

**PETITION TO:**

**UNITED NATIONS**

**WORKING GROUP ON ARBITRARY DETENTION**

Chairman/Rapporteur: Mr. Sètonджи Roland Adjovi (Benin)  
Vice-Chairperson: Ms. Leigh Toomey (Australia)  
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Mr. Seong-Phil Hong (Republic of Korea)  
Ms. Elina Steinerte (Latvia)

**HUMAN RIGHTS COUNCIL  
UNITED NATIONS GENERAL ASSEMBLY**

In the Matter of  
**SIAMAK NAMAZI & MOHAMMAD BAQUER NAMAZI,**  
Citizens of the United States of America and the Islamic Republic of Iran

v.

Government of Islamic Republic of Iran

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**URGENT ACTION REQUESTED**

And Petition for Relief Pursuant to Resolutions 1997/50, 2000/36, 2003/31, 6/4, 15/18, 20/16, 24/7, and 33/30.<sup>1</sup>

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**EMBARGOED UNTIL 8 AM CENTRAL EUROPEAN TIME**

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<sup>1</sup> Resolutions 1997/50, 2000/36, and 2003/31 were adopted by the UN Commission on Human Rights extending the mandate of the Working Group on Arbitrary Detention. The Human Rights Council, which “assume[d]... all mandates, mechanisms, functions and responsibilities of the Commission on Human Rights...” pursuant to UN General Assembly Resolution 60/251, G.A. Res. 60/251, ¶ 6 (Mar. 15, 2006), has further extended the mandate through Resolution 6/4, 15/18, 20/16, 24/7, and 33/30.

## **BASIS FOR “URGENT ACTION” REQUEST**

As set forth in the attached Petition, the Iranian Government is arbitrarily depriving Baquer and Siamak Namazi (the Namazis) of their liberty. The Namazis are dual citizens of the United States of America (United States) and Islamic Republic of Iran (Iran), who have been wrongly sentenced to ten years in prison on the baseless charge of “collaboration with a hostile government.” Siamak Namazi, the son of Baquer Namazi, is a businessman and scholar who was educated in the United States. Baquer Namazi is a former UNICEF staff member who had previously served as governor of Iran’s Khuzestan province. They are both known for their humanitarian work and their attempts to improve the lives of vulnerable Iranian citizens.

There is well-founded reason to believe that the Namazis’ health and lives are in serious danger. Extremely poor prison conditions in Iran, combined with the regular denial of access to adequate medical treatment, have raised serious concerns within the international community.<sup>2</sup> Torture and other forms of ill-treatment are systematically utilized, often with the aim to intimidate, punish or humiliate prisoners, or to extract forced confessions. The Namazis are being held in the Ward 2A section of the infamous Evin prison of Tehran,<sup>3</sup> which is known for the use of cruel and prolonged torture of political opponents of the government.<sup>4</sup> This “special wing” of the prison is controlled exclusively by the Islamic Revolutionary Guard Corps (IRGC) and operates with no semblance of transparency or legality. Furthermore, the IRGC guards and the doctors of Evin Prison frequently dismiss the detainees’ health problems as trivial, and often refuse treatment for pre-existing health problems.<sup>5</sup>

Siamak Namazi has been intimidated and has continually undergone lengthy interrogations by the IRGC, even after his conviction. He continues to be subjected to extended periods of solitary confinement. His cell is dark, cold and humid and lacks even a bed, forcing him to sleep on the concrete floor. He was initially not provided with warm clothing, even as temperatures dropped in the winter. He has been tortured by the IRGC guards and has been beaten, tased, and forced to watch government propaganda attacking him and showing his father in prison. Having no other means of protesting against his prison conditions and the manifold violations of his rights, he started a hunger strike during his incarceration. He has already lost 26 pounds (~12 kilograms) during his time in detention. Despite reporting ailments to the IRGC guards, he has not received medical treatment. The physical and mental suffering intentionally inflicted on Siamak, combined with his extended isolation, have caused Siamak’s mental and physical wellbeing to deteriorate. This deterioration has been especially marked since the point of his unjust conviction, which further crushed his spirits and diminished his remaining hope. Siamak’s conversations with his family raise serious concerns that he may now be suicidal.

Siamak’s 80-year-old father, Baquer Namazi, has been held in similarly harsh prison conditions. He has serious heart conditions, including arrhythmia, that require him to take

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<sup>2</sup> UN General Assembly Resolution A/C.3/71/L.25 of November 15, 2016

<sup>3</sup> *Lawyer Refused Access to Siamak Namazi’s Case File*, IRAN Wire, Apr. 11, 2016, available at <https://iranwire.com/en/features/1742>.

