

Mandates of the Special Rapporteur on the rights to freedom of peaceful assembly and of association; 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 independence of judges and lawyers and the Special Rapporteur on the situation of human rights in the Islamic Republic of Iran

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Excellency,

We have the honour to address you in our capacity as Special Rapporteur on the rights to freedom of peaceful assembly and of association; Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health; Special Rapporteur on the independence of judges and lawyers and Special Rapporteur on the situation of human rights in the Islamic Republic of Iran, pursuant to Human Rights Council resolutions 32/32, 24/6, 26/7 and 28/21.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning the allegedly unfair and arbitrary detention of Mr. **Baquer Namazi** and Mr. **Kamal Foroughi** by the Iranian authorities.

Mr. Namazi, aged 80, is a retired Iranian provincial governor of the Khuzestan province and retired official who has served as the UNICEF representative in Somalia, Kenya, and Egypt, amongst other positions. More recently he was the co-leader of Hamyaran, an umbrella agency for Iranian NGOs.

Mr. Kamal Foroughi is a 77-year old British-Iranian businessman.

Mr. Foroughi was the subject of an urgent appeal sent on 3 October 2014 by the Chair-Rapporteur of the Working Group on Arbitrary Detention. We thank you Excellency's Government for a reply dated 8 June 2015.

According to the information received:

Case of Mr. Baquer Namazi

On 22 February 2016, Mr. Baquer Namazi was arrested in Tehran by Iranian security agents and taken to Evin prison. At the time of his arrest, Mr. Baquer was visiting Tehran to try and secure his son's release, Siamak Namazi, who had been arrested in October 2015. They both hold dual Iranian-American citizenship. While Iranian authorities have not made the charges against Mr. Siamak public, no formal charges appear to have been presented against Mr. Baquer. Neither of them have allegedly had access to their lawyers, nor are they allowed to communicate regularly with their family.

In the six months that followed, Mr. Baquer's family has expressed increasing concern regarding his health in prison, since he reportedly suffers from serious health problems, including a heart condition that requires special attention and medication. Many members of the international community, including the UNICEF Executive Director in a statement released on 3 March 2016, have expressed grave concern regarding Mr. Baquer Namazi's arrest and his ailing health aggravated by his age, and have urged for his immediate release.

Case of Mr. Kamal Foroughi

On 5 May 2011, Mr. Kamal Foroughi was arrested by men in plain clothes who allegedly failed to show an arrest warrant and explain to him the reasons for his arrest. During the following 18 months, he was kept in solitary confinement in Evin prison, with no access to a lawyer or to his family. He was not charged until a year later and, even then, was not given information regarding the reasons for his detention or the charges against him. Mr. Foroughi's trial took place in early 2013, but he was only allowed to meet his lawyer the day before the court hearing. In April 2013, he was sentenced by Branch 15 of the Revolutionary Court in Tehran on charges of "espionage" and "possession of alcoholic beverages", for which he is serving seven years and one year, respectively. No evidence was ever provided to justify these charges, and Mr. Foroughi has no former criminal record.

Since then, he has had intermittent access via visits and phone calls to his lawyer, although the authorities have not allowed him British consular assistance. Moreover, since August 2014, Mr. Foroughi has been allowed to call his family regularly, speaking only in Persian which makes communication difficult.

It is reported that prison authorities have denied Mr. Foroughi access to the required medical treatment for some time now. Prior to his arrest, Mr. Foroughi's was told that he needed regular specialised medical check-ups and tests, including cancer screening because of his various medical conditions and increased risk of prostate cancer. In November 2015, he was transferred to a hospital for a medical check-up, but no information was provided to him or his family about the nature or outcome of the tests. A second medical examination was conducted in May 2016, with a number of standard medical tests were conducted and the reports provided to family. However, it is alleged that standard medical panel tests ("U and Es" or "Chem7") and cancer-specific tests were not performed.

Recently, Mr. Foroughi began developing cataracts in both his eyes. Around 1st September 2016, a specialist told Mr. Foroughi that he needed cataract surgery urgently, so a follow-up appointment and date for the specialised surgery are being sought by Mr. Foroughi and his lawyer. In addition to these numerous ailments, since his imprisonment, Mr. Foroughi has complained of memory loss

and back pain. The authorities have repeatedly refused his requests to be released or granted leave on medical grounds.

