

PETITION TO:
UNITED NATIONS
WORKING GROUP ON ARBITRARY DETENTION

Chair-Rapporteur: Dr. Miriam Estrada-Castillo (Ecuador)
Vice-Chair: Mr. Mumba Malila (Zambia)
Ms. Elina Steinerte (Latvia)
Ms. Priya Gopalan (Malaysia)
Mr. Mathew Gillett (New Zealand)

HUMAN RIGHTS COUNCIL
UNITED NATIONS GENERAL ASSEMBLY

In the Matter of

Saba Kord Afshari & Raheleh Ahmadi
Citizens of the Islamic Republic of Iran

v.

Government of the Islamic Republic of Iran

Petition for Opinion Pursuant to Resolutions 1991/42, 1994/32, 1997/50, 2000/36, 2003/31, 6/4,
15/18, 24/7

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URGENT ACTION REQUESTED

In addition to initiating the Working Group’s Individual Complaint Procedure, we also request that the Working Group initiate its Urgent Action Procedure on behalf of Saba Kord Afshari and Raheleh Ahmadi. As set forth in this Petition, the Government of the Islamic Republic of Iran (“Government”) is arbitrarily depriving Saba Kord Afshari and Raheleh Ahmadi, her mother, of their liberty. The inhumane conditions of Iranian prisons are well-documented, and the lingering coronavirus (“COVID-19”) pandemic further complicates access to proper medical care. Ms. Ahmadi reportedly suffers from a loss of movement in her leg and a ruptured disc, which requires a surgery to repair. Ms. Kord Afshari repeatedly suffers from chronic stomach disorders and ulcers, as well as anxiety attacks causing dangerous muscle contractions. Ms. Kord Afshari and Ms. Ahmadi have contracted COVID-19 multiple times during their detention. Their health conditions have only worsened due to the Government’s refusal to provide critical and extensive medical care. The physical and psychological health of both mother and daughter remain at risk as they lack adequate medical treatment, and their respective prisons continue to deny their medical leave requests. The information provided in the Petition provides adequate grounds to believe that their lives and health remain in grave danger.

We urge the Working Group to utilize its Urgent Action Procedure on behalf of Ms. Kord Afshari and Ms. Ahmadi. We ask that an immediate communication be made to the Government to ensure that both Ms. Kord Afshari and Ms. Ahmadi receive necessary medical treatment and protection. In addition, we request that the attached Petition be considered a formal request for a Working Group opinion.

QUESTIONNAIRE TO BE COMPLETED BY PERSONS ALLEGING ARBITRARY ARREST OR DETENTION

I. SABA KORD AFSHARI

A. IDENTITY

1. *Family name:* Kord Afshari
2. *First name:* Saba
3. *Sex:* Female
4. *Birth date:* 7 July 1998
5. *Nationality:* Iranian
6. *Identity document (if any):* Unknown
Issued by: N/A
On (date): N/A
No.: N/A
7. *Profession and/or activity (if believed to be relevant to the arrest/detention):* Ms. Kord Afshari is a prominent women’s rights defender and compulsory veiling critic in Iran. She also works as an accounting assistant.
8. *Address of usual residence:* Unknown, Tehran, Iran

B. ARREST

1. *Date of arrest:* Arrested on 1 June 2019.
2. *Place of arrest (as detailed as possible):* The arrest occurred at Ms. Kord Afshari’s home in Tehran.
3. *Forces who carried out the arrest or are believed to have carried it out:* The Intelligence Service of the Iranian Revolutionary Guard Corps
4. *Did they show a warrant or other decision by a public authority?* Unknown.

5. *Authority who issued the warrant or decision:* N/A
6. *Reasons for the arrest imputed by the authorities:* N/A
7. *Legal basis for the arrest including relevant legislation applied (if known):* N/A

C. DETENTION

1. *Date of detention:* 1 June 2019
2. *Duration of detention:* From 1 June 2019 to the date of submission.
3. *Forces holding the detainee under custody:* N/A
4. *Places of detention (indicate any transfer and present place of detention):* On 1 June 2019, Ms. Kord Afshari was brought to either Vozara Detention Centre or Evin Prison, where she was interrogated for 11 days. On 11 June 2019, she was transferred to Qarchak Prison. On 2 July 2019, Ms. Kord Afshari was transferred back to ward 2-A of Evin Prison, which is run by the Intelligence Service of the Iranian Revolutionary Guard Corps. On 13 July 2019, she was transferred back to Qarchak Prison. She was transferred to the Women’s Ward of Evin Prison on 13 August 2019, but she was then sent back to Qarchak prison on 9 December 2020. Ms. Kord Afshari remains in Qarchak Prison currently.
5. *Authorities that ordered the detention:* Branch 26 of the Islamic Revolutionary Court
6. *Reasons for the detention imputed by the authorities:* “Encouraging moral corruption” and “acting against national security”
7. *Legal basis for the detention including relevant legislation applied (if known):*
 - Article 500 of the Islamic Penal Code of the Islamic Republic of Iran (“IPC”): engaging in “any type of propaganda against the Islamic Republic of Iran in support of opposition groups and associations”;
 - Article 610 of the IPC: “assembly and collusion to act against the national security”;
 - Article 639 of the IPC: “encouraging and providing for [moral] corruption and prostitution”; and
 - Article 638 of the IPC provides the following: “[a]nyone who explicitly violates any religious taboo in public beside being punished for the act should also be imprisoned for ten days to two months, or should be flogged.” In a note to that article, “appearing without a proper hijab” is listed as a religious taboo. Ms. Kord Afshari’s sentences were “increased by one-half because of the numerous charges against her and previous records.”

II. RAHELEH AHMADI

A. IDENTITY

1. *Family name:* Ahmadi
2. *First name:* Raheleh
3. *Sex:* Female
4. *Birth date:* 1 July 1970
5. *Nationality:* Iranian
6.
 - (a) *Identity document (if any):* Unknown
 - (b) *Issued by:* 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):* Ms. Ahmadi is a hair stylist and women’s rights defender.

8. *Address of usual residence:* Unknown, Tehran, Iran

B. ARREST

1. *Date of arrest:* 10 July 2019

2. *Place of arrest (as detailed as possible):* Her home in Tehran

3. *Forces who carried out the arrest or are believed to have carried it out:* Unknown. However, we understand that a representative of the prosecutor was present.

4. *Did they show a warrant or other decision by a public authority?* A warrant is believed to have been presented at the time of the arrest.

5. *Authority who issued the warrant or decision:* N/A

6. *Reasons for the arrest imputed by the authorities:* N/A

7. *Legal basis for the arrest including relevant legislation applied (if known):*

- Article 500 of the IPC: engaging in “any type of propaganda against the Islamic Republic of Iran in support of opposition groups and associations”;
- Article 610 of the IPC: “assembly and collusion to act against the national security”; and
- Article 639 of the IPC: “encouraging and providing for [moral] corruption and prostitution.”

C. DETENTION

1. *Date of detention:* 10 July 2019, then 20 February 2020

2. *Duration of detention:* Between 10 and 14 July 2019, and then from 20 February 2020 to the date of submission.

3. *Forces holding the detainee under custody:* N/A

4. *Places of detention (indicate any transfer and present place of detention):* Ms. Ahmadi was first taken to the prosecutor’s office, and then to Qarchak Prison. One hour later, she was taken to ward 2-A of Evin Prison for interrogation. Ms. Ahmadi is currently serving her sentence in Evin Prison.

5. *Authorities that ordered the detention:* Branch 26 of the Tehran Islamic Revolutionary Court, presided over by Judge Iman Afshari.

6. *Reasons for the detention imputed by the authorities:* “Collusion to act against national security” by cooperating with opposing media, and “spreading propaganda against the State.”

7. *Legal basis for the detention including relevant legislation applied (if known):*

- Article 500 of the IPC: engaging in “any type of propaganda against the Islamic Republic of Iran in support of opposition groups and associations”; and
- Article 610 of the IPC: “assembly and collusion to act against the national security.”

III. 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 human rights context in the Islamic Republic of Iran (“Iran”) in order to illustrate the Government’s pattern of violating the substantive and procedural rights of dissidents and women’s rights defenders. Part 2 offers background information on Ms. Kord Afshari and Ms. Ahmadi. Part 3 describes the circumstances surrounding Ms. Kord Afshari’s and Ms. Ahmadi’s arrests and continuing detentions.

