

PETITION TO:

UNITED NATIONS

WORKING GROUP ON ARBITRARY DETENTION

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**HUMAN RIGHTS COUNCIL
UNITED NATIONS GENERAL ASSEMBLY**

In the Matter of
Golrokh Ebrahimi Iraee,
Citizen of the Islamic Republic of Iran

v.

Government of the Islamic Republic of Iran

URGENT ACTION REQUESTED

Petition for Relief Pursuant to Resolutions 1991/42, 1994/32, 1997/50, 2000/36, 2003/31
2006/102, 6/4, and 24/7

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BASIS FOR URGENT ACTION REQUEST

The Government of the Islamic Republic of Iran (“Iran” or the “Government”) is arbitrarily depriving Ms. Golrokh Ebrahimi Iraee of her liberty. Iran’s unlawful detention has already led to dire consequences, as Ms. Iraee has reportedly been brought to the hospital in critical condition. Iran’s continued unlawful detention of Ms. Iraee could result in her death. If Ms. Iraee survives her current medical crisis, her unlawful detention will continue to place her life and health in serious danger.

Ms. Iraee is currently serving a 30-month sentence for two alleged offenses. Ms. Iraee initially received a five-year sentence for writing a private fictional short story in her personal journey about the stoning of women to death for adultery. Ms. Iraee received an additional one-year sentence for a Facebook posts in which expressed her support for Shahin Najafi, a dissident rapper living in Germany, and for other posts in which she communicated with the families of certain Iranian prisoners of conscience. Ms. Iraee was convicted of “insulting Islamic sanctities” under Article 513 of the Islamic Penal Code based on the unpublished short story in her personal journal, and she was convicted of “spreading propaganda” under Article 500 of the Islamic Penal Code of Iran based on the Facebook posts. In March 2017, the Government reduced Ms. Iraee’s sentence to 30 months as part of a Nowrooz (Iranian New Year) pardon.

In July 2017, after the Government staged a sham tour of Evin Prison for foreign ambassadors, Ms. Iraee and fellow political prisoner Atena Daemi wrote an open letter detailing the poor conditions of the facility, where they were detained at the time. On January 24, 2018, Ms. Iraee and Ms. Daemi were transferred to Shahr-e Rey Prison, a former industrial chicken farm in Varamin, a town on the outskirts of Tehran, where they were detained in conditions that fall well below the standard minimum rules for the treatment of prisoners.¹ Prisoners detained in this quarantine section are denied basic rights and sufficient food and potable water.² In addition to enduring these conditions, Ms. Iraee and Ms. Daemi have suffered multiple beatings, both at the time of their transfer and more recently.³ Further reports indicate that while Ms. Iraee was detained at Shahr-e Rey Prison, three death-row inmates targeted her and Ms. Daemi when they used the bathroom and the showers in an apparent intimidation attempt orchestrated by prison officials.⁴

Ms. Iraee began a hunger strike on February 3, 2018, to protest her mistreatment and transfer, which she asserts violates Iranian law dictating that prisoners serve their terms near their city of residence or in the district where their sentences are issued.⁵ The transfer further violates

¹ See *Iran: New evidence of appalling treatment of women human rights defenders in Shahr-e Rey prison*, Amnesty Int’l (Mar. 9, 2018), <https://www.amnesty.org/en/latest/news/2018/03/iran-new-evidence-of-appalling-treatment-of-women-human-rights-defenders-held-in-shahre-rey-prison/>.

² See *id.*; see also *Urgent Action: Three Human Rights Defenders on Hunger Strike*, Amnesty Int’l (Feb. 8, 2018), <https://www.amnestyusa.org/wp-content/uploads/2017/08/uaa017413.pdf>.

³ United Nations Human Rights Office of the High Commissioner, *UN experts alarmed by reports of human rights defenders beaten in Iran jail* (Mar. 19, 2018), <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=22843&LangID=E>.

⁴ See Amnesty Int’l, *supra* note 1.

⁵ See *Mother of Ailing Hunger Striker Atena Daemi Assaulted in Front of Evin Prison*, Center for Human Rights in Iran (Feb. 15, 2018), <https://www.iranhumanrights.org/2018/02/mother-of-ailing-hunger-striker-atena-daemi-assaulted-in-front-of-evin-prison/>.

Iranian law by housing Ms. Iraee and Ms. Daemi alongside non-political prisoners, including potentially violent offenders.⁶ By March 2018, Ms. Iraee, who suffers from chronic asthma, had begun to experience significant health problems, including spasms and severe weight loss.⁷ In early April 2018, the Human Rights Activists News Agency reported that Ms. Iraee was transferred to Baghyatollah Hospital after experiencing severe vomiting and nausea.⁸ Reports suggest that Ms. Iraee had begun to experience issues with her gallbladder and that intravenous treatment was ineffective.⁹

United Nations (“U.N.”) human rights experts have expressed urgent concern about reports that Ms. Iraee and Ms. Daemi have been subjected to beatings in detention, and have called for their immediate release and for the women to receive appropriate medical care.¹⁰ The U.N. experts have attempted to confer with the Iranian authorities on these issues to no avail.¹¹

Recent events also suggest heightened danger to Ms. Iraee, even if she survives her urgent and life-threatening medical issues. Since the start of 2018, several Iranian activists have been found dead in their prison cells, and the Government has claimed that these deaths were suicides despite evidence to the contrary.¹² Family members and human rights groups have become increasingly concerned about the safety of outspoken human rights activists in prison.¹³ As described herein, Ms. Iraee herself has been subjected to particularly abusive treatment for exercising her protected rights.

Given the escalating mistreatment of Ms. Iraee, the recent pattern of Government critics being found dead in their prison cells though alleged suicide, and Ms. Iraee’s rapidly deteriorating health, Ms. Iraee’s life is in imminent danger. The Petitioner hereby requests that the Working Group consider this Petition pursuant to the Working Group’s “Urgent Action” procedure.

⁶ *Two Female Political Prisoners to Begin Refusing Food and Water Over Sudden Transfer to New Prison*, Center for Human Rights in Iran (Feb. 9, 2018), <https://www.iranhumanrights.org/2018/02/two-female-political-prisoners-to-begin-refusing-food-and-water-over-sudden-transfer-to-new-prison/>.

⁷ *See Hunger Striking Political Prisoner Golrokh Iraee in Critical Health*, Iran Human Rights Monitor (Mar. 11, 2018), <http://iran-hrm.com/index.php/2018/03/11/hunger-striking-political-prisoner-golrokh-irae-in-critical-health/>.

⁸ *See Golrokh Taken to Hospital*, Human Rights Activist News Agency (Apr. 4, 2018), <https://www.hra-news.org/2018/hranews/a-14791/>; *see also Iran: Golrokh Iraee’s condition alarming after 71 days*, NCRI Women Committee (Apr. 16, 2018), <https://women.ncr-iran.org/iran-women-news/4976-iran-golrokh-irae-s-condition-alarming-after-71-days>.

⁹ *Id.*

¹⁰ *See* United Nations Human Rights Office of the High Commissioner, *supra* note 3.

¹¹ *Id.*

¹² *See, e.g.*, Thomas Erdbrink, *In Iran, Protester ‘Suicides’ Stir Anger and Calls for Accountability*, The New York Times (Jan. 14, 2018), <https://www.nytimes.com/2018/01/14/world/middleeast/iran-protests-deaths.html>; *Iran: Investigate Reports of Protester Deaths in Custody*, Amnesty Int’l (Jan. 9, 2018), <https://www.amnesty.org/en/latest/news/2018/01/iran-investigate-reports-of-protester-deaths-in-custody/>; Golnaz Esfandiari, *Death of Protester in Detention Raises Concerns Over Fate of Iran Detainees*, Radio Free Europe/Radio Liberty (Jan. 8, 2018), <https://www.rferl.org/a/iran-protester-death-custody-sparks-fears-fate-detainees/28963373.html>.

¹³ *See* Amnesty Int’l, *supra* note 12.

QUESTIONNAIRE TO BE COMPLETED BY PERSONS ALLEGING ARBITRARY ARREST OR DETENTION

I. IDENTITY

1. *Family Name:* Iraee
2. *First Name:* Golrokh Ebrahimi
3. *Sex:* Female
4. *Age at the Time of Detention:* 34
5. *Nationality:* Iranian
6. (a) *Identity document (if any):* Unknown
(b) *Place of Issue:* N/A
(c) *On (date):* N/A
(d) *No.:* N/A
7. *Profession and/or activity (if believed to be relevant to the arrest/detention):* Golrokh Ebrahimi Iraee is an Iranian accountant and the wife of Iranian political activist Arash Sadeghi. Ms. Iraee was initially arrested in 2014 alongside Mr. Sadeghi at Mr. Sadeghi's workplace. Ms. Iraee had never previously been charged with any criminal misconduct.
8. *Address of usual residence:*

Unknown
Tehran, Iran

II. ARREST

1. *Date of arrest:* September 6, 2014 (initial arrest); October 24, 2016 (arrest after conviction); January 22, 2017 (rearrest after release for temporary leave)
2. *Place of arrest (as detailed as possible):* Ms. Iraee's first arrest occurred at Mr. Sadeghi's workplace, a stationery store in Tehran. She was taken to a safe house in or around Sharyati Street for interrogation, then transferred to Evin Prison before her release on bail. After her conviction, the Iranian Revolutionary Guard Corps arrested her at her apartment and brought her to Evin Prison to begin serving her sentence in October 2016. She appealed her conviction and was granted temporary prison leave during the pendency of her appeal, but she was rearrested while traveling to visit Mr. Sadeghi, who had been hospitalized in Tehran after a prolonged hunger strike during his own prison term.
3. *Did they show a warrant or other decision by a public authority?* No

4. *Authority who issued the warrant or decision:* N/A
5. *Relevant legislation applied (if known):* No legislation was cited at the time of arrest.

III. DETENTION

1. *Date of detention:* Ms. Iraee's first detention began on September 6, 2014. Following Ms. Iraee's conviction, her second detention began on October 24, 2016. Following her release on January 3, 2017, pending an appeal, Ms. Iraee was rearrested on January 22, 2017.
2. *Duration of detention (if not known, probable duration):* The first detention lasted until September 27, 2014 (when she was released on bail). The second detention lasted from October 24, 2016, to January 3, 2017. The third detention has lasted from January 22, 2017, to the date of this communication.
3. *Forces holding the detainee under custody:* Government of the Islamic Republic of Iran
4. *Places of detention (indicate any transfer and present place of detention):* Ms. Iraee was originally detained in the Women's Ward of Evin Prison in Tehran, Iran. On January 24, 2018, she was transferred to Shahr-e Rey Prison in Varamin, Iran. She remained there until early April, when she was transferred to a hospital.
5. *Authorities that ordered the detention:* Islamic Revolutionary Guard Corps; Revolutionary Court (Branch 15)
6. *Reasons for the detention imputed by the authorities:* Ms. Iraee was convicted of "spreading propaganda" under Article 500 of the Islamic Penal Code and "insulting Islamic sanctities" under Article 513 of the Islamic Penal Code.
7. *Relevant legislation applied (if known):* Articles 500 and 513 of the Islamic Penal Code

IV. DESCRIBE THE CIRCUMSTANCES OF THE ARREST AND/OR THE DETENTION AND INDICATE PRECISE REASONS WHY YOU CONSIDER THE ARREST OR DETENTION TO BE ARBITRARY

A. Statement of Facts

Part 1 of this Statement of Facts details the current political climate in Iran in order to illustrate the Government's pattern of violating the substantive and procedural rights of dissidents and their associates. Part 2 offers background information on Ms. Iraee and her husband, Mr. Sadeghi, whose cases are closely related given that Ms. Iraee appears to have been prosecuted

and detained because of her marriage to Mr. Sadeghi. Part 3 describes the circumstances surrounding Ms. Iraee's arrest and continuing detention.

1. Iran's Pattern of Political Repression and Human Rights Abuses

a. Limitations on Fundamental Human Rights

Under President Hassan Rouhani (who assumed the presidency in August 2013), Iran has made apparent overtures toward reform despite a long history of human rights violations. In December 2016, President Rouhani issued a Charter on Citizens' Rights,¹⁴ and, in November 2017, several legislators established a new Civic Rights Faction with the intention of monitoring ongoing legal cases.¹⁵

Notwithstanding these measures, Iran's violations of fundamental rights are rampant. Iranian Nobel Peace laureate Shirin Ebadi, for example, has strongly criticized President Rouhani's human rights record, accusing the Government of lying about the release of political prisoners and calling for greater accountability on matters of human rights.¹⁶ Despite Iran's status as a signatory of the International Covenant on Civil and Political Rights ("ICCPR"), Iran routinely flouts the standards set forth in the ICCPR and other prevailing sources of international law. International bodies,¹⁷ foreign governments,¹⁸ and NGOs¹⁹ have all issued statements and reports strongly condemning Iran's poor human rights record. Iran's violations result in the infringement of a wide variety of rights.

