

**Submission to United Nations Working Group on Arbitrary
Detention**

Nazanin Zaghari Ratcliffe v Iran

17 June 2016

I. Identity of the Victim

A. Family Name:	Zaghari Ratcliffe
B. First and other names:	Nazanin
C. Sex:	Female
D. Birth date or age:	16 September 1978
E. Nationality:	Dual Iranian-British citizen
F. Occupation:	Project Manager
G. Identity card number (if applicable)	
H. Activities (trade union, political, religious, humanitarian/solidarity, press, etc.)	The Victim is not a journalist but works for the Thompson Reuters Foundation
I. Address of usual residence	London, United Kingdom
J. Date of Arrest	3 April 2016
K. Place of Arrest	Khomeini Airport, Tehran, Iran
L. Arresting Forces	Iran Revolutionary Guards
M. Warrant shown	No
N. Date of detention	3 April 2016 to date
O. Duration of detention	75 days to date
P. Forces holding detainee	Iran Revolutionary Guard
Q. Places of detention	Undisclosed detention centre in Tehran and Kerman; Kerman Prison; Evin Prison, Tehran
R. Authorities ordered detention	No
S. Imputed reasons for detention	In a statement released on 15 June 2016, the Iran Revolutionary Guard have accused the Victim of leading a hostile network plotting the 'soft overthrow' of the Iran government.
T. Author	The Redress Trust (REDRESS)

II. SUMMARY

1. The Victim is a dual British-Iranian citizen who has been detained without charge in Iran since 3 April 2016. Of that time, she spent at least 45 days in solitary confinement. She is separated from her daughter who has just turned two on 11 June 2016. The Iranian authorities confiscated her daughter's British passport. As a result, her daughter remains separated from her mother and her father, who lives in the United Kingdom (UK). As a result of her detention, the Victim is also separated from her British husband who remains in the UK.
2. The Victim's detention without charge, separation from her two-year-old daughter and subjection to incommunicado detention and solitary confinement in breach of Articles 7, 9, 10, 14 and 26 of the International Covenant on Civil and Political Rights (ICCPR) falls within categories I, II and III of the categories applicable to the consideration of cases submitted to the Working Group on Arbitrary Detention.

III. STATEMENT OF FACTS

3. Unless otherwise stated, the information in this statement of facts is taken from Appendix 1 to this submission, the Witness Statement of Richard Ratcliffe dated 16 June 2016.
4. On 17 March 2016, Nazanin Zaghari Ratcliffe (hereafter the Victim), a dual British-Iranian citizen born in Iran on 16 September 1978, travelled from London to Tehran with her daughter Gabriella to visit her parents. The Victim and Gabriella spent the visit in Tehran with her parents and brother, and the visit passed without note. The Victim called her husband regularly during the visit and all was well. He spoke to her by phone on 2 April 2016, the day before she was due to fly home to London.
5. The Victim grew up in Tehran. She studied English literature at university in Tehran, and in September 2007 moved to the United Kingdom (UK) to pursue a Masters in Communications Management. She graduated from her Masters in 2008 and in 2011 began working for the Thompson Reuters Foundation, a charity based in London, as a Project Manager. She is still employed by the Thompson Reuters Foundation in that role to date.
6. The Victim is married to British citizen Richard James Ratcliffe (hereafter "Richard"), born 16 January 1975. They met in the UK in 2007 and were married in 2009, and in late 2011 the Victim became a British citizen, and currently holds dual British and Iranian citizenship. Their daughter Gabriella Ratcliffe was born in London on 11 June 2014 and is a British citizen and does not hold any other nationality. She has just turned two years old.
7. On 3 April 2016 at about 6 a.m. London time, Richard received a phone call from Nazanin's family in Tehran informing him that his wife had been arrested at

Tehran's Imam Khomeini Airport, just before she was due to board her flight home.¹ The family believed she was arrested by Revolutionary Guards, who gave no reasons for her arrest. Her daughter Gabriella was left in the care of her parents.

8. According to her family, the Guards had been waiting for her at the airport. They took her into a small room at the airport, saying there was an issue with her passport and some documents. The Guards allowed her to briefly leave the room and hand Gabriella to her family. The Guards then took her into the room again and told her family not to wait and that she would not be leaving on the flight. The Guards did not provide any other information.

III.1. The Victim's detention in Tehran (3 – 10 April 2016)

9. The next day, 4 April 2016, Nazanin's family returned to Imam Khomeini Airport to inquire about her whereabouts. They spoke to the authorities on the security desk at the airport but could learn nothing more. They were not provided with any information, including the reasons for her arrest and detention nor her whereabouts.
10. The Victim's family did not hear anything further until the end of the day on 5 April when they received a short phone call from her saying she was alive. On 6 April the Victim made a further short phone call saying she was informed that she was going to be released. She also sent her husband a text message saying she was going to be released on Saturday (which would have been 9 April 2016). However, she was not released. She did not say where she was being held.
11. On 9 April the Victim's father went back to the airport to see if any further information was available, but was unable to learn more. The Victim's family then did not hear anything until a few days later when they learned she was in Kerman, some one thousand kilometers from Tehran. It appears she was held in Tehran for a week and then moved to Kerman.

III.2. The Victim's solitary confinement in Kerman (11 April – 18 May 2016)

12. Over one week after the Victim's arrest, on 12 or 13 April 2016, her family received a phone call from an official who said he was the director of a detention centre in Kerman, where the Victim was being held. The official did not say which detention centre and gave no further details, except to say that she was "safe."
13. On 27 April 2016, the Victim's family received another phone call from someone who said he was from the Intelligence Department of the Revolutionary Guards. He stated that the Victim was being held for 'reasons related to national security', but gave no further details, except to say that she would probably be held for another two or three months until investigations were complete. He asked the family to prepare some clothes and money for her use while in detention. The official also

¹ Her flight was due to leave from Tehran at 8:55am Tehran time.

said that the family would be informed when a visit was to be arranged when Gabriella should be brought with them to see her mother.

14. From the date of her transfer to Kerman (on or around 11 April 2016) until 18 May 2016 she was held in solitary confinement in the undisclosed detention centre in Kerman. During the period of solitary confinement, the Victim was able to make a total of approximately ten phone calls to her family in Tehran, given as a 'reward' and at the discretion of her interrogator, who would stand over her while she made a call. She was not allowed to call her husband Richard. Throughout her detention, she was not allowed to call or speak to or have access to a lawyer (and she has still had no access to a lawyer to date). From the few phone calls she was allowed to make to her family, it is known that the Victim has signed some kind of statement. There is no further detail at this stage as to what kind of statement it is or what kind of pressure she was put under to sign it, as the Victim has not been allowed to talk about this in any more detail.
15. From conversations with other former Iranian detainees and families of detainees, Richard believes that the authorities kept the lights on in her cell permanently, and that she did not have access to any medical treatment.
16. On 11 May 2016 her family was allowed to visit her in a hotel room in Kerman. Guards were present or close by throughout the visit, and she could not discuss any details regarding the investigation or the location of her detention. The Victim was visibly unwell. The Victim was seated when her family arrived and was unable to stand up. She had lost weight, and was so weak that she was unable to lift her daughter up. She was allowed to play with her daughter but Gabriella had to be placed on her lap as she could not lift her up herself. The meeting lasted a couple of hours and she was allowed to have lunch with her family. The Victim was very happy to see her daughter but was also quiet and subdued.
17. On 18 May 2016, the Victim was moved from solitary confinement to the general women's wing in Kerman Prison. By that stage, she had been in solitary confinement for a total of 45 days.
18. After her solitary confinement she had great difficulty in walking and suffered frequent blackouts. Her hair started to fall out and she has lost 5kg in weight. Prior to her arrest, the Victim was healthy and had no ailments.

