

# REDRESS

Ending torture, seeking justice for survivors

## NAZANIN ZAGHARI-RATCLIFFE Briefing on Legal Right to Medical Treatment, 2 March 2020

### SUMMARY

In the light of reports of a possible outbreak of coronavirus in Evin Prison, and fears that Nazanin Zaghari-Ratcliffe may have [contracted the virus](#), this briefing outlines Iran's legal obligations to provide Nazanin with appropriate and timely medical treatment. In summary:

- Iranian law requires the Evin Prison authorities to provide Nazanin with medical treatment, including referral to a medical facility outside the prison if necessary.
- Under international law, Iran is required to provide medical treatment to Nazanin by the International Covenant on Civil and Political Rights, to which Iran is a party.
- Six UN Special Procedures Mandate Holders have [previously found](#) that Iran's refusal to provide necessary medical treatment to Nazanin could "amount to cruel, inhuman or degrading treatment, or even torture."

### IRANIAN DOMESTIC LAW

Iranian law makes clear that access to medical treatment is one of the basic rights of every prisoner. It requires that when prisoners need specialist medical treatment, they be transferred to a hospital or a medical facility outside the prison following a referral by the prison doctor. The denial of this right to Nazanin is a clear breach of Iranian domestic law.<sup>1</sup>

### INTERNATIONAL LAW

#### International Covenant on Civil and Political Rights

Iran is a party to the International Covenant on Civil and Political Rights (ICCPR), which it ratified without reservation on 24 June 1975. The UN Human Rights Committee has made clear that failure to provide appropriate and timely medical care to detainees is a breach of the following rights under the ICCPR:

- the right to life under Article 6;
- the prohibition on torture or cruel, inhuman or degrading treatment or punishment under Article 7;
- the right to liberty and security of the person under Article 9;
- the right to humane treatment of prisoners under Article 10.<sup>2</sup>

The Human Rights Committee has stated that "the State party by arresting and detaining individuals takes the responsibility to care for their life."<sup>3</sup> The State has a duty to be proactive in providing adequate medical care. It is "incumbent on States to ensure the right of life of detainees, and not

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<sup>1</sup> Article 103 of Iran's Executive By-laws of Prisons' Organisation 2006. Information provided by Dr Shirin Ebadi, Iranian lawyer and former judge, Nobel Peace Laureate 2003.

<sup>2</sup> See e.g. Human Rights Committee 'Concluding Observations: Georgia' (2002) UN Doc A/57/40 vol I 53 para 78(7); *Pinto v. Trinidad and Tobago* (Communication No. 232/1987) Report of the Human Rights Committee vol 2 UN Doc A/45/40 p. 69 para 12.7; *Kelly v. Jamaica* (2 April 1991) UN Doc CCPR/C/41/D/253/1987 para 5.7; Human Rights Committee 'Concluding Observations: Portugal' (2003) UN Doc A/58/40 vol I 56 para 83(11); Human Rights Committee 'Concluding Observations: Cambodia' (1999) UN Doc A/54/40 vol I 57 para 306.

<sup>3</sup> *Lantsova v. Russian Federation* (26 March 2002) UN Doc CCPR/C/74/763/1997 para 9.2.

incumbent on the latter to request protection”.<sup>4</sup> Specifically with regard to the spread of diseases in prisons, the Committee has made clear: “Danger to the health and lives of detainees as a result of the spread of contagious diseases and inadequate care amounts to a violation of article 10 of the Covenant and may also include a violation of articles 9 and 6.”<sup>5</sup>

### **UN Standard Minimum Rules for the Treatment of Prisoners**

The UN Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules),<sup>6</sup> adopted by consensus of the UN General Assembly in Resolution 70/175 of 2015, recognise that the provision of medical treatment for prisoners is a State responsibility. They state that:

“All prisons shall ensure prompt access to medical attention in urgent cases. Prisoners who require specialized treatment or surgery shall be transferred to specialized institutions or to civil hospitals.”<sup>7</sup>

### **UN Special Procedures**

Iran’s previous failures to provide Nazanin with necessary medical tests and treatment have been highlighted by the UN Special Procedures Mandate Holders, who are appointed by the UN Human Rights Council to provide an authoritative interpretation of the law in their areas of expertise. In January 2019, shortly after Nazanin and a fellow prisoner, Narges Mohammadi, commenced a hunger strike to protest their denial of medical treatment, six UN Special Procedures Mandate Holders issued the following statement:

“The authorities must urgently address the violations that are the basis of their hunger strike protest, including denial of appropriate treatment and care, which may well amount to cruel, inhuman or degrading treatment, or even torture.”<sup>8</sup>

### **Conclusion on legal obligations**

The above authorities are clear that domestic and international law require Iran to provide appropriate and timely medical treatment to prisoners in detention. Given the highly contagious nature of coronavirus, and the fact that it poses particular risks for individuals with pre-existing health conditions, such as Nazanin, the Iranian authorities are obliged to take action with the utmost haste.

### **BACKGROUND**

Nazanin Zaghari-Ratcliffe is a British-Iranian mother and charity worker who has been unlawfully imprisoned in Iran for almost four years.

Nazanin was arrested on 3 April 2016 by the Iranian Revolutionary Guards while on holiday visiting family. Following a secret and unfair trial she was imprisoned on unspecified charges. She has been separated from her husband Richard and her daughter Gabriella, who was one year old when Nazanin was arrested.

The Iranian authorities have forced Nazanin to spend eight and a half months in solitary confinement and have



<sup>4</sup> Lantsova v. Russian Federation (26 March 2002) UN Doc CCPR/C/74/763/1997 para 9.2.

<sup>5</sup> Human Rights Committee ‘Concluding Observations: Republic of Moldova’ (2002) UN Doc A/57/40 vol I 76 para 84(9).

<sup>6</sup> Adopted by UN General Assembly Resolution 70/175 in 2015.

<sup>7</sup> Nelson Mandela Rules, Rule 27(1).

<sup>8</sup> OHCHR, *Iran: Iran: Prisoners Nazanin Zaghari-Ratcliffe and Narges Mohammadi need appropriate health care urgently – UN experts*, press release, 16 January 2019.

repeatedly denied her critical medical treatment. They have subjected Nazanin to inhuman conditions of detention and have repeatedly made further threats to her safety and that of her family.

The United Nations [Working Group on Arbitrary Detention](#) has ruled that Nazanin's imprisonment is unlawful and has ordered Iran to release her. The UK Government in March 2019 took the exceptional step of escalating the matter to an inter-state dispute with Iran, through granting Nazanin [diplomatic protection](#). However, Iran continues to ignore its international obligations and refuses to release Nazanin.

#### **ABOUT REDRESS**

REDRESS is an international human rights organisation based in London and The Hague that represents victims of torture in obtaining justice and reparations. REDRESS brings legal cases on behalf of individual survivors and advocates for better laws to provide effective reparations. REDRESS has acted for Nazanin Zaghari-Ratcliffe and her husband Richard since 2016.

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