<sup>4</sup> Iran 2016 Human Rights Report, U.S. DEPARTMENT OF STATE, available at <https://www.state.gov/documents/organization/265708.pdf>, at p. 5.

<sup>5</sup> *Id.*, at p. 6.

special medications. He previously had a triple bypass surgery. He has lost at least 30 pounds (~14 kilograms) since being imprisoned and his energy is greatly diminished. In a highly unusual move that evidences the severity of his current condition, the IRGC did transfer Baquer to an external hospital for a period of several days on two separate occasions since his arrest, without providing any explanation to his family. On April 8, 2017, Baquer had a holter monitor attached to him. This is a battery-operated device that monitors the heart for arrhythmia – but does not treat it. It is possible that he requires a pacemaker due to his arrhythmia, which had been noted as a forthcoming medical issue by his personal physician prior to his arrest and detention, and he requires immediate medical attention. Baquer’s family has urgently requested that Baquer’s own heart specialist be allowed to see him, but this request has not been fulfilled, and the Office of the State Medical Examiner has informed the family that it may take “a few months” for them to conduct a medical review of Baquer’s case.

Additionally, both Baquer and Siamak were repeatedly denied the weekly family visits allowed for other prisoners and have had extremely limited access to their attorneys. While, as of this month, they are being allowed weekly family visits, this has not previously been the case and seems to be a response to their rapidly deteriorating health. Up until this month, they were only allowed family visits with Siamak’s mother – Baquer’s wife. More recently, at least one other family member has been allowed to visit. While Baquer’s visit is typically limited to roughly 45 minutes, Siamak’s is confined to only 15 to 20 minutes. Family members are not able to bring them anything during these visits; when Siamak’s mother has attempted to bring books and reading materials, they have been taken away. Until this month, Baquer and Siamak’s calls to family members were limited to only once a week and they were only able to call Siamak’s mother – Baquer’s wife. While they are now allowed more frequent calls and have been allowed to call at least one other family member, their very brief calls (usually 3-5 minutes) are still closely monitored by IRGC guards. Finally, despite being held in the same ward of Evin Prison for over a year, Baquer and Siamak were only allowed to see each other for the first time on February 28, 2017, the day before their appeal hearing, and only for about 20 minutes. They have been able to briefly see each other on several occasions since then.

Both Siamak’s and Baquer’s current detention conditions clearly constitute clear, inhuman, and degrading treatment, and may very well rise to the level of torture. Without intervention, it is unclear how much longer the Namazis can withstand the physical and psychological distress imposed by the IRGC. There is a great risk that the suffering inflicted on the Namazis may cause irreversible damage to their physical and mental health, or even death.

Accordingly, it is hereby requested that the Working Group consider this petition pursuant to its “Urgent Action” procedure.<sup>6</sup> In addition, it is requested that the attached Petition be considered a formal request for an opinion of the Working Group pursuant to Resolution 1997/50 of the Commission on Human Rights, as reconfirmed by Resolutions 2000/36, 2003/31, and Human Rights Council Resolutions 6/4, 15/18, 20/16, 24/7, and 33/30.

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<sup>6</sup> Report of the Working Group on Arbitrary Detention, A/HRC/16/47, Annex ¶ 7(b) (“Revised Methods of Work”), Jan. 19, 2011, at ¶ 22–24.

## QUESTIONNAIRE FOR SIAMAK NAMAZI

### **I. IDENTITY**

**1. Family name:** Namazi

**2. First name:** Siamak

**3. Sex:** Male

**4. Birth date:** September 14, 1971

**5. Nationality:** Iranian-American dual citizenship

**6. (a) Identity document (if any):** Passport

**(b) Issued by:** United States of America

**(c) On (date):** May 16, 2013

**(d) No.:** 488434878

**7. Profession and/or activity (if believed to be relevant to the arrest/ detention):**

Crescent Petroleum Company - Head of Strategic Planning for Middle East and North Africa (MENA), Dubai, UAE (2013 – 2015); Op-Ed Contributor for *The New York Times*

**8. Address of usual residence:** Six Towers, Yas Bldg, Unit 1604, Dubai Marina, Dubai United Arab Emirates

### **II. ARREST**

**1. Date of arrest:** October 13, 2015

**2. Place of arrest (as detailed as possible):** Arrested at location of interrogation where Siamak had been reporting regularly for previous three months.