III.3. Imprisonment in general women's wing in Kerman prison (18 May – 12 June 2016)

19. Following her transfer to the general women's wing of Kerman prison, the Victim shared a cell with several other detainees. Generally, the conditions were an improvement upon those in solitary confinement, as she had better access to shower facilities and shampoo (although the prison didn't always have hot water). However, she was obliged to sleep on the floor of the cell, as no bed was available, although the other detainees had bunks.

20. Further, the food in the general women's wing was worse, with only one hot meal a day and no fresh fruit or salad other than, on one occasion, a piece of watermelon. After her family had provided her with money she was able to buy tea and biscuits from the prison shop, and, occasionally, alternative meals and tinned food. She was allowed to visit the mosque daily.
21. The Victim was allowed one 15-minute phone call per day to her parents, for which she had to queue up. She was able to call Richard on only four occasions, at the end of May. Following his publicising the last phone call on 28 May 2016 on his blog on Change.org, the Guards prevented her from calling him again.
22. The Victim called her parents on 5 June 2016 to say that she was going to be released. However, the same day some official called a few hours later to say that she was mistaken. After that there was no news of the Victim at all until 13 June 2016.

III.4. Transfer to Evin Prison, Tehran

23. On 13 June 2016, the Victim called her parents to say that she had been moved to Evin Prison in Tehran. Later that day her Iranian family with Gabrielle visited her in the prison.

III.5. Other developments

24. The Victim has had no access to a lawyer from the date of her arrest. Her family has employed a lawyer to act on her behalf but on the basis of the information obtained by Richard, it is believed he has not been able to speak with or meet her.
25. The Iranian authorities have not to date allowed the Victim to receive visits from British consular officials, despite the Victim being a British citizen. The British Red Cross tried to deliver a message to her but were not allowed to do so.
26. On the advice of the British Foreign and Commonwealth Office, Richard did not immediately make public the news of the Victim's arrest. However, after 37 days of remaining quiet, with no progress made, and having spoken with Amnesty International to seek their advice, Richard decided to go public.
27. On 9 May 2016, Richard started a petition on Change.org, calling on British Prime Minister David Cameron to use his influence to help bring the Victim home. As at today's date, it has reached over 765,000 signatories showing their support for the Victim.² On 19 May 2016, Richard presented the petition to No. 10 Downing Street. On 10 May 2016 he issued a press release with details of the Victim's arrest resulting in a number of newspaper articles being published on or around that

² The petition is available here: <https://www.change.org/p/david-cameron-mp-free-nazanin-ratcliffe/u/16518293>

date.³ On 20 May 2016, Amnesty International issued an Urgent Action with respect to the Victim, calling on the Iranian authorities to release her.⁴ There have been a number of further newspaper articles since.⁵

28. Richard has not seen his daughter Gabriella since 17 March 2016. She remains in the care of her grandparents in Iran, and her British passport remains confiscated by the Iranian authorities. She is unable to leave Iran; under Iranian law, even if her passport was returned a minor cannot travel abroad unless accompanied by the mother or the father. On 11 June 2016, Gabriella turned two.

29. On 15 June 2016, media in Iran reported that the Revolutionary Guards announced that the Victim was involved in “subversion.”⁶ The report confirms she was arrested at Imam Khomeini Airport and had been held in Kerman, and also accuses the (foreign) media, especially the British media of “evil”.

30. Richard is very concerned about both his wife and his daughter Gabriella. In addition to their immediate welfare, especially that of his wife, he is very anxious about the impact the separation of mother and daughter may have on both or either of them.

Current context in Iran

31. The arrest of the Victim comes in the context of what Amnesty International describes as a ‘recent uptick in arrests of dual nationals by Iranian authorities.’⁷ According to Amnesty International, these include the following individuals:

Jason Rezaian, an Iranian-American journalist, was convicted of espionage in Iran in a closed-door trial in 2015. He was released in January 2016, after 18 months in prison. Maziar Bahari, an Iranian-Canadian journalist and filmmaker, was arrested on 11 counts of espionage. Beaten and forced to make a televised confession on Iranian national television, Bahari was released after 118 days. However, not all are released. Kamal Foroughi, a 76-year-old Iranian-British businessman, was arrested and convicted of espionage after an unfair trial before the Revolutionary Court in Tehran. In 2013, he was sentenced to seven years in prison. He remains imprisoned in Iran.⁸

32. Similarly, the International Federation for Human Rights reported on 16 June 2016 that “Iranian authorities have been increasingly arresting Iranians with foreign passports on

³ See Annex 2 to Appendix 1, Witness Statement of Richard Ratcliffe dated 16 June 2016, containing: Adam Withnall, ‘Nazanin Zaghari-Ratcliffe: British-Iranian mother of one-year-old girl detained without charge in Tehran,’ Independent, 9 May 2016; David Blair, ‘British mother, Nazanin Ratcliffe, separated from her child and held in solitary confinement in Iran,’ 9 May 2016, The Telegraph; Rosamund Urwin, ‘Nazanin Zaghari-Ratcliffe's husband on his wife's imprisonment in Iran,’ Evening Standard 16 May 2016.

⁴ See Annex 3 of Appendix 1, Witness Statement of Richard Ratcliffe dated 16 June 2016, containing Amnesty International, Urgent Action, ‘British-Iranian Charity Worker Detained,’ 20th May 2016.

⁵ See Annex 4 of Appendix 1, Witness Statement of Richard Ratcliffe dated 16 June 2016, containing: David Blair, ‘British mother, Nazanin Ratcliffe, back in 'solitary confinement' inside Iran prison,’ Telegraph, 13 June 2016; Saeed Kamali Dehghan, ‘Briton rejects accusation of spying against wife imprisoned in Iran,’ 15 June 2016.

⁶ Appendix 2, Statement by the Iranian Revolutionary Guards, 15 June 2016 (‘Statement by the Iranian Revolutionary Guards’), available here: <http://www.saeir.ir/?q=node/20008>. We include in Appendix 2 an unofficial translation of the statement.

⁷ Amnesty International, Kaitlyn O’Shaughnessy, ‘Iran Must Stop Arbitrary Arrests of Dual Nationals,’ 9 June 2016, available here: <http://blog.amnestyusa.org/middle-east/iran-stop-arbitrary-arrests-of-dual-nationals/>.