Civil liberties are subject to particularly severe restrictions in Iran.²⁰ In many respects, the Iranian Constitution purports to protect these freedoms, but caveats enable the Government to

¹⁴ The Islamic Republic of Iran, Charter on Citizens' Rights (Dec. 2016), <http://epub.citizensrights.ir/CitizensRightsEN.pdf>.

¹⁵ See *Iran Parliamentarians Form Citizens' Rights Faction*, Radio Farda (Nov. 6, 2017), <https://en.radiofarda.com/a/iran-parliament-citizen-rights/28837617.html>.

¹⁶ See Edith M. Lederer, *Iran's Ebadi criticizes Rouhani's rights record*, Yahoo News (Nov. 6, 2013), <https://www.yahoo.com/news/irans-ebadi-criticizes-rouhanis-rights-record-151848906.html>; *Nobel Laureate Shirin Ebadi: Rouhani Directly Responsible for All Intelligence Ministry Abuses*, Center for Human Rights in Iran (Dec. 12, 2016), <https://www.iranhumanrights.org/2016/12/shirin-ebadi-rouhani-directly-responsible/>.

¹⁷ See, e.g., United Nations Human Rights Office of the High Commissioner, *Report of the Special Rapporteur on the situation of human rights in the Islamic Republic of Iran*, U.N. Doc. A/HRC/34/65 (Mar. 17, 2017) (hereinafter "U.N. Special Rapporteur Report"), <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G17/069/26/pdf/G1706926.pdf?OpenElement>.

¹⁸ See, e.g., U.S. State Dept., *Iran 2016 Human Rights Report* (2017) (hereinafter "U.S. State Department Human Rights Report"), <https://www.state.gov/documents/organization/265708.pdf>; U.K. Foreign and Commonwealth Office, *Corporate Report: Human Rights Priority Country Status Report: July to December 2016: Iran* (Feb. 8, 2017), <https://www.gov.uk/government/publications/iran-human-rights-priority-country/human-rights-priority-country-update-report-july-to-december-2016> ("The human rights situation in Iran remains deeply worrying.").

¹⁹ See, e.g., *The State of the World's Human Rights: Iran 2017/2018*, Amnesty Int'l 197-202 (2018) (hereinafter "Amnesty International Iran Report"), <https://www.amnesty.org/en/countries/middle-east-and-north-africa/iran/report-iran/>; *Iran: Country Summary*, Human Rights Watch (Jan. 2018), https://www.hrw.org/sites/default/files/iran_2.pdf.

²⁰ See, e.g., U.S. State Department Human Rights Report, *supra* note 18, at 1 ("The most significant human rights (HR) problems were severe restrictions on civil liberties, including the freedoms of assembly, association, speech, religion, and press.").

circumvent any protections that the Constitution might offer. For example, the Iranian Constitution guarantees the freedom of the press to discuss any issue—“unless such is deemed harmful to the principles of Islam or the rights of the public.”²¹ Similar exceptions apply to freedoms of association²² and assembly.²³ In the case of freedom of thought or opinion, the Iranian Constitution would appear to offer unequivocal protection: “Investigation into one’s ideas is forbidden. No one can be subjected to questioning and aggression for merely holding an opinion.”²⁴ In practice, though, the Government routinely flouts the guarantees established by its own Constitution.

Reports abound of the Government infringing on the rights of journalists, activists, organizers, and the general public. Open dissent with the Government is not tolerated, as demonstrated by the approximately 3,700 arrests that resulted from the protests occurring in dozens of Iranian cities in December 2017 and January 2018.²⁵ This blanket restriction on dissent manifests as a lack of regard for numerous individual freedoms. Amnesty International wrote of the Government in 2017, “The authorities continued to crack down heavily on the rights to freedom of expression, association and peaceful assembly, jailing scores of peaceful critics on spurious national security charges.”²⁶ In its Freedom in the World 2018 report, Freedom House graded Iran as “Not Free” and detailed the variety of restrictions that the Government places on the freedoms of expression and religion.²⁷

As an example, Iran has implemented widespread censorship of newspapers and magazines and makes threats against the families of Farsi journalists reporting outside of the country.²⁸ In a March 2017 report, the U.N. Special Rapporteur on human rights in Iran noted that Iran frequently restricts the freedoms of association and assembly on the part of workers and labor activists, as illustrated by the October 2016 imprisonment of several union leaders for the crime of participating in labor unions.²⁹ Nor is freedom of religion protected in Iran: In 2017, as reported by Amnesty International, at least two individuals were sentenced to death for their involvement in religious organizations before the Iranian Supreme Court quashed their sentences.³⁰

A wide range of political opponents and activists have been jailed for exercising rights guaranteed to them by both international law and the Iranian Constitution. The first quarter of 2018 saw the imprisonment of numerous such individuals, who have been imprisoned or convicted for

²¹ Constitution of the Islamic Republic of Iran art. 24 (1989) (hereinafter “Iranian Constitution”), <http://www.wipo.int/edocs/lexdocs/laws/en/ir/ir001en.pdf>.

²² *Id.* at art. 26 (“The political parties, associations and trade unions, Islamic associations, or associations of the recognized religious minorities are free to exist on the condition that they do not negate the principles of independence, freedom, national unity, Islamic criterion, and the foundation of the Islamic Republic. No one can be prevented from participation in these gatherings or forced to participate in one of them.”).

²³ *Id.* at art. 27 (“Public gatherings and marches are allowed so long as the participants do not carry arms and are not in violation of the fundamental principles of Islam.”).

²⁴ *Id.* at art. 23.

²⁵ See, e.g., Asef Bayat, *The Fire That Fueled the Iran Protests*, *The Atlantic* (Jan. 27, 2018), <https://www.theatlantic.com/international/archive/2018/01/iran-protest-mashaad-green-class-labor-economy/551690/>.

²⁶ See Amnesty International Iran Report, *supra* note 19, at 197.

²⁷ *Freedom in the World 2018: Iran*, Freedom House (2018), <https://freedomhouse.org/report/freedom-world/2018/iran>.

²⁸ *Id.*

²⁹ See U.N. Special Rapporteur Report, *supra* note 17.

³⁰ See Amnesty International Iran Report, *supra* note 19, at 200.

activities including environmental activism,³¹ political commentary,³² teachers' union activities,³³ and student protests.³⁴ When the Government finds that persecution of activists and opponents is insufficient to silence them, it routinely targets family members, despite the Iranian Constitution's recognition that "[t]he family is the foundational unit of the Islamic society."³⁵ In December 2017 and January 2018, for example, Iranian agents detained the relatives of a Kurdish journalist, a student activist, and a human rights activist, questioning them for long periods in an effort to elicit information about their targets.³⁶

b. Lack of Fair Trial Rights and Judicial Independence

Those targeted by the Government frequently have little opportunity to understand the charges against them, defend themselves, or receive fair treatment in court. The Iranian Constitution purports to establish certain basic protections for due process. First, police must immediately communicate charges to those arrested, and a preliminary file must be submitted to judicial authorities within 24 hours after the arrest.³⁷ In addition, the Iranian Constitution establishes that criminal defendants are presumed innocent until proven guilty.³⁸

Again, however, practice suggests that criminal defendants do not benefit from the Iranian Constitution's stated protections. Underlying this trend is the tendency of the judiciary to interpret national security laws broadly and to presume guilt on the part of criminal defendants. As the U.N. Special Rapporteur on human rights in Iran has noted, "The judiciary plays a vital role in interpreting often vaguely defined national security laws."³⁹ Given the judiciary's lack of independence, it typically interprets these laws in a manner that undermines rather than protects the basic rights of defendants.

Perhaps most prominent among these laws is Article 500 of the Islamic Penal Code of Iran, which states, "Anyone who engages in any type of propaganda against the Islamic Republic of Iran in support of opposition groups and associations, shall be sentenced to three months to one

³¹ See *Iranian Environmentalists Remain Detained Months After Arrests While Families Seek Answers*, Center for Human Rights in Iran (Mar. 26, 2018), <https://www.iranhumanrights.org/2018/03/iranian-environmentalists-remain-detained-months-after-arrests-while-families-seek-answers/>.

³² See *Sentenced to Prison for His Political Views, Sadeh Zibakalam Decries Censorship in Iran*, Center for Human Rights in Iran (Mar. 19, 2018), <https://www.iranhumanrights.org/2018/03/sentenced-to-prison-for-his-political-views-sadeh-zibakalam-decries-censorship-in-iran/>.

³³ See *Revolutionary Guards Violently Arrest Teachers' Rights Activist in Front of High School Students*, Center for Human Rights in Iran (Mar. 15, 2018), <https://www.iranhumanrights.org/2018/03/revolutionary-guards-violently-arrest-teachers-rights-activist-in-front-of-high-school-students/>.

³⁴ See *41 Tehran University Students Facing Prosecution for Participating in December 2017 Protests*, Center for Human Rights in Iran (Mar. 5, 2018), <https://www.iranhumanrights.org/2018/03/41-tehran-university-students-facing-prosecution-for-participating-in-december-2017-protests/>.

³⁵ Iranian Constitution, *supra* note 21, at art. 10.

³⁶ See *Unable to Locate Activists, Iran's Intelligence Ministry Illegally Detains Their Family Members*, Center for Human Rights in Iran (Jan. 26, 2018), <https://www.iranhumanrights.org/2018/01/unable-to-locate-activists-irans-intelligence-ministry-illegally-detains-their-family-members/>.

³⁷ Iranian Constitution, *supra* note 21, at art. 32.

³⁸ *Id.* at art. 37 ("Innocence is presumed. The law does not consider anyone guilty unless the person's guilt is proven at a qualified court.").

³⁹ U.N. Special Rapporteur Report, *supra* note 17, at ¶ 39.

year of imprisonment.”⁴⁰ The U.N. Working Group on Arbitrary Detention has weighed in on at least two cases involving convictions under this provision in recent years and concluded that the detention of both individuals was arbitrary.⁴¹

The U.N. Special Rapporteur on human rights in Iran additionally highlighted Article 513 of the Islamic Penal Code of Iran as being among the provisions that “are often vague and broadly worded so that they allow the Government to severely limit speech and punish peaceful assembly and association.”⁴² That article prohibits “insults” against “Islamic [sanctities]” and includes as potential punishments either death or imprisonment of up to five years.⁴³

In carrying out these provisions, law enforcement agents frequently skirt the procedural requirements set forth by the Iranian Constitution. The U.S. State Department observed in its latest human rights report on Iran that, in 2016, “authorities often violated these procedures by holding some detainees, at times incommunicado, for weeks or months without charge or trial and frequently denying them contact with family or timely access to legal representation.”⁴⁴ The State Department further found that individuals were often arrested and detained for long periods without charges or trials.⁴⁵ Torture is also common in Iran, as forced confessions are routinely allowed by the courts and the Government rarely investigates allegations of torture.⁴⁶ Recent cases appear to suggest even more extreme action by the Government, as the deaths of protestors detained in January 2018 were labeled suicides despite evidence suggesting violence by Government agents.⁴⁷

Once at trial, defendants are not granted the procedural protections guaranteed by both domestic and international law. The U.S. State Department has conveyed reports by human rights organizations who observed that judges in several cases have appeared to conduct trials with a presumption of guilt.⁴⁸ Indeed, in the past year, the U.N. Working Group on Arbitrary Detention

⁴⁰ Islamic Penal Code of the Islamic Republic of Iran – Book Five art. 500, Iran Human Rights Documentation Center (July 18, 2013) (hereinafter “Islamic Penal Code of Iran”), <http://iranhrdc.org/english/human-rights-documents/iranian-codes/1000000351-islamic-penal-code-of-the-islamic-republic-of-iran-book-five.html>.

⁴¹ See Human Rights Council, *Opinions adopted by the Working Group on Arbitrary Detention at its seventy-sixth session (Islamic Republic of Iran)*, Opinion No. 25/2016, U.N. Doc. A/HRC/WGAD/2016/25 (Aug. 22–26, 2016), <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G16/208/88/PDF/G1620888.pdf>; Human Rights Council, *Opinions adopted by the Working Group on Arbitrary Detention at its seventy-ninth session (Islamic Republic of Iran)*, Opinion No. 48/2017, U.N. Doc. A/HRC/WGAD/2017/48 (Aug. 21–25, 2017) (hereinafter “Opinion No. 48/2017”), http://www.ohchr.org/Documents/Issues/Detention/Opinions/Session79/A_HRC_WGAD_2017_48_EN.pdf; Human Rights Council, *Opinions adopted by the Working Group on Arbitrary Detention at its sixty-fourth session (Rwanda)*, Communication No. 25/2012, U.N. Doc. A/HRC/WGAD/2012/25, at ¶ 55 (Aug. 27–31, 2012), <http://hrlibrary.umn.edu/wgad/25-2012.pdf>.

⁴² U.N. Special Rapporteur Report, *supra* note 17, at ¶ 42.

⁴³ Islamic Penal Code of Iran, *supra* note 40, at art. 513.

⁴⁴ U.S. State Department Human Rights Report, *supra* note 18, at 9.

