**Submission to the Special Rapporteur on the situation of Human Rights Defenders**

Response to call for input to the thematic report of the Special Rapporteur on the issue of long-term detention of human rights defenders

19th March 2021

**A submission by:**

The Right Livelihood Foundation

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The **Right Livelihood Foundation** honours and supports individuals and organisations who have demonstrated courage and boldness by providing visionary and exemplary solutions to the most pressing challenges facing the world today, often at a great personal risk. The Foundation seeks to ensure both a spokesperson and protection role for its Laureates, as well as providing them with long-term support. The Foundation's protection programs include, among other things, regular threat monitoring and advocacy for the protection of the threatened Laureates at the United Nations and other institutions in Geneva.

**Contact Details**

Please provide your contact details in case we need to contact you in connection with this survey. Note that this is optional.

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| --- | --- |
| Type of Stakeholder (please select one) | [ ]  International or Inter-governmental Organisations X [ ]  Civil Society Groups or Organisations [ ]  Individual human rights defender[ ]  Academic/training or research institution[ ]  Other (please specify) |
| Name of Stakeholder/Organization (if applicable)Name of Survey Respondent | Right Livelihood FoundationCamilla Argentieri, Research and Advocacy Officer |
| Email | camilla@rightlivelihood.org |
| Can we attribute responses to this questionnaire to you or your organization publicly\*? \*On OHCHR website, under the section of SR on human rights defenders. |  Yes X NoComments (if any): |

The submission replies to the following questions of the questionnaire:

1. Do you know of any human rights defender(s) currently detained by States, who have been imprisoned on charges that carry a prison sentences of at least 10 years or more? Please provide a list of cases.

5) What actions do you suggest the Special Rapporteur can take to:

1. Prevent defenders from being detained for long terms in connection to their human rights work? and
2. Have those human rights defenders arbitrarily detained under long sentences released?

**Introduction**

This submission has been prepared by the Right Livelihood Foundation to inform the thematic report of the Special Rapporteur on the situation of Human Rights Defenders, Ms. Mary Lawlor, in light of our deep concern about the current human rights situation in the Islamic Republic of Iran and the Kingdom of Saudi Arabia. In particular we would like to raise the Special Rapporteur’s attention at the consistent pattern of arbitrary arrest and detention of activists who continue to be persecuted by Iranian and Saudi authorities in retaliation for their peaceful work.

The aim of the submission is to highlight three specific cases of human rights defenders who are currently detained on trumped-up political charges that carry long-term prison sentences:

* **Nasrin Sotoudeh** (Iran)

Human rights lawyer sentenced to a total of 38 years in prison and 148 lashes. She will serve 12 years. Currently held in Qarchak prison, Teheran. (\*temporarily released for two weeks on March 17, 2021)

She won the 2020 Right Livelihood Award *“for her fearless activism, at great personal risk, to promote political freedoms and human rights in Iran”.*

* **Waleed Abu al-Khair** (Saudi Arabia)

Human rights lawyer sentenced to 15 years in prison, a 15-year travel ban following the end of his prison sentence, and a fine of 200,000 Saudi Riyals. Currently held in Al-Ha’ir prison, Riyadh.

* **Mohammed Fahad al-Qahtani** (Saudi Arabia)

Human rights defender sentenced to 10 years in prison and a 10-year travel ban following the end of his prison sentence. Currently held in Dhabhan prison, Jeddah.

Both Abu al-Khair and al-Qahtani won the 2018 Right Livelihood Award *“for their visionary and courageous efforts, guided by universal human rights principles, to reform the totalitarian political system in Saudi Arabia”.*

**Nasrin Sotoudeh (Iran)**

Nasrin Sotoudeh[[1]](#footnote-1) is a prominent Iranian human rights lawyer and the symbol of the struggle for justice in Iran. Throughout the last 15 years, she has worked in the shadow of an extremely repressive environment to defend political prisoners, opposition activists and journalists persecuted by the Iranian authorities. She has tirelessly advocated for advancing women’s rights, the abolition of the death penalty, and respect for the rule of law. Because of her unrelenting commitment to defend human rights and political freedoms, she has been regularly targeted by the Iranian authorities and imprisoned several times on trumped-up charges.

