

Lawyers' Rights Watch Canada

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LAWYERS FOR
LAWYERS

f FRONT LINE
DEFENDERS



Human Rights
Institute



The Law Society
of England and Wales

18 January 2022

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Your Excellencies,

Re: Iran: Arbitrary detention of lawyers and other human rights defenders including Amirsalar Davoudi, Nasrin Sotoudeh, Hoda Amid, Mustafa Nili, and Arash Keykhosravi

We write on behalf of Lawyers' Rights Watch Canada (LRWC), the International Bar Association's Human Rights Institute (IBAHRI), Lawyers for Lawyers (L4L), Front Line Defenders, and the Law Society of England and Wales (a professional representative body), all NGOs in consultative status with the United Nations (UN) Economic and Social Council.

We are gravely concerned about the pattern of unlawful detention of human rights lawyers and defenders in Iran in violation of Iran's international human rights law obligations. This letter elaborates our concerns about the unlawful detention of lawyers **Mr. Amirsalar Davoudi**,¹ Ms. **Nasrin Sotoudeh**² and Ms. **Hoda Amid**,³ about whom several of our organizations have previously written.

¹ Lawyers for Lawyers, The Law Society of England and Wales, and Lawyers' Rights Watch Canada, "Iran: Continued Detention and Deteriorating Health of Nasrin Sotoudeh and Amirsalar Davoodi, Joint Letter, 16 September 2020, <https://www.lrwc.org/iran-continued-detention-and-deteriorating-health-of-nasrin-sotoudeh-and-amirsalar-davoodi-joint-letter/>; Lawyers for Lawyers, Lawyers' Rights Watch Canada, the Law Society of England and Wales, and the International Bar Association's Human Rights Institute, Joint oral statement to Human Rights Council on Turkey and Iran, 48th session of the UN Human Rights Council, 22 September 2021, <https://lawyersforlawyers.org/en/joint-oral-statement-to-human-rights-council-on-turkey-and-iran/>.

² "Iran: Lawyer Nasrin Sotoudeh Sent Back to Prison," Joint Statement of 26 Bar Associations, Law Societies, and organisations, <https://www.lrwc.org/iran-lawyer-nasrin-sotoudeh-sent-back-to-prison-joint-statement/>.

We are troubled that on 13 July 2021 Mr. Amirsalar Davoudi's sentence of 29 years imprisonment, 111 lashes, and a fine of 60 million rials was upheld by the Tehran Revolutionary Court after having been previously quashed by the Iranian Supreme Court. Ms. Nasrin Sotoudeh has been detained since June 2018 and is currently serving a sentence of 38 year imprisonment and 148 lashes.⁴ Similarly, human rights lawyer Ms. Hoda Amid was sentenced by the Tehran Court of Appeal on February 13 2021, and given an 8-year prison sentence.⁵

Our organizations are also concerned about the arbitrary detention of numerous other lawyers and human rights defenders, including dual and foreign nationals in detention. In another instance, on August 14, 2021, Iranian authorities arbitrarily arrested a group of seven human rights defenders, including five lawyers such as **Mustafa Nili** and **Arash Keykhosravi**, as they prepared to file a complaint against the country's National Task Force against COVID-19. The two aforementioned human rights lawyers remained in prison for over three months, were released on bail in late December 2021, and are facing an ongoing criminal trial. We share the concerns of UN Special Procedures about Iran's severe human rights violations, and we urge your government to end its systematic and widespread pattern of judicial harassment of human rights lawyers and defenders, including women human rights defenders, using laws that allow for arbitrary application due to insufficiently defined and overbroad language. In addition lawyers and defenders are subjected to unfair proceedings, lengthy arbitrary detention, and torture and ill-treatment to attempt to silence their human rights work and advocacy.⁶

We note the May 2021 communication of a number of Special Procedures mandate holders expressing their "profound concern" that:

human rights defenders and lawyers appear to be systemically and arbitrarily detained, often for several years, for carrying out their peaceful human rights activities. The long-term detention of human rights defenders may ensure that for many years, initiatives that seek to expose human rights violations are suppressed and silenced.⁷

Our legal analysis and recommendations are respectfully presented below for your government's consideration and immediate action. In particular, we recommend that your government take immediate steps to unconditionally release Mr. Amirsalar Davoudi, Ms. Nasrin Sotoudeh and Ms.

