aug 2008 *Bahia World News Service*. Available at: <<http://news.bahai.org/story/650>>; Human Rights Watch. "Iran: Threats to Nobel Laureate Escalate." 2 Jan 2009 *News*. Available at: <[www.hrw.org/en/news/2009/01/02/iran-threats-nobel-laureate-escalate](http://www.hrw.org/en/news/2009/01/02/iran-threats-nobel-laureate-escalate)>.

<sup>17</sup> <http://hrw.org/english/docs/2006/03/09/iran12832.htm>.

<sup>18</sup> Zind, Steve. "Iran 2009: Iranian women make gains, but barriers remain." 5 Feb. 2009 *Vermont Public Radio News*. Available at: <[www.vpr.net/news\\_detail/83908/](http://www.vpr.net/news_detail/83908/)>.

and that over 1 million Euros have been raised by imprisoning these women and extracting bail for their release.<sup>19</sup>

**Nasrin Sotoodeh**, a lawyer who represents several women in the *Campaign*, was banned from travel on December 10, 2008 while heading to Italy to receive the International Human Rights Prize from the Organization of Human Rights International. After going through passport control her name was paged and she was approached by an individual who identified himself as from the Office of the President. On her insistence that he present identification, he did, and then proceeded to confiscate Ms. Sotoodeh's passport. He explained that a travel ban had been issued for her in relation to an open case pending against her. She states that none of court sentences barring activists from travel have been served to the accused or their lawyers and are therefore illegal.<sup>20</sup>

### ***Other developments affecting Lawyers***

In October 2005, Press Courts were reintroduced to try breaches of the Press Code, which contains vaguely-worded provisions that can be used to punish people for the peaceful expression of their opinions. Iran's Penal Code also features vague provisions that undermine the full exercise of the legal and protected right to freedom of opinion and expression and provide for flogging in connection with politically motivated "incitement," defamation and insult allegations and charges.<sup>21</sup>

Discriminatory selection procedures (*gozinesh*) increasing. This form of pressure causes many to self-censor. In the 2008 elections to the Board of the Central Bar Association (*Kanoon-e Vokala*), four lawyers (as mentioned previously) were disqualified from standing by order of the judiciary. The Central Bar Association is the only independent institution / NGO whose legal rights are mentioned in the Constitution.<sup>22</sup>

Finally, dissident or reformist clerics (*ulama*) within the Shi'a majority, along with such clerics in neighbouring countries, have created a gradual shift in the discourse and practice of the transnational Shi'a authority. They demand "Islamic justice" through a rejection of rule by religious jurist (*velayat-e-faqih*) and push for democratic ideals of accountability, pluralism, civil rights (including women's rights) so as to empower a just political community. While under President Khatami censorship eased and such dissident clerics writings could be found in newspapers, journals and books, the conservative judiciary responded with harsh measures. Post-2005, censorship has heightened and these clerics have turned increasingly to the internet to create personalized spaces for their ideas and to interact with a variety of other theologians.<sup>23</sup>

### ***Recommendations for Remedial Action***

Dr. Ebadi suggests that, despite the desire for a heavy-handed response to the hostile rhetoric of President Ahmadinejad and other hardliners, easing restrictions on student visas as well as avoiding harsh economic sanctions and threats of military action will actually help weaken the

<sup>19</sup> The Observatory for the Protection of Human Rights Defenders. "Iran: Arbitrary detention of Ms. Jelveh Javaheri." 5 Dec. 2007 *Urgent Appeal*.

<sup>20</sup> <http://www.forequality.info/english/spip.php?article417>

<sup>21</sup> <http://web.amnesty.org/library/index/ENGMDE130172002>

<sup>22</sup> Amnesty International. *Iran: Human Rights in the spotlight on the 30<sup>th</sup> Anniversary of the Islamic Revolution*. 5 Feb. 2009 Available at: < <http://www.amnestyusa.org/document.php?id=ENGMDE130102009&lang=e>>; Gheytauchi, Elham <Gheytauchi\_Elham@smc.edu>. "Re: Suggestions for Draft LRWC Iran Report 2008." Private e-mail message to Tina Parbhakar. 17 February 2009.

<sup>23</sup> Gheytauchi, Elham and Babak Rahimi. "Iran's Reformists and Activists: Internet Exploiters." 15.1 *Middle East Policy* (2008): 46-49.

government's position. With an awareness of the distinction between the government and the people, she hopes Western foreign policies will begin to have more positive than negative impacts on the Iranian people.<sup>24</sup> As an increasingly connected society, the blogosphere appears to be a significant place for inroads into Iran. The Harvard Center for Middle Eastern Studies had workshops on this topic in 2007, details of which may be instructive.<sup>25</sup>

*Gozaar*, an online forum on human rights and democracy in Iran, has published expert opinions from Iranian civil society activists and observers which identify new ways to accelerate the processes of democratization and recognition of human rights. Of those that have responded to questions regarding outside/foreign contribution, the lawyer Mehrangiz Kar notes that establishing trust and avoiding sensationalization of human rights stories is crucial; Dr. Fatima Haghghatjoo hopes for the persistence of external campaigns to free political prisoners and the expansion of lobbying in the international community; Abdollah Momeni argues that international civil society must have a clear, well-documented understanding of the situation in Iran and that violations must carry an international cost to change government behaviour; Fariba Davoodi Mohajer provides a list of ten points including the need for successful models and precedents from the outside to deal with problems such as the obstacles created by state-run organizations; Alborz Baqeri proposes that activists outside the country prepare the ground for informing international institutions by running websites in foreign languages; and Mohsen Sazegara focuses on bolstering media coverage as a means to debilitate the regime and also suggests that since dictatorial regimes understand only the language of force, strategic pressure should be applied to Iran's ruling powers such as that employed against the South African apartheid.<sup>26</sup>

One overarching theme in the responses is the need for a long-term vision. Although many activists and observers seek further networking with external bodies, local ownership is crucial for credibility in an exceedingly suspicious system. For example, Iran has an established women's rights movement based on interpreting Islamic laws in a gender-sensitive manner. Through their involvement in education and health systems, women have been able to motivate change in an incremental manner. This does not, however, signify an acceptance of an Islamic standard of human rights and the imposition of insular legal norms. Human rights must remain universal to be of any value to the world's poorest and least-represented and to provide the conceptual link to struggles elsewhere.

*Lawyers Rights Watch Canada (LRWC) is a committee of lawyers who promote human rights and the rule of law internationally by protecting advocacy rights. LRWC engages in research and education, campaigns for advocates in danger because of their human rights advocacy and works in cooperation with other human rights organizations. LRWC has Special Consultative status with the Economic and Social Council of the United Nations.*

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<sup>24</sup> Sadjadpour, Karim. "Human Rights and Civil Society in Iran: A Conversation with Nobel Laureate Shirin Ebadi." 02 Feb. 2009 *Events, Carnegie Endowment for International Peace*. Available at: <<http://carnegieendowment.org/events/?fa=eventDetail&id=1253>>.

<sup>25</sup> See Harvard University Center for Middle Eastern Studies website. Available at: <<http://cmes.hmdc.harvard.edu/node/789>>.

<sup>26</sup> "Responses to Gozaar's Survey on Iranian Civil Society Activists and Observers: Guidelines for Defenders of Democracy and Human Rights." 8 Oct. 2008. *Gozaar*. Available at: <[www.gozaar.org/freeform.php?id=79&language=english#kar](http://www.gozaar.org/freeform.php?id=79&language=english#kar)>.