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VIA EMAIL: SRHEALTH@OHCHR.ORG; URGENT-ACTION@OHCHR.ORG

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Ms. Tlaleng Mofokeng  
United Nations Special Rapporteur on the Right to Health  
Office of the UN High Commissioner for Human Rights  
8-14 Avenue de la Paix  
1211 Geneve 10  
Switzerland

RE: Baquer and Siamak Namazi – Immediate Risk of Death Due to Ongoing Violations of the Right to Health

Dear Ms. Mofokeng,

We are writing to request urgent action on behalf of our clients, Baquer and Siamak Namazi, dual citizens of the United States of America (United States) and Islamic Republic of Iran (Iran) who have been arbitrarily held hostage in Iran since February 2016 and October 2015 respectively. Since arresting the Namazis, Iranian authorities have continuously violated Baquer and Siamak's right to the highest attainable standard of health by impeding their access to adequate medical care, recklessly risking their lives, and subjecting them to torture and other cruel and inhuman treatment and punishment.

**The situation for Baquer, almost 85-years-old, is now dire and extremely urgent.**

Baquer requires immediate surgery for a 95–97% blockage in one of his internal carotid arteries (ICA) – the pair of main arteries that supply blood to the brain. To give him the best chance at survival and a successful recovery, this surgery must be performed outside of Iran. There are two primary reasons this is necessary. First, Iran is a highly stressful environment for Baquer due to the ongoing persecution he faces there, and the surgery requires a stress-free environment for proper recovery. Second, the situation in Iranian hospitals is nothing short of horrific and Baquer, who is extremely ill and in failing health, would be exposed to a grave risk of contracting COVID-19 both during the surgery and an extended recovery period. According to the *New York Times*:

Hospital medics in Iran are triaging patients on the floors of emergency rooms and in cars parked on the roadside. Lines stretch for blocks outside pharmacies. Taxis double as hearses, transporting corpses from hospitals to cemeteries. In at least one city, laborers are digging mass graves.

Iran is under assault from the most cataclysmic wave yet of the coronavirus, according to interviews with physicians and health workers, social media posts from angry citizens, and even some unusually frank reporting in state media.<sup>1</sup>

In addition, according to the *Associated Press*, there have been 5.5 million confirmed virus infections and more than 119,000 people have died across a population of 85 million, but officials acknowledge the toll is likely “far higher.”<sup>2</sup>

However, despite being made aware of Baquer’s condition, having commuted his prison sentence to time served, and having released his bail a year-and-a-half ago, Iranian authorities intentionally deny his right to free movement guaranteed by Article 12 of the International Covenant on Civil and Political Rights (ICCPR), and continue to hold him in the country under an arbitrary and illegal travel ban, preventing him from seeking the lifesaving care he needs. This has left him at extreme risk of a stroke. Meanwhile, Siamak remains in Iran’s notorious Evin Prison, having been repeatedly denied furlough despite the ongoing pandemic. Yet Iran has furloughed more than 120,000 prisoners because of COVID-19.<sup>3</sup> The prison’s overcrowding, poor sanitation, and lack of measures to limit COVID-19 transmission put him at high risk of contracting the virus. In addition to suffering from several physical injuries and ailments, for which he has consistently been denied adequate medical care, he is severely depressed and the Namazi family is concerned that he may be suicidal.

We respectfully request that, in accordance with your working methods, you investigate the situation and reach out to the Government of Iran, urging it to immediately lift the travel restrictions on Baquer and ensure the right to health for both Namazis, as guaranteed under the International Covenant on Economic, Social, and Cultural Rights (ICESCR), to which Iran is a state party.

## **I. BIOGRAPHIES OF BAQUER AND SIAMAK NAMAZI**

Baquer Namazi is an 84-year-old Iranian–American dual national and the father of political prisoner Siamak Namazi. Following the Islamic Revolution in 1979, Baquer continued living in Iran with his wife and two sons until 1983, when mounting pressure forced him to flee to the United States. There, he became a naturalized U.S. citizen and dedicated the rest of his career to eradicating poverty. He served as a United Nations Children Fund (UNICEF) representative from 1984 to 1997 and worked in countries such as Kenya, Somalia, and Egypt to institute better protections for vulnerable populations and facilitate aid to women and children affected by war. He played a key role in engaging UNICEF in both the drafting process of the Convention on the Rights of the Child and the development of the rights-based approach. Baquer received the Medal of UNICEF and the Center for Human Rights in recognition of his humanitarian work. After his retirement, he moved back to Iran with his wife and continued

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<sup>1</sup> Farnaz Fassihi, *Iran’s Health System ‘Beyond Disastrous’ From COVID Surge*, NEW YORK TIMES, August 13, 2021, available at <https://www.nytimes.com/2021/08/13/world/middleeast/iran-virus-delta-variant.html>.

<sup>2</sup> Vahid Salemi, *In Qom, Where Iran Outbreak Began, Virus Rages On*, ASSOCIATED PRESS, October 1, 2021, available at <https://www.arkansasonline.com/news/2021/oct/01/in-qom-where-iran-outbreak-began-virus-rages-on/>.

<sup>3</sup> *UN Rights Chief Urges Iran to Release Jailed Human Rights Defenders, Citing COVID-19 Risk*, U.N. NEWS, Oct. 6, 2020, available at <https://news.un.org/en/story/2020/10/1074722>.

working toward the eradication of poverty in a volunteer capacity. He also established the nongovernmental organization (NGO) Hamyaran Iran – the first capacity-building resource center for NGOs in the country – and helped coordinate relief efforts during the Bam earthquake and other natural disasters.