³ Lawyers for Lawyers and Lawyers' Rights Watch Canada, Iran: Imprisonment of Hoda Amid and the Harassment of Lawyers, letter 16 March 2021, <https://www.lrlwc.org/iran-imprisonment-of-hoda-amid-and-the-harassment-of-lawyers-joint-letter/>.

⁴ UN Office of the High Commissioner for Human Rights, "Iran: Jailed for defending women who opposed compulsory veiling, Nasrin Sotoudeh must be freed, say UN experts," 21 June 2021, <https://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=27179&LangID=E>.

⁵ Front Line Defenders, "Women human rights defenders Hoda Amid convicted and Najmeh Vahedi, 16 February 2021, <https://www.frontlinedefenders.org/en/case/women-human-rights-defenders-hoda-amid-convicted-and-najmeh-vahedi>; Lawyers for Lawyers, and Lawyers' Rights Watch Canada, Joint letter on the imprisonment of Hoda Amid, 17 March 2021, <https://lawyersforlawyers.org/en/joint-letter-on-the-imprisonment-of-hoda-amid/>.

⁶ UN Human Rights Council, Report of the Special Rapporteur on the situation of human rights in the Islamic Republic of Iran A/HRC/43/61, 28 January 2020, <https://undocs.org/en/A/HRC/43/61>.

⁷ UN Human Rights Council, Mandates of the Special Rapporteur on the situation of human rights defenders, REFERENCE: AL IRN 12/2021, 6 May 2021, <https://spcommreports.ohchr.org/TMResultsBase/DownLoadPublicCommunicationFile?gId=26375>.

Hoda Amid, Mr Nili, Mr Keykhosravi and all other human rights lawyers and defenders arbitrarily detained in Iran.

1. Criminal laws and charges must comply with the international law principle of legality

Numerous human rights lawyers and defenders have been arbitrarily detained on illegitimate charges that violate Iran's obligations under international law and domestic law. Iranian authorities have imprisoned many people on the basis of vaguely worded and overbroad charges that allow for arbitrary application and that unlawfully criminalize their legitimate, peaceful human rights activities. Such charges contravene the principle of legality, which is codified in Article 15 of the *International Covenant on Civil and Political Rights* (ICCPR),⁸ ratified by Iran in 1975. Iran's Civil Code, Article 9, provides that ratified treaties such as the ICCPR have the same force of law as parliamentary legislation.⁹

The principle of legality is also established by Iran's 2014 *Islamic Penal Code*, Article 10, which provides that "punishment and security and correction measures must be in accordance with a law adopted prior to commission of the crime; and no one who has committed any conduct including any act or omission is punishable by the law passed subsequently."¹⁰ Laws must be legitimately passed and sufficiently precise that people are able to know in advance what behaviour is unlawful so that they can govern their actions accordingly.¹¹

For example, Mr. Davoudi was convicted on charges such as "insulting officials," "insulting the Supreme Leader," "spreading propaganda against the system," and "cooperation with a hostile government."¹² Ms. Sotoudeh is serving a sentence based on a number of charges that include "encouraging corruption and prostitution" in connection to her work defending women arrested for peaceful protest against veiling laws.¹³ Ms. Amid has been imprisoned on charges that include "collaborating with the hostile American government against the Islamic Republic on women and family issues" for putting on educational workshops informing women about their marital and familial rights under the law.¹⁴ Mr. Nili and Mr. Keykhosravi are charged with the crimes of "disruption of public order and some national security related issues" according to Iran's judiciary spokesperson.¹⁵ The laws under which they are being prosecuted are so vaguely worded that they can be construed to cover a wide variety of lawful behaviours that are protected by the ICCPR.

⁸ UN General Assembly, *International Covenant on Civil and Political Rights*, 16 December 1966, United Nations, Treaty Series, vol. 999, p. 171, <https://www.refworld.org/docid/3ae6b3aa0.html>.