**3. Forces who carried out the arrest or are believed to have carried it out:** Islamic Revolutionary Guard Corps (IRGC)

**4. Did they show a warrant or other decision by a public authority?** No

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

**6. Reasons for the arrest imputed by the authorities:** Alleged espionage and collusion with an enemy state without presenting any formal evidence or warrant.

**7. Legal basis for the arrest including relevant legislation (if known):** Unknown. While it is possible that Siamak was briefly shown a document regarding the purported

legal basis for his arrest at the time of his indictment, his lawyers have not had access to such a document. The indictment occurred in secret and no documents have been made public or provided to his lawyers.

### III. DETENTION

**1. Date of detention:** October 13, 2015 – present

**2. Duration of detention (if not known, probable duration):** 18 months

**3. Forces holding the detainee under custody:** Islamic Revolutionary Guard Corps (IRGC).

**4. Places of detention (indicate any transfer and present place of detention):** Since the date of the arrest Siamak Namazi has been held in Evin Prison's Ward 2A section that is under the control of the IRGC.

**5. Authorities that ordered the detention:** Islamic Revolutionary Guard Corps (IRGC).

**6. Reasons for the detention imputed by the authorities:** Exact charges, with specific references to Iranian law, were not presented to the family or the lawyers during pre-trial detention. While it is possible that such charges were provided to Siamak privately during his detention, this is not likely. Now that Siamak has been convicted, he is detained on the basis of his conviction for "collaboration with a hostile government," in reference to the United States.

**7. Relevant legislation applied (if known):** While it is possible that Siamak was briefly shown a document regarding the purported legal basis for his detention at the time of his indictment, his lawyers have not had access to such a document. The indictment occurred in secret and no documents have been made public or provided to his lawyers. The legislation later applied in Siamak's conviction was Article 508 of Iran's Islamic Penal Code, which states that, "Anyone who cooperates by any means with foreign states against the Islamic Republic of Iran, if not considered a *mohareb* [enemy of God], shall be sentenced to one to ten years' imprisonment."

## QUESTIONNAIRE FOR BAQUER NAMAZI

### **I. IDENTITY**

- 1. Family name:** Namazi
- 2. First name:** Mohammad Baquer
- 3. Sex:** Male
- 4. Birth date:** December 3, 1936
- 5. Nationality:** Iranian-American dual citizenship
- 6. (a) Identity document (if any):** Passport  
**(b) Issued by:** United States of America  
**(c) On (date):** July, 15 2009  
**(d) No.:** 456215055
- 7. Profession and/or activity (if believed to be relevant to the arrest/ detention):**  
Retired senior UNICEF official and civil society volunteer; former governor of Iran's Khuzestan province under the US-backed Shah Mohammed Reza Pahlavi
- 8. Address of usual residence:** Apt 7C, Golboo Tower, Golboo Street, South Kamranieh, Tehran, Iran

### **II. ARREST**

- 1. Date of arrest:** February 22, 2016
- 2. Place of arrest (as detailed as possible):** Tehran airport Passport Control, upon arrival. Baquer Namazi was intercepted by approximately seven or eight members of the IRGC when he returned early from a trip to Dubai in order to visit his imprisoned son, Siamak Namazi. He was interrogated by the IRGC and escorted to his home, which was then searched extensively. The same night, he was taken to Evin Prison.
- 3. Forces who carried out the arrest or are believed to have carried it out:** Islamic Revolutionary Guard Corps (IRGC).
- 4. Did they show a warrant or other decision by a public authority?** No. While searching Baquer's home, the IRGC guards did present a document that they alleged to be a search warrant and authorization to present him to the magistrate, but this could not be verified as there was no lawyer present and a copy of the document has never been provided. Regardless, the document was not an *arrest* warrant, and, in fact, the IRGC guards assured Baquer and his wife that he was not being arrested.

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

**6. Reasons for the arrest imputed by the authorities:** Alleged espionage and collusion with an enemy state without presenting any formal evidence.

**7. Legal basis for the arrest including relevant legislation (if known):** Unknown. While it is possible that he was verbally told that he was being arrested on charges of collaboration with the United States, no specific legal basis was presented in writing to the suspect either at the time of the arrest or later during his detention.

### **III. DETENTION**

**1. Date of detention:** February 22, 2016 – present

**2. Duration of detention (if not known, probable duration):** 14 months

**3. Forces holding the detainee under custody:** Islamic Revolutionary Guard Corps (IRGC).

**4. Places of detention (indicate any transfer and present place of detention):** Since the date of his arrest, Baquer Namazi has been held in Evin Prison's Ward 2A section that is under the control of the IRGC.

