



His Excellency Ayatollah Ali Hosseini Khamenei

Supreme Leader of the Islamic Republic of Iran

The Office of the Supreme Leader

Tehran Province, Tehran, District 11,

Islamic Republic of Iran

2 December 2020

Open Letter to His Excellency, Ayatollah Ali Hosseini Khamenei, Supreme Leader of the Islamic Republic of Iran

We write to you regarding the case against Nasrin Sotoudeh to demonstrate the ways in which her conviction and sentence of 38 years in prison and 148 lashes, as punishment for her work as a human rights lawyer, blatantly violate the Constitution of the Islamic Republic of Iran (hereafter ‘Constitution’) and international law.

We welcome the decision to grant Ms Sotoudeh temporary furlough on 7 November as a step in the right direction; however, we are concerned that she is scheduled to be returned to prison this week. The Iranian Government should immediately quash Ms Sotoudeh’s unjust conviction and sentence, as the United Nations Experts have urged, in light of ‘the multitude of evidence that shows the arbitrary, unlawful and disproportionate nature of these decisions.’¹ The Government should also quash the pending six-year prison sentence and ban on travel and online activities against her husband, Reza Khandan, who was arrested shortly after posting updates about his wife’s arrest, clearly indicating that his conviction and sentence were imposed to silence Ms Sotoudeh.²

Ms Sotoudeh’s March 2019 conviction was based on the following spurious charges for activities protected under the Constitution:

1. ‘encouraging corruption and prostitution’ (12 years) under Article 639, for nothing other than legally representing women tried for peacefully removing their headscarves in public, and distributing pins and placing a bouquet of flowers on the street in support of these women;
2. ‘membership in the illegal group of LEGAM,’ under Article 499 (7.5 years), a group that peacefully advocates against the death penalty;

¹ www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=26502&LangID=E

² On 22 January 2019, Branch 15 of the Revolutionary Court in Tehran, presided by Judge Abolqasem Salavati, convicted Mr. Khandan on the trumped-up charges of ‘assembly and collusion against national security’ and ‘propaganda against the state.’



3. 'publishing falsehoods with the intention to disturb public opinion' under Article 698 (3 years and 74 lashes) for 'conducting interviews with foreign media;'
4. 'disturbing public order' under Article 618 (2 years) for participating in peaceful gatherings;
5. 'assembly and collusion to act against national security' (7.5 years) under Article 610 for signing a public statement regarding a referendum;
6. 'propaganda against the state' under Article 500 (1.5 years) for giving a speech outside of a UN office in front of the LEGAM group; and
7. appearing in public without the hijab under Article 638 (74 lashes).

Branch 28 of the Revolutionary Court found these peaceful activities to be sufficient evidence to convict Ms Sotoudeh to 33 years in prison and 148 lashes, in addition to a 2016 five-year sentence issued against her *in absentia* for 'espionage in hiding,' rendering her total sentence 38 years in prison and 148 lashes.

Ms Sotoudeh's shocking sentence, the longest sentence imposed on anyone in recent years, is a manifest violation of Iran's Constitution as well as its international legal obligations under the International Covenant on Civil and Political Rights (ICCPR), which the country ratified in 1975:

1. The Islamic Republic of Iran criminalized Ms Sotoudeh's fundamental rights to freedom of expression, association, and assembly under the Constitution and the ICCPR. The Revolutionary Court's very descriptions of Ms Sotoudeh's peaceful activities are clearly well within her rights, and in no way resemble alleged 'national security' threats. Article 24 of the Constitution and Article 19 of the ICCPR protect Ms Sotoudeh's freedom of expression in the press. Article 26 of the Constitution and Article 22 of the ICCPR protect Ms Sotoudeh's right to associate with others in signing a public statement,³ as well as the peaceful group against the death penalty known as LEGAM, for which Ms Sotoudeh was convicted to 7.5 years in prison. Article 27 of the Constitution and 21 of the ICCPR protect Ms Sotoudeh's right to participate in peaceful public gatherings. Further, Article 22 of the Constitution protects Ms Sotoudeh's inviolable right to her occupation as a lawyer.⁴
2. The Iranian Government completely deprived Ms Sotoudeh of her rights to a fair trial, including the rights to (a) be promptly informed of the charges, (b) adequately prepare a defence, (c) a lawyer of her choosing, (d) an impartial tribunal and a public hearing,

³ According to Article 6 of the Constitution, "the affairs of the country must be administered on the basis of public opinion expressed by the means of elections ... or by means of referenda ..."