⁴⁵ *Id.*

⁴⁶ See Amnesty International Iran Report, *supra* note 19, at 198.

⁴⁷ See Erdbrink, *supra* note 12.

⁴⁸ U.S. State Department Human Rights Report, *supra* note 18, at 11.

has identified at least two instances in which Iran violated the right to a presumption of innocence.⁴⁹

Furthermore, the Iranian judiciary is not independent. The U.S. State Department has found that, despite the constitutional provisions calling for an independent judiciary, Iran's court system is "subject to political influence, and judges were appointed 'in accordance with religious criteria.'"⁵⁰ International observers have continually criticized the lack of independence of Iran's judicial system and judges and "maintained that trials disregarded international standards of fairness."⁵¹ In a 2016 report, Amnesty International stated that "the vetting process for recruiting judges [in Iran] runs contrary to international standards regarding qualification and selection as it allows the judiciary to exclude anyone who does not adhere to state-sanctioned political and religious ideologies."⁵²

The Government's systematic infringement of fundamental rights, including the right to due process, creates an environment in which members of the public take great risk by opposing the government. The lack of an independent judiciary only reinforces the Government's control over the public forum.

Once convicted, prisoners in Iran face appalling conditions. As Amnesty International has reported, "Prisoners endure[] cruel and inhuman conditions of detention, including overcrowding, limited hot water, inadequate food, insufficient beds, poor ventilation, and insect infestations."⁵³ Reports on Evin Prison, the Tehran facility that houses many of Iran's political prisoners, describe unbearable living spaces and frequent torture and beatings.⁵⁴

2. Background Information on Golrokh Ebrahimi Iraee and Arash Sadeghi

Golrokh Ebrahimi Iraee is an accountant with no previous criminal record.⁵⁵ She was born in Iran and lives with her husband, Arash Sadeghi. Ms. Iraee's detention appears to stem from her relationship with Mr. Sadeghi, a vocal critic of the Government who is currently serving a 19-year prison term.⁵⁶ Ms. Iraee was first arrested alongside Mr. Sadeghi, and the Government's treatment

⁴⁹ See Human Rights Council, *Opinions adopted by the Working Group on Arbitrary Detention at its eightieth session (Islamic Republic of Iran)*, Opinion No. 92/2017, U.N. Doc. A/HRC/WGAD/2017/92 (Nov. 20–24, 2017); Opinion No. 48/2017, *supra* note 41.

⁵⁰ U.S. State Department Human Rights Report, *supra* note 18, at 11.

⁵¹ *Id.*

⁵² See *Flawed Reforms: Iran's New Code of Criminal Procedure*, Amnesty Int'l at 12 (2016), <https://www.amnesty.org/en/documents/mde13/2708/2016/en/>.

⁵³ See Amnesty International Iran Report, *supra* note 19, at 198.

⁵⁴ See Anna Maryam Rafiee, 'I wonder if we are in a prison or a torture chamber': summer is hell in Iran's Evin jail, *The Guardian* (Aug. 3, 2015), <https://www.theguardian.com/world/iran-blog/2015/aug/03/iran-evin-prison-like-torture-chamber>.

⁵⁵ See *Harsh Sentences of Human Rights Activist and Wife Confirmed by Iran Appeals Court*, Center for Human Rights in Iran (Mar. 7, 2016), <https://www.iranhumanrights.org/2016/03/harsh-sentences-of-human-rights-activist-and-wife-confirmed-by-iran-appeals-court/>.

⁵⁶ See *Activists Atena Daemi and Golrokh Iraee Beaten and Transferred to Different Prison*, Center for Human Rights in Iran (Jan. 26, 2018), <https://www.iranhumanrights.org/2018/01/activists-aten-daemi-and-golrokh-irae-beaten-and-transferred-to-different-prison/>.

of Ms. Iraee strongly indicates that her ongoing detention serves as retaliation for Mr. Sadeghi's activism.

a. Ms. Iraee's Husband and His History of Arrests

Mr. Sadeghi is a former philosophy student at Allameh Tabatabai University. Mr. Sadeghi actively supported the unsuccessful presidential campaign of Mir-Hossein Mousavi against Mahmoud Ahmadinejad in the 2009 election.⁵⁷ Mr. Sadeghi has been arrested and imprisoned no fewer than five times since July 2009, all of which reportedly occurred after the contested election of President Ahmadinejad in May 2009.⁵⁸ (Mr. Ahmadinejad was President of Iran until August 2013, when he was succeeded by Mr. Rouhani.)

Mr. Sadeghi was first arrested on July 9, 2009, in the aftermath of the disputed presidential election.⁵⁹ He was held for 53 days in Section 2A of Tehran's Evin Prison, which is under the control of the Revolutionary Guards, before being released on bail on August 31, 2009.⁶⁰ During his detention, he was barred from making any telephone calls and his family was given no information about him.⁶¹

He was arrested again on December 27, 2009 and detained for fifteen days until he was released in January 2010 after securing bail.⁶² Between January 2010 and January 2012, Mr. Sadeghi was arrested again, largely for supporting leftist students denied an education and for speaking out publicly against inhumane prison conditions.⁶³

Mr. Sadeghi was arrested again on January 15, 2012, and transferred to solitary confinement in Section 209 of Tehran's Evin Prison for 18 months. While he was in prison, Iranian officials tortured Mr. Sadeghi multiple times, including by hanging him from the ceiling by one leg for up to five hours at a time.⁶⁴ Mr. Sadeghi was beaten so severely that his shoulder was dislocated twice and his teeth were broken; he was forced to lick a soiled toilet bowl; his interrogators urinated on his face and in his mouth; he was barred from bathing; and he was slapped for several hours, resulting in the tearing of his ear drum.⁶⁵ Further, Mr. Sadeghi said the officials kicked and punched him in the face while blindfolded, causing damage to his eyes and resulting in temporary loss of vision.⁶⁶ He stated his interrogators at Evin Prison talked of charging him with "moharebeh" (enmity against God) and told him to "confess" on camera to having connections

⁵⁷ See *Rights Activist Sentenced to 15 Years Imprisonment in Critical Condition After 45-Day Hunger Strike*, Center for Human Rights in Iran (Dec. 8, 2016), <https://www.iranhumanrights.org/2016/12/arash-sadeghi-hunger-strike/>.

⁵⁸ See *Urgent Action: Growing Fears for Hunger Striker in Iran*, Amnesty Int'l (July 5, 2013), <https://www.amnestyusa.org/files/uaa17413.pdf>.

⁵⁹ See *id.*

⁶⁰ See *id.*

⁶¹ See *id.*

⁶² See *id.*

⁶³ See *id.*; see also Center for Human Rights in Iran, *supra* note 57.

⁶⁴ See *Tragic Tale of Activist Arash Sadeghi and His Wife Golrokh Iraee in Iran Prison*, Times of Israel (Dec. 7, 2016), <http://blogs.timesofisrael.com/tragic-tale-of-activist-arash-sadeghi-and-his-wife-golrokh-irae-in-iran-prison/>.

⁶⁵ See Amnesty Int'l, *supra* note 58.

⁶⁶ See *id.*

with the People’s Mojahedin Organization of Iran (“PMOI”) and with friends outside of Iran.⁶⁷ When he refused, his interrogators threatened to arrest his mother and to terminate his father from a military job.⁶⁸

Mr. Sadeghi’s most recent prison sentence stems from a September 6, 2014 arrest, when he was detained with Ms. Iraee and two other friends. The exact reason for the arrest is unclear because authorities did not have an arrest warrant. However, Mr. Sadeghi was eventually charged with (1) “spreading propaganda against the system” for interviews he conducted about human rights and prison conditions; (2) “spreading lies in cyberspace” for Facebook posts about political prisoners and past human rights violations by Iran; and (3) “insulting the founder of the Islamic Republic” for the same Facebook posts.⁶⁹

b. Family Harassment

On or about November 14, 2010, intelligence agents stormed the home of Ms. Iraee’s mother-in-law (Mr. Sadeghi’s mother) at four in the morning while she was sleeping.⁷⁰ After the agents broke all of the windows in the house, Ms. Iraee’s mother-in-law suffered a heart attack. Instead of immediately calling for medical assistance, the agents continued to ransack the family’s belongings while she remained unconscious on the floor. She died four days later.⁷¹ All attempts by the family to file an official complaint against security forces have been met with retaliation.

Ms. Iraee’s father-in-law (Mr. Sadeghi’s father) has also been intimidated and harassed by Ministry of Intelligence officials and warned against speaking to the media about Ms. Iraee’s husband.⁷² Ms. Iraee’s father-in-law serves in the Iranian army and lives in government-provided housing. After he voiced support for Mr. Sadeghi, intelligence services have repeatedly threatened to fire him and evict him from his home.⁷³ Further, Mr. Sadeghi’s grandfather was arrested in June 2012 for giving a public interview about Mr. Sadeghi’s hunger strike.⁷⁴

3. Circumstances of Golrokh Ebrahimi Iraee’s Arrest, Trial, and Detention

a. Initial Arrest

On September 6, 2014, Ms. Iraee, Mr. Sadeghi, and two friends, Navid Kamran and Behnam Mousivand, were arrested at Mr. Sadeghi’s workplace, a stationery store, by agents from the Sarallah Headquarters of the Revolutionary Guards’ Intelligence Organization.⁷⁵ The agents did not disclose any reason or justification for the arrest, nor did they have an arrest warrant for

⁶⁷ See *id.*

⁶⁸ See *id.*

⁶⁹ Center for Human Rights in Iran, *supra* note 5; see also *Jailed Iranian activist ends hunger strike after wife freed*, BBC News (Jan. 3, 2017), <http://www.bbc.com/news/world-middle-east-38500746>.

⁷⁰ See, e.g., Saeed Kamali Dehghan, *Iran’s activists jailed and beaten for speaking out*, The Guardian (Nov. 23, 2012), <https://www.theguardian.com/world/2012/nov/23/iran-activists-jailed-speaking-out>.

⁷¹ See *id.*

⁷² See Amnesty Int’l, *supra* note 58.

⁷³ See *id.*

⁷⁴ See *id.*

⁷⁵ See *Woman Sentenced to 6 years in Prison for Unpublished Story and Facebook Posts Rejects Prison Summons*, Center for Human Rights in Iran (Oct. 12, 2016), <https://www.iranhumanrights.org/2016/10/golrokh-ariaei/>.

the arrested individuals except for Mr. Sadeghi.⁷⁶ The agents then brought Mr. Sadeghi to Evin Prison. Because the agents did not have warrants for the other arrestees and could not immediately transfer them to Evin Prison, the agents took them instead to another facility for interrogation.⁷⁷ Meanwhile, the agents ransacked Mr. Sadeghi and Ms. Iraee's home and confiscated various personal possessions, including laptops, CDs, and papers.⁷⁸

Among those papers was Ms. Iraee's personal journal, which contained a fictional, handwritten story criticizing the practice of stoning. In the story, a female character watches the movie *The Stoning of Soraya* (which tells the story of a woman who is stoned to death for alleged adultery) and becomes so enraged that she burns a copy of the Qur'an.⁷⁹ Ms. Iraee's fictional story has never been published, online or otherwise, and the full text of the story is unavailable because authorities confiscated the only existing copy.⁸⁰

Following her arrest, Ms. Iraee was brought to a secret detention facility for one night before being transferred to Evin Prison.⁸¹ Ms. Iraee was held in solitary confinement for the first three days of her detention, and she faced repeated interrogation with no access to her family, a lawyer, or a court over the course of twenty days.⁸²

After her arrest and detention, Iranian authorities informed Ms. Iraee that they were detaining her for certain Facebook posts pertaining to Iranian dissidents.⁸³ The authorities ultimately focused on a Facebook post in which Ms. Iraee indicated her support for Shahin Najafi, a dissident Iranian rapper living in Germany,⁸⁴ as well as on a group of posts in which Ms. Iraee communicated with families of certain Iranian prisoners of conscience.⁸⁵

After reading her journals, the agents turned their focus to Ms. Iraee's short story. During the periods of Ms. Iraee's interrogation, agents pressured her to confess under threats of execution for "insulting Islam."⁸⁶ They frequently blindfolded her, and they also forced her to listen to interrogators threatening and abusing her husband in the adjacent cell.⁸⁷

Ms. Iraee was finally granted access to her family and her attorney on September 27, 2014, when a judge released her on bail.⁸⁸ Mr. Sadeghi was held until the following March.⁸⁹

⁷⁶ See *Iran: Writer facing imminent imprisonment for story about stoning*, Amnesty Int'l (Oct. 6, 2016), <https://www.amnesty.org/en/latest/news/2016/10/iran-writer-facing-imminent-imprisonment-for-story-about-stoning/>.

⁷⁷ Conversation with AB (Jan. 11, 2017).

⁷⁸ See Amnesty Int'l, *supra* note 76.

⁷⁹ See *id.*

⁸⁰ Email conversation with BC (June 28, 2017); email conversation with CD (July 10, 2017).