**5. Authorities that ordered the detention:** Islamic Revolutionary Guard Corps (IRGC).

**6. Reasons for the detention imputed by the authorities:** While the nature of the charges may have been conveyed verbally to Baquer, exact charges, with specific references to Iranian law, were not presented during pre-trial detention. Now that Baquer has been convicted, he is detained on the basis of his conviction for "collaboration with a hostile government," in reference to the United States.

**7. Relevant legislation applied (if known):** No specific legal basis was presented to the suspect during his pre-trial detention. The legislation later applied in Baquer's conviction was Article 508 of Iran's Islamic Penal Code, which states that, "Anyone who cooperates by any means with foreign states against the Islamic Republic of Iran, if not considered a *mohareb* [enemy of God], shall be sentenced to one to ten years' imprisonment."

# **CIRCUMSTANCES OF THE ARRESTS AND THE DETENTIONS OF SIAMAK AND BAQUER NAMAZI**

## **I. STATEMENT OF FACTS**

### **A. Iran's Political Context**

Iran is the site of many of the world's oldest civilizations. Today, Iran is one of the most populous, influential, and geopolitically important countries in the Middle East, making it a key factor in the region's stability. Persians constitute the largest ethnic group, but many other ethnic groups, such as Turks, Azeris, Kurds, Armenians, and Baluchis, are also present in the country. The overwhelming majority of the population belongs to the Shia branch of Islam, although there are also a significant number of religious minorities.

In the first several decades of the post-World War II era, Iran was politically aligned with the West and seemed to be a relatively prospering and cosmopolitan kingdom under the Shah, albeit with significant human rights abuses against those opposing the Shah's rule. In 1979, the Islamic Revolution overthrew the monarchy and Iran became an Islamic Republic based on a theocratic constitution. Its political system is a combination of a parliamentary democracy and an autocracy that is practically governed by Islamic jurists.

The Supreme Leader, currently Ayatollah Ali Khamenei, holds the highest authority and the President is the second-highest-ranking official in the Islamic Republic. The Supreme Leader is the commander in chief of the armed forces and has predominant influence on the key institutions of the state. He appoints the leaders of the judiciary, military, and the cleric members of the Guardian Council. He appoints six of the members of the Guardian Council, a body of twelve that vets all candidates for the parliament and for the presidency and also determines the legitimacy of laws passed by the Iranian parliament. The Council has in the past rejected candidates who are not considered fully loyal to the clerical establishment. In the 2013 elections, more than 600 candidates were disqualified by the Guardian Council and seven out of eight final presidential candidates were deemed close to Khamenei.<sup>7</sup>

Since the Revolution, Iran has turned its back on the international community, adapted extremely anti-Western rhetoric, and fostered conservative views to protect Islam from deviation from traditional sharia law. Contemporary Iranian politics are divided between the supporters of conservative and conservative reformist power centers. While there were numerous attempts to bring reforms to the country in the late 1980s and in the 1990s, Mahmoud Ahmadinejad, a conservative populist president, came to power in 2005 and the hopes of the reformists were dashed. During his presidency, the human rights situation within the country "deteriorated considerably,"<sup>8</sup> and tension rose between Iran and Western countries – tension that only slightly eased when Hassan Rouhani, a conservative reformer, was elected as President in 2013. Rouhani publicly expressed that his administration would uphold the rights outlined in the

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<sup>7</sup> Iran – Freedom in the World 2016, FREEDOM HOUSE, *available at* <https://freedomhouse.org/report/freedom-world/2016/iran>.

<sup>8</sup> World Report 2006 – Iran, HUMAN RIGHTS WATCH, *available at* <http://pantheon.hrw.org/legacy/wr2k6/wr2006.pdf>, at p. 441.



Iranian Constitution, implement reforms regarding human rights, decrease state intervention, and ease restrictions on the society, while also providing greater access to the internet and restoring Iran's role in the international community by making its nuclear program fully transparent.

In July 2015, the Joint Comprehensive Plan of Action (JCPOA) – or “the nuclear deal,” as it's commonly referred to – was concluded between Iran on the one hand and the US, United Kingdom, France, Russia, Germany, China and the European Union on the other. The JCPOA aims to ensure that Iran's nuclear program is exclusively peaceful and that it under no circumstances will ever seek, develop, or acquire any nuclear weapons. In January 2016, the International Atomic Energy Agency (IAEA) verified that Iran had implemented its key nuclear-related measures described in the JCPOA and, as a result, the US and the EU have lifted nuclear-related sanctions on Iran.<sup>9</sup> These measures included areas of trade, technology, finance, and energy. Although the JCPOA does not affect any sanctions imposed on Iran due to its human rights violations, it raised hopes that Iran would also increase its engagement and cooperation with other stakeholders of the international community, especially in the field of human rights.