1. Iran’s Human Rights Context

Under Iranian laws, a woman cannot appear in public without a headscarf (hijab) and must keep her arms and legs covered.¹ Article 638 of the IPC provides that “*women, who appear in public places and roads without wearing an Islamic hijab, shall be sentenced to ten days to two months’ imprisonment or a fine of fifty thousand to five hundred Rials.*”²

Protesters against mandatory veiling laws have become more vocal in recent years. In 2017, the White Wednesdays initiative began. White Wednesdays encouraged women protesting compulsory veiling laws to either wear white clothing or show themselves in public without a headscarf on Wednesdays.³ The campaigns are shared through videos and photos on social media to raise awareness in opposition to the mandatory veil.⁴ Since White Wednesdays began, the government has arrested numerous women’s rights defenders. Between January 2018 and May 2019, 48 women’s rights defenders were arrested.⁵ In January 2021, the Special Rapporteur on Iran noted “*the continuing harassment, arrest and imprisonment of women’s rights advocates, both women and men, including those campaigning against compulsory veiling laws.*”⁶

2. Background information on Saba Kord Afshari and Raheleh Ahmadi

a. Background information

Saba Kord Afshari, born on 7 July 1998, is an Iranian women’s rights defender who campaigned against the forced veiling laws in Iran. She also worked as an accounting assistant and lived in Tehran. She participated regularly in White Wednesdays by publishing videos of herself without a hijab on social media.⁷ In these videos, she was often accompanied by other women’s rights activists, like

¹ U.S. Dep’t of State, Iran 2019 Human Rights Report, (hereinafter “U.S. Dep’t of State Human Rights Report”), Section 3, <https://www.state.gov/reports/2019-country-reports-on-human-rights-practices/iran/>.

² Immigration and Refugee Board of Canada, Responses to Information Requests (21 February 2020), <https://irb-cisr.gc.ca/en/country-information/rir/Pages/index.aspx?doc=458046&pls=1>.

³ My Stealthy Freedom, FAQ, <https://www.mystealthyfreedom.org/faq/>.

⁴ Frontline Defenders, *Women’s rights defender Saba Kord Afshari sentenced to 15 years in prison*, (03 June 2020) (hereinafter “Frontline Defenders, 03 June 2020”), https://www.frontlinedefenders.org/sites/default/files/ua_on_saba_kord_afshari_final.pdf.

⁵ Saeed Kamali Dehghan, *Tehran hijab protest: Iranian police arrest 29 women*, THE GUARDIAN, 2 FEBRUARY 2018 <https://www.theguardian.com/world/2018/feb/02/tehran-hijab-protest-iranian-police-arrest-29-women>; *Iran: Abusive forced veiling laws police women’s lives*, Amnesty Int’l., (28 May 2019), <https://www.amnesty.org/en/latest/campaigns/2019/05/iran-abusive-forced-veiling-laws-police-womens-lives/>.

⁶ U.N. Human Right Council, *Report of the Special Rapporteur on the situation of human rights in the Islamic Republic of Iran*, A/HRC/46/50 (11 January 2021), <https://undocs.org/en/A/hrc/46/50> (hereinafter “Special Rapporteur report 2021”), para. 52.

⁷ Anti-compulsory hijab campaigner Saba Kordafshari’s fight for women’s rights, (August 27, 2019), <https://www.youtube.com/watch?v=erAfVhWGUAQ>.

Yasaman Aryani.⁸ Ms. Ahmadi, born on 1 July 1970, is the mother of Saba Kord Afshari and would also frequently participate in White Wednesdays with her daughter.

b. Criminal record and previous arrests

Saba Kord Afshari was previously arrested on 2 August 2018, after having taking part in protests against the deterioration of Iran’s economy and the corruption of the Government. Prior to her trial, Ms Kord Afshari was detained in Qarchak prison.⁹ She was sentenced to one year of imprisonment on 17 October 2018, on the grounds of “*disrupting the public order*” alongside other individuals.¹⁰ She was then detained in Evin prison. She served part of her sentence and was released on 14 February 2019, when Ayatollah Ali Khamenei pardoned several prisoners on the date of the 40th anniversary of the Islamic Revolution of 1979.¹¹

Following her release, together with Maryam Akbari Monfared and Yasaman Aryani, Ms. Kord Afshari published an open letter denouncing the detention conditions in Iran. In particular, the three women explained that detainees have very limited possibilities to see their families.¹² They also indicated that detainees have very limited phone access and that access is most often granted after detainees’ protests and hunger strikes. Finally, they alerted the public to the lack of food available for prisoners.¹³

3. The circumstances of the detainees’ arrest, trial and detention

a. Ms. Kord Afshari’s arrest and pre-trial detention

Following Yasaman Aryani’s arrest and forced disappearance on 10 April 2019 resulting from her peaceful protest against Iran’s compulsory veiling laws and advocating for a woman’s right to choose whether or not to wear the hijab, Ms. Kord Afshari and Ms. Ahmadi published a video dressed in white clothing in support of Ms. Aryani. In the video, Ms. Kord Afshari appeared without a hijab, and explained that they had been contacted by the Iranian Intelligence services and threatened with arrest if they continued.¹⁴ The recorded video appeared on the social media account of Masih Alinejad, the founder of the “My Stealthy Freedom” campaign.¹⁵

⁸ Chris Pleasance, *Iranian women’s rights activist, 20, is jailed for 15 years for ‘spreading prostitution by taking off her hijab’*, DAILY MAIL, 28 August 2019, <https://www.dailymail.co.uk/news/article-7402503/Iranian-activist-20-jailed-15-years-spreading-prostitution-taking-hijab.html>.

⁹ Iran HRM, *Iran issues jail sentences for young women arrested during August protests* (22 October 2018), <https://iran-hrm.com/index.php/2018/10/22/iran-issues-jail-sentences-for-young-women-arrested-during-august-protests/>.

¹⁰ Frontline Defenders, *Women’s rights defender Saba Kord Afshari sentenced to 15 years in prison*, (03 June 2020) (hereinafter “Frontline Defenders, 03 June 2020”), https://www.frontlinedefenders.org/sites/default/files/ua_on_saba_kord_afshari_final.pdf.

¹¹ Radio Farda, *Imprisoned Mother Demands Justice for Activist Daughter* (06 June 2020) (hereinafter “Radio Farda, 6 June 2020”), <https://en.radiofarda.com/a/imprisoned-mother-demands-justice-for-activist-daughter/30656190.html#:~:text=Rights%20and%20political%20activist%20Saba,yar%20sentence%20for%20her%20daughter.>

¹² Support Committee for Human Rights in Iran (CSDHI), *Détention en Iran : Des prisonnières politiques réagissent aux affirmations des médias officiels* (4 February 2019), (hereinafter “CSDHI, 4 February 2019”) <https://csdhi.org/index.php/actualites/prisonniers-politiques/12276-detention-en-iran-des-prisonnieres-politiques-reagissent-aux-affirmations-des-medias-officiels>.

¹³ *Id.*

¹⁴ Dark Ages: *Women’s rights Activist, 20, is Sentenced to 24 Years in Jail for ‘Spreading Prostitution by Taking Off Her Hijab’ in Protest Against Strict Iranian Law*, The Sun, 28 August 2019, <https://www.thesun.co.uk/news/9815336/womens-right-activist-20-is-sentenced-to-24-years-in-jail-for-spreading-prostitution-by-taking-off-her-hijab-in-protest-against-strict-iranian-law/>.

¹⁵ U.N Human Rights Council, *Situation of human rights in the Islamic Republic of Iran* (24 February-20 March 2020) https://www.ohchr.org/_layouts/15/WopiFrame.aspx?sourcedoc=/Documents/Countries/IR/Report_of_the_Secretary-General_on_the_situation_of_human_rights_in_the_Islamic_Republic_of_IranA4320.pdf&action=default&DefaultItemOpen=1

Following the publication of this video, Ms. Kord Afshari was arrested on 1 June 2019 at her house.¹⁶ According to reports, her house was ransacked and various items were confiscated, including her cell phone, laptop, laptop bag, books, diaries, and USB memory stick.¹⁷ The arrest was carried out by the Intelligence Service of the Iranian Revolutionary Guard Corps, and no warrant was presented to Ms. Kord Afshari or her family.