⁸¹ See Amnesty Int'l, *supra* note 76.

⁸² *Id.*

⁸³ Conversation with AB (Jan. 11, 2017).

⁸⁴ Email conversation with BC (June 28, 2017).

⁸⁵ See Center for Human Rights in Iran, *supra* note 75.

⁸⁶ See *id.*; see also Amnesty Int'l, *supra* note 76.

⁸⁷ See Amnesty Int'l, *supra* note 76.

⁸⁸ See *Urgent Action: Iranian Activist Couple Jailed in Evin Prison*, Amnesty Int'l (Nov. 30, 2016), <https://www.amnesty.org/download/Documents/MDE1352312016ENGLISH.pdf>.

⁸⁹ See *id.*

b. Trial and Conviction

The trial of Ms. Iraee, Mr. Sadeghi, Mr. Kamran, and Mr. Mousivand consisted of two closed hearings in May and July 2015 before Branch 15 of the Revolutionary Court.⁹⁰ Procedural abnormalities pervaded the proceedings. The first attorney representing Ms. Iraee and Mr. Sadeghi was pressured into withdrawing from the case, and the court barred their second attorney from reviewing their case files or presenting their defense.⁹¹ Ultimately, neither Ms. Iraee nor Mr. Sadeghi was represented at trial.⁹² At the May 2015 hearing, Ms. Iraee was entirely blocked from presenting a defense on her behalf, as the brief proceeding focused on Mr. Sadeghi's conduct.⁹³ When Ms. Iraee entered the courtroom, the judge asked her in an aggressive tone why she had done what she did (though Ms. Iraee was uncertain to what the judge was referring).⁹⁴

The court considered Ms. Iraee's case at the second hearing in July 2015, though Ms. Iraee was not present because she was undergoing an urgent surgery at the time.⁹⁵ Although Ms. Iraee submitted the necessary medical paperwork to the court prior to her hearing and requested that the court reschedule her hearing, the judge refused, and Ms. Iraee was convicted *in absentia*.⁹⁶

The court ultimately convicted Ms. Iraee on two separate charges: (1) "spreading propaganda" under Article 500 of the Islamic Penal Code based on the Facebook posts and (2) "insulting Islamic sanctities" under Article 513 of the Islamic Penal Code based on the unpublished short story. She was sentenced to five years' imprisonment for the short story and an additional year for the Facebook posts. Mr. Sadeghi, meanwhile, was convicted to a term of 15 years for "spreading propaganda," "colluding against national security," and "insulting the founder of the Islamic Republic," charges that trace to his peaceful activism.⁹⁷ Mr. Kamran and Mr. Mousivand each received prison terms of 18 months.⁹⁸

On December 22, 2015, an appellate court affirmed Ms. Iraee's and Mr. Sadeghi's convictions after a hearing that was closed to the public and lasted only a few minutes.⁹⁹ Again, their attorney was barred from representing them.¹⁰⁰ Before she was allowed to present her defense, the judge said to her, "If it were up to me, I would execute you."¹⁰¹

⁹⁰ See Center for Human Rights in Iran, *supra* note 75.

⁹¹ See Iran: Writer Arrested in Violent Raid on her House Following Prison Sentence for Story About Stoning, Amnesty Int'l (Oct. 24, 2016), <https://www.amnesty.org/en/latest/news/2016/10/iran-writer-arrested-in-violent-raid-on-her-house-following-prison-sentence-for-story-about-stoning/>; see also Center for Human Rights in Iran, *supra* note 55.

⁹² See Amnesty Int'l, *supra* note 88.

⁹³ See Center for Human Rights in Iran, *supra* note 75.

⁹⁴ Conversation with AB (Jan. 11, 2017).

⁹⁵ See Center for Human Rights in Iran, *supra* note 75.

⁹⁶ Conversation with AB (Jan. 11, 2017).

⁹⁷ See Amnesty Int'l, *supra* note 88.

⁹⁸ See Navid Kamran Arrested to Serve His Sentence, Human Rights Activists News Agency (Oct. 14, 2016), <https://www.en-hrana.org/navid-kamran-arrested-serve-sentence>.

⁹⁹ Conversation with AB (Jan. 11, 2017).

¹⁰⁰ See Center for Human Rights in Iran, *supra* note 55.

¹⁰¹ *Id.*

After her conviction, Ms. Iraee requested a written summons and, having never received one, did not subsequently report to prison.¹⁰² On October 24, 2016, agents from the Revolutionary Guard (and not the sentence implementation office) came to Ms. Iraee's home. They blindfolded and handcuffed her, and led her to a car in front of her building.¹⁰³ When she asked that she be allowed to retrieve her asthma medication, the agents refused.¹⁰⁴ One officer told her that she would not need the medicine because she was going to die in prison.¹⁰⁵ Ms. Iraee was thereafter brought to Evin Prison to begin her prison term, which Mr. Sadeghi protested through a two-month hunger strike.¹⁰⁶ Mr. Sadeghi's hunger strike successfully pressured the Iranian authorities to release Ms. Iraee from prison during the pendency of her appeal on January 3, 2017.¹⁰⁷ On January 22, however, Ms. Iraee was arrested once more and returned to Evin Prison.¹⁰⁸

In March 2017, the Government reduced Ms. Iraee's sentence to 30 months as part of a Nowrooz (Iranian New Year) pardon.¹⁰⁹ In July 2017, however, Ms. Iraee's and Mr. Sadeghi's requests for judicial review were rejected by the Iranian Supreme Court.¹¹⁰

c. Detention

The Iranian authorities have subjected Ms. Iraee to unconscionable conditions throughout her prison term. In July 2017, Ms. Iraee and her cellmate, fellow political prisoner Atena Daemi, wrote an open letter detailing the poor conditions of Evin Prison after the Government staged a sham tour of the facility for foreign ambassadors.¹¹¹ Among other things, the letter describes the prison's unsanitary conditions, unhealthy water, and lack of medical attention for female prisoners, as male doctors refuse to treat female prisoners for religious reasons and the prison lacks sufficient female medical staff.¹¹²

In January 2018, Ms. Iraee and Ms. Daemi were beaten and forcibly removed from Evin Prison and moved to Shahr-e Rey Prison in the nearby city of Varamin,¹¹³ where they were kept in a ward with non-political prisoners, including potentially violent offenders.¹¹⁴ Ms. Iraee has

¹⁰² See Center for Human Rights in Iran, *supra* note 75.

¹⁰³ Conversation with AB (Jan. 11, 2017).

¹⁰⁴ *Id.*

¹⁰⁵ *Id.*

¹⁰⁶ See *Iranian Authorities Dragged a Writer to Prison for Writing an Unpublished Story*, Radio Zamaneh (Oct. 24, 2016), <https://en.radiozamaneh.com/featured/iranian-authorities-dragged-a-writer-to-prison-for-writing-an-unpublished-story/>.

¹⁰⁷ See *Iran: Stoning Writer Rearrested as Revolutionary Guards Block Review of Her Conviction*, Amnesty Int'l (Jan. 25, 2017), <https://www.amnesty.org/en/latest/news/2017/01/iran-stoning-writer-rearrested-as-revolutionary-guards-block-review-of-her-conviction/>.

¹⁰⁸ See *id.*

¹⁰⁹ See *Caught in a Web of Repression: Iran's Human Rights Defenders Under Attack*, Amnesty Int'l (Aug. 2, 2017), <https://www.amnesty.org/download/Documents/MDE1364462017ENGLISH.PDF>.

¹¹⁰ See *Iran: Submission to the Commission on the Status of Women Communications Procedure Regarding Repression of Women Human Rights Defenders*, Amnesty Int'l (Aug. 2017), <https://www.amnesty.org/download/Documents/MDE1369612017ENGLISH.pdf>.

¹¹¹ See *Political Prisoners' Letter to Foreign Ambassadors Who Went on Staged Tour of Evin Prison*, Center for Human Rights in Iran (July 31, 2017), <https://www.iranhumanrights.org/2017/07/political-prisoners-letter-to-foreign-ambassadors-who-went-on-staged-tour-of-evin-prison/>.

¹¹² *Id.*

¹¹³ See Center for Human Rights in Iran, *supra* note 56.

¹¹⁴ See Center for Human Rights in Iran, *supra* note 5.

been on hunger strike since February 3, 2018, in protest against the move from Evin Prison to Shahr-e Rey Prison.¹¹⁵ Ms. Iraee has argued that the move violates Article 513 of Iran’s Criminal Procedure Regulations, which dictates that prisoners serve their terms in the district where their sentences are issued or near their city of residence, but Iranian officials have refused her relocation request.¹¹⁶

On February 13, 2018, Ms. Iraee began to experience significant health problems, including spasms and loss of consciousness, as a result of the hunger strike.¹¹⁷ On March 12, 2018, Ms. Iraee and Ms. Daemi were reportedly beaten by riot guard, who were reportedly responding to a disturbance created by several violent offenders who were transferred into the same unit as Ms. Iraee and Ms. Daemi and proceeded to verbally and physically assault them.¹¹⁸ On March 19, 2018, four U.N. human rights experts issued a joint statement calling for the Government to grant Ms. Iraee and Ms. Daemi access to adequate medical care and to release them.¹¹⁹

In early April, Ms. Iraee was transferred to Baghyatollah Hospital in critical condition.¹²⁰ Reports indicate that Ms. Iraee was transferred only after she had lost the ability to walk and was experiencing severe nausea and vomiting and gallbladder issues, and initial intravenous treatment was ineffective.¹²¹

B. Legal Analysis

The arrest and detention of Ms. Iraee is arbitrary under Categories II and III of the Working Group’s Revised Methods of Work.¹²² The detention is arbitrary under Category II because it resulted from Ms. Iraee’s peaceful exercise of her rights to freedom of thought, conscience, and religion; expression; and association. The detention is arbitrary under Category III because the government’s detention, prosecution, and conviction of Ms. Iraee failed to meet minimum international standards of due process.

¹¹⁵ See *Political Prisoners Denied Medical Treatment: “Sometimes I Think They Want to Kill My Girl”*, Center for Human Rights in Iran (Mar. 19, 2018), <https://www.iranhumanrights.org/2018/03/political-prisoners-denied-medical-treatment-sometimes-i-think-they-want-to-kill-my-girl/>.

¹¹⁶ See Center for Human Rights in Iran, *supra* note 5.

¹¹⁷ See *id.*

¹¹⁸ See United Nations Human Rights Office of the High Commissioner, *supra* note 3; see also *Atena and Golrokh, Women Human Rights Defenders, Beaten in Prison*, Amnesty Int’l (March 22, 2018), <https://www.amnesty.ie/atena-golrokh-women-human-rights-defenders-beaten-prison/>.

¹¹⁹ See United Nations Human Rights Office of the High Commissioner, *supra* note 3.

¹²⁰ See Human Rights Activists News Agency, *supra* note 8; see also NCRI Women Committee, *supra* note 8.

¹²¹ *Id.*

¹²² An arbitrary deprivation of liberty is defined as any “depriv[ation] of liberty except on such grounds and in accordance with such procedures as are established by law.” *International Covenant on Civil and Political Rights*, G.A. Res 2200A (XXI), 21 UN GAOR Supp. (No. 16), at 52, U.N. Doc. A/6316 (1966), 999 UNT.S. 171, entered into force on Mar. 23, 1976 (hereinafter “ICCPR”), at art. 9(1). Such a deprivation of liberty is specifically prohibited by international law. *Id.* See also *Universal Declaration of Human Rights*, G.A. Res. 217A (III), U.N. Doc. A/810 (hereinafter “UDHR”), at art. 9, (1948) (“No one shall be subjected to arbitrary arrest, detention or exile.”). See also *Body of Principles for the Protection of Persons under Any Form of Detention or Imprisonment*, G.A. Res. 47/173, 43 UN GAOR Supp. (No. 49) at 298, U.N. Doc. A/43/49 (hereinafter “Body of Principles”), at principle 2 (“Arrest, detention or imprisonment shall only be carried out strictly in accordance with the provisions of the law . . .”).

1. Arbitrary Deprivation of Liberty under Category II

A detention is arbitrary under Category II of Working Group’s Revised Methods of Work when it results from the exercise of fundamental rights or freedoms protected under international law, including the rights to freedom of thought, conscience, and religion; expression; and association.¹²³ In Ms. Iraee’s case, the Government has violated all three of these rights.

a. Iran Violated Ms. Iraee’s Right to Freedom of Thought, Conscience, and Religion

The right to freedom of thought, conscience, and religion is expressly protected under international and Iranian law. Article 18 of the ICCPR, to which Iran is a party, guarantees that “[e]veryone shall have the right to freedom of thought, conscience and religion.”¹²⁴ Under the ICCPR, these rights include “freedom [of an individual] to have or to adopt a religion or belief of his choice, and freedom, either individually or in community with others and in public or private, to manifest his religion or belief in worship, observance, practice and teaching.”¹²⁵ Offering color to this provision of the ICCPR, General Comment No. 22 by the U.N. Human Rights Committee (“UNHRC”) specifies that this right encompasses freedom of thought on all matters, whether manifested individually or in community, and “the freedom of thought and the freedom of conscience are protected equally with the freedom of religion and belief.”¹²⁶ These rights draw further support from Article 18 of the Universal Declaration of Human Rights (“UDHR”).¹²⁷

Importantly, the fundamental character of this right is such that it may not be derogated from—even in times of public emergency—as confirmed by Article 4(2) of the ICCPR.¹²⁸ Rather, the ICCPR allows freedom of thought, conscience, and religion to be limited only under exceptionally narrow circumstances. Specifically, freedom to manifest one’s religion or beliefs can be limited when the restrictions are “prescribed by law and are necessary to protect public safety, order, health, or morals or the fundamental rights and freedom of others.”¹²⁹ None of those circumstances is present here.