⁹ The Civil Code of The Islamic Republic of Iran, May 23, 1928, <https://www.refworld.org/pdfid/49997adb27.pdf>.

¹⁰ Iranian Code: English Translation of Books I & II of the New Islamic Penal Code, Iran Human Rights Documentation Center, 2014,

<https://iranhrdc.org/english-translation-of-books-i-ii-of-the-new-islamic-penal-code/>.

¹¹ Ja'far Habibzadeh, Dr. Mohammad, "Nullum Crimen, Nulla Poena Sine Lege: with an approach to the Iranian legal system," 2 *International Journal of Punishment and Sentencing* 33 2006,

<https://search.informit.org/doi/epdf/10.3316/informit.300362903895349>.

¹² Amir Salar Davoudi, Iran Prison Atlas, United 4 Iran, <https://ipa.united4iran.org/en/prisoner/4721/>.

¹³ "Iran: Jailed for defending women who opposed compulsory veiling, Nasrin Sotoudeh must be freed, say UN experts," UN News, 21 June 2021,

<https://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=27179&LangID=E>.

¹⁴ Lawyers for Lawyers and LRWC, 16 March 2021, *supra* note 3.

¹⁵ Radio Free Europe, recited by Front Line Defenders, 25 September 2021, para. 6,

<https://www.radiofarda.com/a/iranian-political-activist-mahmoudian-remains-imprisoned-for-4-years/31477956.html>.

2. Respect, protect, and fulfil rights guaranteed by the *International Convention on Civil and Political Rights*

We respectfully draw your Excellencies' attention to the ICCPR, which is binding on Iran.¹⁶ Mr. Davoudi, Ms. Sotoudeh and Ms. Amid are being prosecuted for performing their lawful duties as lawyers and peacefully expressing their views as citizens.

Mr. Davoudi has been prosecuted because of his use of his Telegram social media channel and interviews with the Voice of America (VOA) Persian news service and the Center for Human rights in Iran to raise concerns about Iran's treatment of human rights defenders. Such prosecutions violate his right to freedom of expression pursuant to ICCPR Article 19. He is also being prosecuted for his legal representation of individuals entitled to representation pursuant to ICCPR Article 14 and in violation of his rights under Article 9 not to be arbitrarily detained. Ms. Sotoudeh has been prosecuted in violation of ICCPR Article 14 for representing imprisoned Iranian opposition activists and politicians following the disputed June 2009 Iranian presidential elections,¹⁷ prisoners facing death for offences committed as minors, and for representing women arrested for appearing in public without a hijab.¹⁸ Ms. Amid is being prosecuted for exercising her rights under ICCPR Article 19, providing education to women about their legal rights.

The UN Human Rights Committee, in its General Comment 35, an authoritative interpretation of ICCPR Article 9, provides that "arrest or detention as punishment for the legitimate exercise of the rights as guaranteed by the Covenant is arbitrary, including [but not limited to] freedom of opinion and expression (art. 19), freedom of assembly (art. 21), (and) freedom of association (art. 22)."¹⁹ The Human Rights Committee's General Comment 34 provides that the right to freedom of expression covers "all forms of expression and the means of their dissemination" including "political discourse, commentary on public affairs, discussion of human rights, journalism, etc."²⁰ The Special Rapporteur on Human Rights in Iran has emphasized that no one should be detained for their peaceful exercise of rights guaranteed to them under the ICCPR.²¹

3. Halt the use of arbitrary detention to silence human rights lawyers and defenders

The UN Special Rapporteur on the Situation of Human Rights Defenders, Ms. Mary Lawlor, has raised concern that Iran is using prolonged arbitrary detention as a tool to systematically silence human rights defenders. The UN Declaration on Human Rights Defenders²² affirms that it is essential that human rights defenders in every country be provided with an enabling environment to give voice to the general public's rights.

¹⁶ ICCPR, *supra* note 8.

¹⁷ "Iran opposition lawyer Nasrin Sotoudeh detained," BBC, 9 September 2010, <https://www.bbc.com/news/world-middle-east-11243683>.

¹⁸ "Nasrin Sotoudeh: Iran lawyer who defended headscarf protesters jailed," BBC, 11 March 2019, <https://www.bbc.com/news/world-middle-east-47531312>.