On 2 June 2019, Ms. Kord Afshari was charged with “gathering and collusion against national security” through supporting political prisoners, “propaganda against the state” through collaborating with opposition and subversive groups, and “promoting corruption and prostitution” through appearing without a headscarf in public.¹⁸

Following her arrest, Ms. Kord Afshari’s whereabouts were reportedly concealed from her family by the Government for 12 days.¹⁹ Sources later revealed that she was held in solitary confinement for 11 days in Vozara detention centre or Evin prison.²⁰

Ms. Kord Afshari was interrogated and asked to record videos condemning the White Wednesdays initiative and its founder, Masih Alinejad. She reportedly refused to do so.²¹ She was then asked to make a confession under threats that her family members would be arrested or killed, and that personal pictures obtained from her phone would be publicly disseminated.²² In particular, many reports highlight that she was threatened with her mother’s arrest as well, showing her a warrant for her mother’s arrest in an attempt to force her to confess to the crimes.²³ She refused to do so.

On 11 June 2019, Ms. Kord Afshari was transferred to Qarchak prison.²⁴ She was then transferred to ward 2-A of Evin prison on 2 July 2019.²⁵

Ms. Kord Afshari did not have access to a lawyer following her arrest or during her pre-trial detention. She met her lawyer for the first time in front of the judge.²⁶ Her lawyer was only allowed access to parts of her case file one hour before trial, and parts of her file were censored under the pretext of confidentiality.²⁷

b. Ms. Ahmadi’s arrest and release on bail

On 10 July 2019, government officers arrested Ms. Ahmadi, in fulfilment of the threat that government agents used in an attempt to coerce Ms. Kord Afshari into recording a confession.²⁸ Although it is unclear which forces conducted the arrest, it is believed that a representative of the prosecutor was present. Ms. Ahmadi was arrested on charges of “propaganda against the state,” “promoting corruption and prostitution,” and “assembly and collusion to act against the national security.”²⁹

¹⁶ U.N. Human Right Council, *Report of the Special Rapporteur on the situation of human rights in the Islamic Republic of Iran*, U.N. Doc. A/HRC/43/61, para. 5 (28 January 2020), <https://undocs.org/A/HRC/43/61>, (hereinafter “Special Rapporteur report 2020”).

¹⁷ Radio Farda, 6 June 2020, *supra* note 11.

¹⁸ Frontline Defenders, 03 June 2020, *supra* note 10; Radio Farda, 6 June 2020, *supra* note 11.; HRANA, Saba Kord Afshari was sentenced to 24-year prison term (27 August 2019) (hereinafter “HRANA, 27 August 2019”), <https://www.en-hrana.org/saba-kord-afshari-was-sentenced-to-24-year-prison-term>.

¹⁹ Special Rapporteur report 2020, *supra* note 16, para 36; U.S. Dep’t of State Human Rights Report, *supra* note 8.

²⁰ Special Rapporteur report 2020, *supra* note 16, para 36; Special Rapporteur report 2021, *supra* note 6, para 54; *Iran: Cruel campaign to extract propaganda ‘confessions’ from protesters against compulsory veiling*, AMNESTY INT’L (15 July 2019) (hereinafter “AMNESTY INT’L, 15 July 2019”), <https://www.amnesty.org/en/latest/news/2019/07/iran-cruel-campaign-to-extract-propaganda-confessions-from-protesters-against-compulsory-veiling/>.

²¹ Interview with Masih Alinejad, CBC NEWS, 1 September 2019, available on twitter here: <https://twitter.com/NatashaFatah/status/1168144998048468992>.

²² Special Rapporteur report 2020, *supra* note 16, para 36.

²³ @AlinejadMasih, TWITTER, (10 July 2019), <https://twitter.com/AlinejadMasih/status/1149033753639038976>.

²⁴ AMNESTY INT’L, 15 July 2019, *supra* note 20, at 70.

²⁵ Exchange with Local Source.

²⁶ FIDH, 2 September 2019, *supra* note. 30; HRANA, 27 August 2019, *supra* note 18.

²⁷ Exchange with Local Source.

²⁸ AMNESTY INT’L, 15 July 2019, *supra* note 20 at 70.

²⁹ *Id.*

Following her arrest, Ms. Ahmadi was taken to the prosecutor's office, and subsequently to Qarchak Prison. One hour later, she was taken to ward 2-A of Evin Prison for interrogation. She was charged and released on a bail of 700 million Tomans four days later, on 14 July 2019.³⁰

c. Ms. Kord Afshari's trial and conviction

Ms. Kord Afshari was indicted on 7 August 2019 and her trial took place on 19 August 2019.³¹ She was transferred to the court blindfolded and in handcuffs and did not have access to her lawyer before the start of the trial.³²

On 27 August 2019, she was sentenced by Branch 26 of the Islamic Revolution Court of Tehran to a total of 24 years in prison. The breakdown of the charges is as follows:

- 15 years for "encouraging people to commit immorality and/or prostitution" (Article 639 IPC);
- 7.5 years for "gathering and collusion against internal or external security" (Article 610 IPC); and
- 1.5 years for "spreading propaganda against the State" (Article 500 IPC).³³

Her sentence was "increased by one-half because of the numerous charges against her and previous records."³⁴ The court also issued a ban on all social activities.³⁵ In application of Article 134 IPC, Ms. Kord Afshari was sentenced to serve 15 years in prison.³⁶ Branch 28 of the Iranian Supreme Court rejected a request for retrial of Ms. Kord Afshari's case on 9 November 2020.³⁷

On 17 March 2020, Ms. Kord Afshari received a notification from the Evin Prosecutor's Office, informing her that she had been partially acquitted of the charges and that her sentence would thus be reduced to seven years and six months.³⁸

However, on 26 May 2020, Ms. Kord Afshari was informed that the Court of Appeals had changed its verdict and reverted back to its original 15-year sentence.³⁹ Her lawyer stated the following:

"On Tuesday, May 26, 2020, Saba Kord Afshari contacted me from Evin Prison and informed me that she was informed of re-announcement of her previous sentence of 15 years, from which she was acquitted in the appeals court. According to her, this was done through a letter issued by the execution division, although I was informed of her acquittal in person following her court at Branch 36 of the Court of Appeal. I was informed today that the content of her verdict of the appeals court (from which she was acquitted) has changed, and I intend to follow up with the intelligence department of the Judiciary system."⁴⁰

³⁰ FIDH, Iran: Sentencing of Mses. Saba Kord-Afshari, Yassman Aryani, Monireh Arabshahi and Mojgan Keshavarz ,(2 September 2019), available here(hereinafter "FIDH, 2 September 2019") : <https://www.fidh.org/en/issues/human-rights-defenders/iran-sentencing-of-mses-saba-kord-afshari-yassman-aryani-monireh>.

³¹ HRANA, 27 August 2019, *supra* note 18.

³² *Id.*

³³ Frontline Defenders, 03 June 2020, *supra* note 10., FIDH, 2 September 2019, *supra* note 30.

³⁴ Iran Human Rights Monitor, *Saba Kord Afshari Sentenced To 24 Years For Protesting Compulsory Hijab* (28 August 2019), <https://iran-hrm.com/2019/08/28/saba-kord-afshari-sentenced-to-24-years-for-protesting-compulsory-hijab/>.

³⁵ FIDH, 2 September 2019, *supra* note 30.

³⁶ Islamic Penal Code of the Islamic Republic of Iran, Article 134 – ("[...] In any of the abovementioned cases, only the most severe punishment shall be executed and if the most severe punishment is reduced or replaced or becomes non-executable for any legal reason, the next most severe punishment shall be executed.")

³⁷ Women's Committee of the National Council of Resistance of Iran, *Supreme Court Rejects Retrial of 24-year Sentence for Saba Kord Afshari*(10 November 2020) <https://women.ncr-iran.org/2020/11/10/24-year-sentence-for-saba-kord-afshari/>; Frontline Defenders, *Saba Kord Afshari Ends Hunger Strike* (19 May 2021) (hereinafter "Frontline Defenders 19 May 2021"), <https://www.frontlinedefenders.org/en/case/saba-kord-afshari-ends-hunger-strike>.

³⁸ Frontline Defenders, 03 June 2020, *supra* note 10.

³⁹ Frontline Defenders, 03 June 2020, *supra* note 10; Women's Committee of the National Council of Resistance of Iran, *Supreme Court Rejects Retrial of 24-year Sentence for Saba Kord Afshari* (10 November 2020), <https://women.ncr-iran.org/2020/11/10/24-year-sentence-for-saba-kord-afshari/>.