On March 11, 2019, she was sentenced to 33 years and 148 lashes, in addition to a 2016 five-year sentence issued against her *in absentia* for ‘espionage in hiding’, bringing her sentence to 38 years in prison and 148 lashes.

Sotoudeh’s conviction was based on the following charges under the Islamic Penal Code of Iran.

1. “encouraging corruption and prostitution” (12 years) under Article 639 - for legally representing women tried for peacefully removing their headscarves in public;

2. “membership in the illegal group of LEGAM” (7.5 years) under Article 499, a group that peacefully advocates against the death penalty;

3. “publishing falsehoods with the intention to disturb public opinion” (3 years and 74 lashes) under Article 698 - for conducting interviews with foreign media;

4. “disturbing public order” (2 years) under Article 618 - 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” (1.5 years) under Article 500 - for giving a speech outside of a UN office;

7. appearing in public without the hijab (74 lashes) under Article 638[[2]](#footnote-2).

According to the Iranian law, she will serve the longest possible sentence for one of the convictions, amounting to 12 years. This shocking sentence, the longest imposed on anyone in recent years, is a violation of Iran’s Constitution as well as of its international legal obligations under the International Covenant on Civil and Political Rights (ICCPR), of which Iran is a party since 1975.

Since the first time Iranian authorities raided her office and home in August 2010, Sotoudeh suffered several violations, including arbitrary arrests and detentions, judicial harassment, unfair trial, denial of access to a lawyer, bar from practicing law and from leaving the country after completion of her sentence, and denial of prompt and adequate medical care[[3]](#footnote-3). Despite these ordeals, Sotoudeh has maintained her commitment to the realisation of human rights in Iran and gained international recognition for her work, including the 2012 European Parliament Sakharov Prize.

**Recent events – 2020/2021**

On August 11, 2020, Sotoudeh began a hunger strike to protest Iran’s prison conditions amidst the COVID-19 pandemic and the authorities’ decision to keep incarcerated those imprisoned for non-violent political crimes. On the 40th day of her hunger strike, after considerable delay, she was taken to hospital with cardiac and pulmonary complications. Five days later, she was transferred back to Evin prison before completing her full medical treatment, and ended her hunger strike the following day due to the severe risk to her life.

On October 20, 2020, the Iranian authorities transferred Sotoudeh from Evin prison to Qarchak prison, whose standards for the treatment of prisoners are far worse. On November 7, Sotoudeh was released for a temporary medical leave. Once at home, she tested positive for COVID-19, which she had contracted in prison. She then spent three weeks quarantining at home, and was unexpectedly ordered back to prison on December 2 against medical advice[[4]](#footnote-4), one day prior to the Right Livelihood Award ceremony.[[5]](#footnote-5)

On January 8, 2021, Sotoudeh was released to continue the medical treatment she had been previously forced to interrupt. On January 20, she was ordered back to Qarchak prison.

On March 17, 2021, it was reported by Sotoudeh’s husband that she has been temporarily released for two weeks, on the occasion of the celebration of the Iranian New Year[[6]](#footnote-6).

Sotoudeh’s family has also suffered reprisals throughout the past years. In July 2020, the Iranian authorities have frozen their assets. In August, they arrested her 20-year-old daughter Mehraveh Khandan without prior notice on specious charges of “insult and assault”. She was temporarily released on bail after a few hours. In January 2019, her husband, Mr. Reza Khandan was given a suspended sentence of 6 years in prison and a 2-year travel ban on trumped-up charges of “assembly and collusion against national security” and “propaganda against the State”, for peacefully protesting the compulsory hijab law[[7]](#footnote-7). The sentence can be enforced at any time. Mr. Khandan had already spent almost 4 months in prison in 2018 following his public support for his detained wife[[8]](#footnote-8). He was released on bail on December 24, 2018.

**Previous UN action on her case**

## Since 2010, Nasrin Sotoudeh has been the subject of numerous communications by Special Procedures mandate holders, including IRN 32/2010, IRN 33/2010, IRN 35/2010, IRN 13/2011, IRN 18/2012, IRN 26/2014, IRN 10/2018, IRN 11/2018, IRN 6/2020, and IRN 21/2020.