Siamak Namazi, Baquer’s son, is a 49-year-old Iranian–American dual national, business executive, and scholar. He spent his adolescence in the United States after his family fled Iran, eventually becoming a naturalized citizen and earning a B.A. from Tufts University. He also pursued a master’s degree in Urban Planning and Regional Development from Rutgers University, which he completed in 1998. Following graduation, he provided consulting services through several different companies.

Between 2005 and 2006, Siamak held fellowships in the United States at the Woodrow Wilson Center for International Scholars (Wilson Center) and the National Endowment for Democracy (NED) before briefly returning to Iran. In 2007, he moved to the United Arab Emirates and reentered consulting. That same year, he was recognized as a Young Global Leader (YGL) by the World Economic Forum. He earned a second master’s degree from London Business School in 2011. At the time of his arrest, he was completing work unrelated to Iran as the Head of Strategic Planning for Middle East and North Africa at Crescent Petroleum Company in Dubai. He has never engaged in politics; however, he has pursued humanitarian endeavors. In 2013, he devoted several months to extensively researching the humanitarian impact of sanctions on Iran, with a specific focus on how sanctions unintentionally limited access to lifesaving medicine. Drawing from his findings, he published an opinion piece in the *New York Times* on March 1, 2013, arguing that U.S. and European Union sanctions were dangerously obstructing the delivery of medicine and medical equipment to Iran.<sup>4</sup> In part due to Siamak’s work, the U.S. Treasury Department’s Office of Foreign Assets Control adjusted its humanitarian trade policies to allow more lifesaving medicine and medical equipment to reach the Iranian people.

## **II. HISTORY OF PERSECUTION BY IRANIAN AUTHORITIES**

### **Early Persecution**

In 2007, Iran’s Ministry of Intelligence politically targeted and frequently interrogated Siamak regarding his fellowships with the Wilson Center and NED. The interrogators repeatedly asked what he had “produce[d] for them,” even though he had not been an actual employee for either organization. Nevertheless, in response to his affiliation with the two organizations, Iranian authorities baselessly accused Siamak of espionage and collaboration with a foreign state. Eventually, the targeting subsided, and he was never formally charged. However, the same accusations resurfaced nearly a decade later.

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<sup>4</sup> Siamak Namazi, *Blocking Medicine to Iran*, NEW YORK TIMES, Mar. 1, 2013, available at <https://www.nytimes.com/2013/03/02/opinion/blocking-medicine-to-iran.html>.

## Arrests

On July 18, 2015, Siamak was intercepted by the Islamic Revolutionary Guard Corps (IRGC) at the Tehran Airport, where he had a flight to return to the UAE after spending a weekend with his parents. He was surrounded by IRGC guards in civilian clothing, who momentarily presented a document that they alleged was a search warrant before detaining him and confiscating his electronic devices and travel documents. The IRGC guards released Siamak after questioning him for several hours, but instructed him not to leave Tehran. For the next three months, the IRGC subjected Siamak to unpredictable and regular interrogations, which were conducted in private at unmarked locations. Like in 2007, the interrogations primarily centered on his association with the West, including his U.S. fellowships and role as a YGL. During this period, the IRGC also engaged in intimidation tactics against both Siamak and his family.

Siamak was arrested on October 13, 2015 after the IRGC again summoned him for an interrogation. He was placed in Ward 2A of Iran's notorious Evin Prison – a special wing which houses many of the country's political prisoners and operates under the control of the IRGC “with no external oversight from the rest of the government.”<sup>5</sup> Siamak was initially held *incommunicado*; the Namazi family did not have any access to, communication with, or information about him for several months after his arrest.

Following the arrest, Siamak's father, Baquer, attempted to visit him at Evin Prison two to three times each week, but was never permitted access – even when he had letters from prison officials granting him the right to see his son. Then, on or about February 21, 2016, Siamak's mother received a call from Evin Prison relaying that Baquer had been granted permission to visit his son, but that the permission was valid only for a visit on February 24, 2016. By then, Siamak had been held *incommunicado* for three months and had reportedly started a hunger strike. Therefore, Baquer, who was abroad at the time, quickly arranged to return to Tehran. When he arrived at the Tehran airport on February 22, 2016, he was intercepted by IRGC guards as he disembarked from the plane and driven to his home, where the IRGC conducted an extensive search after briefly showing Baquer and his wife a document they claimed to be a search warrant. The IRGC seized Baquer's electronics and travel documents, as well as some personal photographs and other documents. The guards then informed Baquer that he needed to be presented to a magistrate. Under this guise, the IRGC guards transported him to the same IRGC-controlled wing of Evin Prison as Siamak. His family did not hear from him until several days later, when he left a voicemail on the home answering machine, in which he instructed them to keep his arrest quiet and explained that he was facing the same broad charges as Siamak.