⁴⁰ HRANA, *Saba Kord Afshari was sentenced to extra 15 years of imprisonment despite being acquitted* (June, 2, 2020), <https://www.en-hrana.org/saba-kord-afshari-was-sentenced-to-extra-15-years-of-imprisonment-despite-being-acquitted>.

On 9 November 2020, Branch 28 of the Supreme Court rejected Ms. Kord Afshari's request for a retrial.⁴¹ Instead, she remained at Evin prison for a month before being transferred to Qarchak prison on 9 December 2020, without any notice or explanation.⁴²

On 9 March 2021, Ms. Kord Afshari was informed that her prison sentence had been reduced to 7 years and 6 months by Branch 26 of the Tehran Court of Appeals.⁴³ The ruling was a correction of what Branch 26 viewed as a judicial violation by the Tehran Revolutionary Court in its initial sentencing.⁴⁴ The Revolutionary Court erred in giving Ms. Kord Afshari a sentence equal to 150% of her initial total sentence.⁴⁵

On 27 April 2022, the Supreme Court acquitted Ms. Kord Afshari of "encouraging people to commit immorality and/or prostitution," due to her unveiling and walking without a head scarf.⁴⁶ On 29 April 2022, Ms. Kord Afshari was informed that her prison sentence had been reduced to five years, based on the application of Article 134 of the Islamic Penal Code, which remains the most severe single sentence received by a women rights defender.⁴⁷

d. Ms. Ahmadi's trial and conviction

On 16 December 2019, Ms. Ahmadi was convicted of "gathering and colluding to commit crimes against national security" and "spreading propaganda against the system,"⁴⁸ and incarcerated on 20 February 2020.⁴⁹ She is presently serving a 31-month sentence in Evin Prison, separated from her daughter.⁵⁰

Most recently, on 20 November 2021, Ms. Ahmadi faced a new charge for "propaganda activities against the state"⁵¹ after "publishing statements on websites hostile to the Iranian government, while in detention."⁵² To face the new charge, Ms. Ahmadi was summoned before Shahid Moqadas Amniat in the Evin Court (Branch 1) on 22 December 2021 and 12 January 2022.⁵³ On both occasions, Ms. Ahmadi refused to appear in the absence of her lawyer.⁵⁴

e. Detention

⁴¹ Frontline Defenders 19 May 2021, *supra* note 37.

⁴² *Id.*

⁴³ Frontline Defenders, *Prison Sentence of Saba Kord Afshari Reduced to 7 Years and 6 Months* (10 March 2021), <https://www.frontlinedefenders.org/en/case/saba-kord-afshari-ends-hunger-strike>.

⁴⁴ *Id.*

⁴⁵ *Id.*

⁴⁶ Frontline Defenders, *Prison Sentence of Saba Kord Afshari Reduced to Five Years* (30 April 2022), <https://www.frontlinedefenders.org/en/case/prison-sentence-saba-kord-afshari-reduced-five-years#top-of-page>.

⁴⁷ *Id.*

⁴⁸ US Commission on International Religious Freedom (USCIRF), Rahele Ahmadi, <https://www.uscirf.gov/religious-prisoners-conscience/forb-victims-database/rahele-ahmadi>

⁴⁹ *Young activist given 24-year jail sentence*, AMENSTY INT'L (6 JULY 2020) (HEREINAFTER "AMNESTY INT'L, 6 JULY 2020"), <https://www.amnesty.org/en/wp-content/uploads/2021/05/MDE1326532020ENGLISH.pdf>.

⁵⁰ Frontline Defenders, *Raheleh Ahmadi*, <https://www.frontlinedefenders.org/en/profile/raheleh-ahmadi>; Women's Committee of Iran NCRI, *Raheleh Ahmadi condamnée à 4 ans de prison* (17 February 2020), <https://women.ncr-iran.org/fr/2020/02/17/marjan-davari-condamne-a-75-ans-de-prison-a-qarchak/>; Center for Human Rights in Iran, *Mother of Jailed Anti-Compulsory Hijab Activist Calls for Legal Reform* (5 June 2020), <https://iranhumanrights.org/2020/06/mother-of-jailed-anti-compulsory-hijab-activist-calls-for-legal-reform/>.

⁵¹ Frontline Defenders, *Raheleh Ahmadi facing a new charge while in detention*, (29 November 2021), <https://www.frontlinedefenders.org/en/case/raheleh-ahmadi-requires-medical-attention#case-update-id-14555>.

⁵² *Id.* Mustafa Nili, Ms. Ahmadi's lawyer, was detained in Evin prison from 14 August 2021 to 18 December 2021 for preparing to file a complaint against the country's National Task Force Against Coronavirus, the Minister of Health.

⁵³ Frontline Defenders, *Woman Human Rights Defender Raheleh Ahmadi Refused to Appear Before the Court Without Her Lawyer*, 2 February 2022, <https://www.frontlinedefenders.org/en/case/woman-human-rights-defender-raheleh-ahmadi-refused-appear-court-without-her-lawyer>.

⁵⁴ *Id.*

Ms. Kord Afshari remains detained in Qarchak Prison.⁵⁵ This prison is primarily used to detain women accused of violent crimes as well as female political prisoners.⁵⁶ Prisoners at Qarchak are not separated by crime, and thus political prisoners are intermingled with ordinary and dangerous prisoners.⁵⁷

Following the outbreak of the COVID-19 pandemic, Ms. Kord Afshari's family requested that the Assistant Prosecutor Office release both Ms. Kord Afshari and her mother. They were informed that Ms. Ahmadi might be released, but not Ms. Kord Afshari.⁵⁸ As a result, Ms. Ahmadi decided to remain alongside Ms. Kord Afshari and stated in an open letter that she will continue to be the voice of her daughter from prison.⁵⁹

Ms. Kord Afshari reportedly suffers from chronic stomach disorders and ulcers, as well as anxiety attacks, which cause muscle contractions and require immediate injections and oxygen therapy.⁶⁰ According to a Twitter post, Ms. Kord Afshari was transferred to the hospital on 29 June 2020 but was sent back to the prison without receiving medical treatment.⁶¹

On 19 September 2020, Ms. Kord Afshari was transferred to the Taleghani hospital, as her health had seriously deteriorated. On the doctors' advice, she was supposed to be given an ultrasound, a colonoscopy, and an endoscopy. Although such treatment is supposed to be paid for by the Organization of Prisons, Ms. Kord Afshari was taken back to prison after undergoing only an ultrasound, without receiving the required medical treatment, on the grounds that she could not pay for the treatment.⁶² Her family contends that they were deliberately sent to a different hospital, so they would not be able to meet with her or pay for her treatment.

Ms. Kord Afshari was attacked by prison guards on 13 December 2020, when the guards raided Ward 8 of Qarchak Prison in order to transfer Golrokh Iraee to Evin Prison.⁶³ The guards attacked all inmates in the ward and injured Ms. Kord Afshari's back, shoulders, waist, and teeth.⁶⁴

On 26 January 2021, Ms. Kord Afshari was again physically assaulted by prison security officers and forcibly transferred from Ward 8 to Ward 6 of Qarchak Prison, which is the ward where prisoners of public-order crimes are held.⁶⁵ Male and female prison guards entered Ward 8, hitting their batons and stun guns on the doors and walls.⁶⁶ They attempted to intimidate the prisoners located in the ward, stating that Ms. Kord Afshari needed to be relocated.⁶⁷ While Ms. Kord Afshari was outside enjoying the fresh air, the guards grabbed her by her hair and dragged her across the floor.⁶⁸ The guards also tied Ms. Kord Afshari's hands behind her back, badly bruising her arms.⁶⁹

⁵⁵ Frontline Defenders 19 May 2021, *supra* note 37, at 96.

⁵⁶ Women's Committee of the National Council of Resistance of Iran, *A Look into the Tragic Conditions Inside Qarchak Prison for Women* (20 April 2020), <https://women.ncr-iran.org/2020/04/20/a-look-into-the-tragic-conditions-inside-qarchak-prison-for-women/>.

⁵⁷ *Id.*

⁵⁸ Frontline Defenders, 03 June 2020, *supra* note 10; Women's Committee of the National Council of Resistance of Iran, *A No prison leaves for Saba Kord Afshari: 3-year sentence for Parisa Saifi* (March 25, 2020), <https://women.ncr-iran.org/2020/03/25/no-prison-leaves-for-saba-kord-afshari-3-year-sentence-for-parisa-saifi/>.