⁸ Ibid.

obscure politically –motivated grounds”, highlighting in particular the arrest, on 6 June 2016, of Iranian-Canadian-Irish academic Dr Homa Hoodfar.⁹ The Working Group on Arbitrary Detention itself has made findings of arbitrary detention in the last few years with respect to several cases involving dual nationals.¹⁰

IV. VIOLATIONS

33. Iranian authorities subjected the Victim to arbitrary deprivation of liberty, unfair trial and treatment in violation of the rights and freedoms established in Articles 7, 9, 10, 14 and 26 of the ICCPR and contrary to the standards enshrined in the UN Body of Principles, and the Bangkok Rules. Iran is party to the ICCPR, having ratified the ICCPR on 24 June 1975.¹¹ The deprivation of the Victim’s liberty falls under Categories I, II and III of the Working Group’s classification of cases as described below.

IV.1. CATEGORY I: NO JUSTIFICATION FOR THE DEPRIVATION OF LIBERTY

34. Article 9(1) of the ICCPR requires that deprivations of liberty are lawful and not arbitrary. The grounds and procedures for arrest and detention must be prescribed by law, which must be accessible, non-retroactive, applied in a consistent and predictable way to everyone equally and be consistent with other applicable law. Lawfulness under the ICCPR relates to both domestic and international legal standards.¹²

IV.1.2. Lawfulness of arrest and detention

35. Under the Iranian *Criminal Code of Procedure for Public and Revolutionary Courts* competent authorities may issue arrest orders upon receiving “sufficient evidence” against a person accused of a crime.¹³ International standards similarly require that all forms of detention or imprisonment must be subject to the effective control of a judicial authority.¹⁴ In the present case, the authorities did not comply with those provisions and standards and there is no evidence to suggest that the arrest was based on a judicial order. At the time of the Victim’s arrest on 3 April, the Iranian authorities failed to provide a warrant for arrest, and did not give any reason or grounds for arrest, and

⁹ International Federation for Human Rights, ‘Arbitrarily arrested Iranian-Canadian-Irish academic Homa Hoodfar must be released immediately,’ 16 June 2016, available here: <https://www.fidh.org/en/region/asia/iran/arbitrarily-arrested-iranian-canadian-irish-academic-homa-hoodfar#>.

¹⁰ See for example, Opinion No. 44/2015 concerning Jason Rezaian (Islamic Republic of Iran), Opinion adopted by the Working Group on Arbitrary Detention at its seventy-fourth session, 30 November – 4 December 2015 (this case concerned a dual Iranian-American national); and Opinion No. 18/2013 (Islamic Republic of Iran), Opinion Adopted by the Working Group on Arbitrary Detention at its sixty-seventh session, 26 – 30 August 2013 (this case concerned another dual Iranian-American citizen).

¹¹ Iran ratified the ICCPR on 24 June 1975.

¹² Report of the Working Group on Arbitrary Detention, *Addendum, Mission to China* UN Doc. E/CN.4/2005/6/Add.4 (2004), para. 54.

¹³ Criminal Code of Procedure for Public and Revolutionary Courts, available here: <http://www.iranhrdc.org/english/human-rights-documents/iranian-codes/100000026-english-translation-of-the-islamic-republic-of-irans-criminal-code-of-procedure-for-public-and-revolutionary-courts.html#.U6G7APldXOE>.

¹⁴ Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment, A/RES/43/173, 9 December 1988, principle 4; UN General Assembly, Resolution 65/205, Torture and other cruel, inhuman or degrading treatment or punishment, A/RES/65/205, 28 March 2011, (‘UN GA Resolution 65/205’), para. 20; Human Rights Council, Resolution 15/18 on arbitrary detention, A/HRC/RES/15/18, 6 October 2010, para. 4(c); Commission on Human Rights, Resolution 2005/27 on enforced or involuntary disappearances, 27 March 2008, para. 4(c).

subsequently failed to provide grounds for her detention. Three weeks into her detention, a member of the Intelligence Department of the Revolutionary Guards told the Victim's family that she was held for 'reasons related to national security', yet failed to provide any further details. It was only on 15 June, more than two months after her arrest, that the Iranian Revolutionary Guards published a short statement alleging that the Victim was one of the leaders of a group of foreigners, including foreign companies, which has the aim of overthrowing the Republic of Iran.¹⁵ The statement goes on to say that the Victim has been working under the guidance and support of foreign intelligence and media services engaging in criminal activities over a number of years.¹⁶ However, the statement does not include any information on formal legal charges against her, or refer to any evidence for these allegations. The Author submits that there is no evidence at all to suggest that there are any grounds for arresting and detaining the Victim, let alone for reasons of national security.

36. Further, Article 15 of the *Criminal Code of Procedure for Public and Revolutionary Courts* provides that only specific entities are eligible to perform an arrest, and specifically cites appropriate places of pre-trial detention. The list of authorized entities eligible to arrest does not include intelligence agents. Intelligence agencies are excluded from the list of facilities appropriate for pre-trial detention.¹⁷
37. The call to the Victim's family from the Intelligence Department of the Revolutionary Guard,¹⁸ suggests that contrary to Article 15, the Victim was arrested by intelligence agents. She was subsequently detained in two undisclosed detention centres (one in Tehran and one in Kerman, Southern Iran) for 45 days, where she was placed in solitary confinement.¹⁹ This is contrary to domestic law, as well as to international standards according to which detainees must be held only in facilities officially acknowledged as places of detention.²⁰ Registries of both detainees and responsible officials must be accessible to those concerned, including doctors, lawyers, relatives and friends.²¹ These are essential safeguards in the prevention of torture that are also necessary for the protection of persons in any form of detention against arbitrary detention and infringement of personal security.²²
38. Indeed, the circumstances of the Victim's arrest (without an arrest order or any information on the reasons for arrest, the absence of charges being laid against her, being put in incommunicado detention (see further section IV.1.3. (iii) below) and interrogated in solitary confinement, lack of access to legal counsel) suggest that proper

¹⁵ Appendix 2, Statement by the Iranian Revolutionary Guards.

¹⁶ Ibid.

¹⁷ Article 15 of the Criminal Code of Procedure for Public and Revolutionary Courts; see also Consultative Opinion, Judiciary, 28 June 1987, which states that intelligence agents are not judicial officers and courts cannot authorise them to engage in arrests and other judicial attributes described in Article 15 of the Criminal Code of Procedure for Public and Revolutionary Courts.

¹⁸ Appendix 1, Witness Statement of Richard Ratcliffe dated 16 June 2016, para 16.

¹⁹ Ibid, paras 12-22.

²⁰ UN Human Rights Committee (UNHRC), General Comment No 35: Article 9 (Liberty and Security of Person), UN Doc. CCPR/C/GC/35 (2014), para. 58, and UNHRC, General Comment No 20: concerning prohibition of torture and cruel treatment or punishment, UN Doc. HRI/GEN/1/Rev.1 at 30 (1994), para. 11.

²¹ Body of Principles above note 14, principle 15.

²² Ibid.

procedures were not followed in relation to her arrest or detention.

39. In light of the foregoing, the Author submits that the authorities failed to arrest and detain the Victim in accordance with the relevant Iranian legal provisions and international standards, rendering her arrest and detention unlawful.