¹⁹ UN Human Rights Committee (HRC), General comment no. 35, Article 9 (Liberty and security of person), 16 December 2014, CCPR/C/GC/35, <https://www.refworld.org/docid/553e0f984.html>.

²⁰ UN Human Rights Committee (HRC), General comment no. 34, Article 19, Freedoms of opinion and expression, 12 September 2011, CCPR/C/GC/34, <https://www.refworld.org/docid/4ed34b562.html>.

²¹ UN Human Rights Council, Report of the Special Rapporteur on the situation of human rights in the Islamic Republic of Iran, A/HRC/37/68, 12 March 2018, para. 41, <https://undocs.org/en/A/HRC/37/68>.

²² UN General Assembly, *Universal Declaration of Human Rights*, 10 December 1948, 217 A (III), <https://www.refworld.org/docid/3ae6b3712c.html>.

Numerous lawyers and other human rights defenders, including Nasrin Sotoudeh, Hoda Amid, and Amirsalar Davoudi, have been sentenced to lengthy periods of imprisonment after proceedings that violate fair trial rights guaranteed by ICCPR Article 14. Such protracted arbitrary detention also leads to unlawful restrictions on access to justice for citizens in Iran.²³ By being accused on vaguely worded charges such as “harming national security”²⁴ Iran’s human rights lawyers and defenders are kept from performing the vital service of informing the public of rights to which every person is entitled to under international human rights law.

The UN Working Group on Arbitrary Detention has referred to this practice as a “systemic” and “serious violation of international law”²⁵ that needs to be halted immediately and unconditionally.

4. Prison conditions must ensure the health and well-being of all detained persons

As a party to the ICCPR and the *International Covenant on Economic, Social, and Cultural Rights* (ICESCR), which Iran also ratified in 1975, Iran is obliged to ensure everyone’s health and well-being. The UN Committee on Economic, Social and Cultural Rights confirms in its General Comment on Article 12 of the ICESCR, that every State Party is “legally obliged to respect, protect and fulfil the right of everyone to the enjoyment of the highest attainable standard of physical and mental health.”²⁶ Iran must also respect the UN *Standard Minimum Rules for the Treatment of Prisoners* (Nelson Mandela Rules), which emphasize the duty of States to ensure the health and safety of prisoners.²⁷ Iran has failed to fulfil many of these rights when it comes to political prisoners, including Mr. Davoudi and Ms. Sotoudeh by not guaranteeing the prison conditions, including adequate access to medical care, that are required under these international standards.

a. Ensure protection of all persons from COVID-19

In March 2020, Mr. Davoudi was excluded from the mass prisoner release intended to reduce the spread of COVID-19. He tested positive for COVID-19 in August 2020.²⁸ Nasrin Sotoudeh, was also excluded from the COVID-19 prisoner release while an earlier wave of the pandemic was ravaging Iranian prisons. She was transferred to the notorious Qarchak prison where she caught COVID-19,

²³ International Bar Association’s Human Rights Institute (the IBAHRI), the International Commission of Jurists (the ICJ), Lawyers for Lawyers, Lawyers’ Rights Watch Canada, and The Law Society, “Iran: Arbitrary detention of lawyers carrying out legitimate professional work, Oral Statement to the 46th Session of the UN Human Rights Council,” 9 March 2021, <https://www.lawc.org/iran-arbitrary-detention-of-lawyers-carrying-out-legitimate-work-of-their-profession-oral-statement-to-the-46th-session-of-the-un-human-rights-council/>

²⁴ Office of the High Commissioner for Human rights, “Iran must stop using long-term detention to silence human rights defenders, says UN expert,” 6 July 2021, <https://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=27271&LangID=E>.

²⁵ Human Rights Council, Opinions adopted by the Working Group on Arbitrary Detention at its eighty-fourth session, 24 April–3 May 2019, A/HRC/WGAD/2019/51, 8 October 2019, para 80, https://www.ohchr.org/Documents/Issues/Detention/Opinions/Session85/A_HRC_WGAD_2019_51_AdvanceEditedVersion.pdf.