Serious concern is expressed about the alleged arbitrary arrest and detention of Messrs. Baquer and Foroughi. Further concern is expressed about their reported alarmingly poor health condition while in prison, which requires urgent and adequate medical attention, as well as their lack of access to a lawyer.

Without making any judgement as to the accuracy of the information made available to us, the above allegations appear to be in contravention with international law, in particular the right not to be deprived arbitrarily of liberty and to fair proceedings before an independent and impartial tribunal, in accordance with articles 9 and 10 of the Universal Declaration of Human Rights (UDHR) and articles 9 and 14 of the International Covenant on Civil and Political Rights (ICCPR), which Iran ratified on 24 June 1975. The right to have access to a lawyer is also enshrined in the UN Basic Principles on the Role of Lawyers.

Regarding access to adequate medical treatment in detention by Mr. Baquer Namazi and Mr. Kamal Foroughi, we would like to refer your Excellency's Government to article 12 of the Covenant on Economic, Social, and Cultural Rights, ratified by Iran in 24 June 1975, which establishes that States have an obligation to respect the right to health by, inter alia, refraining from denying or limiting equal access for all persons, including prisoners or detainees to preventive, curative and palliative health services (General Comment 14, Para. 34). In addition, we would like to underline the Basic Principles for the Treatment of Prisoners, adopted by General Assembly resolution 45/111, according to which prisoners should have access to the health services available in the country without discrimination on the grounds of their legal situation (Principle 9).

The full texts of the human rights instruments and standards recalled above are available on www.ohchr.org or can be provided upon request.

In view of the urgency of the matter, we would appreciate a response on the initial steps taken by your Excellency's Government to safeguard the rights of Mr. Baquer Namazi and Mr. Kamal Foroughi in compliance with international instruments.

As it is our responsibility, under the mandates provided to us by the Human Rights Council, to seek to clarify all cases brought to our attention, we would be grateful for your observations on the following matters:

1. Please provide any additional information and any comment you may have on the above mentioned allegations.
2. Please provide detailed information on the measures taken to provide to Mr. Baquer Namazi and Mr. Kamal Foroughi, the guarantees of due process and fair trial, including the guarantee to have adequate time and facilities for the

preparation of one's defence and to communicate with counsel of one's own choosing as established in international human rights law, and in particular articles 9 and 14, of the ICCPR.

3. Please indicate which measures your Excellency's Government has adopted to respect and protect the above-mentioned individuals' human rights in prison, including: Article 7 of the ICCPR; Articles 11 and 12 of the ICESCR; the Standard Minimum Rules for the Treatment of Prisoners adopted by the First United Nations Congress on the Prevention of Crime and the Treatment of Offenders, approved by the Economic and Social Council in its resolutions 663 C (XXIV) of 31 July 1957 and 2076 (LXII) of 13 May 1977; the Body of Principles for the Protection of All Persons Under Any Form of Detention or Imprisonment, adopted by the United Nations General Assembly in its resolution 46/173 of 9 December 1988; and the Basic Principles for the Treatment of Prisoners, adopted by the General Assembly in its resolution 45/111 of 14 December 1990.

4. Please provide information relative to the measures taken by your Excellency's Government to ensure the physical and psychological well-being of Mr. Baquer Namazi and Mr. Kamal Foroughi, and please provide information regarding current policies and regulations in place to ensure that prisoners like him have access to timely and adequate medical treatment.

5. Please provide the details of the proceedings against Mr. Baquer Namazi and Mr. Kamal Foroughi and the legal basis upon which they are sentenced, and explain how these are compatible with the international norms and standards.

6. Please indicate what measures your Excellency's Government has adopted or is planning to implement in order to protect the human rights of vulnerable prison populations.

In addition, we would like to draw your Excellency's Government's attention to paragraph 23 of the methods of work of the Working Group on Arbitrary Detention, according to which, "after having transmitted an urgent appeal to the Government, the Working Group may transmit the case through its regular procedure in order to render an opinion on whether the deprivation of liberty was arbitrary or not. Such appeals — which are of a purely humanitarian nature — in no way prejudice any opinion the Working Group may render. The Government is required to respond separately for the urgent action procedure and the regular procedure.

While waiting for your response, we urge your Excellency's Government to take all necessary measures to halt the alleged violations and prevent their re-occurrence and in the event that investigations support or suggest the allegations to be correct, to ensure the accountability of any person responsible for the alleged violations.

Your Excellency's Government's response will be made available in a report to be presented to the Human Rights Council for its consideration.

Please accept, Excellency, the assurances of our highest consideration.

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