## In 2011, the Working Group on Arbitrary Detention adopted Opinion No. 21/2011 on the case of Ms. Sotoudeh[[9]](#footnote-9). It found her deprivation of liberty arbitrary in violation of articles 9, 10, 19, 20 and 21 of the Universal Declaration of Human Rights and articles 9, 14, 19, 21 and 22 of the International Covenant on Civil and Political Rights.

The Special Rapporteur on the human rights situation in Iran, condemned Sotoudeh’s detention in his last report[[10]](#footnote-10) presented at the 46th session of the Human Rights Council. In his previous report[[11]](#footnote-11), presented at the 43th session, he called upon the Iranian Government “to ensure that those seeking to uphold the rights of others are not arbitrarily detained and prosecuted for their peaceful work”, referring once again to Sotoudeh’s case. At the same session, the UN Secretary-General Antonio Guterres raised her case in his report[[12]](#footnote-12) on the situation of human rights in Iran, claiming that Sotoudeh has been imprisoned for charges stemming from her representation of members of marginalised groups and human rights defenders[[13]](#footnote-13).

Lastly, several statements have been published by Special Procedures throughout the years[[14]](#footnote-14) and by the High Commissioner on Human Rights herself[[15]](#footnote-15), calling for Sotoudeh’s release.

**Waleed Abu al-Khair and Mohammad Fahad al-Qahtani (Saudi Arabia)**

Waleed Abu al-Khair and Mohammad Fahad al-Qahtani are two prominent Saudi human rights defenders who have long fought for democratic reforms in a country where peaceful criticism of the ruler is officially considered a "terrorist activity". Al-Qahtani, together with the late Dr Abdullah al-Hamid[[16]](#footnote-16), has created the Saudi Civil and Political Rights Association (ACPRA), which is currently banned in the country. Human rights lawyer Abu al-Khair established in 2008 the organisation Monitor of Human Rights in Saudi Arabia (MHRSA), and is also part of ACPRA. They have both been subjected to lengthy, arbitrary sentences as a reprisal for their human rights activism and have suffered ill-treatment in prison.

**Waleed Abu al-Khair** was arrested on April 15, 2014, and tried before the Specialised Criminal Court (SCC) in Riyadh. The SCC, established to try crimes of terrorism, is regularly used to try peaceful political and human rights activists, and it is notorious for unfair trials and due process violations.

On July 6, 2014, Abu al-Khair was sentenced to a 15-year prison term, followed by a 15-year travel ban and a fine of 200,000 Saudi Riyals (approximately 48,000 euros). The charges, stemming solely from his peaceful criticism of human rights abuses in media interviews and on social media, were based on Saudi Arabia’s 2014 Counter-Terrorism Law, which was not adopted until several months after his trial commenced. The latest version of the law[[17]](#footnote-17), which came into effect in 2017, is even more repressive and criminalises fundamental rights such as freedom of opinion and expression, peaceful assembly and association. It continues to be used to punish human rights defenders and peaceful critics today.

On 15 February 2015, the Specialised Criminal Court of Appeal, confirmed his sentence.

Abu al-Khair conviction was based on the following charges under the Penal Law for Crimes of Terrorism and its Financing:

* “Seeking to discredit State legitimacy”
* “Abuse of public order in the state and its officials”
* “Inciting public opinion and insulting the judiciary”
* “Publicly defaming the judiciary and discrediting Saudi Arabia through alienating international organisations against the Kingdom and making statements and documents to hard the reputation of the Kingdom”
* “Running an unauthorized association and being its chairman speaking on its behalf and issuing statements and communicating through it”
* “Preparing, storing and sending what would prejudice public order”

It is important to reiterate that as stated by the UN Working Group on Arbitrary Detention, “Mr. Abulkhair was arrested, charged and convicted under the Penal Law for Crimes of Terrorism and its Financing, which came into effect on 1 February 2014, months after the commencement of his trial, which started on 4 November 2013, originally for the alleged violations of the Anti-Cyber Crime Law”[[18]](#footnote-18), which is in violation of international law.

Throughout these years, Abu al-Khair carried out several hunger-strikes to protest against prison conditions. Since his arrest, he has often been denied food and adequate medical treatment and has endured beatings, solitary confinement and sleep deprivation. Recently, on 09 January 2020, following a 29-day hunger strike, Abu Al-Khair was transferred to King Fahd Hospital in Jeddah after his health deteriorated dramatically[[19]](#footnote-19).