Furthermore, Iran’s proclamation of the Twelver Ja’fari school of Islam as the official religion of Iran does not preclude individuals from exercising their right to freedom of thought, conscience, and religion. As General Comment No. 22 states, “The fact that a religion is

¹²³ A detention is arbitrary under Category II “when the deprivation of liberty results from the exercise of the rights or freedoms guaranteed by articles 7, 13-14 and 18-21 of the Universal Declaration of Human Rights and, insofar as States parties are concerned, by articles 12, 18-19, 21-22 and 25-27 of the International Covenant on Civil and Political Rights.” *Methods of Work of the Working Group on Arbitrary Detention*, U.N. Doc. A/HRC/33/66 (hereinafter “Revised Methods of Work”), at ¶ 8b.

¹²⁴ ICCPR, *supra* note 122, at art. 18(1).

¹²⁵ *Id.*

¹²⁶ U.N. Human Rights Committee *General Comment No. 22, Article 18 (Freedom of Thought, Conscience or Religion)* ¶ 1 (July 30, 1993).

¹²⁷ UDHR, *supra* note 122, at art. 18: “Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief, and freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship and observance.”

¹²⁸ ICCPR, *supra* note 122, at art. 4(2): “No derogation from article[] . . . 18 may be under this provision.” Article 4(1) identifies the provisions that may be derogated from in time of public emergency which threatens the life of the nation and the existence of which is officially proclaimed, which does not include Article 18. *Id.* at art. 4(1).

¹²⁹ *Id.* at art. 18(3).

recognized as a State religion or that it is established as official or traditional . . . shall not result in any impairment of the enjoyment of any of the rights under the Covenant, including article[] 18 . . . nor in any discrimination against adherents to other religions or non-believers.”¹³⁰ Further, “[i]f a set of beliefs is treated as official ideology in constitutions, statutes, proclamations of ruling parties, etc., or in actual practice, this shall not result in any impairment of the freedoms under article 18 or any other rights recognized under the Covenant nor in any discrimination against persons who do not accept the official ideology or who oppose it.”¹³¹

Iran has violated Ms. Iraee’s right to freedom of thought, conscience, and religion in this case. Ms. Iraee’s conviction stems in part from a short story that she wrote in her private journal, as detailed in Part IV.A.3.a., *supra*. In this instance, Iran’s violation pertains both to the content of Ms. Iraee’s story and to the medium in which it was discovered. Ms. Iraee’s story includes religious themes, leading the court to conclude that it was insulting to Islam. A conviction on this basis marks a clear violation of Ms. Iraee’s rights under Article 18 of the ICCPR, as disagreement with any individual religious practice is fully protected by both the ICCPR and other sources of international law.

Ms. Iraee would have been acting within her rights if she had decided to publish the story, as discussed in Part IV.B.1.b, *infra*. In this instance, though, Iran committed a particularly grievous violation of ICCPR Article 18 by persecuting Ms. Iraee on the basis of an unpublished story, written in her private journal, which was seized from her home after Iranian authorities had arrested and detained her without a warrant. The search in which the private journal was discovered and seized from M. Iraee’s home was similarly conducted without a warrant.

b. Iran Violated Ms. Iraee’s Right to Freedom of Expression

Iran has further violated Ms. Iraee’s right to freedom of expression under Article 19 of the ICCPR.¹³² Article 19(2) of the ICCPR provides, “Everyone shall have the right of freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice.”¹³³ The right to freedom of expression also benefits from protection under Article 19 of the UDHR.¹³⁴

The UNHRC has recognized freedom of expression as essential for the full development of an individual,¹³⁵ and, in its General Comment No. 34, the UNHRC described this right as an indispensable element of democratic society and “the vehicle for the exchange and development

¹³⁰ U.N. Human Rights Committee, *General Comment No. 22, Article 18 (Freedom of Thought, Conscience or Religion)* ¶ 9 (July 30, 1993).

¹³¹ *Id.* at ¶ 10.

¹³² ICCPR, *supra* note 122, at art. 19(1): “Everyone shall have the right to hold opinions without interference.”

¹³³ *Id.* at art. 19(2): “Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice.”

¹³⁴ UDHR, *supra* note 122, at art. 19: “Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers.”

¹³⁵ Communication No. 1173/2003, *Benhadj v. Algeria*, U.N. Doc. CCPR/C/90/D/1173/2003, ¶ 8.10 (2007).

of ideas.”¹³⁶ Included in this freedom, according to the UNHRC, is “the right of individuals to criticize or openly and publicly evaluate their Governments without fear of interference or punishment.”¹³⁷

Despite these protections under international law, Iran arbitrarily detained, prosecuted, and convicted Ms. Iraee without due process for exercising her right to freedom of expression. Ms. Iraee’s conviction was based on a fictional story written in her private journal and a series of Facebook posts, none of which justifies Ms. Iraee’s arrest and detention. The short story pertained to the practice of stoning, which carries significant political, moral, and religious implications. Article 19 of the ICCPR guarantees Ms. Iraee’s right to grapple with this issue either in private or in public. Her arrest and prison sentence manifestly violates that right. Similarly, the Facebook posts, in which Ms. Iraee expressed her support for and communicated with the families of certain political dissidents, fall squarely within the bounds of Article 19 of the ICCPR. By detaining Ms. Iraee on these grounds, the Government has punished her for her expression in violation of international law.

Though the right is not absolute, there is no arguable basis for Iran’s violation of Ms. Iraee’s right to freedom of expression in this case. Article 19(3) of the ICCPR provides that freedom of expression may be restricted only when both provided by law and necessary for the respect of the rights or reputations of others, protection of national security, or public order, health, or morals. The UNHRC has interpreted this limitation narrowly, noting that such restrictions must not “put in jeopardy the right itself.”¹³⁸ In one case, the UNHRC held that government limitations must be for one of the enumerated purposes and must “meet a strict test of justification.”¹³⁹

Here, the Government has no legitimate grounds for restricting Ms. Iraee’s right to freedom of expression as none of her posts or writings advocated for violence or otherwise threatened the rights or reputations of others, national security, public order, public health or morals. Even assuming *arguendo* that Iran could establish such grounds (and it cannot), Iran would need to demonstrate that the deprivations of Ms. Iraee’s right to freedom of expression were “necessary” to protect one of the special interests set forth in Article 19(3) of the ICCPR.¹⁴⁰ According to the UNHRC’s jurisprudence, “the State party must demonstrate in specific fashion the precise nature of the threat to any of the enumerated purposes”¹⁴¹ If there were grounds for lawful restriction of the right to freedom of expression in Ms. Iraee’s case, Iran was required to indicate specific grounds justifying why those restrictions were necessary. Iran has not done so and indeed cannot do so. It has therefore failed to demonstrate the necessity of any restrictions.

¹³⁶ U.N. Human Rights Committee, *General Comment No. 34, Article 19 (Freedom of Expression)* ¶ 2 (Sept. 12, 2011).

¹³⁷ Communication No. 1128/2002, *Rafael Marques de Morais v. Angola*, U.N. Doc. CCPR/C/83/D/1128/2002, ¶ 6.7 (2005), <http://www.chr.up.ac.za/index.php/browse-by-country/angola/197-angola-marques-de-morais-v-angola-2005-ahrlr-3-hrc-2005.html>.

¹³⁸ U.N. Human Rights Committee, *supra* note 136, at ¶ 21.

¹³⁹ Communication No. 628/1995, *Park v. Republic of Korea*, U.N. Doc. CCPR/C/64/D/628/1995, ¶ 10.3 (1998), <http://hrlibrary.umn.edu/undocs/session64/view628.htm>.

¹⁴⁰ Communication No. 926/2000, *Shin v. Republic of Korea*, U.N. Doc. CCPR/C/80/D/926/2000, ¶ 7.3 (2004), <http://ccprcentre.org/wp-content/uploads/2013/02/926-2000-Shin-v.-Republic-of-Korea-.2004.pdf>.

¹⁴¹ *Id.* at ¶ 7.3.

Ms. Iraee’s fictional story in her personal journal and her Facebook posts do not pose any risk to national security or public order, health, or morals, and they do not violate the rights of others. Instead, Iran has convicted and detained Ms. Iraee simply because it did not like the content of the private short story and the posts. In doing so, Iran has blatantly and without justification deprived Ms. Iraee of her fundamental right to freedom of expression. Iran’s detention of Ms. Iraee on these grounds was and continues to be arbitrary and unlawful.

c. Iran Violated Ms. Iraee’s Right to Freedom of Association

Iran has violated Ms. Iraee’s right to freedom of association, as guaranteed by Article 22 of the ICCPR. Article 22(1) states, “Everyone shall have the right to freedom of association with others”¹⁴² Article 20(1) of the UDHR provides a similar guarantee.¹⁴³ The Iranian Constitution also recognizes the freedom of more intimate association, such as that within the family unit: “[A]ll the laws . . . must be in the direction of the establishment of the family, the protection of its sanctity, and the maintenance of its relations”¹⁴⁴

While most claims under Article 22 of the ICCPR pertain to affiliations with human rights organizations and related institutions,¹⁴⁵ the same protections apply to familial relationships. Members of the Iranian Revolutionary Guard initially targeted Ms. Iraee because she is married to her husband, Mr. Sadeghi, who has been active in critiquing and protesting the Government. After her arrest, Ms. Iraee’s interrogators repeatedly questioned her about her husband’s activism. Indeed, it would be difficult to explain Ms. Iraee’s warrantless arrest in the first place if not for her relationship with Mr. Sadeghi.

The protections of Article 22 should extend to the right to association through marriage. The importance of government non-interference with family ties is repeatedly emphasized throughout international human rights law, for instance, in the rights explicitly safeguarded by Articles 17¹⁴⁶ and 23¹⁴⁷ of the ICCPR, Articles 12 and 16 of the UDHR,¹⁴⁸ and Article 10 of the International Covenant on Economic, Social, and Cultural Rights.¹⁴⁹ The protections stemming from these provisions must apply to an individual’s right to form family bonds without fear of government persecution. While kinship ties are often not a question of choice, international law demands that marriage be entered into with “the free and full consent of the intending spouses,”

¹⁴² ICCPR, *supra* note 122, at art. 22(1).

¹⁴³ UDHR, *supra* note 122, at art. 20(1).

¹⁴⁴ *Id.* at art. 10.

¹⁴⁵ See, e.g., Human Rights Council, *Opinions adopted by the Working Group on Arbitrary Detention at its seventy-ninth session (Islamic Republic of Iran)*, Opinion No. 49/2017, U.N. Doc. A/HRC/WGAD/2017/49 (Aug. 21–25, 2017), http://www.ohchr.org/Documents/Issues/Detention/Opinions/Session79/A_HRC_WGAD_2017_49_EN.pdf.

¹⁴⁶ ICCPR, *supra* note 122, at art. 17(1) (“No one shall be subjected to arbitrary or unlawful interference with his privacy, family, home or correspondence”).

¹⁴⁷ *Id.* at art. 23(1) (“The family is the natural and fundamental group unit of society and is entitled to protection by society and the State.”).

¹⁴⁸ UDHR, *supra* note 122, at arts. 12 and 16.

¹⁴⁹ International Covenant on Economic, Social, and Cultural Rights, G.A. Res 2200A (XXI), 21 U.N. GAOR Supp. (No. 16), at 49, U.N. Doc. A/6316 (1966), 993 U.N.T.S. 3, entered into force 3 Jan. 1976, at art. 10(1) (“The widest possible protection and assistance should be accorded to the family”).

thus evidencing that marriage is an individual's most intimate association choice.¹⁵⁰ Targeting an individual for her choice of spouse therefore amounts to an impermissible encroachment upon an individual's right to enter a marital association.

Like Article 18, Article 22(2) establishes standards that a State must meet in order to restrict freedom of association. Article 22(2) prohibits restrictions "other than those which are prescribed by law and which are necessary in a democratic society in the interests of national security or public safety, public order, the protection of public health or morals or the protection of the rights and freedoms of others."¹⁵¹ In this case, Iran cannot point to any domestic law justifying its treatment of Ms. Iraee based on her relationship with Mr. Sadeghi. Iran's Constitution, in fact, secures Ms. Iraee's right to associate with her husband. In acknowledging the "sanctity" of the family, Iran's Constitution implicitly guarantees that, without more, a wife cannot reasonably be punished for her relationship with her husband. Therefore, Iran cannot justify its violations of Ms. Iraee's rights under Article 22 of the ICCPR.