²⁶ Committee on Economic, Social and Cultural Rights, General Comment No. 14 (2000) on the right to the highest attainable standard of health, para 34, <https://www.refworld.org/pdfid/4538838d0.pdf>.

²⁷ UN General Assembly, *United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules) : resolution / adopted by the General Assembly*, 8 January 2016, A/RES/70/175, Rule 24(1), <https://www.refworld.org/docid/5698a3a44.html>.

²⁸ United 4 Iran. Amir Salar Davoudi Fact Pattern, June 2020, <https://united4iran.org/wp-content/uploads/AmirSalar-Davoudi-Fact-Pattern-and-Legal-Analysis-June-2020.pdf>.

exacerbating her pre-existing health conditions.²⁹ In August 2020, Ms. Sotoudeh went on a hunger strike to protest overcrowded and unhygienic conditions in which prisoners were being held during the pandemic.³⁰ On 21 July 2021 she was granted a temporary medical leave, which has been extended since then.

On 14 September 2020, the UN High Commissioner for Human Rights Michelle Bachelet stated her concern that political prisoners and prisoners of conscience were excluded from Iran's temporary release of detainees in the context of the COVID-19 pandemic. She expressed dismay "at the prolonged hunger-strike of human rights lawyer Nasrin Sotoudeh" and urged Iran "to pursue many more temporary releases, as an urgent public health measure, and to immediately release political prisoners and prisoners of conscience."³¹

b. End unlawful use of prolonged solitary confinement

We are also concerned about the unlawful use of solitary confinement in Iran's prisons. The Nelson Mandela Rules provide that solitary confinement - defined as lack of "meaningful human contact for 22 hours or more" per day lasting more than 15 consecutive days (Rule 44) - be used "in exceptional cases as a last resort" for as short a time as possible.³² Solitary confinement also violates Article 7 of the ICCPR, which prohibits "torture, or other cruel, inhuman or degrading treatment or punishment."³³

After his arrest in November 2018, Mr. Davoudi was held in solitary confinement in ward 241 of Tehran's Evin prison - for 190 consecutive days.³⁴ Ward 241 is known to have either solitary cells or small locked cells called "Suites" controlled by the Ministry of Intelligence (MOIS).³⁵ Similarly, Mr Nili and Mr. Keykhosravi were held in solitary confinement for 23 consecutive days in ward 241 of Tehran's Evin prison after their arrest on 14 August 2021.³⁶

c. Ensure prisoners' visitation rights

The Nelson Mandela Rules call for all prisoners to "be allowed, under necessary supervisions, to communicate with their family and friends at regular intervals" (Rule 58).³⁷ This includes phone calls, digital correspondence, and in-person visits.

²⁹ Lawyers for Lawyers, The Law Society of England and Wales, and Lawyers' Rights Watch Canada. "Iran: Continued Detention and Deteriorating Health of Nasrin Sotoudeh and Amirsalar Davoodi," Joint letter, 15 September 2020, <https://lawyersforlawyers.org/en/joint-letter-on-the-continued-detention-and-precarious-health-situation-of-nasrin-sotoudeh-and-amirsalar-davoodi/>, and LRWC, <https://www.lrcw.org/iran-continued-detention-and-deteriorating-health-of-nasrin-sotoudeh-and-amirsalar-davoodi-joint-letter/>.

³⁰ *Ibid.*

³¹ OHCHR, "In her global human rights update, Bachelet calls for urgent action to heighten resilience and protect people's rights," 14 September 2020, <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=26226>.

³² *Nelson Mandela Rules*, *supra* note 27.

³³ UN Human Rights Committee (HRC), CCPR General Comment No. 20: Article 7 (Prohibition of Torture, or Other Cruel, Inhuman or Degrading Treatment or Punishment), 10 March 1992, <https://www.refworld.org/docid/453883fb0.html>.

³⁴ United 4 Iran, *supra* note 28.

³⁵ Iran Human Rights Monitor "A Glimpse Of Evin Prison, Iran's Most Notorious Jail," 28 October 2018, <https://iran-hrm.com/2018/10/28/iran-evin-prison-irans-most-notorious-jail/>.