Iran's record on human rights has been universally condemned by international experts and organizations. The General Assembly of the United Nations urged the Islamic Republic of Iran multiple times to cease the systematic use of arbitrary detention, and to uphold, in law and in practice, procedural guarantees to ensure fair trial standards.<sup>10</sup> The Special Rapporteur on the Situation of Human Rights in the Islamic Republic of Iran concluded that “serious rights violations linked to laws that violate the Government's international obligations are often compounded by the failure of security officials and the Judiciary to properly implement national laws that would otherwise protect the rights of the accused, including fair trial guarantees.”<sup>11</sup> Similarly, the Secretary-General of the United Nations, in a report on the situation of human rights in Iran, remained “deeply troubled by reports of increased . . . arbitrary arrest and detention, unfair trials, and possible torture and ill-treatment of human rights activists, lawyers, journalists and opposition activists.”<sup>12</sup>

In its 2016/2017 annual country report on Iran, Amnesty International concluded that trials were generally unfair and the judiciary was not independent. The Special Court for the Clergy and the Revolutionary Courts remains particularly susceptible to pressure from security and intelligence forces to convict defendants and impose harsh sentences.<sup>13</sup> Similarly, in its 2016 report on Iran, Freedom House came to the conclusion that “the judicial system is used as a tool to silence critics and opposition members” and “human rights advocates and political activists have been subjected to unfair trials, and the security apparatus's influence over judges has reportedly grown.”<sup>14</sup>

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<sup>9</sup> *Joint Comprehensive Plan of Action*, U.S. DEPARTMENT OF STATE, available at <https://www.state.gov/e/eb/tfs/spi/iran/jcpoa/>.

<sup>10</sup> UN General Assembly Resolution A/RES/71/204 of February 1, 2017

<sup>11</sup> 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*, ¶65, U.N. Doc. A/HRC/31/69 (2016).

<sup>12</sup> Secretary-General, *Report of the Secretary-General on the Situation of Human Rights in Iran*, ¶58, U.N. Doc. A/HRC/31/26 (2016).

<sup>13</sup> Iran 2016/2017 Report, AMNESTY INT'L, available at <https://www.amnesty.org/en/countries/middle-east-and-north-africa/iran/report-iran/>.

<sup>14</sup> Iran – Freedom in the World 2016, *supra* note 7.

## B. Biographies of the Namazis

Siamak Namazi is a 45-year-old Iranian-American dual national who has lived in numerous countries including, most recently, the United Arab Emirates, where he had been living since 2007. Born in Iran, he was naturalized and became an American citizen in 1993. After graduating from Tufts University, Siamak returned to Iran for military service, which is compulsory there. From 1994 to 1996, as part of his military service, he worked as a duty officer with the Ministry of Housing and Urban Planning in Tehran, after which he returned to school in the United States and received a master's degree in Urban Planning and Regional Development from Rutgers University. After completing this program in 1998, he founded Future Alliance International, a US-based company that provided consulting for foreign investors to do business in Iran. Siamak later worked as a Managing Director at a family consulting firm founded in Tehran, Atieh Bahar Consulting.

In 2005 and 2006 he went on to hold fellowships at the Woodrow Wilson Center for International Scholars and the National Endowment for Democracy. After a short return to Iran, Siamak moved to the United Arab Emirates in 2007, where he resumed consulting with several firms based in Dubai. Also in 2007, he was recognized by the World Economic Forum as a Young Global Leader (YGL). In 2011, Siamak earned a second master's degree, this one from London Business School. At the time of his arrest, he was working as Head of Strategic Planning for Middle East and North Africa at Crescent Petroleum Company in Dubai. In this position, Siamak was focused on the company's strategic outlook as well as major items such as the sustainability report, and did not have any responsibilities specific to Iran. He has never engaged in politics.

Siamak's humanitarian contributions are illustrated through his advocacy to change US sanctions that were preventing medicine from reaching the Iranian people. In 2013, he set up a study group and devoted several months to studying the impact of the sanctions and speaking out against sanctions that blocked humanitarian trade with Iran. He worked independently to find out the root of the problem and then published his findings, including in an op-ed in the *New York Times*.<sup>15</sup> In this piece, he argued that the sanctions imposed on Iran by the US and the European Union, while intended to allow for humanitarian trade, were nonetheless impairing the delivery of drugs and medical equipment to Iran and causing serious shortages of lifesaving medicines. His efforts contributed to significant changes in the US Treasury Department's Office of Foreign Assets Control's policies allowing more lifesaving medicine and medical equipment to reach the people of Iran.