⁵⁹ Women's Committee of the National Council of Resistance of Iran, *supra* note 56.

⁶⁰ HRANA, 27 August 2019, *supra* note 18.

⁶¹ @womenncri, TWITTER (1 July 2020), <https://twitter.com/womenncri/status/1278231120438530050>.

⁶² Frontline Defenders, *Women's rights defender denied necessary treatment on the pretext of cost* (29 September 2020), <https://www.frontlinedefenders.org/en/case/womens-rights-defender-saba-kord-afshari-sentenced-15-years-prison>.

⁶³ Iran Human Rights Monitor, *Prisoner of Conscience Saba Kord Afshari Violently Relocated Within Qarchak Prison* (27 January 2021), <https://iran-hrm.com/2021/01/27/prisoner-of-conscience-saba-kord-afshari/>.

⁶⁴ *Id.*

⁶⁵ Frontline Defenders, *Saba Kord Afshari Ends Hunger Strike* (28 January 2021), <https://www.frontlinedefenders.org/en/case/saba-kord-afshari-ends-hunger-strike>.

⁶⁶ Iran Human Rights Monitor, *Prisoner of Conscience Saba Kord Afshari Violently Relocated Within Qarchak Prison* (27 January 2021), <https://iran-hrm.com/2021/01/27/prisoner-of-conscience-saba-kord-afshari/>.

⁶⁷ *Id.*

⁶⁸ *Id.*

⁶⁹ Women's Committee of the National Council of Resistance of Iran, *Saba Kord Afshari Violently Moved from Ward 8 of Qarchak to Ward 6* (27 January 2021), <https://women.ncr-iran.org/2021/01/27/saba-kord-afshari-violently-moved-from-ward-8-of-qarchak-to-ward-6/>.

On 17 March 2021, Ms. Kord Afshari reported that she fainted three times in the three days since she tested positive for Covid-19.⁷⁰ At least once, she was taken to the prison's clinic to receive oxygen in response to her fainting.⁷¹ It is alleged that Ms. Kord Afshari contracted Covid-19 as a result of the prison's practice of bringing in new prisoners without first testing them, as well as the prison's lack of social distancing and quarantine guidelines.⁷²

Ms. Kord Afshari began a hunger strike on 8 May 2021 in order to protest the detention of her mother in Evin Prison despite her health struggles (see below).⁷³ Ms. Kord Afshari ended her hunger strike on 19 May 2021 after her own health deteriorated and her mother requested that she stops.⁷⁴

On 11 August 2021, after testing positive for COVID-19 yet again, Ms. Kord Afshari was placed on a fifteen day medical leave from Qarshak prison.⁷⁵ Ms. Kord Afshari remains in danger and continues to receive death threats in Qarchak prison.⁷⁶ There are reports that she is being harassed by dangerous inmates, who are believed to be hired by prison authorities and the Ministry of Intelligence.⁷⁷ Most recently, on 5 September 2021, Ms. Kord Afshari was violently threatened by a dangerous inmate with a razor blade while standing outside Ward 6.⁷⁸ Despite complaints to prison authorities, the inmates who harass and threaten Ms. Kord Afshari have been allowed to return to Ward 6 and endanger Ms. Kord Afshari without intervention.

On 23 October 2021, Ms. Kord Afshari was granted five days of medical leave.⁷⁹ She returned to Qarshak Prison on 4 November 2021 after the prison rejected her request to extend her leave to continue her medical treatment.⁸⁰ As she continues her detention, Ms. Kord Afshari remains at risk due to her underlying health conditions, psychological stress, and physical threats that she faces from other prisoners.⁸¹

Ms. Ahmadi suffered a nervous breakdown on 9 December 2020 that caused her to lose movement in her left leg.⁸² As a result, she suffered a significant loss of mobility in her leg and became reliant on the assistance of others for walking and other small tasks.⁸³ Shortly after, she returned to the hospital on 5 January 2021. At that time, doctors believed she could be paralyzed.⁸⁴ Fortunately, Ms. Ahmadi was later released; however, her health issues persist. Ms. Ahmadi suffers from thyroid malfunctions and the poor health conditions within Qarchak prison make her even more vulnerable to

⁷⁰ Frontline Defenders, *Saba Kord Afshari in Poor Health Following Positive Covid-19 Test* (20 March 2021), <https://www.frontlinedefenders.org/en/case/saba-kord-afshari-ends-hunger-strike>.

⁷¹ *Id.*

⁷² *Id.*

⁷³ Frontline Defenders, *Saba Kord Afshari on Hunger Strike* (11 May 2021), <https://www.frontlinedefenders.org/en/case/saba-kord-afshari-ends-hunger-strike>.

⁷⁴ Frontline Defenders, *Saba Kord Afshari Ends Hunger Strike* (19 May 2021), <https://www.frontlinedefenders.org/en/case/saba-kord-afshari-ends-hunger-strike>.

⁷⁵ HRANA, *Saba Kord Afshari Sent on 15 Day Leave from Qarshak Prison in Varamin* (12 August 2021), <https://www.en-hrana.org/saba-kord-afshari-sent-on-15-day-leave-from-qarchak-prison-in-varamin/>.

⁷⁶ The Women's Committee of the National Council of Resistance of Iran, *Political prisoner Saba Kord Afshari threatened to death in Qarchak Prison*, (7 September 2021), <https://women.ncr-iran.org/2021/09/07/political-prisoner-saba-kord-afshari-threatened-to-death-in-qarchak-prison/>.

⁷⁷ *Id.*

⁷⁸ *Id.*

⁷⁹ @NickSotoudeh, TWITTER (23 October 2021), <https://twitter.com/NickSotoudeh/status/1452102483694665740>.

⁸⁰ The Women's Committee of the National Council of Resistance of Iran, *Saba returns to Qarchak Prison before completing her medical treatment* (5 November 2021), <https://women.ncr-iran.org/2021/11/05/saba-returns-to-qarchak-prison-before-completing-her-medical-treatment/>.

⁸¹ *Id.*

⁸² The Women's Committee of the National Council of Resistance of Iran, *Political prisoner Raheleh Ahmadi in dire health, might be paralyzed*, <https://women.ncr-iran.org/2021/01/16/political-prisoner-raheleh-ahmadi-in-dire-health-might-be-paralyzed/amp/>.

⁸³ *Id.*

⁸⁴ *Id.*

contracting COVID-19.⁸⁵ Additional nervous stress from her and her daughter's imprisonment remains an aggravating factor in her lumbar disc pain, causing regular immobility.⁸⁶

On 15 March 2021, Ms. Ahmadi was granted a leave to allow her to receive medical attention due to her nervous stress and a ruptured disc, which requires a surgery to repair.⁸⁷ She began utilizing a walker to assist in her movement and the prison clinic's doctor requested that she be examined by a specialist neural doctor.⁸⁸ Prison authorities refused to approve her request to extend her medical leave that terminated on 10 April 2021.⁸⁹

The health of both Ms. Ahmadi and Ms. Kord Afshari continues to deteriorate as prison authorities fail to provide them with sufficient medical treatment. Both mother and daughter now require consistent medical attention. Without proper care, their current prison conditions have only exacerbated their underlying health conditions through added stress, a lack of nutrition, and a lack of specialized treatment, as noted by the Working Group in May 2021.⁹⁰

B. LEGAL ANALYSIS

For the reasons set forth below, the arrests and detentions of Ms. Kord Afshari and Ms. Ahmadi are arbitrary under Category I, Category II, Category III, and Category V of the Working Group's Revised Methods of Work.⁹¹

1. Arbitrary Deprivation of Liberty under Category I

A detention is arbitrary under Category I of the Working Group's Revised Methods of Work when it is clearly impossible to invoke any legal basis justifying the deprivation of liberty.⁹² The Working Group has found that (i) incommunicado detention and (ii) reliance on overly vague legal provisions constitute arbitrary detentions in violation of Category I.

In this case, the Government has no legal basis on which to justify Ms. Kord Afshari or Ms. Ahmadi's deprivation of liberty given (a) Ms. Kord Afshari's incommunicado detention for the period

⁸⁵ The Women's Committee of the National Council of Resistance of Iran, *Raheleh Ahmadi suffers from poor health, following her mother's death*, <https://women.ncr-iran.org/2021/07/17/raheleh-ahmadi-suffers-from-poor-health-following-her-mothers-death/amp/>.