IV.1.3. Arbitrary detention

40. Even where an arrest or detention is authorised by domestic law, it may nonetheless be arbitrary. The notion of ‘arbitrariness’ is not to be equated with ‘against the law’, but must be interpreted more broadly to include elements of inappropriateness, injustice, lack of predictability, and due process of law,²³ as well as elements of reasonableness, necessity, and proportionality.²⁴

(i) Right to be informed of reasons for arrest and promptly informed of the charges

41. Article 9(2) of the ICCPR requires that persons deprived of their liberty be informed of the reasons for their arrest and be promptly informed of any charges against them.²⁵ Iranian Operational Guidelines for Temporary Detention Centres (2006) recognise the rights of detainees to be informed, at the time of arrest, of the reasons for their arrest and to be informed promptly of any charges against them. Article 32 of Iran’s Constitution prohibits arbitrary arrest and requires that:

[i]f someone is detained, the subject matter of the charge, with reasons (for bringing it) must be immediately communicated and explained in writing to the accused. Within at most 24 hours the file on the case and preliminary documentation must be referred to the competent legal authority. Legal procedures must be initiated as early as possible. Anyone infringing this principle will be punished in accordance with the law.

42. International standards furthermore set out that the right not to be subject to arbitrary detention requires authorities to ensure that every person arrested ‘be told, in simple, non-technical language that he can understand, the essential legal and factual grounds for his arrest.’²⁶

43. The only information that the Victim and her family were given between the date of her arrest (3 April 2016) and 15 June 2016 is that she was being detained ‘for reasons of national security’. The statement released by the Iranian Revolutionary Guard on 15 June 2016, however, does not give either legal or factual grounds for her arrest or lay any formal legal charges against her.

44. In any event, at the time of her arrest she was not provided with ‘a minimum of

²³ UNHRC, *Gorji-Dinka v Cameroon*, Communication No. 1134/2002, UN Doc. CCPR/C/83/D/1134/2002 (2005), para. 5.1.

²⁴ UNHRC, General Comment No. 35, Article 9 (Liberty and Security of Person), UN Doc. CCPR/C/GC/35 (2014) (General Comment No.35), para. 58, para. 12.

²⁵ Article (9) (2) ICCPR; General Comment No.35, para. 24.

²⁶ See for instance UNHRC General Comment No.35, para. 58; Body of Principles above note 14 , principles 13-14; European Court of Human Rights, *Fox, Campbell and Hartley v United Kingdom* App. no. 12383/86 , 30 August 1990, paras. 40-41.

information about each of the crimes being investigated²⁷ against her, or indeed any information at all. She has therefore suffered a breach of her right to be informed of the reason for arrest under Article 9(2) ICCPR. Furthermore, the authorities arrested the Victim on 3 April 2016. She remains in detention as at the date of submission, 75 days after her arrest and has still not been informed of the legal charges (if any) she faces, despite the publishing of the statement by the Revolutionary Guard on 15 June 2016. She has therefore suffered a breach of her right to be informed of charges under Article 9(2) ICCPR.

(ii) Right to legal counsel

45. Every person who is arrested or detained must be informed of the right to have the assistance of legal counsel: either a lawyer of choice or an appointed lawyer²⁸ and the authorities must do all that they can to facilitate a detainee's access to a lawyer.²⁹ Notice of the right to legal counsel should be provided immediately upon arrest or detention, before any questioning and when an individual is charged.³⁰ A person should have the assistance of counsel during questioning (whether undertaken by police or an investigating judge.) This right applies even if the individual exercises her right to remain silent.³¹ The Special Rapporteur on Torture has recommended that anyone who has been arrested 'should be given access to legal counsel no later than 24 hours after the arrest.'³²
46. Article 128 of the Iranian Code of Criminal Procedure gives individuals suspected of crimes the right to have an attorney present throughout any interrogation by government forces.³³ Article 35 of the Iranian Constitution provides that: 'both parties to a lawsuit have the right to all courts of law, to select an attorney, and if they are unable to do so, arrangements must be made to provide them with legal counsel.' Iranian Guidelines (the Operational Guidelines of Temporary Detention Centres (2006)) also recognise the right of detainees to have access to legal counsel.
47. There is no evidence to suggest that the Guards arresting the Victim informed her about her right of access to legal counsel. Furthermore, she has been interrogated on a number of occasions between her arrest on 3 April 2016 and the date of this submission.

²⁷ European Court of Human Rights, *Lutsenko v Ukraine* App. no. 6492/11, 19 November 2012, para. 77.

²⁸ Article 16(4) of the Arab Charter on Human Rights; Principle 17(10) of the Body of Principles above note 14; Principle 3 paras. 43(a) and 2 para. 2(c)-(d) and Guideline 4 of the UN Principles and Guidelines on Access to Legal Aid in Criminal Justice Systems, June 2013, UN GA Resolution 67/187 ('UN Principles and Guidelines on Legal Aid'); UN Committee Against Torture (CAT), General Comment No.2, Implementation of article 2 by States Parties, CAT/C/GC/2/CRP. 1/Rev.4 (2007) ('CAT General Comment No.2'), para. 13; UNHRC General Comment 32: Article 14, Right to equality before courts and tribunals and to a fair trial, UN Doc. , CCPR/C/GC/32 (2007), para. 34.

²⁹ UN Working Group on Arbitrary Detention (UNWGAD), *Abdurahman Nacer Abdullah al-Dahmane al-Chehri I Abdelghani Saad Muhamad al-Nahi al-Chehri v Saudi Arabia* Opinion, No. 12/2006, UN Doc. A/HRC/4/40/Add.1, (Ex. 62), 11 May 2006.

³⁰ Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment, A/RES/43/173, 9 December 1988, principle 17(1); Guideline 8 of the UN Principles and Guidelines on Legal Aid.

³¹ Guideline 3 para. 43(b) of the Principles and Guidelines on Legal Aid.

³² Special Rapporteur on Torture, UN Doc. A/56/156 (2010) para. 39(f).

³³ Interpretative Note 3 to Article 128 of the Code of Criminal procedure states that in situations of national security, revolutionary courts have the authority to exclude counsel at their discretion from being heard in cases covered by the Article. However, as the Working Group has observed during its 2003 country visit to Iran, there is no constitutional authority for this power, which directly violates Article 32 of Iran's constitution, see Report of the Working Group on Arbitrary Detention, Visit to the Islamic Republic of Iran, 27 June 2003, UN Doc. E/CN.4/2004/3/Add.2, para 51.

On none of these occasions was the Victim granted access to legal counsel. The Victim's family in Iran has instructed a lawyer on behalf of the Victim; however, no information exists suggesting that he has been given access to the Victim. Accordingly since her arrest on 3 April 2016, the Victim was not granted access to legal counsel.

48. Several human rights bodies have expressed concern about laws and practices delaying access to counsel to persons accused of national security-related offences. For example, the Committee against Torture has raised concern that access to legal counsel was denied for 24 hours to persons arrested under an anti-terrorism law in Turkey.³⁴ The Human Rights Committee recommended that 'anyone arrested or detained on a criminal charge, including persons suspected of terrorism, has immediate access to a lawyer.'³⁵ In a case where an individual was arrested under anti-terrorism legislation in Northern Ireland and asked to see a lawyer on arrival at a police station, but the authorities delayed his access to counsel for more than 48 hours and repeatedly questioned him during that time, the European Court of Human Rights considered that his rights had been violated.³⁶ Persons accused of particularly serious offences, may be at particular risk of torture or other ill-treatment, and most in need of access to a lawyer.³⁷
49. In light of the foregoing, the Author submits that Iranian authorities failed to provide the Victim with access to legal counsel contrary to domestic and international law, thereby rendering her detention arbitrary.

