



PUBLIC STATEMENT

AI Index: MDE 13/093/2010

01 October 2010

IRAN: Lawyers' defence work repaid with loss of freedom

Joint Statement by Shirin Ebadi, Amnesty International, Human Rights Watch, the International Campaign for Human Rights in Iran, the International Commission of Jurists (ICJ), the International Federation for Human Rights (FIDH), the Iranian League for the Defence of Human Rights (LDDHI), the Union Internationale des Avocats and the World Organisation Against Torture (OMCT).

Nobel Peace Laureate and Iranian lawyer, Dr Shirin Ebadi, Amnesty International, Human Rights Watch, the International Campaign for Human Rights in Iran, the International Commission of Jurists, the International Federation for Human Rights, the Iranian League for the Defence of Human Rights (LDDHI), the Union Internationale des Avocats, and the World Organisation Against Torture, today condemned the continued detention without charge or trial of human rights lawyer **Nasrin Sotoudeh** in Iran and called for her immediate and unconditional release as she is held solely in connection with her work defending others.

They warned that her arrest is the latest step in a series of measures intended to prevent Iranians – particularly those critical of the authorities - from being able to access appropriate, competent legal representation, a basic right and important fair trial guarantee.

Nasrin Sotoudeh, the mother of two young children, has defended many high profile human rights campaigners and political activists, including journalist Isa Saharkhiz and Heshmatollah Tabarzadi, leader of the banned Democratic Front of Iran. The former was sentenced and the latter tried after Nasrin Sotoudeh's arrest. She has also represented juvenile offenders facing the death penalty and is acting as the lawyer for Shirin Ebadi in several cases.

She has been held in Tehran's Evin Prison since 4 September 2010 after she presented herself in compliance with a court summons. Since then she has only been allowed to make three telephone calls – two to her home and one to her lawyer, but so far has not been allowed visits by her family or her lawyer.

The precise reasons for her arrest are still unclear, but the summons listed “propaganda against the system” and “gathering and colluding with the aim of harming state security”. These vaguely worded charges are among several articles in the Islamic Penal Code in Iran

relating to “national security” which criminalize activities that are nothing more than the peaceful exercise of the rights to freedom of expression, association and assembly. Such provisions have previously been used to prosecute lawyers for statements and activities in defence of their clients.

Nasrin Sotoudeh had previously been warned to stop representing Shirin Ebadi, or face reprisals. In turn, since her arrest, her husband Reza Khandan and her lawyer **Nasim Ghanavi** have been warned against speaking up publicly about her ordeal. Reza Khandan has even been summoned for interrogation in Branch 1 of the Revolutionary Court, which he has described as a “series of threats”.

Recent months have seen increased persecution of defence lawyers. **Mohammad Olyaeifard**, a lawyer and board member of the Committee for the Defence of Political Prisoners in Iran, a human rights organization, is serving a one-year prison sentence imposed for speaking out against the execution of one of his clients during interviews with international media. His client, juvenile offender Behnoud Shojaee, had been hanged for a murder he committed when he was 17 years old. Mohammad Olyaeifard has defended many prisoners of conscience, including independent trade unionists, as well as juvenile offenders. His lawyer is Nasrin Sotoudeh.

Two other lawyers, both colleagues of Shirin Ebadi in the NGO Centre for Human Rights Defenders (CHRD), which they all helped to found, are also at risk of prosecution for their human rights work. **Abdolfattah Soltani** and **Mohammad Ali Dadkhah** were both arrested after the disputed presidential election of June 2009. Though both were later released on bail, they have court cases pending against them on similarly vaguely worded charges which could lead to their imprisonment and eventual disbarment. Prominent lawyer, **Mohammad Seyfzadeh**, who is also a founder member of the CHRD, is facing trial for “forming an association ... whose aim is to harm national security” and “being a member of an association whose aim is to harm national security” in relation to the CHRD. He was banned from leaving the country in 2009, as has **Dr Hadi Esmailzadeh**, another member of the CHRD.

The authorities are also resorting to other methods to prevent lawyers from practising their profession freely. Such measures include unwarranted tax investigations under which the authorities freeze the lawyers’ bank accounts and other financial assets and which could lead to the disbarment of a lawyer. **Shirin Ebadi** has herself been placed under such a financial stranglehold, when the authorities froze a bank account containing her Nobel Prize winnings, in violation of the law. Before her arrest, another victim of this tactic, **Nasrin Sotoudeh** discovered that not only were her financial affairs being investigated but that 30 other lawyers had cases of tax irregularities being prepared against them.