³⁶ HRANA, 6 October 2021, para. 5, <https://www.hra-news.org/2021/hranews/a-32007/>.

³⁷ *Nelson Mandela Rules*, *supra* note 27.

On 9 February 2020, Mr. Davoudi went on a 10-day hunger strike to protest authorities' refusal to allow him to see his daughter.³⁸ According to the 2020 report by the Special Rapporteur on Human Rights in Iran, the arbitrariness of visitation and telephone communication being denied to detained individuals violates both "the Prison Regulations of the Islamic Republic of Iran and international law."³⁹ Mr. Davoudi has communicated that the reasons for his hunger strike were in protest of unlawful prison conditions since his arrest, including prolonged periods in solitary confinement and inability to have visits with his family⁴⁰

During their 23 days of solitary confinement, Mr. Nili and Mr. Keykhosravi were denied access to legal counsel and phone calls to their relatives, in violation of Iranian law, international standards of due process,⁴¹ and the right under Article 7 of the ICCPR to be free from ill-treatment.

5. Implement the UN *Basic Principles on the Role of Lawyers*

Finally, we respectfully draw Your Excellencies' attention to the UN *Basic Principles on the Role of Lawyers* (Basic Principles),⁴² particularly Principles 16 and 23, which state:

16. Governments shall ensure that lawyers (a) are able to perform all of their professional functions without intimidation, hindrance, harassment or improper interference (...) and (c) shall not suffer, or be threatened with, prosecution or administrative, economic or other sanctions for any action taken in accordance with recognized professional duties, standards and ethics.

23. Lawyers like other citizens are entitled to freedom of expression, belief, association and assembly. In particular, they shall have the right to take part in public discussion of matters concerning the law, the administration of justice and the promotion and protection of human rights and to join or form local, national or international organizations and attend their meetings, without suffering professional restrictions by reason of their lawful action or their membership in a lawful organization. In exercising these rights, lawyers shall always conduct themselves in accordance with the law and the recognized standards and ethics of the legal profession.

6. Recommendations

In view of the above, we call on Your Excellencies to take the following actions:

- Immediately and unconditionally release Amirsalar Davoudi, Nasrin Sotoudeh, Hoda Amid, Mustafa Nili, Arash Keykhosravi, and all other lawyers and human rights defenders currently being arbitrarily detained for lawfully performing their lawful duties.

³⁸ United 4 Iran, *supra* note 28.

³⁹ A/HRC/43/61, *supra* note 6, para 58.

⁴⁰ Lawyers for Lawyers, "Amirsalar Davoudi on Hunger Strike," 25 February 2020, <https://lawyersforlawyers.org/en/amirsalar-davoudi-on-hunger-strike/>.

⁴¹ CHRI, 12 October 2021, para. 1, <https://iranhumanrights.org/2021/10/human-rights-lawyers-activist-to-be-illegally-tried-as-their-legal-team-is-denied-case-files/>.

⁴² United Nations, *Basic Principles on the Role of Lawyers*, 7 September 1990, <https://www.refworld.org/docid/3ddb9f034.html>.

- Ensure that all those charged with offences are guaranteed fair trial rights pursuant to Iran's international human rights obligations and other applicable international standards.
- Ensure full compliance with the UN *Standard Minimum Rules for the Treatment of Prisoners* (Nelson Mandela Rules).
- Ensure that all human rights defenders and lawyers are no longer "threatened with or subjected to intimidation, harassment, arbitrary arrest, deprivation of liberty or other arbitrary sanctions" for carrying their duties.⁴³
- Revise Iran's Penal Code to ensure that it complies in all respects with Iran's international law obligations, including customary international law and the ICCPR, to ensure clearly defined offences that are consistent with international human rights law and standards.
- Create a safe and enabling environment for all legal professionals and human rights defenders, ensuring that all lawyers are able to carry out their duties freely and without any harassment or improper interference.

We look forward to receiving a reply to this letter. We will continue to monitor the situation of lawyers and human rights defenders in the Islamic Republic of Iran.

Yours sincerely,

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⁴³ A/HRC/43/61, *supra* note 6, para 68 (j).

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