Baquer Namazi was formerly governor of the Iranian province of Khuzestan under the Shah. When that government was overthrown in 1979, Baquer left the government and continued to live in Iran for several years. Facing mounting pressures, Baquer fled the country in 1983 and ultimately settled in the United States, where he was naturalized and became a citizen. He dedicated the rest of his career to the eradication of poverty. From 1984 to 1997, he served as a UNICEF representative and worked in countries such as Kenya, Somalia, and Egypt, focusing on vulnerable people and aid toward women and children affected by war. As an

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<sup>15</sup> Siamak Namazi, *Blocking Medicine to Iran*, THE NEW YORK TIMES, Mar. 1, 2013, available at [http://www.nytimes.com/2013/03/02/opinion/blocking-medicine-to-iran.html?\\_r=0](http://www.nytimes.com/2013/03/02/opinion/blocking-medicine-to-iran.html?_r=0).

international civil servant, he played a key role in engaging UNICEF in the drafting process of the Convention on the Rights of the Child and in the development of the Rights Based Approach. He retired from UNICEF in 1997, but continued to work toward the eradication of poverty as a civil society volunteer.

In recognition of Baquer's humanitarian work, he was awarded with the Medal of UNICEF and the Center for Human Rights. He also established Hamyaran Iran, a non-governmental organization (NGO) as the first capacity-building resource center for NGOs in Iran. In this capacity, Baquer worked closely with local and regional government bodies to promote sustainable development and non-governmental participation. He was actively involved in coordinating complex disaster relief during the Bam earthquake and other natural disasters in Iran.

### **C. History of Past Politically Motivated Persecution of Siamak Namazi**

In 2007, Siamak Namazi was politically targeted and frequently interrogated by the Ministry of Intelligence related to his previous affiliations to two US-based organizations: the Woodrow Wilson International Center for Scholars (Wilson Center), where he was a Public Policy Fellow from July-October 2005; and the National Endowment for Democracy, where he was a Reagan-Fascell Fellow from November 2005-March 2006. Despite the fact that Siamak wasn't actually an employee of either of these organizations, those interrogating him in Iran repeatedly asked, "what did you produce for them?" Siamak was baselessly accused of espionage and collaboration with a foreign state, but was eventually cleared of these charges and no formal prosecution was made against him. That charges would again be brought over a decade later on the basis of Siamak's affiliations with these highly reputable organizations is baffling.

## **II. Current Situation: Arbitrary Arrests and Detentions of the Namazis**

### **A. Siamak Namazi Is Intercepted at Tehran Airport and Passports Seized**

On July 18, 2015, Siamak Namazi was intercepted on his way into Tehran airport by the IRGC. He intended to travel back to the United Arab Emirates, where he lives, after a weekend visit with his parents in Tehran. Before he could reach the first passport control checkpoint, IRGC guards dressed in civilian clothes surrounded him. They told Siamak they were from the IRGC and instructed him to accompany them for questioning. The guards momentarily showed Siamak a document that they claimed to be a "search warrant" and order preventing him from leaving Iran. In the few seconds that Siamak was able to read the document, he saw the phrase "collaboration with the Young Global Leaders."

The IRGC guards escorted Siamak to a parked car in the airport parking lot and forced him into the backseat. From there, the IRGC guards questioned Siamak for several hours. All of his electronic devices, including his laptop, tablet, and mobile devices were immediately confiscated. The IRGC also seized Siamak's US and Iranian passports. When the IRGC guards were through with their questioning, they then told Siamak they would "keep in touch" and

instructed him not to leave Tehran. They gave Siamak a handwritten receipt of the confiscated items.

It is noteworthy that this incident took place just four days after the finalization of the JCPOA, which occurred on July 14, 2015, and which was viewed as a defeat for conservative hardliners in Iran, who wanted to maintain a hostile policy towards the United States.<sup>16</sup>

### **B. Siamak Namazi Is Interrogated for Three Months**

For the following three months, Siamak Namazi was regularly interrogated by the IRGC. He would receive an anonymous phone call, simply instructing him on a time and place to present himself. The time and frequency of interrogations was unpredictable. At first, interrogations happened nearly every day, then maybe only two to three times a week. Sometimes, several days would pass without an interrogation.