## Trials and Detention

The first and only trial hearings for both Namazis occurred in October 2016 – Siamak's on October 1 and Baquer's on October 5 – and were heavily marred by due process violations. The hearings took place before Judge Abolqasem Salavati, head of the 15th branch of the Islamic Revolutionary Court in Tehran, who is well known for meting out harsh sentences in political

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<sup>5</sup> *Iran*, in COUNTRY REPORTS ON HUMAN RIGHTS PRACTICES, U.S. DEP'T OF STATE, June 25, 2015, at 6, *available at* <https://2009-2017.state.gov/documents/organization/236810.pdf>.

cases and was later sanctioned by the United States.<sup>6</sup> On October 17, 2016, Siamak and Baquer were convicted of “collaboration with a hostile government” – the United States – and sentenced to ten years in prison. Ten years of imprisonment is the maximum penalty that can be imposed under Article 508 of Iran’s Islamic Penal Code.<sup>7</sup>

At the same time, IRGC-affiliated websites and media were running a continuous negative propaganda campaign against the Namazis, portraying them as U.S. “infiltrators.” Both appealed their sentences, but the appeals were denied on August 28, 2017 – nearly six months after their hearings before the 36<sup>th</sup> Branch of the Tehran Appeals Court. In September 2017, the United Nations Working Group on Arbitrary Detention issued a legal opinion finding the Namazis’ detentions to be arbitrary and in violation of international law and demanding their release “immediately.”<sup>8</sup>

Both Namazis have been illegally held in Iran since that time despite international outcry. Siamak remains detained in Evin Prison, although in 2018 he was transferred from the IRGC’s Ward 2A to the prison’s general ward, where he is granted some basic prisoner rights. Although the conditions there are relatively better, there is still severe overcrowding and at times roughly 20 prisoners are held in Siamak’s cell, leaving some prisoners without their own bed. Concerningly, in recent months, IRGC guards have confronted Siamak several times requesting that he return to Ward 2A for “debriefings,” sparking fear that he may eventually be forced to return and will again face the IRGC’s abuse. Also in 2018, Baquer was placed on a highly restrictive furlough due to severe medical concerns, which are detailed below. In early 2020, the Iranian Judiciary informed Baquer that it had commuted his sentence to time served and officially closed his case, effectively dissolving any remaining basis under Iranian law to restrict his movement. Nevertheless, Iranian authorities have maintained an arbitrary international travel ban on him, denying him the ability to reunite with his family and to seek lifesaving medical care abroad.

### **III. DETERIORATION OF THE NAMAZIS’ HEALTH FOLLOWING THEIR ARRESTS**

Before and after their trials, Siamak and Baquer endured horrific conditions and abuse in Evin Prison that significantly impacted their physical and mental wellbeing.

Baquer was 79 years old at the time of his arrest and his health was already precarious. He suffered from serious heart conditions, including an arrhythmia, that required special medications. He had previously undergone a triple bypass surgery and his personal physician had informed Baquer that if his arrhythmia was not well managed, it could soon necessitate the

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<sup>6</sup> Press Release, *Treasury Sanctions Two Judges Who Penalize Iranians for Exercising Freedoms of Expression and Assembly*, U.S. DEP’T OF THE TREASURY, Dec. 19, 2019, available at <https://home.treasury.gov/news/press-releases/sm862> and Jason Rezaian, *What Is Iran’s Evin Prison Like? These Letters Show the Terrifying Reality.*, WASHINGTON POST, Jan. 24, 2020, available at <https://www.washingtonpost.com/opinions/2020/01/24/10-letters-smuggled-out-irans-evin-prison-describe-systematic-denial-rights-also-hope/>.

<sup>7</sup> *Islamic Penal Code of the Islamic Republic of Iran*, IRAN HUMAN RIGHTS DOCUMENTATION CENTER, accessed Oct. 2, 2021, available at <https://iranhrdc.org/islamic-penal-code-of-the-islamic-republic-of-iran-book-five/>.

<sup>8</sup> *Siamak Namazi and Mohamed Baquer Namazi v. Iran*, Opinion No. 49/2017, U.N. Doc. A/HRC/WGAD/2017/49, U.N. WORKING GROUP ON ARBITRARY DETENTION, adopted Aug. 22, 2017, at ¶ 55 [hereinafter UNWGAD Opinion 49/2017].

installation of a pacemaker. Despite these concerns, Baquer was held in the harsh conditions of Ward 2A and immediately denied appropriate medical care. On the first night of his detention, he began to panic and believed he was having a heart attack; he desperately banged on the door of his cell and called out for medical assistance, but the guards only laughed and told Baquer that if he was meant to die, he would. He was subjected to prolonged periods of solitary confinement, full day interrogations by the IRGC, and psychological torture, such as being placed in a cell for weeks with an Al-Qaeda suspect who continuously screamed Quranic verses.

In these conditions, Baquer's physical and mental health declined rapidly. By April 2017, he had lost at least 30 pounds (~14 kilograms) and had been taken to the hospital on multiple occasions, often unbeknownst to his family until after the fact. Prison officials were consistently slow to provide essential medical care. In September 2017, for example, prison authorities waited five days to transfer Baquer to the hospital after the physician called for immediate medical attention. Once there, he underwent emergency surgery to install a pacemaker – a device he could have died without.

Following a sudden deterioration of his health on January 15, 2018 – including a rapid drop in blood pressure and irregular heartbeat – and consequent hospitalization, Baquer was granted a temporary medical furlough beginning on January 28, 2018. On February 6, 2018, he was ordered to return to Evin Prison despite his physicians calling for a minimum of three months of furlough for recovery. This pattern of hospitalization, temporary furlough, and reimprisonment continued for several months as his health problems worsened, until Baquer was finally placed on a highly restrictive medical furlough in mid-2018 without a timeline for his return. In total, while in detention, Baquer underwent two heart surgeries, lost six teeth, and was hospitalized over a dozen times, during which he was at times shackled to the hospital bed by the IRGC. Although he is now outside of prison, Baquer's situation remains dire and he continues to struggle with life-threatening health conditions, many of which were exacerbated by or are the result of his detention and continue to worsen due to Iran's decision to keep him in a highly stressful environment.