2. Arbitrary Deprivation of Liberty under Category III

Iran's detention of Ms. Iraee also amounts to an arbitrary deprivation of liberty under Category III of the Working Group's Revised Methods of Work. According to Category III, a deprivation of liberty is arbitrary "[w]hen the total or partial non-observance of the international norms relating to the right to a fair trial, established in the Universal Declaration of Human Rights and in the relevant international instruments accepted by the States concerned, is of such gravity as to give the deprivation of liberty an arbitrary character."¹⁵² Due process is one of the tenets of the right to a fair trial. The minimum international standards of due process are established in the ICCPR, the UDHR, the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment (the "Body of Principles"), and the United Nations Standard Minimum Rules for the Treatment of Prisoners (the "Mandela Rules").¹⁵³ Iran has committed numerous violations of Ms. Iraee's rights under these standards.

a. Iran Violated Ms. Iraee's Right Not to Be Subjected to Arbitrary Arrest

Article 9(1) of the ICCPR, which confirms the right to liberty and freedom from arbitrary detention, states, "No one shall be deprived of his liberty except on such grounds and in accordance with such procedure as are established by law."¹⁵⁴ This right is reiterated by Principles 2 and 36(2) of the Body of Principles¹⁵⁵ and Article 9 of the UDHR.¹⁵⁶ Article 9(2) of the ICCPR requires that anyone who is arrested must be informed, at the time of arrest, of the reasons for his or her arrest and be promptly informed of any charges against him or her.¹⁵⁷ Under both Iran's Constitution and Iran's 1999 Code of Criminal Procedure ("CCP"), the law in effect at the time of Ms. Iraee's arrest,

¹⁵⁰ ICCPR, *supra* note 122, at art. 23(3) ("No marriage shall be entered into without the free and full consent of the intending spouses.").

¹⁵¹ ICCPR, *supra* note 122, at art. 22(2).

¹⁵² Revised Methods of Work, *supra* note 123, at Category III, ¶ c.

¹⁵³ *Id.* at ¶¶ 7(a) and (b).

¹⁵⁴ ICCPR, *supra* note 122, at art. 9(1).

¹⁵⁵ Body of Principles, *supra* note 122, at principles 2 and 36(2).

¹⁵⁶ UDHR, *supra* note 122, at art. 9.

¹⁵⁷ ICCPR, *supra* note 122, at art. 9(2).

an arrest warrant is a mandatory pre-condition to any arrest.¹⁵⁸ Further, under Iran’s 2015 Code of Criminal Procedure (“Revised CCP”), a summons must be signed by a judicial authority and should include the reasons for the summons as well as the date and location of reporting and consequences of failing to report.¹⁵⁹ Under the CCP, the accused can have one person as his lawyer or her lawyer.

Iran’s arrest of Ms. Iraee in 2014 violated her right to freedom from arbitrary arrest because, *inter alia*, it was not performed in compliance with domestic arrest procedures. Iranian authorities failed to meet the standards of Iran’s own laws, as Ms. Iraee was not shown an arrest warrant at the time of her arrest, and she was denied her right to speak to an attorney upon her arrest and for the first twenty days of her detention.

In addition, the circumstances surrounding Ms. Iraee’s summons and arrest in October 2016 did not comply with international law. As explained in Part IV.A.3.b., *supra*, Iranian authorities failed to meet the standards of Iran’s own laws, as Ms. Iraee was not shown a written summons after requesting one on October 4, 2016.

Through the arbitrary arrests of Ms. Iraee, Iran violated Article 9(1) and 9(2) of the ICCPR, Article 9 of the UDHR, Principles 2 and 36(2) of the Body of Principles, Article 119 of the CCP (as effective at the time of Ms. Iraee’s 2014 arrest), Article 32 of Iran’s Constitution, and Articles 170, 173, and 181 of the Revised CCP (as effective at the time of Ms. Iraee’s 2016 summons and arrest).

b. Iran Violated Ms. Iraee’s Right Not to Be Subjected to Unlawful Searches of Her Domicile

Article 17 of the ICCPR prohibits unlawful interference with home privacy, stating, “No one shall be subjected to arbitrary or unlawful interference with his privacy, family, home or correspondence.”¹⁶⁰ This right is reiterated by Article 12 of the UDHR.¹⁶¹ Iranian law also recognizes the right to privacy, providing that “[e]very citizen has a right to have their privacy respected” and that residences, personal spaces, and belongings are immune from search and inspection, except pursuant to the law.¹⁶² Article 37 of Iran’s Charter on Citizens’ Rights

¹⁵⁸ Iran Human Rights Documentation Center, English Translation of the Islamic Republic of Iran’s Criminal Code of Procedure for Public and Revolutionary Courts (1999) (hereinafter “CCP (1999)”), <http://www.iranhrdc.org/english/human-rights-documents/iranian-codes/1000000026-english-translation-of-the-islamic-republic-of-irans-criminal-code-of-procedure-for-public-and-revolutionary-courts.html>, at art. 119 (“Arresting the accused is done by warrant. The warrant, which is similar to the content of a summon letter, should be issued to the accused.”). Iranian Constitution, *supra* note 21, at art. 32 (“no one may be arrested except by the order and in accordance with the procedure laid down by law. In case of arrest, charges with the reasons for accusation must, without delay, be communicated and explained to the accused in writing . . . within a maximum of 24 hours.”).

¹⁵⁹ Islamic Republic of Iran’s Criminal Code of Procedure for Public and Revolutionary Courts (2015) (hereinafter “Revised CCP”) at art. 170 and 173; *see* Amnesty Int’l, *supra* note 52.

¹⁶⁰ ICCPR, *supra* note 122, at art. 17.

¹⁶¹ UDHR, *supra* note 122, at art. 12.

¹⁶² Charter on Citizens’ Rights, *supra* note 14, at art. 36 (“Every citizen has a right to have their privacy respected. Residences, personal spaces, belongings and vehicles are immune from search and inspection, except pursuant to the law.”).

specifically states that “searching, collecting, processing, using and disclosing of letters, whether electronic or otherwise . . . is prohibited save pursuant to the law.”¹⁶³

As explained in Part IV.A.3.a., *supra*, Ms. Iraee was arrested without any warrant or formal charge against her. After her arrest, authorities searched Ms. Iraee’s home and seized several personal belongings, including Ms. Iraee’s writings and poetry, as well as the private diary where she had written a short story involving the practice of stoning women, in which the fictional protagonist burned a copy of the Qur’an in protest of that practice. Again, that story was unpublished; it was contained only in Ms. Iraee’s private journal. Investigators also seized from Ms. Iraee’s home photographs and video clips that she had never published. Authorities searched Ms. Iraee’s private writings without cause and without a warrant, and Ms. Iraee was absent during the search of her home and personal belongings, which was made after her warrantless arrest. Through the arbitrary search of Ms. Iraee’s domicile and seizure of her personal belongings, Iran violated Article 17 of the ICCPR, Article 12 of the UDHR and Articles 36 and 37 of Iran’s Charter on Citizens’ Rights.

c. Iran Violated Ms. Iraee’s Right to *Habeas Corpus*

According to Article 9(3) of the ICCPR, a detainee shall “be brought promptly before a judge or other officer authorized by law to exercise judicial power” to challenge the legality of his continued detention (right to *habeas corpus*, also incorporated in Article 9(4) for non-criminal defendants).¹⁶⁴ The UNHRC’s General Comment No. 35 to ICCPR Article 9(3) provides that “a public prosecutor cannot be considered as an officer exercising judicial power” under Article 9(3).¹⁶⁵ The right to *habeas corpus* is reiterated in Principles 4, 11, 32(1), and 37 of the Body of Principles.¹⁶⁶ Aside from acting as a check on arbitrary detention, these provisions also safeguard other related rights, such as freedom from torture.¹⁶⁷ Under the CCP, an accused person can be detained for a maximum of 24 hours without a detention order, but a judge is required to issue a temporary detention order to detain an accused person for longer than 24 hours.¹⁶⁸

¹⁶³ *Id.* at art. 37 (“Searching, collecting, processing, using and disclosing of letters, whether electronic or otherwise, personal information and data, as well other mail and telecommunications, such as telephone communications, faxes, wireless, private internet communications and the like is prohibited, save pursuant to the law.”).

¹⁶⁴ ICCPR, *supra* note 122, at art. 9(4) (“Anyone who is deprived of his liberty by arrest or detention shall be entitled to take proceedings before a court, in order that that court may decide without delay on the lawfulness of his detention and order his release if the detention is not lawful”).

¹⁶⁵ U.N. Human Rights Committee, *General Comment No. 35, Article 9: Liberty and security of person* ¶ 32 (Dec. 16, 2014).

¹⁶⁶ Body of Principles, *supra* note 122, at principle 4 (“Any form of detention or imprisonment and all measures affecting the human rights of a person under any form of detention or imprisonment shall be ordered by, or be subject to the effective control of, a judicial or other authority.”), principle 11 (“A person shall not be kept in detention without being given an effective opportunity to be heard promptly by a judicial or other authority. A detained person shall have the right to defend himself or to be assisted by counsel as prescribed by law.”), principle 32(1) (“A detained person or his counsel shall be entitled at any time to take proceedings according to domestic law before a judicial or other authority to challenge the lawfulness of his detention in order to obtain his release without delay, if it is unlawful”) and principle 37 (“A person detained on a criminal charge shall be brought before a judicial or other authority provided by law promptly after his arrest. Such authority shall decide without delay upon the lawfulness and necessity of detention.”).

¹⁶⁷ General Comment No. 35, *supra* note 165, at ¶ 34. Other rights that may be at risk are those guaranteed by articles 6, 7, 10 and 14 of the ICCPR. *Id.* at ¶ 35.

¹⁶⁸ CCP (1999), *supra* note 158, at art. 123.

As explained in Part VI.A.3.a., *supra*, after Ms. Iraee’s arrest occurred on September 6, 2014, she was not brought “promptly” before a judge to challenge the legality of her detention. Rather, she only appeared before a judge after twenty days of detention.

By denying Ms. Iraee prompt access to an unbiased judge to challenge the legality of her detention, Iran violated Article 9(3) and 9(4) of the ICCPR, and Principles 4, 11, 32(1), and 37 of the Body of Principles.

d. Iran Violated Ms. Iraee’s Right to be Tried Without Undue Delay

Article 14(3)(c) of the ICCPR guarantees that every defendant shall have the right to “be tried without undue delay.”¹⁶⁹ As stated by the UNHRC, “[a]n important aspect of the fairness of a hearing is its expeditiousness,”¹⁷⁰ and “in cases where the accused are denied bail by the court, they must be tried as expeditiously as possible.”¹⁷¹ In addition, this right “relates not only to the time between the formal charging of the accused and the time by which a trial should commence, but also the time until the final judgement on appeal.”¹⁷² The right to be tried without undue delay is reiterated by Principle 38 of the Body of Principles.¹⁷³ Article 37 of the CCP requires that all temporary detentions “shall be reasonable and based on documents, stating in the order the reasons for the detention and the right for the detainee to object.”¹⁷⁴ Additionally, this law requires the judge to “renew the court order for temporary detention after a month, stating the reasons and providing documentation; otherwise the accused shall be released with proper bail.”¹⁷⁵

As explained in Part VI.A.3.a, *supra*, Ms. Iraee was arrested on September 6, 2014 but her trial did not begin until May of 2015. There was no basis for the long delay between Ms. Iraee’s trial and her initial hearing. As such, Iran violated Article 14(3)(c) of the ICCPR and Principle 38 of the Body of Principles.

e. Iran Violated Ms. Iraee’s Right to Communicate with and Have Assistance of Counsel

Article 14(3)(d) of the ICCPR guarantees the right to legal defense by stating that a criminal defendant has the right to “be tried in his presence, and to defend himself in person or through legal assistance of his own choosing.”¹⁷⁶ In addition, Article 14(3)(b) of the ICCPR guarantees a criminal defendant the right “to communicate with counsel of his own choosing.”¹⁷⁷ The UNHRC has clarified that such guarantee “requires that the accused is granted prompt access to counsel,”¹⁷⁸ and that “state parties should permit and facilitate access to counsel for detainees in criminal cases

¹⁶⁹ ICCPR, at art 14(3)(c).

¹⁷⁰ U.N. Human Rights Committee, *General Comment No. 32, Article 14 (Right to equality before courts and tribunals and to a fair trial* ¶ 27 (Aug. 23, 2007).

¹⁷¹ *Id.* at ¶ 35.

¹⁷² *Id.*

¹⁷³ Body of Principles, *supra* note 122, at principle 38.

¹⁷⁴ CCP (1999), *supra* note 158, at art. 37

¹⁷⁵ *Id.*

¹⁷⁶ ICCPR, *supra* note 122, at art. 14(3)(d).