The interrogations were completely private meetings at an unmarked location – only Siamak and IRGC guards were present. The primary focus of the questions was Siamak's association with the West. For example, the IRGC guards would ask about his work with Washington think tanks like the Wilson Center, and his membership with associations like the World Economic Forum's Young Global Leaders program. The IRGC accused Siamak of being a spy for the West, and would repeatedly tell him to "prove your innocence" and "admit it." On several occasions the IRGC would stage an arrest scene to scare Siamak. While he was being questioned, they would arrange for screeching tire sounds outside and would tell Siamak, "They have come to take you to prison."

Siamak had hired an attorney to represent him, but the lawyer's ability to defend Siamak was severely limited. Siamak was told that it was an official policy that anyone accused of a crime related to national security may only be represented by an "approved lawyer."<sup>17</sup> Siamak repeatedly asked to see the list of approved lawyers, but he was ultimately never shown the purported list. As a result, he didn't have a lawyer who could be present with Siamak during any of the interrogations.

On one occasion in August 2015, instead of being summoned to the unmarked location, Siamak was told to come to see the magistrate at Evin prison. Siamak's brother and lawyer accompanied him to the prison, however neither was allowed in with the magistrate. After some time had passed and they had not heard anything from Siamak, the lawyer was told unofficially the Siamak had been arrested and would not be going home that day. Siamak's brother and lawyer left to inform the rest of the family, who were understandably upset. Yet two hours later,

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<sup>16</sup> *Joint Comprehensive Plan of Action*, *supra* note 9.

<sup>17</sup> Article 48 of the Code of Criminal Procedure allows the Office of the Prosecutor to prevent detainees from accessing lawyers of their own choice under certain circumstances. ["In cases of crimes against internal or external security...during the investigation phase, the parties to the dispute are to select their attorneys from a list approved by the head of the judiciary. The names of the approved attorneys will be announced by the head of the judiciary."] See e.g., *Amendments to the Islamic Republic of Iran's Code of Criminal Procedure – Part 1*, IRAN HUMAN RIGHTS DOCUMENTATION CENTER, available at <http://www.iranhrdc.org/english/human-rights-documents/iranian-codes/1000000602-amendments-to-the-islamic-republic-of-iran%E2%80%99s-new-code-of-criminal-procedure.html>.

they received a call from Siamak, who was waiting for them outside the prison. He had not in fact been arrested, and had not been informed that his family was told that he was detained. It appears likely that the entire incident was staged to further intimidate and scare Siamak's family.

### **C. Siamak Namazi's Arrest**

On October 13, 2015, Siamak Namazi was summoned once again for an interrogation. Later that day, he was arrested by the members of the IRGC. It is unknown what, if anything, he was told or shown at time of the arrest. The family was shown no written document or warrant, nor has any written document been provided to them since. A purported video of the moment of his arrest has been broadcast on Iranian online media outlets.

It was later discovered that Siamak's social media accounts had been hacked at the time he was being arrested. Emails with viruses and malicious links were sent to many of his personal contacts, including some well-respected international journalists and foreign policy professionals. Someone, not Siamak, also initiated Facebook chats with his Facebook connections. Those connections almost immediately noticed that Siamak was not the one sending the messages because the writing style, type of questions, and frequency of grammatical errors were inconsistent with Siamak's own writing.

Without providing any further information, Siamak was taken to the special wing of Evin prison that is under the full control of the IRGC. The family had no access, no information and no word from Siamak for some time after his arrest.

The timing of Siamak's arrest was suspicious, seemingly linked to the entry into force of the JCPOA, which would occur five days later on October 18, 2015,<sup>18</sup> as well as the publication of a false and defamatory article on the news website *The Daily Beast* on September 15, 2015. The article, part of coverage related to the JCPOA, made claims that Siamak and his family would gain financially from the lifting of sanctions. The article was written by an "Alex Shirazi," who the byline described as "a pseudonym for a well-known Iranian dissident who requested that *The Daily Beast* keep his identify concealed for fear of what might happen to his family in Iran in retaliation for this article." To the contrary, there is no reason that "Alex Shirazi" feared any retaliation from the Iranian regime – it is much more likely that "Alex Shirazi" is a pseudonym for an agent of the Iranian regime who was enlisted in a smear campaign against the Namazi family.

### **D. Baquer Namazi's Arrest**

Following Siamak's arrest and imprisonment, Siamak's father, Baquer Namazi, attempted to visit his son at Evin Prison two to three times each week, but was never granted access – even when he had letters from prison officials granting him the right to see his son.