(iii) Right to inform family and friends of arrest

50. Anyone who is arrested, detained or imprisoned has the right to inform, or have the authorities notify, someone in the outside world that they have been taken into custody and where they are being held.³⁸ Detainees also have the right to inform a third person if they are transferred from a place of detention.³⁹ Incommunicado detention (where a detainee cannot communicate with anyone other than his or her captors) violates Article 9(3) of the ICCPR.⁴⁰ Incommunicado detention facilitates torture and may on some occasions amount to torture.⁴¹ The Committee Against Torture has held that incommunicado detention should be prohibited altogether.⁴² Incommunicado detention may also violate the rights of family members.⁴³

³⁴ CAT, *Concluding Observations: Turkey*, UN Doc. CAT/C/TUR/CO/3 (2010), para 11.

³⁵ UNHRC, *Concluding Observations: United Kingdom*, UN Doc. CCPR/C/GBR/CO/6 (2008), para. 19.

³⁶ European Court of Human Rights, *Magee v United Kingdom* App. No. 28135/95, 6 September 2000, paras. 42-46.

³⁷ European Committee for the Prevention of Torture (CPT) 21st General Report, CPT/Inf (2011)28, 1 August 2010-31 July 2011, para. 21; *Salduz v Turkey* App. No. 36391/02 (ECHR 2008), 27 November 2008, para. 54.

³⁸ CAT General Comment No.2, para. 13

³⁹ Article 14(3) of the Arab Charter; Body of Principles above note 14, principle 16(1); Guideline 3 para. 43(e) of the Principles and Guidelines on Legal Aid; Rule 92 of the UN Standard Minimum Rules for the Treatment of Prisoners (Standard Minimum Rules), ECOSOC resolutions 663 C (XXIV) of 31 July 1957 and 2076 (LXII) of 13 May 1977.

⁴⁰ UNHRC, General Comment No.35, para 35.

⁴¹ UNHRC, General Comment No.35, para. 56; see also UNHRC General Comment No. 20: concerning the prohibition of torture and cruel treatment or punishment, UN Doc. HRI/GEN/1/Rev.1 at 30 (1994), ('UNHRC General Comment No.20'), para. 2

⁴² CAT *Concluding Observations: Yemen*, UN doc. CAT/C/YEM/CO.2/Rev1 (2010) para. 12. See further UNHRC General Comment No.20, para. 11.

⁴³ See e.g. UNHRC, *Bashasha v Libyan Arab Jamahiriya*, UN Doc. CCPR/C/100/D/1776/2008 (2010), para. 7.4-7.5.

51. The right to have one's family informed of the reasons and place of arrest and detention is also provided for under Iranian law, under Article 5 of the Act on Safeguarding Legitimate Liberties and Citizens' Rights.
52. Detained and imprisoned persons have a right to communicate with the outside world, subject only to reasonable conditions and restrictions that are proportionate to a legitimate aim.⁴⁴ Rights of persons held in police custody and pre-trial detention to access doctors, families and lawyers should be enshrined in law. The Committee against Torture has held that detainees have a right to be given access to a lawyer, a doctor and their family from the time that they are taken into custody, including police custody.⁴⁵ Detainees (regardless of what they are accused of)⁴⁶ including those held in police custody or on remand pending trial, are to be given all reasonable facilities to communicate with and receive visits from family and friends.⁴⁷ In order to facilitate visits from their lawyer and family, a detainee's place of detention should be as close as possible to their home.⁴⁸ Denying visits may amount to inhuman treatment.⁴⁹
53. In the present case, the Victim was held in complete incommunicado detention for more than 48 hours from the moment of her arrest on 3 April 2016 at around 9am until the end of the day on 5 April 2016. The Victim's family had no news of her during that time. At the end of the day on 5 April 2016, the Victim was able to make a short phone call lasting a few minutes to her family in Iran; however, she was not able to say who was holding her, where she was or what the investigations into her involved or give any further details, other than that she was helping the authorities with their investigations and that it would soon be over. She was then again held incommunicado from 7 April to 12 or 13 April and her family did not have any information about the Victim's well-being and whereabouts. More than one week after the Victim's arrest, on 12 or 13 April 2016, her family received a phone call from an unidentified official stating that the Victim was being held in an undisclosed detention centre in Kerman, Southern Iran. From 12 or 13 April 2016 to 18 May 2016, she was able to call her family only as a reward following interrogations. The interrogator would hold the phone for her while she made a call. In total she was able to make approximately 10 phone calls to her family in Iran. The Victim was again held incommunicado from 6 June to 13 June 2016.
54. The authorities transferred the Victim to an undisclosed detention centre 1000 kilometres away from her family, thereby effectively preventing her from seeing her family, with one exception. After 5 weeks of detention, on 11 May 2016, she was allowed to meet her family in a hotel room in Kerman. The visit was short, lasting about 2-3 hours and Guards were present or close by throughout. The Victim was only moved to Tehran on 13 June 2016, when she received one further visit from her family, on 13 June 2016.

⁴⁴ Body of Principles above note 14, principle 19; Rule 92 of the Standard Minimum Rules

⁴⁵ See e.g. CAT, Concluding Observations: Russian Federation, UN Doc. CAT/C/CR/28/4 (2002), para. 8(b). See also CPT Standards, CPT/Inf/(92)3, para. 36, CPT/Inf (2002)15, para. 40; UNGA Resolution 65/205, para. 20.

⁴⁶ See *Marc Romulus v Haiti* (Case 1992), Inter-American Commission, 25 May 1977, Inter-Am. C.H.R., OEA/Ser.L/V/II.43, doc. 21, corr. 1 (1977).

⁴⁷ Article 16(2) of the Arab Charter; Rules 26-28, 92 of the Standard Minimum Rules (above note 39.).

⁴⁸ Body of Principles above note 14, principle 20; Rule 4 of the UN Rules for the Treatment of Women Prisoners and Non-Custodial Sanctions for Women Offenders (the Bangkok Rules) ECOSOC Resolution 2010/16, Annex.

⁴⁹ African Commission on Human and Peoples' Rights (African Commission), *Civil Liberties Organisation v Nigeria* (151/96), 1999, para. 27.

55. The violation of the right to communicate with the outside world is particularly egregious and damaging in the Victim's case given her separation from her very young daughter, who was only one year of age at the time she was first taken into custody, and turned two on 11 June, while her mother was in detention.