¹⁷⁷ *Id.* at art. 14(3)(b).

¹⁷⁸ General Comment No. 32, *supra* note 170, at ¶ 34.

from the outset of their detention.”¹⁷⁹ Article 35 of the Iranian Constitution guarantees, in all courts of law, the right to choose an attorney or otherwise, if a person cannot afford to hire an attorney, that the person will be provided the means to do so.¹⁸⁰ Article 48 of the CCP allows for an accused person to “demand the presence of a lawyer from the start of detention.”¹⁸¹

As explained in Part VI.A.3.a., *supra*, Ms. Iraee was denied access to an attorney for the first twenty days of her arrest, in contravention of Iran’s own laws and the ICCPR. Ms. Iraee’s first attorney was pressured to withdraw from representing her. Ms. Iraee’s second attorney was not allowed to present her case during her criminal hearing. Accordingly, Iran has violated Articles 14(3)(b) and 14(3)(d) of the ICCPR, Article 35 of the Iranian Constitution, and Article 48 of the CCP.

f. Iran Violated Ms. Iraee’s Right to Confidentiality with Counsel

In commenting on Article 14(3)(b) of the ICCPR, which guarantees an accused criminal the right to communicate with counsel,¹⁸² the UNHRC notes that “[c]ounsel should be able to meet their clients in private and to communicate with the accused in conditions that fully respect the confidentiality.”¹⁸³ Principle 18(3) of the Body of Principles further provides for the right of a detainee to be assisted by and communicate with his legal counsel “without delay or censorship and in full confidentiality,”¹⁸⁴ and it specifies that such right “may not be suspended or restricted save in exceptional circumstances.”¹⁸⁵ Similarly, Rule 61 of the Mandela Rules specifies that consultations with a legal adviser shall be “in full confidentiality Consultations may be within sight, but not within hearing, of prison staff.”¹⁸⁶

Iran’s Prison Regulations enable law enforcement officers to scrutinize attorney/client meetings.¹⁸⁷ All writings, documents, tools, or evidence given to a lawyer by an accused person in the course of representation is subject to examination by an investigator under Article 154 of the Revised CCP.¹⁸⁸

Although the right to confer with counsel is guaranteed by the ICCPR and the laws of Iran, Iranian law has legal restrictions which prevent the confidential communication between attorney and client. These policies prevented Ms. Iraee from communicating confidentially with her attorney over the course of her proceedings. Iran has thus violated (and continues to violate) Article

¹⁷⁹ General Comment No. 35, *supra* note 165, at ¶ 35.

¹⁸⁰ Iranian Constitution, *supra* note 21, at art. 35.

¹⁸¹ CCP (1999), *supra* note 158, at art. 48.

¹⁸² ICCPR, *supra* note 122, at art. 14(3)(b) (“In the determination of any criminal charge against him, everyone shall be entitled to the following minimum guarantees, in full equality: . . . (b) To have adequate time and facilities for the preparation of his defence and to communicate with counsel of his own choosing”).

¹⁸³ General Comment No. 32, *supra* note 170, at ¶ 34.

¹⁸⁴ Body of Principles, *supra* note 122, at principle 18(3).

¹⁸⁵ *Id.*

¹⁸⁶ Standard Minimum Rules for the Treatment of Prisoners, adopted by the First United Nations Congress on the Prevention of Crime and the Treatment of Offenders (Geneva, 1955), and approved by the Economic and Social Council Resolutions 663 C (XXIV) (July 31, 1957) and 2076 (LXII) (May 13, 1977) (hereinafter “Mandela Rules”), at Rule 61.

¹⁸⁷ *See* Amnesty Int’l, *supra* note 52, at 44.

¹⁸⁸ Revised CCP, *supra* note 159, at art. 154.

14(3)(b) of the ICCPR, Principle 18(3) of the Body of Principles, and Rule 61 of the Mandela Rules.

g. Iran Violated Ms. Iraee’s Right to Be Present at and Defend Herself at Her Own Trial

Article 14(3)(d) of the ICCPR guarantees the right, at a minimum, that a person charged with a criminal offense is “to be tried in his presence and to defend himself in person.”¹⁸⁹ The UNHRC has clarified that “all criminal proceedings must provide the accused person with the right to an oral hearing, at which he or she may appear in person or be represented by counsel and may bring evidence and examine witnesses.”¹⁹⁰ The Revised CCP of Iran incorporates this same right to be present during trial and authorizes the courts to reschedule hearings if the defendant has a legitimate excuse that would preclude attendance.¹⁹¹ In addition, Article 14(3)(e) of the ICCPR guarantees a defendant the right “to examine, or have examined, the witnesses against him and to obtain the attendance and examination of witnesses on his behalf under the same conditions as witnesses against him.”¹⁹²

As explained in Part VI.A.3.a., *supra*, Ms. Iraee was not able to attend the hearing that led to her conviction because she was physically incapable of attending due to surgery. Prior to Ms. Iraee’s hearing, medical documents were submitted to the court on her behalf as a formal request to the court to reschedule her hearing due to her physical condition following surgery, yet the court denied Ms. Iraee’s request. Medical surgery preventing a defendant from attending their hearing constitutes a “legitimate excuse” under the CCP to reschedule the hearing. Without providing a basis for denying Ms. Iraee’s request, the court held the hearing without Ms. Iraee in attendance and convicted her without providing her the opportunity to defend herself in person or examine or have examined any witnesses against her.

Iran has thus violated Article 14(3)(d) and (e) of the ICCPR and Article 343 of the Revised CCP, effective at the time of her hearing.

h. Iran Violated Ms. Iraee’s Right to Be Visited by Family

Principle 19 of the Body of Principles provides that “detained or imprisoned persons shall have the right to be visited by and to correspond with, in particular, members of his family . . . subject to reasonable conditions and restrictions as specified by law or lawful regulations.”¹⁹³ General Comment No. 35 to Article 9 of the ICCPR provides that “certain conditions of detention (such as denial of access to counsel and family) may result in procedural violations of paragraph 3 and 4 of article 9.”¹⁹⁴ Similarly, this right is protected by the Mandela Rules 43, 58, and 106. Rule 43 provides, “Disciplinary sanctions or restrictive measures shall not include the prohibition of family contact.” Meanwhile, Rule 58 states, “Prisoners shall be allowed, under necessary

¹⁸⁹ ICCPR, *supra* note 122, at art. 14(3)(d).

¹⁹⁰ U.N. Human Rights Committee, *Guerra de la Espriella v. Columbia*, Communication No. 1623/2007, CPR/C/98/D/1623/2007 at ¶ 9.3 (May 10, 2010).

¹⁹¹ Revised CCP, *supra* note 159, at art. 343.

¹⁹² ICCPR, *supra* note 122, at art. 14(3)(e).

¹⁹³ Body of Principles, *supra* note 122, at principle 19.

¹⁹⁴ General Comment No. 35, *supra* note 165, at ¶ 59.

supervision, to communicate with their family and friends at regular intervals,” and Rule 106 adds “Special attention shall be paid to the maintenance and improvement of such relations between a prisoner and his or her family as are desirable in the best interests of both.”¹⁹⁵

As explained in Part VI.A.3.a., *supra*, during her initial detention in 2014, Ms. Iraee was held for twenty days without access to her family. Iran has thus violated Principle 19 of the Body of Principles, as well as Rules 43, 58, and 106 of the Mandela Rules and Articles 9(3) and 9(4) of the ICCPR.

i. Iran Violated Ms. Iraee’s Right to a Public Hearing

Article 14(1) of the ICCPR provides that, in the determination of any criminal charge, “everyone shall be entitled to a fair and public hearing by a competent, independent and impartial tribunal.”¹⁹⁶ Article 10 of the UDHR similarly guarantees the right to a fair and public hearing. As the UNHCR has explained in General Comment No. 32, “The publicity of hearings ensures the transparency of proceedings and thus provides an important safeguard for the interest of the individual and of society at large.”¹⁹⁷ The right to a public hearing must include a hearing open to the general public, including media, without limiting entrance to a select group of people.¹⁹⁸

In Ms. Iraee’s case, both the initial criminal hearings and the appellate hearing were closed to the public. In conducting closed hearings in this matter, Iran has violated Article 14(1) of the ICCPR and Article 10 of the UDHR.

j. Iran Violated Ms. Iraee’s Right to a Fair Hearing, Equality of Arms, Impartiality, and a Presumption of Innocence

Article 14(1) of the ICCPR guarantees the right “to a fair and public hearing by a competent, independent and impartial tribunal.”¹⁹⁹ This is an “absolute requirement . . . not capable of limitation.”²⁰⁰ One of the key tenets of a fair hearing is the principle of equality of arms,²⁰¹ which requires that both parties have the same procedural rights.²⁰²

The requirement of judicial independence under Article 14(1) refers, in particular, to “the procedure and qualifications for the appointment of judges.”²⁰³ As noted by the UNHRC, “The requirement of independence refers, in particular, to . . . the actual independence of the judiciary from political interference by the executive branch and the legislature.”²⁰⁴ The Iranian Constitution also states that “in exercising their judicial functions, judges at all times do it in accordance with the law and are independent from any power and authority.”²⁰⁵ The CCP reiterates the

¹⁹⁵ Mandela Rules, *supra* note 186, at Rules 43, 58 and 106.

¹⁹⁶ ICCPR, *supra* note 122, at art. 14(1).

¹⁹⁷ General Comment No. 32, *supra* note 170, at ¶ 28.

¹⁹⁸ *Id.* at ¶ 29.

¹⁹⁹ ICCPR, *supra* note 122, at art. 14(1).

²⁰⁰ See ALEX CONTE AND RICHARD BURCHILL, *DEFINING CIVIL AND POLITICAL RIGHTS* 165 (2009).

²⁰¹ General Comment No. 32, *supra* note 170, at ¶ 8.

²⁰² *Id.* at ¶ 14.

²⁰³ *Id.* at ¶ 19.

²⁰⁴ *Id.*

²⁰⁵ Iranian Constitution, *supra* note 21, at art. 156.

independence of the judiciary, stating that “judicial tribunals must, impartially and independently, investigate charges against an individual in the shortest period possible.”²⁰⁶

The guarantee of an impartial tribunal requires that “judges must not allow their judgment to be influenced by personal bias or prejudice, nor harbor preconceptions about the particular case before them.”²⁰⁷ Article 14(2) of the ICCPR adds that “everyone charged with a criminal offence shall have the right to be presumed innocent according to law.” These rights are reiterated in Articles 10 and 11(1) of the UDHR.²⁰⁸ Article 37 of the Iranian Constitution guarantees these same rights, stating, “Innocence is to be presumed, and no one is to be held guilty of a charge unless his or her guilt has been established.” A court’s obligation under this right requires that courts refrain from pre-judging any case and that authorities do not make statements indicating an opinion of guilt before the criminal proceedings have concluded. Article 337 of the CCP prohibits a judge from expressing any opinion that could imply the accused person’s guilt or innocence before the end of the proceedings and verdict.²⁰⁹

The trial of Ms. Iraee was not a fair one. Among other procedural deficiencies, there was no equality of arms, as the court denied Ms. Iraee procedural rights that were afforded to the prosecution. As explained in Part VI.A.3.b., *supra*, Ms. Iraee was not even able to attend her second hearing, which was devoted to the charges against her, where she was ultimately found guilty of all such charges. Ms. Iraee was not able to speak on her behalf and defend herself against the charges against her, while the prosecution was able to advocate for their position and present evidence against her.

The Iranian judiciary is not independent. The Iranian courts’ routine disregard for fairness results in unjust sentences for those perceived as critics of the state. Through biased judges and a judicial system that lacks independence, the Government exerts influence in high-profile cases of political activists or opposition figures.

The court’s lack of independence was readily apparent in Ms. Iraee’s case. Ms. Iraee did not receive a fair trial as the court lacked impartiality and demonstrated bias throughout the proceedings. In violation of Iran’s own domestic laws, judges commented on Ms. Iraee’s guilt prior to ruling on the case, as described in Part VI.A.3.b., *supra*. Ms. Iraee’s first hearing focused largely on her husband’s activities as a political activist in Iran rather than her own actions and the charges against her. The judges both during the initial hearing and the appeal hearing made hostile comments indicating that they were highly biased and completely predisposed against Ms. Iraee even before hearing her case. The trial judge asked Ms. Iraee early on “why” she had done the things for which she was accused, demonstrating a presumption of guilt even before the case was heard. The appellate court judge told Ms. Iraee before ruling on the case that “if it were up to [him],” he would have her executed. He had not only prejudged the issues before hearing her appeal; he opined that her multi-year prison sentence was far too lenient.

By convicting Ms. Iraee without a fair hearing by an independent and impartial tribunal and demonstrating evident bias against her, Iran violated Ms. Iraee’s right to a fair trial and right

²⁰⁶ CCP (1999), *supra* note 158, at art. 3.

²⁰⁷ *Id.* at ¶ 21.

²⁰⁸ UDHR, *supra* note 122, at arts. 10 and 11(1).