⁸⁶ *Id.*

⁸⁷ *Id.*

⁸⁸ *Id.*

⁸⁹ *Id.*

⁹⁰ *Mandates of the Special Rapporteur on the situation of human rights in the Islamic Republic of Iran; the Working Group on Arbitrary Detention; the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health; the Special Rapporteur on the situation of human rights defenders; the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment and the Special Rapporteur on violence against women, its causes and consequences*, Palais des Nations, 1211 Geneva 10 (27 May 2021), <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=26438>.

⁹¹ U.N. Human Rights Council, *Methods of Work of the Working Group on Arbitrary Detention*, U.N. Doc. A/HRC/33/66 at para. 8b (12 July 2016) (hereinafter "Revised Methods of Work"), https://digitallibrary.un.org/record/848575/files/A_HRC_33_66-EN.pdf. 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), <http://hrlibrary.umn.edu/instree/b1udhr.htm>. ("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, <https://www.ohchr.org/Documents/ProfessionalInterest/bodyprinciples.pdf>, at principle 2. (hereinafter "Body of Principles") ("Arrest, detention or imprisonment shall only be carried out strictly in accordance with the provisions of the law . . ."),

⁹² ICCPR, *supra* note 91, art. 9(1).

in which she disappeared and (b) the vague and overly broad laws used to arrest and then imprison them.

a. Ms. Kord Afshari Was Held Incommunicado

By disappearing Ms. Kord Afshari for a twelve-day period, the Government violated Ms. Kord Afshari's right to be free from incommunicado detention.

Incommunicado detention occurs when an individual is “deprived of their liberty in secret for potentially indefinite periods, held outside the reach of the law, without the possibility of resorting to legal procedures, including habeas corpus.”⁹³ Under Article 9(3) of the International Covenant on Civil and Political Rights (“ICCPR”), when a person is arrested then detained for a criminal charge that individual must “be brought promptly before a judge or other officer authorized by law to exercise judicial power and shall be entitled to trial within a reasonable time or to release.”⁹⁴ Furthermore, the U.N. Human Rights Committee (“UNHRC”) has interpreted the term “promptly” to mean within approximately 48 hours, except in exceptional circumstances.⁹⁵ Article 9(4) of the ICCPR entitles such person to a court proceeding, “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.”⁹⁶ These requirements apply even before formal charges have been asserted, so long as the person is arrested or detained on suspicion of criminal activity.⁹⁷ Additionally, the Iranian Code of Criminal Procedure (“CCP”) provides an individual right to a meeting with a lawyer as soon as a person is detained.⁹⁸

The Iranian government violated the ICCPR when it disappeared Ms. Kord Afshari after her arrest for twelve days. The facts surrounding Ms. Kord Afshari's disappearance demonstrate that during her incommunicado detention she was held in solitary confinement and interrogated. From 1 June 2019 to 13 June 2019, Ms. Kord Afshari had no contact with her family or lawyer. Furthermore, Ms. Kord Afshari was not promptly brought before a judge or other judicial officer. Instead, she was transferred twice following her arrest and pre-trial detention before her indictment on 7 August 2019.

The facts above demonstrate that Ms. Kord Afshari's detention violated Category I, as the Government effectively enforced Ms. Kord Afshari's disappearance and failed to promptly present her to a judge or judicial officer to decide the lawfulness of her detention within a reasonable time.

b. The Iranian Government Used Vague and Overbroad Laws to Imprison Ms. Kord Afshari and Ms. Ahmadi

By using vague and overbroad laws as the legal basis for Ms. Kord Afshari's and Ms. Ahmadi's imprisonment, the Government violated their right to know the “legal basis” of their detention, in violation of Category I.

⁹³ U.N. Human Rights Council, *Promotion and Protection of All Human Rights, Civil, Political, Economic, Social and Cultural Rights*, including the Right to Development, Joint Study on Global Practices in Relation to Secret Detention in the Context of Countering Terrorism, UN Doc. A/HRC/13/42, p. 2 (May 20, 2010), <https://undocs.org/A/HRC/13/42>. The Special Rapporteur's report has been recognized by the Working Group as identifying the extent of human rights violations associated with incommunicado detention. See also, U.N. Human Rights Council, Report of the Working Group on Arbitrary Detention, UN Doc. A/HRC/22/44, fn. 27 (Dec. 24, 2012), https://www.ohchr.org/Documents/HRBodies/HRCouncil/RegularSession/Session22/A.HRC.22.44_en.pdf.

⁹⁴ ICCPR, *supra* note 91, art. 9(3).

⁹⁵ U.N. International Covenant on Civil and Political Rights, *General Comment No. 35: Article 9 (Liberty and Security of Person)*, ¶ 33, Human Rights Comm. U.N. Doc. CPR/C/GC/35 (Dec. 16, 2014) (*hereinafter* General Comment No. 35), https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CCPR%2fC%2fGC%2f35&Lang=en (In the view of the Committee, 48 hours is ordinarily sufficient to transport the individual and to prepare for the judicial hearing; any delay longer than 48 hours must remain absolutely exceptional and be justified under the circumstances.)

⁹⁶ ICCPR, *supra* note 91, art. 9(4).

⁹⁷ General Comment No. 35, *supra* note 95, para. 32.

⁹⁸ CCP Articles 48, 190; *Beyond the Veil: Discrimination against women in Iran*, CEASEFIRE CENTER FOR CIVILIAN RIGHTS, p. 9 (September 2019) (*hereinafter* “Beyond the Veil, September 2019”), https://minorityrights.org/wp-content/uploads/2019/09/MRG_CFR_Iran_EN_Sept191.pdf

Article 15(1) of the ICCPR guarantees the individual right to know what the law is and what conduct violates the law.⁹⁹ There must be substantive ground for arrest or detention that is prescribed by law and “defined with sufficient precision to avoid overly broad or arbitrary interpretation or application.”¹⁰⁰

The Government’s harsh imprisonment of women’s rights defenders under vague and over broad laws is a systematic failure. According to a 2019 report on gender equality in Iran, “[w]omen arrested for human rights work and other forms of activism are typically prosecuted under vaguely-worded national security charges such as ‘assembly and collusion against national security’ and ‘propaganda against the state.’ These and other national security charges are regularly used by the Iranian authorities to criminalize peaceful acts of expression, association, and assembly.”¹⁰¹

In a recent opinion, published on 23 June 2021, the Working Group “reiterates that the principle of legality requires that laws be formulated with sufficient precision so that individuals may have access to and understand the law and regulate their conduct accordingly. The Working Group further notes that laws that are vaguely and broadly worded may have a deterrent effect on the exercise of the rights to freedom of thought, conscience and religion, freedom of opinion and expression, freedom of peaceful assembly and association, participation in political and public affairs, equality and non-discrimination, and protection of persons belonging to ethnic, religious or linguistic minorities, as they have the potential for abuse, including the arbitrary deprivation of liberty.”¹⁰²

The Government has consistently used the vague and overbroad language of its penal code to punish women who protest compulsory veiling¹⁰³ and stifle the legal right to freedom of expression.¹⁰⁴ These vague articles are susceptible to abuse by the Government and are often used to criminalize women’s rights defenders, like Ms. Kord Afshari and Ms. Ahmadi.

Here, the Government arbitrarily detained Ms. Kord Afshari and Ms. Ahmadi under vague and overly broad national security provisions: Articles 500, 610 and 639 of the IPC. The Working Group previously found that offences covered by these articles were “vaguely formulated” and contrary to the principle of legality.¹⁰⁵

By sentencing Ms. Kord Afshari and Ms. Ahmadi on the basis of these insufficiently detailed legal provisions, the Government made it impossible for the accused to fully determine the legal basis of their detention. Ultimately, the failure to provide Ms. Kord Afshari and Ms. Ahmadi with the legal right to understand the basis of their imprisonment makes their detention arbitrary under Category I.

2. 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.¹⁰⁶ In Ms. Kord Afshari’s and Ms. Ahmadi cases, the Government violated their right to freedom of opinion and expression as well as their right to freedom of assembly.

Article 19 of the ICCPR states “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.”

⁹⁹ See ICCPR, *supra* note 91, art. 15(1).

¹⁰⁰ General Comment No. 35, *supra* note 95, para. 22.

¹⁰¹ Beyond the Veil, September 2019, *supra* note 98.