**Previous UN actions on his case**

The United Nations Working Group on Arbitrary Detention has twice reviewed the legitimacy of the detention of Abu al-Khair in  2015[[20]](#footnote-20) and  2018[[21]](#footnote-21). The Working Group stated that the arrest, prosecution, conviction and sentencing of Abu al-Khair lacked any legal basis and repeatedly recommended his immediate release.

**Mohammed Fahad al-Qahtani** was arrested in June 2012 during a crackdown on human rights activists in Saudi Arabia. He was sentenced on March 9, 2013 by the Specialised Criminal Court in Riyadh to 10 years of imprisonment and a 10-year travel ban on 12 charges related to his human rights work, including:

* “accusing the judicial and legal system of lack of independence and questioning their integrity”
* “antagonising the international organisations against the Saudi government by disseminating false information”
* “sing the Internet to disseminate opinions, petitions, and statements against the government”
* “breaking allegiance to the ruler”
* “setting up an unlicensed organization”

Despite ACPRA’s efforts to register with the authorities, it was never granted an official licence to operate. It was banned by a court decision dated 9 April 2013, which ordered the organisation’s dissolution following an arbitrary process that could not be challenged.

**Recent events – 2020/2021**

In February 2020, Al Qahtani has been denied contact with his family and has been transferred to another prison ward.

On December 18, 2020, he went on a hunger strike to denounce the denial of his most basic rights and prison conditions, including the inability to contact his family or to receive the books sent to him[[22]](#footnote-22). Some of his demands were met ten days later.

On March 6, 2021, Al-Qahtani’s wife reported that his husband, together with other 30 prisoners of conscience, including other members of ACPRA, went on a hunger strike[[23]](#footnote-23) until March 13[[24]](#footnote-24), to protest violations of their rights as prisoners and demanding an end to ill-treatment.

**Previous UN actions on his case**

The case of Al Qahtani was included in the 2012[[25]](#footnote-25), 2013[[26]](#footnote-26) and 2019[[27]](#footnote-27) reports of the UN Secretary-General on reprisals, who state that his detention is in retaliation for his human rights work and his engagement with international human rights mechanisms.

In 2015, the UN Working Group on Arbitrary Detention (WGAD) found that Al Qahtani’s detention, and that of other several Saudi human rights defenders and members of ACPRA, is arbitrary[[28]](#footnote-28), and called on the Saudi government to remedy the situation. In 2016, the WGAD renewed its call for the human rights defenders to be released[[29]](#footnote-29).