⁴ See also UN Basic Principles on the Role of Lawyers, Principles 16, 18 and 23, available at www.ohchr.org/en/professionalinterest/pages/roleoflawyers.aspx



and (e) be presumed innocent, as enshrined in Articles 32, 34, 35, 36, 37 and 165 of the Constitution and Article 14 of the ICCPR. The authorities failed to inform Ms Sotoudeh of the legal basis for her detention throughout the investigation period—depriving her of an opportunity to prepare a defence—and denied Ms Sotoudeh any legal representation during the entire proceeding against her. Moreover, Ms Sotoudeh was convicted *in absentia* at a closed hearing. The spurious and vague charges against her indicate a predetermined presumption of guilt by a partial court.

3. The Iranian Government has denied Ms Sotoudeh's rights under Article 20 of the Constitution, which provides: 'men and women equally enjoy the protection of the law,' and Articles 3 and 23 of the ICCPR. In this case, the charge of 'encouraging corruption and prostitution' carried the heaviest penalty, suggesting that Ms Sotoudeh was primarily targeted for her legal representation of women, including those who removed their headscarves in public, an act which the court deemed to constitute 'prostitution' in this case. Moreover, *six* of the seven sentences exceeded the maximums prescribed by the Penal Code.⁵ The disproportionate and unprecedented nature of her sentence, as opposed to those handed down to her male counterparts or anyone else, is further evidence that she was discriminated against on the basis of gender or otherwise.
4. The Iranian Government's decade-long persecution and prosecution of Ms Sotoudeh, both in court, in prison and extrajudicially, constitute deprivations of Ms Sotoudeh's inviolable 'dignity, life, property, rights, residence, and occupation' under Article 22 of the Constitution. The Iranian authorities have subjected Ms Sotoudeh to the worst forms of indignity imaginable over the last decade simply for practicing law, her occupation. The Government has even targeted Ms Sotoudeh's family. The authorities associated with the prosecutor's office for *national security crimes* arrested both her husband, in 2018, and her 20-year-old daughter, Mehraveh, during Ms Sotoudeh's most recent hunger strike, as cruel reprisals, and continue to harass members of her family. Earlier this year, authorities even deprived Ms Sotoudeh and her family of their property by freezing their bank accounts.
5. The Iranian Government deprived Ms Sotoudeh of her right to medical care under Article 29 of the Constitution and further violated Article 39 of the Constitution prohibiting 'affronts to the dignity and repute' of those in prison. The authorities

⁵ Ms. Sotoudeh received a 12-year sentence under Article 639, which prescribes one to ten years; a 7.5-year sentence under Article 499, which prescribes three months to five years; a 7.5-year sentence under Article 610, which prescribes two to five years; a 1.5-year sentence under Article 500 which prescribes three months to one year; a three-year and 74-lash sentence under Article 698, which prescribes two months to two years *or* up to 74 lashes; and a two-year sentence under Article 618, which prescribes three months to one year.



persistently denied Ms Sotoudeh life-saving medical treatment in prison, amounting to the ultimate affront to her dignity and right to medical care under the Constitution. In September and October of this year, after Ms Sotoudeh was on the brink of death following a 46-day hunger strike, authorities abused her further during a brief hospital visit and returned her to Evin prison, without having received the medical treatment she required. Prison officials even promised urgent medical care only to transfer Ms Sotoudeh further away from her family to a ward experiencing a Covid-19 outbreak in the notorious Qarchak desert prison, widely recognised for having the worst prison conditions in Iran. As a result, on 10 November, Ms Sotoudeh tested positive for Covid-19, now compounded by her pre-existing health complications arising from her cruel mistreatment in prison.

Ultimately, the undersigned organisations believe that Ms Sotoudeh is being persecuted, and was convicted, for advancing the very objectives the Islamic Republic of Iran purports to fulfil under Article 3 of the Constitution: ‘the abolition of all forms of undesirable discrimination and the provision of equitable opportunities for all;’ and ‘securing the multifarious rights of all citizens, both women and men, and providing legal protection for all, as well as the equality of all before the law.’

Ms Sotoudeh has dedicated her life to peacefully and professionally defending those rights, particularly the rights of the vulnerable in society – as UN Experts stated, ‘the evidence suggests Ms Sotoudeh’s imprisonment, both now and in the past, is State retaliation for her tireless work defending human rights.’⁶ For the reasons stated above, we urge Your Excellency to release Ms Sotoudeh immediately and unconditionally, an action that will help to restore respect for the independence of the legal profession in Iran.

We would be grateful to receive your assurances that you have received our letter and that our concerns will be addressed as a matter of urgency.

Yours sincerely,

The Hon Michael Kirby AC CMG

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⁶ www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=26297&LangID=E



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