(iv) Judicial control: being brought promptly before a judge

56. Under Article 9(3) of the ICCPR, a detainee must be brought promptly before a judge or other competent authority and under article 9(4) has the right to have a court determine the lawfulness of the detention. The right to challenge detention applies in principle from the moment of arrest, and any substantial waiting period is impermissible.⁵⁰ The term 'promptly' has been interpreted to mean within a maximum of forty-eight hours after arrest, with any longer period constituting an exception that must be justified by the circumstances.⁵¹

57. The Victim has still to date not been brought before a judge and neither she nor her family had an opportunity to challenge the lawfulness of her arrest and detention. Neither the Victim nor the family have been given an indication if or when she is to be tried for any offence. However, even if she had been, detention pending trial must be based on an individualised determination that it is reasonable and necessary in all the circumstances, for such purposes as to: prevent flight; interference with evidence; or the recurrence of crime.⁵² The relevant factors should be specified in law, and should not include vague and expansive standards such as in the interests of 'public security'.⁵³

58. At no point since her arrest on 3 April 2016 has the necessity of the Victim's continued detention been evaluated by a judicial authority, contrary to Articles 9 (3) and (4) ICCPR.

(v) Right to doctors and healthcare in custody

59. Prompt and regular access to independent medical personnel is an important safeguard against both torture and arbitrary detention.⁵⁴ Everyone, including an individual in custody, has the right to the highest attainable standard of physical and mental health.⁵⁵ The right to health extends not only to timely and appropriate health care, but also to underlying determinants of health, such as adequate food, water and sanitation. Law enforcement officials and prison authorities are responsible for protecting the health of people in their custody.⁵⁶ Health care should be provided promptly and free of charge.⁵⁷ The protection of detainees requires that each person detained be afforded prompt and

⁵⁰ UNHRC, General Comment No.35, para. 42.

⁵¹ Ibid, para 33.

⁵² Ibid, para. 35, para 38.

⁵³ See UNHRC, Concluding observations Bosnia and Herzegovina, November 2006, UN Doc. CCPR/C/BIH/CO/1, para. 18.

⁵⁴ See Body of Principles above note 14, principles 17-19, 24; UNHRC, General Comment No. 35, para. 58.

⁵⁵ Article 12 of the International Covenant on Social and Political Rights (ICESCR); Article 39 of the Arab Charter; ICESCR General Comment 14, paras. 34, 4, 11, 43 and 44.

⁵⁶ Article 6 of the UNHRC Code of Conduct for Law Enforcement Officials, Adopted by General Assembly resolution 34/169 of 17 December 1979.

⁵⁷ Body of Principles above note 14, principle 24; CAT Concluding Observations: Cameroon, UN Doc. CAT/C/CR/31/6 (2004) paras. 4b, 8d; Article 14(4) of the Arab Charter; Rule 24 of the Standard Minimum Rules (above note 39).

regular access to doctors.⁵⁸ Health services in places of detention should include medical, psychiatric and dental care and be organised in close co-ordination with health services in the country generally.⁵⁹ Health care must also include gender-specific health services which are available in the community.⁶⁰

60. The state's duty of care to inmates includes prevention, screening and treatment. The failure to provide access to adequate health care has been held to violate the rights to respect for dignity,⁶¹ and health⁶² as well as the prohibition of inhuman or degrading treatment.⁶³ The UN General Assembly and the Human Rights Council have also repeatedly underscored the importance of prompt and regular medical care in preventing torture and other ill-treatment.⁶⁴ Requests to see a doctor should not be screened by police officers.⁶⁵

61. The Victim has not been able to give details of whether or not she had access to healthcare whilst in solitary confinement. However, upon her one visit with her family on 11 May 2016, she was visibly unwell, weak with difficulty walking and no strength to lift her daughter. This suggests that she did not receive appropriate access to medical care. Further, the Victim's right to the highest attainable standard of physical and mental health was actively impeded by the very fact of being held in solitary confinement. This is further described in Category III below.

IV.2. CATEGORY II: DEPRIVATION OF FREEDOMS⁶⁶

IV.2.1. Non-Discrimination

62. Under Category II of the Working Group's classifications of deprivations of liberty, the latter will be arbitrary when it results from the exercise by an individual of the rights and freedoms protected by, *inter alia*, article 26 ICCPR prohibiting discrimination on any ground such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

63. It is hard to assess the Victim's situation in this respect, since the Victim and her family have been given no specific detail as to the alleged grounds on which the Victim has been detained. However, the statement released by the Iranian Revolutionary Guard on

⁵⁸ UNHRC General Comment No.20, para. 11

⁵⁹ Rule 22 of the Standard Minimum Rules (above note 39); See Rules 10-18 of the Bangkok Rules (above note 48.).

⁶⁰ Rule 10(1) of the Bangkok Rules, *ibid.*

⁶¹ UN Human Rights Committee, *Engo v Cameroon* Communication No. 1397/2005, UN Doc. CCPR/C/96/D/1397/2005, para. 7.

⁶² African Commission, *Media Rights Agenda and Constitutional Rights Project v Nigeria* (105/93, 128/94, 130/94 and 152/96), 1998, para. 91; *International Pen, Constitutional Rights Project, Interights on behalf of Ken Saro-Wiwa Jr. and Civil Liberties Organisation v Nigeria* (137/94, 139/94, 154/96 and 161/97) 1998, para. 112.

⁶³ See e.g. UNWGAD, *Abdel Rahman al-Shaghouri v Syrian Arab Republic*, UN Doc. E/CN.4/2006/7/Add.1, Opinion No.4/2005, para. 13.

⁶⁴ For example, UNGA resolution 65/205, para. 20; Human Rights Council resolution 13/19 (2010), A/HRC/RES/13/19, 15 April 2010, para. 5.

⁶⁵ CAT: Sweden, UN Doc. CAT/OP/SWE/1(2008), 16 September 2008, para. 64.

⁶⁶ When the deprivation of liberty results from the exercise of the rights or freedoms guaranteed by articles 7, 13, 14, 18, 19, 10 and 21 of the Universal Declaration of Human Rights and, insofar as States parties are concerned, by articles 12, 18, 19, 21, 22, 25, 26 and 27 of the ICCPR.

15 June 2016,⁶⁷ which mentions her alleged links to foreign companies and governments, suggests that she may have been targeted due to her dual Iranian/British nationality and her perceived 'foreign-ness'. Her arrest comes in the context of a number of Iranians who hold dual nationality being arrested by the Iranian authorities upon a visit to Iran.⁶⁸ An arrest of the Victim on such a basis would be discriminatory on the basis of her national/social origin and therefore arbitrary.

IV.2.2. Persons deprived of their liberty to be treated with humanity

64. Article 10 ICCPR provides that:

All persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person.

65. The Victim's detention without charge separating her from her family, the lack of communication permitted with her husband (with only 4 indirect phone calls to him in 75 days) and in particular the suffering inherent in being apart from her two-year-old daughter (with only two family visit in 75 days), and the lasting damage this may do to their relationship, represents inhumanity to the Victim in breach of Article 10 ICCPR. Further her detention in solitary confinement for a period of 45 days is a breach of her right to be treated with humanity and with respect for the dignity of the human person: see further section Category III on cruel, inhuman and degrading treatment below.