Siamak's circumstances in detention were similarly brutal. After his arrest, he was placed in a cold, dark, and humid cell. For roughly 20 months he was not provided with a bed, forcing him to sleep on the concrete floor. His first winter in detention, Siamak was also not given access to warm clothing, even socks, despite dropping temperatures and poor weather conditions in the prison yard. While in Ward 2A, Siamak was subjected to regular interrogations and was physically and mentally tortured by IRGC guards, including being beaten, tased, and forced to watch government propaganda attacking him and showing his father in jail. In one instance, the IRGC guards told him that his father was in critical condition in the hospital due to a heart-related incident and that Siamak would need to "confess" in order to see him before he died. He also endured prolonged periods of solitary confinement and, by April 2017, had lost an estimated 26 pounds (~12 kilograms).

In Ward 2A, where the IRGC guards exercised total control over Siamak's access to medical treatment, he was routinely denied adequate care despite reporting ailments. Even after he was transferred to the general ward, Siamak has continued to experience substantial problems accessing proper medical treatment. When Siamak is granted access to the prison's general

practitioner, the doctor “examines” him for only one to two minutes from a distance of at least two meters and prescribes medication based on Siamak’s description of the problem. If the problem persists, getting specialized care outside the prison requires relentlessly following up with the general practitioner until he requests that Siamak be seen by an outside doctor. At that point the prison seeks permission to fulfill the request from the District Attorney’s (DA) Representative – a pawn of the IRGC who follows the IRGC interrogators’ guidance on medical requests as well as requests for parole and furlough. At one point, an IRGC interrogator explicitly told Siamak that he had instructed the DA Representative to deny all Siamak’s requests as a means of pressuring him, which went on for a period of roughly two years. Although it appears those instructions were reversed when Siamak’s local lawyer lodged a formal complaint, Siamak’s requests continue to be held up in the DA Representative’s office for months, prolonging his pain and imperiling his ability to heal. His suffering in detention has taken a significant toll on his mental health as well. Siamak has displayed signs of severe depression and on several occasions his family has believed him to be suicidal.

Concerns over Siamak’s health were further deepened by the onset of the COVID-19 pandemic, which has ravaged Iran with multiple deadly waves,<sup>9</sup> claiming over 100,000 Iranian lives.<sup>10</sup> Despite granting or extending furloughs for roughly 120,000 prisoners at the beginning of the pandemic,<sup>11</sup> Iranian authorities have recklessly denied Siamak’s requests for furlough without explanation and continue to hold him in an overcrowded cell where social distancing is not possible. As a result, he has been repeatedly exposed to prisoners with COVID-19 symptoms and has himself experienced symptoms multiple times, including intense joint pain, flu-like symptoms, long-lasting fatigue, and loss of smell. On those occasions, prison authorities have dismissed his COVID-19 concerns without testing him, leaving him and his cellmates to fend for themselves until the symptoms pass. During one such instance in early summer 2021, Siamak’s right eye became extremely irritated and itchy, and his right eyelid and the right side of his face began to swell. Simultaneously, the vision in his left eye became noticeably reduced and blurred, and the eye became severely photosensitive. The prison’s general practitioner dismissed Siamak’s COVID-19 concerns and gave him antibiotic drops and ointments for his eye. When the right eye failed to heal after several more weeks, the general practitioner stated that the problem required an outside specialist. However, prison authorities failed to arrange an appointment with an optometrist until recently – months after Siamak requested care. Although the swelling and irritation had subsided by the time of the appointment, the ordeal has had lasting negative impacts on Siamak’s vision, which had already deteriorated significantly during his time in detention.

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<sup>9</sup> Alijani Ershad, *‘The Media Don’t Show What’s Going On’: Doctors in Iran Overwhelmed by Fifth Wave of Covid-19*, THE OBSERVERS, August 9, 2021, available at <https://observers.france24.com/en/middle-east/20210809-the-media-don-t-show-what-s-going-on-doctors-in-iran-overwhelmed-by-fifth-wave-of-covid-19>.

<sup>10</sup> *Iran’s Covid-19 Death Toll Rises Above 100,000 – Health Ministry*, REUTERS, Aug. 19, 2021, available at <https://www.reuters.com/world/middle-east/irans-covid-19-death-toll-rises-above-100000-health-ministry-2021-08-19/>.

<sup>11</sup> Press Release, *Citing COVID Risk, Bachelet Calls on Iran to Release Jailed Human Rights Defenders*, OFFICE OF THE HIGH COMMISSIONER ON HUMAN RIGHTS, Oct. 6, 2020, available at <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=26345&LangID=E>.

In August, Siamak received the Chinese Sinopharm vaccine; however, while he remains in the overcrowded and unhygienic conditions of Evin Prison, concerns about COVID-19 exposure and a potential breakthrough infection persist.

#### **IV. CURRENT HEALTH STATUS OF THE NAMAZIS**

Over two years ago, Baquer's neurologist determined that there were severe blockages in the main arteries to his brain, with a roughly 80% blockage in the right ICA. Under normal circumstances, such a diagnosis would result in emergency surgery to install a stent, as that level of blockage places the patient at high risk of an acute ischemic stroke – a stroke in which blockage obstructs the flow of blood to the brain, causing the tissue to die.<sup>12</sup> However, his neurologist conveyed that the surgery can only be performed in a stress-free environment for the recovery – meaning, in Baquer's case, outside of Iran – and the Namazi family had grave concerns about the quality of aftercare available in the country. Despite being made aware of his condition repeatedly and Baquer having requested to obtain an Iranian passport (Iran does not recognize dual nationality and so Baquer must obtain and leave Iran on an Iranian passport), Iranian authorities refused to give Baquer a passport to travel abroad to undergo surgery and have placed him under an international travel ban. Therefore, considering also that there was no one to help with Baquer's recovery, the Namazi family chose not to move forward with the surgery, fearing Baquer would not survive the operation and recovery if it were completed in Iran.