In concert with this, the authorities have for years been attempting to limit the independence of the Iranian Bar Association by barring candidates from standing for election to senior positions on discriminatory grounds, including their imputed political opinions and their peaceful human rights activities. For example, in 2008, **Mohammad Dadkhah, Dr Hadi Esmailzadeh, Fatemeh Gheyraat and Abdolfattah Soltani** – all members of the CHRD – were disqualified from standing for the Central Board of the Bar Association because of their activities as human rights defenders.

In June 2009, less than a week after the disputed presidential election, new by-laws to the 1955 law establishing the independence of the Iranian Bar Association were adopted which would give the Judiciary the power to approve membership of the Bar and lawyers’ licensing applications, thereby undermining the independence of the Bar. Following opposition by the Bar and individual lawyers, in July 2009, it was reported that implementation of the by-laws had been suspended for six months. They are believed to remain suspended, but could be implemented at any time.

Shirin Ebadi has not returned to Iran since the presidential election, as she would be unable to continue her human rights work.

Other lawyers have been forced into exile for their own safety. **Shadi Sadr** left the country after she was detained for 11 days in July 2009. **Mohammad Mostafaei** was also forced to flee in July 2010, after his involvement in the case of Sakineh Mohammadi Ashtiani, an Iranian woman sentenced to stoning, led the authorities to seek his arrest, arresting his wife and her brother in his place.

Article 14 of the International Covenant on Civil and Political Rights (ICCPR), to which Iran is a state party, provides for the right of an accused person to have adequate time and facilities for the preparation of his defence and to communicate with counsel of his own choosing; The UN Basic Principles on the Role of Lawyers provide that lawyers must be allowed to carry out their work “without intimidation, hindrance, harassment or improper interference.” In addition, it affirms the right of lawyers to freedom of expression, also provided for in Article 19 of the ICCPR, which includes “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”.

The UN Special Rapporteur on the Independence of Lawyers and Judges has not been permitted to visit the country despite the Standing Invitation issued by Iran to all UN human rights mechanisms in 2002. Since August 2005, no UN human rights expert has been allowed to undertake a visit to Iran. Currently eight procedures have pending requests to visit, which have not yet been acceded to by the Iranian authorities.

“I, who have defended many prisoners of conscience such as the seven imprisoned Baha’i leaders and others, would face unacceptable restrictions on my human rights work if I returned to Iran, if I were not arrested,” said Shirin Ebadi. “Now my own lawyer – who also represents many other activists - is detained, and her lawyer has been threatened with arrest for defending her. Where is the justice if your lawyer is arrested for defending you?”

The organizations said that by making lawyers pay the price of their own freedom for doing their job, the authorities are further undermining an already deeply flawed justice system. With some lawyers behind bars and others threatened, their clients - who are themselves mostly victims of human rights violations - are left defenceless at the mercy of the authorities.

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For more information please contact:

Amnesty International,

International Secretariat Press Office,
1 Easton St., London WC1X 0DW, UK www.amnesty.org
Tel: +44 20 7413 5566 or email: press@amnesty.org

Human Rights Watch, 350 Fifth Avenue, 34th Floor, New York, NY 10118-3299, USA
Tel: +1-(212) 290-4700 <http://www.hrw.org>

International Campaign for Human Rights in Iran

Hadi Ghaemi, Executive Director
www.iranhumanrights.org
Tel: +1 917 669 5996 or email: hadighaemi@iranhumanrights.org

International Commission of Jurists

Gerald Staberock

Director Centre for the Independence of Judges and Lawyers (CIJL)
P.O. Box 91 – 33, Rue des Bains, CH - 1211 Geneva 8, Switzerland
Tel : +41 22 979 38 00/Fax : +41 22 979 38 01 email: gerald.staberock@icj.org
<http://www.icj.org>

International Federation for Human Rights (FIDH)

Emmanouil Athanasiou, Programme Officer, Asian Desk
17, passage de la main d'or, 75011 Paris, France
Tel: +33 1 43 55 25 18 direct line: +33 1 43 55 14 07 <http://www.fidh.org>

Iranian league for the defense of human rights (LDDHI)

Karim Lahidji, President
lddhi@wanadoo.fr

Union Internationale des Avocats

25, rue du Jour - 75001 Paris, France www.uianet.org
Tel. : +33 1 44 88 55 66 / Fax : +33 1 44 88 55 77

World Organisation Against Torture (OMCT)

8, rue du Vieux-Billard, Geneva, Switzerland www.omct.org
Tel.: +41(0)22 809 52 42/ Fax.: +41(0)22 809 49 29