¹⁰² U.N. Human Right Council, Opinions adopted by the Working Group on Arbitrary Detention at its ninetieth session, (3—12 May 2021 A/HRC/WGAD/2021/15 (23 June 2021), https://www.ohchr.org/Documents/Issues/Detention/Opinions/Session90/A_HRC_WGAD_2021_15.pdf.

¹⁰³ Islamic Penal Code of the Islamic Republic of Iran, Article 286.

¹⁰⁴ Frontline Defenders, 03 June 2020, *supra* note 10.

¹⁰⁵ Office of the High Commissioner for Human Rights, Opinion No. 15/2021 concerning Nasibe Shamsaei (Islamic Republic of Iran and Turkey), A/HRC/WGAD/2021/15 (23 June 2021), https://www.ohchr.org/Documents/Issues/Detention/Opinions/Session90/A_HRC_WGAD_2021_15.pdf, para. 65.

¹⁰⁶ Revised Methods of Work, *supra* note at 91, at para. 8b. (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.”).

The right to freedom of expression also benefits from protection under Article 19 of the Universal Declaration of Human Rights (“UDHR”).

The UNHRC has recognized freedom of expression as essential for the full development of an individual¹⁰⁷ 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 of ideas.”¹⁰⁸ 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.”¹⁰⁹

Despite these protections under international law, Iran arbitrarily detained, prosecuted, and convicted Ms. Kord Afshari and Ms. Ahmadi without due process for exercising their right to freedom of expression. Ms. Kord Afshari’s conviction resulted from her participation in peaceful protests against compulsory veiling, which relates intimately to her political, moral, and religious beliefs. Similarly, Ms. Ahmadi’s conviction results from her participation in peaceful protests against her daughter’s arbitrary detention. Article 19 of the ICCPR gives Ms. Kord Afshari and Ms. Ahmadi the right to wrestle with this issue both in the private and public arenas. Their arrest and imprisonment directly violate that right. Additionally, the videos Ms. Kord Afshari posted on the Internet fall within the protection of Article 19 of the ICCPR. By detaining Ms. Kord Afshari on these grounds, the Government has punished her for merely expressing herself in violation of international law.

Though the right to freedom of expression is not absolute, there is no arguable justification for Iran’s violation of Ms. Kord Afshari and Ms. Ahmadi’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 these restrictions must not “put in jeopardy the right itself.”¹¹⁰ 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.”¹¹¹

Here, the Government has no legitimate grounds for restricting Ms. Kord Afshari or Ms. Ahmadi’s right to freedom of expression because none of their posts or actions advocated for violence or otherwise threatened the rights or reputations of others, national security, public order, public health or morals. Even if the Government could establish such grounds (and it cannot), Iran would need to show that the infringements of their right to freedom of expression were “necessary” to protect one of the special interests set forth in Article 19(3) of the ICCPR.¹¹² According to the UNHRC’s case law, “the State party must demonstrate in specific fashion the precise nature of the threat to any of the enumerated purposes.”¹¹³ If the Government had a legitimate reason for curtailing their right to freedom of expression, it was obligated to articulate specific reasons why the restrictions were necessary. Iran has not accomplished this and is not able to accomplish this. Thus, Iran has failed in showing the necessity of restricting Ms. Kord Afshari and Ms. Ahmadi’s freedom of expression.

Ms. Kord Afshari’s participation in peaceful protests, as well as her social media posts in which she appears without a hijab, do not pose any risk to national security or public order, health, or morals, and they do not violate the rights of others. In reality, Iran has convicted and detained Ms. Kord Afshari and her mother merely because it did not approve of their attempts to connect with others with respect to their views. By doing this, Iran has clearly and unjustifiably deprived Ms. Kord Afshari and Ms.

¹⁰⁷ Communication No. 1173/2003, *Benhadj v. Algeria*, U.N. Doc. CCPR/C/90/D/1173/2003, ¶ 8.10 (2007), <https://digitallibrary.un.org/record/609453?ln=en>.

¹⁰⁸ U.N. Human Rights Committee, General Comment No. 34, Article 19 (Freedom of Expression) ¶ 2 (Sept. 12, 2011).

¹⁰⁹ 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-vangola-2005-ahrlr-3-hrc-2005.html>.

¹¹⁰ U.N. Human Rights Committee, *supra* note 136, at ¶ 21.

¹¹¹ 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>.

¹¹² 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>.

¹¹³ *Id.* at para. 7.3.

Ahmadi of their fundamental right to freedom of expression. Iran's detention of Ms. Kord Afshari and Ms. Ahmadi on these grounds was and continues to be arbitrary and unlawful.

3. Arbitrary Deprivation of Liberty under Category III

Iran's detention of Ms. Kord Afshari and Ms. Ahmadi is also 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."¹¹⁴ Due process is one of the key elements 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").¹¹⁵ Iran has committed numerous violations of Ms. Kord Afshari's and Ms. Ahmadi's right to a fair trial under these standards.

In light of the previous violations under Category I and II, Ms. Kord Afshari's and Ms. Ahmadi's deprivation of liberty were arbitrary and their trials should not have taken place. However, they did take place and involved various procedural violations, including violations of (a) the right to the presumption of innocence (b) the right to a public hearing, and (c) and of the right of defence. Ms. Kord Afshari's pre-trial detention and coercion to extract forced confession is properly viewed as a violation of the prohibition of torture.

a. Iran violated Ms. Kord Afshari's Right to a Presumption of Innocence

Article 14(2) of the ICCPR guarantees that "everyone charged with a criminal offence shall have the right to be presumed innocent according to law."¹¹⁶ Judges are prohibited from expressing any opinion that implies the accused person's guilt or innocence before the end of proceedings and verdict, under Article 372 of the CCP.¹¹⁷ The Iranian Constitution also notes this right and "reinforces the principles of judicial independence".¹¹⁸ As noted in the UNHRC, the requirement of judicial independence refers to "the actual independence of the judiciary from political interference by the executive branch and legislature."¹¹⁹

Ms. Kord Afshari was denied her right to a presumption of innocence and it was evident that her case lacked impartiality based on the judge's rulings. The demonstrated bias throughout Ms. Kord Afshari's proceedings continued in her sentencing, as she was acquitted on all charges but later given an even harsher sentence without just cause or explanation. By convicting Ms. Kord Afshari without a fair and independent hearing and impartial tribunal, she was denied her right to a presumption of innocence, in violation of Category III.

b. Iran violated Ms. Kord Afshari's Right to a Fair and Public Hearing

Article 14(1) of the ICCPR states 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."¹²⁰ This is an "absolute requirement [...] not capable of limitation."¹²¹ One of the most important components

¹¹⁴ Revised Methods of Work, *supra* note 91, at Category III, para. c.

¹¹⁵ *Id.* at paras. 7(a) and (b).

¹¹⁶ See ICCPR, *supra* note 91, art. 14(2).

¹¹⁷ Revised Iranian Code of Criminal Procedure, Article 372.

¹¹⁸ Constitution of the Republic of Iran, Article 156.

¹¹⁹ U.N. Human Rights Committee, *General Comment No. 32, Article 14: Right to equality before courts and tribunals and to a fair trial*, U.N. Doc. CCPR/C/GC/32 para. 19 (Aug. 23, 2007), <https://www.refworld.org/docid/478b2b2f2.html>.

¹²⁰ ICCPR, *supra* note 91, at art. 14(1).