However, several weeks ago, Baquer's health began to worsen rapidly. He started to experience blurred vision, primarily in his left eye, and a higher frequency of headaches and bouts of dizziness. Based on these concerns, Baquer visited an optometrist, who immediately became worried by Baquer's symptoms and performed a tracking laser tomography to image the inside of Baquer's eye. The exam revealed that the blurred vision was the result of significant retinal vein occlusion – blockage of blood to the eye. The optometrist initiated a multi-week series of intravitreal injections in Baquer's left eye to try to restore his vision and has administered two of the injections so far. The optometrist also advised Baquer to immediately visit a cardiologist and neurologist to check for further blockages due to Baquer's historic cardiac and neurological issues. Although Baquer's cardiology examination produced normal results, his cardiologist reiterated the optometrist's recommendation to see a neurologist immediately and suggested a new one, as Baquer's former neurologist had retired. On September 9, 2021, the new neurologist performed a 2-D and color doppler interrogation of the ICAs supplemented by a color doppler ultrasound to determine the extent of the blockages in Baquer's ICAs. When the results became available several days later, they revealed that the 80% blockage in his right ICA had increased to roughly 90% and the neurologist advised Baquer to undergo a carotid endarterectomy to clear the calcified plaque causing the blockage within the next few weeks in order to avoid a stroke.

Wanting an urgent second opinion, Baquer went to his original neurologist, who despite his retirement agreed to order and oversee a more advanced scan with the assistance of another neurologist. Accordingly, on September 26, 2021, Baquer underwent a 64-slice multidetector

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<sup>12</sup> *Types of Stroke*, AMERICAN STROKE ASSOCIATION, accessed Oct. 1, 2021, available at <https://www.stroke.org/en/about-stroke/types-of-stroke>.



computed tomography (MDCT) angiography of the cerebral vessels, which produced high quality, 3-D imaging of the carotid arteries. When the results became available on September 28, 2021, they revealed that calcified plaque in the right ICA is causing a 95–97% blockage, which constitutes severe stenosis, or narrowing. Significant stenosis is also present in the left ICA and right external carotid artery (ECA), which supplies blood to the face, scalp, and neck. In light of the heightened severity of the blockage revealed by these new, more detailed results, this neurologist advised Baquer to undergo a carotid endarterectomy to remove the plaque as soon as possible – **within seven to ten days at most.**

Despite Baquer’s continued health decline, Iran has maintained the international travel ban, effectively handing Baquer what could be a death sentence. In his current state, Baquer is at extreme risk of having a stroke, which could easily prove fatal. A 2008 study on stroke patients in Canada found that individuals over 80 who suffered from an acute ischemic stroke had a mortality rate of roughly 25% – a percentage that does not account for Baquer’s already fragile condition and the highly stressful environment where he would undergo treatment.<sup>13</sup> Given that risk, he cannot postpone surgery.

Therefore, if Iranian authorities do not lift the ban immediately, he will be forced to proceed with the operation in Iran, which will present a grave threat to his life. In an ordinary situation where an otherwise healthy patient requires a carotid endarterectomy, this is a list of the possible complications:

- Stroke or transient ischemic attack (TIA or a “mini stroke”)
- Heart attack
- Pooling of blood into tissue around the incision site causing swelling
- Nerve problems with certain functions of the eyes, nose, tongue, or ears
- Bleeding into the brain (intracerebral hemorrhage)
- Seizures (uncommon)
- Repeated blockage of the carotid artery. Or new blockage that develops in the artery on the other side of your neck.
- Bleeding at the incision site in the neck
- Infection
- High blood pressure
- Irregular heart beat
- Blocked airway from swelling or from bleeding in the neck<sup>14</sup>

But this doesn’t consider Baquer’s age of almost 85, his frail health, the poor quality of aftercare, the absence of people to support his recovery, the lack of a stress-free environment,

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<sup>13</sup> *Outcomes After Stroke Poorer in Older Patients*, REUTERS, Aug. 12, 2008, available at <https://www.reuters.com/article/us-outcomes-stroke/outcomes-after-stroke-poorer-in-older-patients-idUSCOL26207520080812>.

<sup>14</sup> *Carotid Endarterectomy*, JOHNS HOPKINS MEDICINE, accessed Oct. 3, 2021, available at <https://www.hopkinsmedicine.org/health/treatment-tests-and-therapies/carotid-endarterectomy>. The Johns Hopkins Hospital is among the top 5 hospitals in the United States.

and the grave risk of contracting COVID-19 in Iran's overwhelmed hospital system.<sup>15</sup> Baquer also continues to struggle with a number of other health conditions. As a result of his detention, he developed stress-induced adult-onset epilepsy, as well as severe depression. He has lingering heart concerns and continues to take medication for his arrhythmia. He also easily becomes fatigued, is often confused, and has difficulty walking and maintaining his balance, which has caused him to fall on several occasions.