IV.3. CATEGORY III: FAIR TRIAL; AND ILL-TREATMENT

IV.3.1. Violation of Article 14 ICCPR

66. Fair trial rights are set out in Article 14 ICCPR,⁶⁹ while Article 37 of the Iranian Constitution provides that:

Innocence is to be presumed, and no one is to be held guilty of a charge unless his or her guilt has been established by a competent court

67. With respect to the presumption of innocence, the Human Rights Committee has made clear that it is:

fundamental to the protection of human rights, imposes on the prosecution the burden of proving the charge, guarantees that no guilt can be presumed until the charge has been proved beyond reasonable doubt, ensures that the accused has the benefit of doubt, and requires that persons accused of a criminal act must be treated in accordance with this

⁶⁷ Appendix 2.

⁶⁸ Reuters, Pariza Hafezi, 'Iran arrests visiting Iranian-Canadian scholar - rights group', 9 June 2016, <http://in.reuters.com/article/iran-canada-arrest-idINKN0YV0VV>.

⁶⁹ ICCPR, Article 14.

principle. It is a duty for all public authorities to refrain from prejudging the outcome of a trial, e.g. by abstaining from making public statements affirming the guilt of the accused.⁷⁰

68. With respect to the right to be tried without undue delay, the Human Rights Committee has stated that:

The right of the accused to be tried without undue delay, provided for by article 14, paragraph 3 (c), is not only designed to avoid keeping persons too long in a state of uncertainty about their fate and, if held in detention during the period of the trial, to ensure that such deprivation of liberty does not last longer than necessary in the circumstances of the specific case, but also to serve the interests of justice.⁷¹

69. The UN High Commissioner for Human Rights on the protection of human rights and fundamental freedoms while countering terrorism has emphasised how delays may also heighten the risk of indefinite detention, contrary to international human rights law.⁷²

70. As at today's date, 75 days after her arrest, the Victim has not been brought before any tribunal or court of law, has not been informed of the charges against her and has not had access to any legal counsel. She has been in a state of uncertainty over a long period. Further, although the Victim has not been able to say so, it is believed that her time spent in solitary confinement, during which she was subject to interrogations, had the purpose of forcing a confession from her.⁷³ In addition, she has, as of 15 June 2016, been subjected to a statement of alleged guilt by the Iranian Revolutionary Guards, in contravention of her right to be presumed innocent.

71. She has therefore suffered a serious breach of her right to a fair trial under Article 14 ICCPR of such gravity as to give her detention an arbitrary character.

IV.3.2. Violation of Article 7 ICCPR

72. Notwithstanding the limited access to information about the authorities' treatment of the Victim, due to the authorities' restrictive communication regime with the Victim, sufficient information exists to suggest that the authorities subjected the Applicant to cruel, inhuman and degrading treatment ('ill-treatment') in violation of Article 7 ICCPR. Iranian authorities' treatment of detainees in the past raises further serious concerns about the Victim's past and future treatment.

Solitary confinement and incommunicado detention

73. The Victim endured 45 days of solitary confinement before she was moved to a shared cell. Iranian Guidelines (the Operational Guidelines of Temporary Detention Centres (2006)) contain a prohibition against detainees being held in solitary confinement or

⁷⁰ 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 (2007), Section IV; and Communication No. 770/1997, *Gridin v. Russian Federation*, paras. 3.5 and 8.3.

⁷¹ *Ibid.*, Section V.

⁷² Report of the United Nations High Commissioner for Human Rights on the protection of human rights and fundamental freedoms while countering terrorism (A/HRC/22/26), 17 December 2012, para. 43

⁷³ Appendix 1, Witness Statement of Richard Ratcliffe dated 16 June 2016.

subjected to torture or other forms of force. Further, a large number of international human rights bodies have set out how prolonged use of solitary confinement can amount to cruel, inhuman and degrading treatment and, in certain circumstances, torture, of the prisoner concerned. For example, the UN Standard Minimum Rules for the Treatment of Prisoners of 2015 state that ‘solitary confinement shall be used only in exceptional cases as a last resort, for as short a time as possible and subject to independent review, and only pursuant to the authorization by a competent authority.’⁷⁴ The UN Human Rights Committee stated that the use of prolonged solitary confinement may amount to a breach of Article 7 ICCPR and urged states to take action against incommunicado detention (para. 11).⁷⁵ In the case of *Campos v Peru* (1998), the Human Rights Committee found a specific isolation regime which included restrictions placed on correspondence between the detainee and his family to violate articles 7 and 10 (1) ICCPR.⁷⁶ The Special Rapporteur on Torture has also held that ‘the prolonged isolation of detainees may amount to cruel, inhuman or degrading treatment or punishment and, in certain instances, may amount to torture.’⁷⁷ The Special Rapporteur has highlighted nefarious effects of solitary confinement on an individual, particularly on those in pre-trial detention:

The weight of accumulated evidence to date points to the serious and adverse health effects of the use of solitary confinement: from insomnia and confusion to hallucinations and mental illness. The key adverse factor of solitary confinement is that socially and psychologically meaningful contact is reduced to the absolute minimum, to a point that is insufficient for most detainees to remain mentally well-functioning. Moreover, the effects of solitary confinement on pre-trial detainees may be worse than for other detainees in isolation, given the perceived uncertainty of the length of detention and the potential for its use to extract information or confessions. Pre-trial detainees in solitary confinement have an increased rate of suicide and self-mutilation within the first two weeks of solitary confinement.⁷⁸ (emphasis added)

74. The Committee against Torture has also recognised the harmful physical and mental effects of prolonged solitary confinement and has expressed concern about its use, including as a preventive measure during pre-trial detention, as well as a disciplinary measure.⁷⁹ The Committee similarly expressed concern about incommunicado detention of up to thirty-six hours, without being brought before a judge.⁸⁰

75. With respect to the use of solitary detention in Iran, the Working Group on Arbitrary Detention has previously found as follows:

⁷⁴ UN Standard Minimum Rules for the Treatment of Prisoners (the Mandela Rules), E/CN.15/2015/L.6/Rev/1, 21 May 2015, Rule 45 (1).

⁷⁵ UNHRC, General Comment No. 20, paras. 6 and 11.

⁷⁶ UNHRC, *Polay Campos v Peru*, Communication No 577/1994, 6 November 1997, para.8.7.

⁷⁷ UNGA, 63rd Session, Interim report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, 28 July 2008, A/63/175, para 77.

⁷⁸ *Ibid*, para 80.

⁷⁹ For example, see the concluding observations of the Committee on the third periodic report of Denmark, Official Records of the General Assembly, Fifty-second Session, Supplement No. 44 (A/52/44), chap. IV, sect. I, paras. 181 and 186; on the third periodic report of Sweden (*ibid*, chap. IV, sect. K, paras. 220 and 225; on the third periodic report of Norway (*ibid*, Fifty-third Session, Supplement No. 44 (A/53/44), chap. IV, sect. H, paras. 154 and 156; on the third periodic report of France (CAT/C/FRA/CO/3), para. 19; on the second periodic report of the United States of America (CAT/C/USA/CO/2), para. 36; and on the third periodic report of New Zealand (CAT/C/CR/32/4, paras. 5 (d) and 6 (d)).

⁸⁰ CAT, Concluding Observations on Colombia, 2003, A/59/44/32, para.67.