²⁰⁹ Revised CCP, *supra* note 159, at art. 337.

to a presumption of innocence, in violation of Article 14(1) and 14(2) of the ICCPR, Articles 37 and 156 of the Iranian Constitution and Articles 3 and 337 of the CCP.

k. Iran Violated Ms. Iraee's Right to Freedom from Torture and Cruel, Inhuman, or Degrading Treatment

The right to freedom from torture and cruel, inhuman or degrading treatment or punishment is well protected by international and Iranian law. Article 7 of the ICCPR states, "No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment."²¹⁰ Article 10(1) of the ICCPR further provides, "All persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person."²¹¹ This right is reiterated by Article 5 of the UDHR, Principle 6 of the Body of Principles, and Rules 1 and 43 of the Mandela Rules.²¹² The Human Rights Committee of the United Nations has stated that certain prison conditions such as severe overcrowding and the poor quality of basic necessities and services, including food, clothing and medical care, are incompatible with the right to be treated with humanity and with respect for the inherent dignity of the human person to which all persons are entitled.²¹³

Torture is also prohibited under Iranian law. Iran's Constitution states that "all forms of torture for the purpose of extracting confession or acquiring information are forbidden . . . and any testimony, confession, or oath obtained under duress is devoid of value and credence."²¹⁴ The CCP prohibits the use of force and coercion during interrogations, and provides that coerced statements are not valid.²¹⁵ Any imposition of suffering that is not severe enough to qualify as torture still constitutes cruel, inhuman or degrading treatment,²¹⁶ which term "should be interpreted so as to extend the widest possible protection against abuses, whether physical or mental."²¹⁷

Article 14(3)(g) of the ICCPR specifically prohibits the infliction of physical or mental pain or suffering by a public official with the intention to coerce a confession.²¹⁸ General Comment No. 20 to Article 7 of the ICCPR provides that the prohibition in Article 7 relates not only to acts that cause physical pain but also to acts that cause mental suffering to the victim.²¹⁹ Principle 21(2) of the Body of Principles, guarantees that "no detained person while being interrogated shall be

²¹⁰ ICCPR, *supra* note 122, at art. 7

²¹¹ *Id.* at art. 10(1).

²¹² UDHR, *supra* note 122, at arts. 10 and 11(1); Body of Principles, *supra* note 122, at principle 6; Mandela Rules, *supra* note 186, at rule 43.

²¹³ *Consideration of Reports Submitted by States Parties under Article 40 of the Covenant: Argentina*, ¶ 11, Human Rights Comm., 70th Sess., U.N. Doc. CCPR/CO/70/ARG (Nov. 15, 2000), http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CCPR%2fCO%2f70%2fARG&Lang=en.

²¹⁴ Iranian Constitution, *supra* note 21, at art. 38.

²¹⁵ CCP (1999), *supra* note 158, at art. 60.

²¹⁶ See MANFRED NOWAK, UN COVENANTS ON CIVIL AND POLITICAL RIGHTS: CCPR COMMENTARY 445 (2d ed. 2005).

²¹⁷ Body of Principles, *supra* note 122, at principle 6(1).

²¹⁸ ICCPR, *supra* note 122, at art. 14(3)(g).

²¹⁹ U.N. Human Rights Committee, *General Comment No. 20: Article 7 (Prohibition of torture, or other cruel, inhuman or degrading treatment or punishment)* at ¶ 5 (Mar. 10, 1992).

subject to violence, threats or methods of interrogation which impair his capacity of decision or his judgment.”²²⁰

As detailed in Part VI.A.3.a., *supra*, while detained, Ms. Iraee was subjected to cruel and inhumane treatment during her interrogation. She was repeatedly pressured to confess under threat of execution. She was questioned in a room adjoining the location where her husband was detained and could hear him being abused through the walls.

Ms. Iraee has been subjected to further mistreatment over the course of her prison term. As Ms. Iraee and Ms. Daemi detailed in their July 2017 open letter, unsanitary conditions pervade Evin Prison (where Ms. Iraee spent the initial part of her prison term), and detainees have inadequate access to clean water and medical care. Between January and April 2018, Ms. Iraee was detained in the quarantine section of Shahr-e Rey Prison, where conditions fall well below the standard minimum rules for the treatment of prisoners and prisoners are denied basic rights and sufficient food and potable water. The inexcusable conditions contributed to Ms. Iraee’s hunger strike and subsequent hospitalization.

Ms. Iraee has also been beaten by prison guards on multiple occasions. On January 24, 2018, agents took Ms. Iraee and Ms. Daemi to a ward of Evin Prison controlled by the Revolutionary Guard and beat them before sending them to Shahr-e Rey Prison.²²¹ Ms. Iraee and Ms. Daemi were subjected to another beating at the hands of Shahr-e Rey Prison riot guards in March 2018.²²² Fellow inmates have also targeted Ms. Iraee and Ms. Daemi. Prior to their latest beating, for example, Ms. Iraee and Ms. Daemi were verbally and physically assaulted by a group of violent prisoners who were transferred into the quarantine section where they were being detained.²²³

Threats against Ms. Iraee have also been accompanied by denial of medical care. When she disclosed to the arresting officers that she needed to retrieve her asthma medication, they replied that she did not need it because she was certain to die in prison. The Committee against Torture and various U.N. Special Rapporteurs have concluded that failure to provide medical care to detainees can amount to cruel and degrading treatment.²²⁴

By torturing and treating Ms. Iraee cruelly and inhumanely and without respect for her inherent dignity as a human person, Iran violated Articles 7, 10(1), and 14(3)(g) of the ICCPR, Article 5 of the UDHR, Principles 6 and 21(2) of the Body of Principles, Rules 1 and 43 of the

²²⁰ Body of Principles, *supra* note 122, at principle 21(2). Also, “it shall be prohibited to take undue advantage of the situation of a detained or imprisoned person for the purpose of compelling him to confess” *Id.* at principle 21(1).

²²¹ See Center for Human Rights in Iran, *supra* note 56.

²²² See Amnesty Int’l, *supra* note 118.

²²³ *Id.*

²²⁴ *Report of Committee against Torture*, U.N. GAOR, 53d Sess., Supp. No. 44, U.N. Doc. A/53/44, at ¶ 156 (Sept. 16, 1998), <http://www.freedom-now.org/wp-content/uploads/2015/10/CAT-Report-Supp.-No.-44-A5344.pdf>; United Nations Office of High Comm’r, *Iran: Denial of Adequate Medical Treatment to Political Prisoners Unacceptable - UN Rights Expert* (Apr. 27, 2017), <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=19886&LangID=E>.

Mandela Rules, Article 38 of the Iranian Constitution, and Article 60 of the CCP, as written at the time of Ms. Iraee's interrogation.

l. Iran Violated Ms. Iraee's Right to Appeal her Conviction

Article 14(5) of the ICCPR states that "everyone convicted of a crime shall have the right to his conviction and sentence being reviewed by a higher tribunal according to the law." The right to appeal guaranteed by Article 14(5) of the ICCPR "imposes on the State party a duty to review substantively, both on the basis of sufficiency of the evidence and of the law, the conviction and sentence, such that the procedure allows for due consideration of the nature of the case."²²⁵ To pass muster, a review must consider not just the formal or legal aspects of the conviction, but also the facts of the case, including the allegations against the convicted person and the evidence submitted at trial, as referred to in the appeal.²²⁶ Article 427 of the Revised CCP guarantees this same right by allowing verdicts of criminal courts to be appealed in either the Provincial Court of Appeal or the Supreme Court of Iran.²²⁷

Although Ms. Iraee was granted an appeal hearing, as described in Part VI.A.3.b., *supra*, the hearing did not constitute a legitimate review of Ms. Iraee's case, as is required under Iranian and international law. Ms. Iraee's appeal hearing lasted only three minutes. During the hearing, Ms. Iraee was not afforded any time to defend herself or advocate her position. The appellate court did not review any evidence during the hearing, but only used the short time to berate and threaten Ms. Iraee, with an appellate judge telling her that he would have her executed if it were up to him.

By denying Ms. Iraee a genuine review of her case and a reasoned appeal of the charges against her, Iran has violated Article 14(5) of the ICCPR and Article 427 of the Revised CCP.

m. Iran Violated Ms. Iraee's Right Not to Be Convicted for a Non-Crime

Article 15 of the ICCPR codifies the principle of legality, one of the fundamental guarantees of due process, which, in part, ensures that no defendant may be punished arbitrarily for a law that is excessively unclear. Article 15 is violated where a law is unduly ambiguous or overly broad. In order to ensure that a criminal law complies with the principles of legal certainty guaranteed by Article 15 of the ICCPR, "all crimes must be defined by law in a manner that is precise and foreseeable."²²⁸ The Working Group has recently applied Article 15 to determine that detention is arbitrary when laws that are "vaguely and broadly worded may have a chilling effect on the exercise of the right to freedom of expression" and the vagueness of the law "makes it unlikely or impossible for the accused to have a fair trial."²²⁹ In one recent case, the Working Group grappled with Iran's propaganda law and explained, "Vague charges, such as [the prohibition on 'spreading propaganda against the system'], are contrary to the rights protected and guaranteed by the Universal Declaration on Human Rights and the International Covenant on Civil

²²⁵ General Comment No. 32, *supra* note 178, at ¶ 48.

²²⁶ *Id.*

²²⁷ Revised CCP, *supra* note 159, at art. 427.

²²⁸ *Report of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism*, U.N. Doc. E/CN.4/2006/98 at ¶ 56 (Dec. 28, 2005).

²²⁹ Human Rights Council, *Opinions adopted by the Working Group on Arbitrary Detention at its seventy-eight session (Kuwait)*, Opinion No. 20/2017, U.N. Doc. A/HRC/WGAD/2017/20 (April 19–28, 2017).

and Political Rights and cannot, in the opinion of the Working Group, be used to justify [a defendant's] arrest and detention."²³⁰

Article 500 of the Islamic Penal Code, under which Ms. Iraee was convicted, punishes anyone “who engages in any type of propaganda against the Islamic Republic of Iran or in support of opposition groups and associations.”²³¹ As explained in Part VI.A.3.a., *supra*, Ms. Iraee was found guilty under this law for writing posts on Facebook where she supported a dissident Iranian rapper and for communications with families of Iranian prisoners of conscience. Ms. Iraee could not have reasonably foreseen that her innocuous social media communications would constitute “propaganda” under Article 500 of the Islamic Penal Code and place her in jail simply because she publicly supported an Iranian musician and communicated with innocent family members of imprisoned political activists. The broad and arbitrary application of the law in this context will certainly have a chilling effect on speech, as it punishes anyone who expresses anything that does not align with the political views of the Government.

Ms. Iraee was also convicted under Article 513 of the Islamic Penal Code, which punishes anyone who “insults the Islamic sanctities.”²³² The law is unclear in communicating what constitutes an insult to the Islamic sanctities, making it impossible for Ms. Iraee to foresee that her fictional story, especially one written privately, might constitute a violation. The vagueness of this law will certainly have a chilling effect on speech in Iran—all the more so if writing one’s own private thoughts can constitute an insult to Islamic sanctities.

By convicting Ms. Iraee of offenses that were too broadly worded to enable a person to reasonably foresee that his or her conduct could be considered criminal, Iran violated Article 15 of the ICCPR.

3. Conclusion

For all of these reasons, Ms. Iraee’s arrest, trial, conviction and continuing detention violate both Iranian and international law. Ms. Iraee’s conduct falls squarely within the protections of the ICCPR and other sources of international law. In sentencing her to prison because she exercised her fundamental rights and after an arrest and trial marred by numerous due process flaws, the Government has arbitrarily detained Ms. Iraee; a detention which is currently placing her health and life in imminent danger.

²³⁰ *Opinions adopted by the Working Group on Arbitrary Detention at its sixty-eighth session (Islamic Republic of Iran)*, Opinion No. 55/2013, U.N. Doc. A/HRC/WGAD/2013/55 (Nov. 13–22, 2013).

²³¹ Islamic Penal Code of Iran, *supra* note 40, at art. 500.

²³² *Id.* at art. 513.

V. INDICATE INTERNAL STEPS, INCLUDING DOMESTIC REMEDIES, TAKEN ESPECIALLY WITH THE LEGAL AND ADMINISTRATIVE AUTHORITIES, PARTICULARLY FOR THE PURPOSE OF ESTABLISHING THE DETENTION AND, AS APPROPRIATE, THEIR RESULTS OR THE REASONS WHY SUCH STEPS OR REMEDIES WERE INEFFECTIVE OR WHY THEY WERE NOT TAKEN.

Ms. Iraee appealed her conviction to the Iranian Supreme Court. The Supreme Court denied Ms. Iraee's appeal on July 20, 2017. Ms. Iraee maintains that she has not committed any crime.

VI. FULL NAME AND ADDRESS OF THE PERSON(S) SUBMITTING THE INFORMATION (TELEPHONE AND FAX NUMBER, IF POSSIBLE).

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