In addition to the ongoing risk of contracting COVID-19, Siamak has identified three major health issues that currently or will likely soon require further care: orthopedic, ear, and dental problems. In mid-2020, he tore several tendons in his left shoulder, then shortly thereafter injured his ankle during a bad fall in the prison yard. He also struggles with reoccurring issues with his right knee; he has been told that his right kneecap is out of alignment and his right anterior cruciate ligament (ACL) is partially torn. Due to the prison's eight-month delay in taking Siamak to a qualified orthopedic doctor, he was forced to live in immense pain and his shoulder has yet to heal. Despite roughly 20 physiotherapy sessions – including electrical stimulation and injections – as well as strict adherence to his prescribed “at-home” routine of exercises, he still does not have full range of motion in his left arm. Occasionally, his arm and leg issues flare up, causing tremendous pain and, at times, difficulty walking.

Siamak also suffers from a persistent ringing in his left ear – a result of his early interrogations in Ward 2A, during which an IRGC guard slapped him hard on both sides of the head, with the blows landing directly over his ears. Siamak's complaints about the ringing, initially in both ears, were ignored by prison authorities for several weeks, after which they took him to a hospital outside the prison where he was treated under a fake name and given ear drops. Only the ringing in the right ear subsided.

During Siamak's 27-month stint in Ward 2A of Evin Prison, he apparently heavily ground his teeth while sleeping, which he attributes to the high levels of stress he was experiencing at the time. As a result, he has many cracked teeth that break off at times; in fall 2018, one broke on either side of his mouth. Since Siamak had trouble chewing due to the damaged state of his teeth, the prison dentist wrote that Siamak's dental problems required treatment outside the prison. Although others, including his cellmates, were taken to outside dentists, Siamak's requests were denied. Eventually, he involved the State doctor – the Iranian Judiciary's official physician – who confirmed his medical needs. Overall, it took 18 months for Iranian officials to grant his request despite Siamak's threats to go on a hunger strike and speak to the press, as well as legal efforts by his local lawyer. Even after being treated by an outside dentist, the extensive cracking in Siamak's teeth causes pieces to chip off every few months.

Finally, Siamak continues to struggle with severe depression due to his traumatic experience in prison and his family remains concerned that he may attempt suicide.

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<sup>15</sup> Although Baquer has been vaccinated – two doses of China's Sinopharm in May and a Moderna booster more recently – his family has serious concerns about the potential consequences of a breakthrough infection due to his poor health.

## V. INTERNATIONAL LEGAL ANALYSIS

In the nearly six years since arresting Siamak and Baquer Namazi, the Government of Iran has routinely and flagrantly violated their right to the “highest attainable standard of physical and mental health” under Article 12 of the ICESCR,<sup>16</sup> resulting in preventable risk to both of their lives. The specific violations include: (A) denying them access to adequate medical care in detention, (B) preventing Baquer from obtaining necessary medical care abroad, (C) subjecting them to torture and other cruel, inhuman or degrading treatment, and (D) baselessly refusing to grant Siamak furlough during the COVID-19 pandemic.

### A. *Iran Has Denied Baquer and Siamak Namazi Access to Adequate Medical Care in Detention*

Article 12(2)(d) of the ICESCR requires States to create “conditions which would assure to all medical service and medical attention in the event of sickness.”<sup>17</sup> In its general comment on the right to health, the Committee on Economic, Social and Cultural Rights further elaborates that States have a specific legal obligation to “*respect* the right to health by, *inter alia*, refraining from denying or limiting equal access for all persons, including prisoners or detainees.”<sup>18</sup> Detainees’ right to medical services is also enshrined in Principle 24 of the Body of Principles for the Protection of All Persons Under Any Form of Detention or Imprisonment (Body of Principles), which requires a prompt medical examination upon admission to the place of detention,<sup>19</sup> and the United Nations Standard Minimum Rules for the Treatment of Prisoners (Nelson Mandela Rules), with Rule 24(1) saying:

The provision of health care for prisoners is a State responsibility. Prisoners should enjoy the same standards of health care that are available in the community, and should have access to necessary health-care services free of charge without discrimination on the grounds of their legal status.<sup>20</sup>

Importantly, the Nelson Mandela Rules also emphasize that the medical care provided to detainees must match the urgency and specialized needs of their health problems, which are to be determined by qualified medical staff. Specifically, Rule 27 states:

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<sup>16</sup> International Covenant on Economic, Social and Cultural Rights, 993 U.N.T.S. 3, *entered into force* Jan. 3, 1976, at Art. 12 [hereinafter ICESCR].

<sup>17</sup> *Id.*, at Art. 12(2)(d).

<sup>18</sup> *General Comment 14 on Article 12: Right to Highest Attainable Standard of Health*, U.N. COMMITTEE ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS, U.N. Doc. E/C.12/2000/4, Aug. 11, 2000, at ¶ 34, *available at* <https://www.refworld.org/pdfid/4538838d0.pdf> [hereinafter General Comment 14].

<sup>19</sup> Body of Principles for the Protection of Persons under Any Form of Detention or Imprisonment, G.A. Res. 47/173, U.N. Doc. A/43/49, *adopted* 1988, at Principle 24, *available at* <https://www.globaldetentionproject.org/wp-content/uploads/2016/06/The-Body-of-Principles-for-the-Protection-of-All-Persons-under-Any-Form-of-Detention-or-Imprisonment.pdf> [hereinafter Body of Principles].

<sup>20</sup> United Nations Standard Minimum Rules for the Treatment of Prisoners (Nelson Mandela Rules), G.A. Res. 70/175, U.N. Doc. A/RES/70/175, *adopted* Dec. 17, 2015, at Rule 24(1), *available at* <https://undocs.org/A/RES/70/175>.