[F]or the first time for the first time since its establishment, [the Working Group] has been confronted with a strategy of widespread use of solitary confinement for its own sake and not for traditional disciplinary purposes, as the Group noted during its truncated visit to sector 209 of Evin prison. This is not a matter of a few punishment cells, as exist in all prisons, but what is a “prison within a prison”, fitted out for the systematic, large-scale use of absolute solitary confinement, frequently for very long periods.

76. The Working Group considers that owing to the absence of guarantees such “imprisonment within imprisonment” is arbitrary in nature and must be ended. All the more so since the Group’s observations indicate that:

It appears to be an established fact that the specific use of this kind of detention has allowed the extraction of “confessions” followed by “public repentance” (on television); besides their degrading nature, such statements are manifestly inadmissible as evidence;

Furthermore, such absolute solitary confinement, when it is of long duration, can be likened to inhuman treatment within the meaning of the Convention against Torture. The Working Group has brought this matter to the attention of the competent Special Rapporteur, in that he is also a recipient of the standing invitation issued by the Iranian authorities.⁸¹

77. Although the Victim herself has not been able to give details of the conditions of her solitary confinement, a recent report by the UN Special Rapporteur on the situation of human rights in the Islamic Republic of Iran, in which interviews with former detainees in exile were carried out revealed the following:

A total of 69 per cent of the 133 interviewees reported having been held in solitary confinement for periods ranging from a few days to nine months. Solitary cells typically measure 2 to 2.5 m² and contain little more than a blanket and a sleeping mat. They reported that they had been refused access to fresh air, books or a pen and paper, and had no human contact other than with guards and interrogators. In some cases, interviewees stated that they had been allowed to make brief telephone calls to their families in the presence of prison officials to report they were “fine”.

Almost all former detainees claimed that authorities had blindfolded them during transfers from cells to interrogation rooms or bathrooms. Nearly all reported having been made to face a wall or a corner during interrogation and being interrogated from behind by one to three interrogators. Interrogations allegedly lasted several hours, during which time interrogators usually attempted to coerce detainees to confess in writing to certain activities, and/or to sign other documents. In nearly all cases, former detainees reported having been subjected to torture or ill-treatment during interrogation and detention.⁸²

78. As outlined in the statement of facts above, the authorities in the present case deliberately placed the Victim in solitary confinement for 45 days and in incommunicado detention for the first 48 hours of her arrest, and again for approximately eight days from 6 April to 12 or 13 April and from 6 June to 13 June 2016. The effects of this

⁸¹ Report of the UN Working Group on Arbitrary Detention, *Visit to the Islamic Republic of Iran*, E/CN.4/2004/3/Add.2, paras. 54 – 55.

⁸² Special Rapporteur on the Situation of Human Rights in the Islamic Republic of Iran, Report of the Special Rapporteur on the Situation of Human Rights in the Islamic Republic of Iran, Human Rights Council, U.N. Doc. A/HRC/25/61 (Mar. 14, 2014), paras. 54 – 55.

detention regime are aggravated by the intensive interrogations, and the fact that authorities separated the Victim from her daughter and prevented her from spending her daughter's second birthday with her on 11 June, as well as the uncertainty about her future. This treatment resulted in the deliberate infliction of severe pain and suffering, evident also in her deterioration in health – her weight loss (5kg), her difficulty to walk and lack of physical strength. This is particularly of concern as the Victim was healthy and did not have any ailments prior to her arrest and detention.

79. The treatment was inflicted by public officials, namely members of the Iranian Revolutionary Guards. The release of the 15 June 2016 statement by the Revolutionary Guard⁸³ accusing the Victim of being a leader of a foreign group attempting 'soft overthrow' of the Iranian government furthermore suggests that the treatment of the Victim and her detention and interrogation in solitary confinement was designed to force a confession. From the few phone calls with her family and Richard, it is known that the Victim has signed some kind of statement. There is no further detail at this stage as to what kind of statement it is or what kind of pressure she was put under to sign it, as the Victim has not been allowed to talk about this in any more detail.

80. In light of the foregoing, the Author submits that the Iranian authorities intentionally subjected the Victim to ill-treatment, if not torture, in violation of Article 7 ICCPR.

V. REMEDIES SOUGHT

81. In accordance with the ICCPR, the Author seeks a swift remedy from the government of the Islamic Republic of Iran, in particular the Victim's immediate release from ongoing unlawful detention, and reparation, including restitution, compensation and rehabilitation, satisfaction and guarantees of non-repetition.⁸⁴ It is well-established that in cases of unlawful detention such as at the present, reparation includes release.⁸⁵ The Victim's immediate release is pertinent in particular given her ongoing separation from her dependent very young daughter, who has just turned two years old.

82. The right to reparation applies to persons whose detention or arrest has violated national laws or procedures, or international standards, or both.⁸⁶ The issue in such cases is whether or not the detention itself was lawful, irrespective of whether the individual was subsequently convicted or acquitted.⁸⁷

83. In its General Comment 35, the UNHRC has clarified that financial compensation

⁸³ Appendix 2.

⁸⁴ Basic Principles and Guidelines on Reparation, Articles 18-23, available online at: <http://www.ohchr.org/EN/ProfessionalInterest/Pages/RemedyAndReparation.aspx>.

⁸⁵ Ibid, Principle 19.

⁸⁶ UNHRC, *Marques de Morais v Angola*, Communication No. 1128/2002, U.N. Doc. CCPR/C/83/D/1128/2002, para. 6.6; see also 328/1988, *Zelaya Blanco v Nicaragua* Communication No. 328/1988, U.N. Doc. CPR/C/51/D/328/1988, para. 10.3 (arbitrary detention); *Sahadeo v Guyana* Communication No. 728/1996, CCPR/C/73/D/728/1996, para. 11 (violation of article 9(3)); *Edgardo Dante Santullo Valcada v Uruguay*, Communication No. R. 2/9, U.N. Doc. Supp. No. 40 (A/35/40) at 107, para. 13 (violation of article 9(4)); *W.B.E. v Netherlands* Communication No. 432/1990, U.N. Doc. CCPR/C/46/D/432/1990, para. 6.5; *Uebergang v Austria*, Communication No.963/2001, U.N. Doc. CCPR/C/71/D/963/2001, para. 4.4.

⁸⁷ UNHRC, General Comment 35, para. 51

required by Article 9(5) relates specifically to the pecuniary and non-pecuniary harms resulting from the unlawful arrest or detention.⁸⁸ The Committee has further held that when the unlawfulness of the arrest arises from the violation of other human rights, such as freedom from discrimination on grounds of national or social origin, the state responsible may have further obligations to provide compensation or other reparation in relation to those other violations, as required by Article 2(3) of the ICCPR.⁸⁹

⁸⁸ Ibid, para. 52.

⁸⁹ UNHRC, General Comment 35, para. 52

LIST OF APPENDICES

Appendix 1 – Witness Statement of Richard Ratcliffe dated 16 June 2016, together with Annexes 1 to 5

Appendix 2 – Statement by Revolutionary Guards on Nazanin Zaghari Ratcliffe dated 15 June 2016

Appendix 3 – Consent signed by Richard Ratcliffe dated 16 June 2016