**Suggested actions to:**

1. **Prevent defenders from being detained for long terms in connection to their human rights work?**
2. **Have those human rights defenders arbitrarily detained under long sentences released?**
* Recognise the trends of criminalisation of human rights defenders as an urgent issue to address, and closely monitor them and their developments in countries of concern through *ad hoc* mechanisms. In particular, apply particular scrutiny on how legislative instruments of a potentially broad scope are used by governments and other authorities to criminalise types of behaviour that should never be punished.
* Regularly urge States to implement key recommendations in relation to the criminalisation of human rights defenders, such as those raised by Special Procedures and other UN human rights mechanisms and incorporate them in their national legislation and institutions.
* Press States to monitor investigations and trials against human rights defenders, in order to ensure due process, adequate defense and access to justice, and to close cases lacking legal basis.
* Provide public recognition for human rights defenders and their work at every possible occasion, with media, public campaigns, profile raising, in public events and international fora. Facilitate regular communication between governments, diplomats, NGOs and human rights defenders in order to strengthen and expand existing support networks and give them space and visibility.
* Regularly denounce cases of human rights defenders detained only for their peaceful work, demand the immediate end to all intimidation harassment and prosecution against them, and their unconditional release, both publicly and directly with the state concerned.
1. Born in Teheran on 29 May 1963 [↑](#footnote-ref-1)
2. <https://pen.org/open-letter-to-supreme-leader-of-iran-on-nasrin-sotoudeh/> [↑](#footnote-ref-2)
3. For a detailed background on her case: [Nasrin Sotoudeh: Case background](https://www.rightlivelihoodaward.org/support/supporting-our-laureates/advocacy/nasrin-sotoudeh-2020-laureate/) [↑](#footnote-ref-3)
4. <https://www.rightlivelihoodaward.org/media/the-right-livelihood-foundation-condemns-the-appalling-decision-to-send-nasrin-sotoudeh-back-to-prison/> [↑](#footnote-ref-4)
5. You can read and listen here her moving acceptance speech: <https://www.rightlivelihoodaward.org/speech/acceptance-speech-nasrin-sotoudeh/> [↑](#footnote-ref-5)
6. <https://twitter.com/RezaKhandan4/status/1372194391360700417> [↑](#footnote-ref-6)
7. <https://iranhumanrights.org/2019/01/iran-sentences-men-who-supported-womens-protests-against-compulsory-hijab-to-six-years-prison/> [↑](#footnote-ref-7)
8. <https://iranhumanrights.org/2018/09/husband-of-imprisoned-human-rights-lawyer-arrested-for-speaking-out-on-wife-must-be-released-immediately/> [↑](#footnote-ref-8)
9. <https://digitallibrary.un.org/record/729068> [↑](#footnote-ref-9)
10. <https://undocs.org/en/A/hrc/46/50> [↑](#footnote-ref-10)
11. <https://undocs.org/en/A/HRC/43/61> [↑](#footnote-ref-11)
12. <https://undocs.org/en/A/HRC/43/20> [↑](#footnote-ref-12)
13. <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G20/010/94/PDF/G2001094.pdf?OpenElement>. Accessed 21 October 2020). [↑](#footnote-ref-13)
14. The last one was published on December 9, 2020, after her last re-arrest on December 2, 2020: <https://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=26582&LangID=E> [↑](#footnote-ref-14)
15. On October 6, 2020, Bachelet published the following statement calling for the release of Iranian human rights defenders amid COVID19, including Sotoudeh: <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=26345&LangID=E>. Few weeks before, on September 14, 2020, in her global human rights update at the 45th session of the Human Rights Council, the High Commissioner expressed concern at the health situation of Sotoudeh: <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=26226>. [↑](#footnote-ref-15)
16. Dr al-Hamid, who was also a joint recipient of the 2018 Right Livelihood Award, passed away in prison on April 24, 2020, after his health had been severely neglected by authorities. [↑](#footnote-ref-16)
17. <https://www.hrw.org/news/2017/11/23/saudi-arabia-new-counterterrorism-law-enables-abuse> [↑](#footnote-ref-17)
18. <https://www.ohchr.org/Documents/Issues/Detention/Opinions/Session81/A_HRC_WGAD_2018_10.pdf> [↑](#footnote-ref-18)
19. <https://www.gc4hr.org/news/view/2304> [↑](#footnote-ref-19)
20. <https://www.ohchr.org/Documents/Issues/Detention/Opinions2015AUV/Opinion%202015%2038_SaudiArabia_Sheikh_al_Rashudi%20and%20et_final_AUV.pdf> [↑](#footnote-ref-20)
21. <https://www.ohchr.org/Documents/Issues/Detention/Opinions/Session81/A_HRC_WGAD_2018_10.pdf> [↑](#footnote-ref-21)
22. <https://www.gc4hr.org/news/view/2555> [↑](#footnote-ref-22)
23. <https://twitter.com/Maha1410/status/1369002491602427909> [↑](#footnote-ref-23)
24. <https://twitter.com/Maha1410/status/1370769555015016456> [↑](#footnote-ref-24)
25. <https://undocs.org/A/HRC/21/18> [↑](#footnote-ref-25)
26. <https://www.ohchr.org/EN/HRBodies/HRC/RegularSessions/Session24/Documents/A-HRC-24-29_en.pdf> [↑](#footnote-ref-26)
27. <https://undocs.org/en/A/HRC/42/30> [↑](#footnote-ref-27)
28. <https://www.ohchr.org/Documents/Issues/Detention/Opinions2015AUV/Opinion%202015%2038_SaudiArabia_Sheikh_al_Rashudi%20and%20et_final_AUV.pdf> [↑](#footnote-ref-28)
29. <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=20886&LangID=E> [↑](#footnote-ref-29)