1. All prisons shall ensure prompt access to medical attention in urgent cases. Prisoners who require specialized treatment or surgery shall be transferred to specialized institutions or to civil hospitals . . . .
2. Clinical decisions may only be taken by the responsible health-care professionals and may not be overruled or ignored by non-medical prison staff.<sup>21</sup>

The standard of care in Evin Prison was (and remains) well below that available to Iran’s general population. In Ward 2A, the IRGC, rather than medical professionals, exercise total control over prisoners’ access to medical care – a power they regularly abuse. Neither Baquer nor Siamak received proper medical examinations upon their entry into prison; rather, both underwent a cursory inspection, during which Siamak was blindfolded. Baquer’s requests for medical care, as well as recommendations by prison health professionals that he receive care, were regularly dismissed or ignored by the IRGC guards, including in emergencies. Notably, in September 2017, prison authorities waited five days to transfer Baquer to the hospital after the physician called for urgent medical attention. When he was finally taken to the hospital, he had to have emergency surgery to install a pacemaker, which he could have died without. Similarly, when Baquer was initially granted a furlough due to his serious medical concerns, Iranian authorities ordered him to return to Evin Prison after a matter of days, despite medical professionals, including the government’s medical examiner, recommending that he be placed on furlough for several months to recover.

Siamak’s requests for medical attention were also routinely denied or delayed in Ward 2A – a problem that has persisted in the general ward. There, when he is granted access to the prison’s general practitioner, the practitioner completes an “examination” for only one to two minutes from a distance of at least two meters and prescribes treatments based on Siamak’s responses to his questions. On multiple occasions, Siamak has developed COVID-19 symptoms, but the general practitioner has dismissed his concerns and refused to test him. When Siamak’s problems have required specialized care outside the prison, he and his lawyer have been forced to follow up relentlessly with the general practitioner and prison authorities to receive it. Even in instances when the general practitioner has agreed that external care is required, Siamak’s requests have been delayed for months, and he is forced to pay for any care he receives outside the prison.

The Iranian authorities’ denial of and delay in access to adequate medical care for both Namazis represent flagrant violations of their right to health, and, in Siamak’s case, an ongoing threat to his wellbeing.

***B. Iran Is Arbitrarily Preventing Baquer Namazi from Obtaining Necessary Medical Care Abroad***

Article 12 of the ICCPR guarantees the “right to liberty of movement” and states that “[e]veryone shall be free to leave any country, including his own.”<sup>22</sup> This freedom of movement

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<sup>21</sup> *Id.*, at Rule 27.

<sup>22</sup> International Covenant on Civil and Political Rights, 999 U.N.T.S. 171, *entered into force* Mar. 23, 1976, at Art. 12(1)–(2) [hereinafter ICCPR].

is recognized as an “integral component[] of the right to health.”<sup>23</sup>

Due to the need for a stress-free environment to perform the surgery to clear the 95–97% blockage in his right ICA, legitimate concerns about the quality of care available in Iran, and the high risk of a potentially fatal stroke if the surgery is not performed, Iran’s international travel ban on Baquer is a serious violation of his right to health. Further, Iran lacks any international or domestic legal justification to maintain the ban. The ban is a *de facto* extension of his detention, which was already found to be arbitrary under international law.<sup>24</sup> Domestically, the Iranian Revolutionary Courts officially closed Baquer’s case in 2020, commuted his sentence to time served, and returned the bail payment he had posted when he had been released on medical furlough. Thus, the international travel ban is arbitrary and constitutes a violation of his right to health.

Notably, in arbitrarily preventing Baquer from seeking lifesaving care abroad, Iran’s illegal travel ban also poses a deliberate and reckless threat to Baquer’s right to life under Article 6 of the ICCPR.<sup>25</sup> If Baquer is forced to undergo the surgery in Iran and dies in surgery or during aftercare, this will constitute an intentional deprivation of life by the Government of Iran.<sup>26</sup>

### ***C. Baquer and Siamak Namazi Have Been Subjected to Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment***

Article 7 of the ICCPR prohibits the use of torture and cruel, inhuman or degrading treatment or punishment,<sup>27</sup> which is reinforced by Principle 6 of the Body of Principles.<sup>28</sup> The right to health is recognized as “closely related to and dependent upon the realization of . . . the prohibition against torture.”<sup>29</sup>

In Evin Prison, Siamak has been beaten, tased, and forced to watch government propaganda attacking him and showing his father in prison. Iranian authorities also subjected him to cruel, inhuman and degrading treatment by holding him *incommunicado*, placing him in a dark, unsanitary cell, and depriving him of basic needs such as a bed and warm clothing. Both he and Baquer were subjected to prolonged periods of solitary confinement, which also constitutes a violation of Article 7.<sup>30</sup> Baquer was forced to endure psychological torture while in detention, such as being intentionally held in a cell with a prisoner who screamed at all hours. Both Namazis have experienced a severe deterioration in their physical and mental health due to

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<sup>23</sup> *General Comment 14*, *supra* note 18, at ¶ 3.

<sup>24</sup> UNWGAD Opinion 49/2017, *supra* note 8, at ¶ 55.

<sup>25</sup> ICCPR, *supra* note 22, at Art. 6.

<sup>26</sup> *General Comment 36 on Article 6: Right to Life*, U.N. HUMAN RIGHTS COMMITTEE, U.N. Doc. CCPR/C/GC/36, Sept. 3, 2019, at ¶ 6, available at <https://www.refworld.org/docid/5e5e75e04.html> (“Deprivation of life involves an intentional or otherwise foreseeable and preventable life-terminating harm or injury, caused by an act or omission.”).