¹²¹ See ALEX CONTE AND RICHARD BURCHILL, *DEFINING CIVIL AND POLITICAL RIGHTS* 165 (2009).

of a fair hearing is the principle of equality of arms,¹²² which requires that both parties have the same procedural rights.¹²³

Article 10 of the UDHR also guarantees individuals the right to a fair and public hearing. As the UNHCR has stated in General Comment No. 32, “[t]he 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.”¹²⁴ The right to a public hearing must include a hearing open to the general public, including media, without restricting entrance to a limited number of individuals.¹²⁵

Ms. Kord Afshari did not receive a fair and public trial. She was not allowed to meet with an attorney throughout her pre-trial detention, and she did not have a chance to speak with her attorney in private before her trial began. Instead, she reportedly met her attorney in front of the judge. By convicting Ms. Kord Afshari without a fair and public hearing, Iran violated Ms. Kord Afshari’s right to a fair trial in contravention of Article 14(1) of the ICCPR and Article 10 of the UDHR.

c. Iran violated Ms. Kord Afshari and Ms. Ahmadi’s Right to Assistance of Legal Counsel

Articles 14(3)(d) and 14(3)(b) of the ICCPR guarantee an individual’s right to “defend [her]self in person or through legal assistance of [her] own choosing” and “have adequate time and facilities for the preparation of [her] defence and communicate with counsel of [her] choosing.”¹²⁶ To fulfill these guarantees, the accused must also be granted “prompt access to counsel.”¹²⁷ Furthermore, the right of a detainee to communicate and consult with her legal counsel “may not be suspended or restricted save in exceptional circumstances”¹²⁸ and “shall not be denied for more than a matter of days.”¹²⁹ The inability to fully access legal counsel effectively interferes with the right to assistance. The right of access to and assistance of a lawyer is outlined in not only the Body of Principles but also Article 9(4) of the ICCPR.¹³⁰

Under Iranian criminal procedural law, individuals charged with national security offences or political crimes cannot freely choose their lawyer but must choose from a list approved by the head of the judiciary.¹³¹ This regulatory limitation to the right of being assisted by a counsel of one’s choosing directly infringes Article 14 of the ICCPR.

Moreover, throughout their trials, sentencing, and detentions, Ms. Kord Afshari and Ms. Ahmadi have had little to no access to their lawyers. Ms. Kord Afshari met with her lawyer for the first time in front of her trial judge, after having been detained for almost two months, and critical information about Ms. Kord Afshari’s case remained hidden. Most recently, in November 2021, Ms. Ahmadi was charged and brought before Judge Shahid Moqadas Amniat in the Evin Court without proper notice or access to her lawyer. Absent time with and access to their attorneys and the full scope of information about their cases, both Ms. Kord Afshari and Ms. Ahmadi were effectively denied the right to prepare a defense.

¹²² U.N. Human Rights Committee, *General Comment No. 32, Article 14 (Right to equality before courts and tribunals and to a fair trial)*, U.N. Doc. CCPR/C/GC/32 para. 27 (Aug. 23, 2007), <https://www.refworld.org/docid/478b2b2f2.html>.

¹²³ *Id.* at para. 14.

¹²⁴ *Id.* at para. 8.

¹²⁵ *Id.* at para. 29.

¹²⁶ ICCPR, *supra* note 91, at Article 14(3)(b) and 4(3)(d).

¹²⁷ U.N. Human Rights Committee, *General Comment No. 32: Article 14 Right to Equality Before Courts and Tribunals and to Fair Trial*, U.N. Doc. CCPR/C/GC/32, ¶ 27 (Aug. 23, 2007), <https://www.refworld.org/docid/478b2b2f2.html>.

¹²⁸ Office of the High Commissioner for Human Rights, *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, UN Doc. A/43/49, at Principle 18, <https://www.ohchr.org/Documents/ProfessionalInterest/bodyprinciples.pdf> (*hereinafter* “Body of Principles”).

¹²⁹ *Id.* at Principle 15.

See Principle 11(1) of the Body of Principles for the Protection of all Persons under any Form of Detention or Imprisonment; ICCPR, *supra* note 137, art. 9(4) (noting that a “detained person must be allowed access to a lawyer and to appear in court to argue his or her case on equal terms with the prosecuting or other authorities; this right also implied that the detained person must have access to all relevant information concerning his or her case (equality of arms).”).

¹³¹ Special Rapporteur report 2020, *supra* note 16, para. 47.

The delay and denial of Ms. Kord Afshari's and Ms. Ahmadi's right to access and communicate with their legal counsel adversely affected their ability to effectively challenge the lawfulness of their detention. By limiting and/or denying their legal right to counsel, the facts above demonstrate that Ms. Kord Afshari and Ms. Ahmadi's detentions were arbitrary under Category III.

4. Arbitrary Deprivation of Liberty under Category V

Iran's detention of Ms. Kord Afshari and Ms. Ahmadi is also an arbitrary deprivation of liberty under Category V of the Working Group's Revised Methods of Work. According to Category V, detention is arbitrary when the deprivation of liberty is on the basis of one's gender. As noted in the 2021 Working Group Report on Arbitrary Detention, "the arrest or detention of women on the basis of their sex or gender is prima facie discriminatory" and violates both the ICCPR and UDHR.¹³² Evidence of gender discrimination exists when the authorities detain a woman "to prevent them from exercising their human rights" (e.g. women human rights defenders detained after expressing their political opinions).¹³³

Human rights defenders are a protected group that is entitled to equal protection. "Women are treated differentially in many aspects of Iranian law and the judicial system, solely on account of their gender. Those who peacefully advocate for women's rights are often arbitrarily detained and imprisoned, where they endure the harsh treatment given to political prisoners in Iran."¹³⁴

The factual circumstances of Ms. Kord Afshari and Ms. Ahmadi's arrests, detentions, and sentencing show that they were targeted because of their gender and as women's rights defenders. There is a pattern of persecution of women's rights defenders who oppose Iran's compulsory veiling laws.¹³⁵ The Government violated Ms. Kord Afshari's and Ms. Ahmadi's rights under multiple international laws because their prosecution was motivated solely by their gender. The Government's warnings prior to Ms. Kord Afshari's and Ms. Ahmadi's arrest and legal basis for both arrests provide sufficient evidence that gender was a motivating factor in their ongoing detention.

Ms. Kord Afshari's and Ms. Ahmadi's arrests, detentions, trials and sentencing demonstrate blatant violations of Iran's obligations under international law. Both of their convictions and sentences must be voided, as they remain political prisoners and prisoners of conscience. Based on the facts above, Ms. Kord Afshari and Ms. Ahmadi's rights to freedom and to not be arrested based on their gender and work as women's rights defenders were violated. Their arrests are therefore arbitrary under Category V.

IV. 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. Kord Afshari appealed her most recent conviction to the 26th Branch of the Islamic Revolutionary Court in Tehran. On 17 March 2020, Ms. Kord Afshari was issued a written acquittal by the Evin Prosecutor's Office, reducing her sentence to nine years. Then, without explanation, Ms. Kord Afshari's lawyer was notified during his visit to the Ershad courthouse that her acquittal had been

¹³² UDHR *supra* note 91, arts. 2(1), 3, 26; ICCPR, *supra* note 137, art. 26.

¹³³ Beyond the Veil, September 2019, *supra* note 98 at p. 4.

¹³⁴ Beyond the Veil, September 2019, *supra* note 98.

¹³⁵ The Secretary-General has also expressed concern relating to the pattern of compulsory veiling prosecutions in the Islamic Republic of Iran (See A/74/273 Report to Secretary-General, *Situation of Human Rights in the Islamic Republic of Iran* (2 Aug. 2019), <https://undocs.org/pdf?symbol=en/A/74/273> ("The Secretary-General is deeply concerned by the ongoing repression of women human rights defenders who object to compulsory veiling and by the response of the authorities to protests against compulsory veiling....Women who defy compulsory veiling continue to regularly face harassment by the authorities and members of the public"); AMNESTY INT'L (15 July 2019), *supra* note at 70.

overturned.¹³⁶ It was not until 1 June 2020 that Ms. Kord Afshari, herself, was informed that the Court of Appeals had changed her verdict once again and re-instated her sentence to 15 years.

Ms. Kord Afshari and her mother, Ms. Ahmadi, have not been granted early or temporary release during the COVID-19 pandemic, despite their repeated requests. Instead, they have had to fight to receive medical leave and remain at risk of further physical and psychological harm respectively.

In addition, as described in detail above, Ms. Kord Afshari and Ms. Ahmadi's arrest, trial, and pre-and post-trial detention have been defined by flagrant due process violations. It is extremely unlikely that any further appeal of their convictions or sentencing would result in their release or a lighter sentence. Ms. Kord Afshari is already experiencing retaliation and violence while serving her time in Qarchak prison, so additional efforts may further exacerbate her circumstances. Furthermore, Ms. Ahmadi is facing a new charge in light of her continued advocacy against her daughter's arbitrary detention.

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

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¹³⁶ Mandates of the Special Rapporteur on the situation of human rights defenders; the Special Rapporteur in the field of cultural rights; the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; the Special Rapporteur on the situation of human rights in the Islamic Republic of Iran; the Special Rapporteur on violence against women, its causes and consequences and the Working Group on discrimination against women and girls, PALAIS DES NATIONS • 1211 GENEVA 10 (22 June 2020), <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=25353>.