<sup>27</sup> ICCPR, *supra* note 22, at Art. 7.

<sup>28</sup> Body of Principles, *supra* note 19, at Principle 6.

<sup>29</sup> *General Comment 14*, *supra* note 18, at ¶ 3.

<sup>30</sup> *General Comment 20 on Article 7: Prohibition of Torture, or Other Cruel, Inhuman or Degrading Treatment or Punishment*, U.N. HUMAN RIGHTS COMMITTEE, U.N. Doc. A/44/40, March 10, 1992, at ¶ 6, available at <https://www.refworld.org/docid/453883fb0.html>.

this treatment. Siamak specifically suffered bodily injury due to the physical torture he endured, including persisting ringing in his left ear. Therefore, Iran’s torture and cruel, inhuman and degrading treatment of the Namazis violated their right to health.

**D. Iran Has Baselessly Refused to Grant Siamak Namazi Furlough During the COVID-19 Pandemic**

Article 12(2)(c) of the ICESCR requires States to facilitate the “prevention, treatment and control of epidemic, endemic, occupational and other diseases.”<sup>31</sup> The general comment on the right to health expands on this specific phrase, explaining that States are required to implement or enhance “immunization programmes and other strategies of infectious disease control” to combat epidemic disease.<sup>32</sup>

In response to the COVID-19 pandemic, which has claimed the lives of over 119,000 people in Iran,<sup>33</sup> the UN Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment recommended that States “[r]educe prison populations and other detention populations, wherever possible, by implementing schemes of early, provisional or temporary release,”<sup>34</sup> with a “particular emphasis on places of detention where occupancy exceeds the official capacity.”<sup>35</sup> This call was reiterated by the former UN Special Rapporteur on the Right to Health, Dainius Pūras, in his final report.<sup>36</sup>

Despite these clear, data-driven recommendations from the international community, the decision to grant or extend furloughs for roughly 120,000 other prisoners during the pandemic,<sup>37</sup> and the fact that Siamak has served more than half his sentence and therefore qualifies for furlough, Iranian authorities have repeatedly refused to grant his requests for furlough. He has therefore been forced to stay in Evin Prison, which has “chronic overcrowding,”<sup>38</sup> and has been exposed to prisoners with COVID-19 symptoms multiple times. On several occasions, Siamak has developed symptoms consistent with COVID-19. Iran’s refusal to grant Siamak furlough so that he can safely quarantine therefore constitutes a violation to his right to health.

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<sup>31</sup> ICESCR, *supra* note 16, at Art. 12(2)(c).

<sup>32</sup> *General Comment 14*, *supra* note 18, at ¶ 16.

<sup>33</sup> Vahid Salemi, *In Qom, Where Iran Outbreak Began, Virus Rages On*, ASSOCIATED PRESS, October 1, 2021, available at <https://www.arkansasonline.com/news/2021/oct/01/in-qom-where-iran-outbreak-began-virus-rages-on/>.

<sup>34</sup> ADVICE OF THE SUBCOMMITTEE TO STATE PARTIES AND NATIONAL PREVENTIVE MECHANISMS RELATING TO THE CORONAVIRUS DISEASE (COVID-19) PANDEMIC, SUBCOMMITTEE ON PREVENTION OF TORTURE AND OTHER CRUEL, INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT, U.N. Doc. CAT/OP/10, Apr. 7, 2020, at ¶ 9(b), available at <https://undocs.org/Home/Mobile?FinalSymbol=CAT%2FOP%2F10&Language=E&DeviceType=Desktop>.

<sup>35</sup> *Id.*, at 9(c).

<sup>36</sup> Dainius Pūras, REPORT OF THE SPECIAL RAPPORTEUR ON THE RIGHT TO PHYSICAL AND MENTAL HEALTH, U.N. Doc. A/75/163, July 16, 2020, at ¶ 71, available at <https://undocs.org/Home/Mobile?FinalSymbol=A%2F75%2F163&Language=E&DeviceType=Desktop>.

<sup>37</sup> Press Release, *Citing COVID Risk, Bachelet Calls on Iran to Release Jailed Human Rights Defenders*, OFFICE OF THE HIGH COMMISSIONER FOR HUMAN RIGHTS, Oct. 6, 2020, available at <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=26345&LangID=E>.

<sup>38</sup> *Iran: Leaked Footage from Evin Prison Offers Rare Glimpse of Cruelty Against Prisoners*, AMNESTY INT’L, Aug. 25, 2021, available at <https://www.amnesty.org/en/latest/news/2021/08/iran-leaked-video-footage-from-evin-prison-offers-rare-glimpse-of-cruelty-against-prisoners/>.

## VI. CONCLUSION

The Government of Iran has engaged in blatant, reckless, and incessant violations of Siamak and Baquer's right to health since the time of their arrests, resulting in the horrific decline of their physical and mental health. Two of Iran's current violations of the Namazis' right to health – its refusal to lift the arbitrary international travel ban on Baquer and its repeated denial of Siamak's requests for furlough during the ongoing COVID-19 pandemic – pose an immediate risk to both of their lives. Due to the severity of his medical problems, Baquer especially faces a high risk of mortality unless Iran rapidly reverses course.

Therefore, we respectfully reiterate our request that, in accordance with your working methods, you investigate the situation and immediately reach out to the Government of Iran, urging it to lift the travel restrictions on Baquer and uphold the right of both Namazis to the highest attainable standard of physical and mental health as guaranteed under the ICESCR.

Sincerely,

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Brian Tronic, International Counsel to  
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