On or about February 21, 2016, while Baquer was traveling to see other family, Siamak's mother received a call from Evin Prison that special permission had been granted for Baquer to visit Siamak, but that the permission was valid only for a visit on February 24, 2016. At the

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<sup>18</sup> *Joint Comprehensive Plan of Action*, *supra* note 9.

same time, it was being reported that Siamak had started a hunger strike. Baquer quickly arranged travel plans to return to Tehran.

On February 22, Baquer flew into Tehran airport where he was intercepted by IRGC guards upon leaving the aircraft and at passport control. The IRGC drove Baquer back to his home, where about a half dozen guards commenced a search of the house. The IRGC showed Baquer and his wife a document they claimed to be a search warrant for Baquer's belongings. They looked through everything in the house, even where patently obvious that the items did not belong to Baquer, such as drawers with Baquer's wife's personal effects. The IRGC's search and occupation of the house continued through midnight, after which Baquer was taken away.

Like Siamak, Baquer's personal electronics were confiscated, as were his passports. Additionally, the IRGC seized various personal photos and documents, including those belonging to his wife and deceased mother-in-law. Days later, copies of many photos were broadcast by Iranian state media in coverage connected with this case.

Throughout the search, Baquer asked about Siamak, but the IRGC guards refused to give him any information.

After the search was over, the IRGC guards informed Baquer that they needed to present him to the magistrate. The IRGC guards produced a document that they claimed to be an authorization for this, perhaps the same document they claimed was a search warrant. Baquer does not believe that the document actually mentioned arrest. Baquer's wife was told that he would only be taken to see the magistrate, and that he would only be gone a few days.

However, Baquer was immediately taken to Evin Prison and brought into the same IRGC-controlled wing as Siamak. A few days after his arrest, Baquer left a message on the home answering machine – (the first contact since his arrest) – wherein he asked that the family keep his arrest quiet and conveyed that he was facing the same broad charges as Siamak.

### **E. Trial and Appeal**

The first and only hearings at the trial level occurred in early October 2016 - Siamak's on October 1, and Baquer's on October 5. Both hearings were secret and excluded members of the press and the public from attending. The hearings took place before Judge Abolqasem Salavati, head of the 15<sup>th</sup> branch of the Islamic Revolutionary Court in Tehran, who is well known for meting out harsh sentences on political cases.

Before the hearings, Siamak and Baquer had extremely limited access to legal representation. They were only allowed to meet with their attorneys for a brief thirty minutes a few days before the hearing, despite numerous attempts to meet beforehand. The attorneys were only provided with access to court "files" and "evidence" a few days in advance of the trials, making it practically impossible to prepare a meaningful defense. Furthermore, they were only allowed to view the files and were not able to make or retain their own copies. It is unknown whether such files were even complete.

The trial hearings only lasted a couple hours, during which the Namazis were denied fundamental due process rights. They were not allowed to present any evidence or call witnesses, and they were denied the opportunity to meaningfully challenge any charges or evidence – despite the fact that the IRGC had been conducting relentless interrogations for months in advance and without allowing access to legal representation.

On October 17, 2016, both were sentenced to ten years in prison on the charges of “collusion with an enemy state,” in reference to the United States. This is the maximum possible penalty that can be imposed for these criminal offenses under Article 508 of Iran’s Islamic Penal Code. No written copy of the verdicts has been provided to the Namazis. At the same time, the IRGC-affiliated websites and media were running a continuous negative campaign against the Namazis, stating them to be US “infiltrators” and showing copies of their passports and photos, which had been taken from the family’s house by the IRGC.

The Namazis immediately appealed the convictions and sentences, though they could only do so in the most general sense, as they have no access to any of the evidence or the final verdict of the trial court.

An appeal hearing took place before the 36th Branch of the Appeals Court on March 1, 2017, during which both cases were considered. In total, the hearing was no more than two to three hours. Siamak was brought to the hearing late because the guards escorting him claimed to get “lost” – though it was likely a deliberate attempt to undermine the appeal process. The judge did not reschedule or extend the hearing to make up for lost time. As a result, Baquer’s case was considered for approximately two hours, while Siamak’s was only considered for 30 to 45 minutes.

The appeal was supposed to have been heard by a panel of three judges, however only one judge was actually present. Press and the public were also barred from the appeal hearing.

There is no indication as to when the Appeals Court might issue a decision.

## **F. Current Conditions**

The Namazis are being held in the Ward 2A section of the infamous Evin prison of Tehran,<sup>19</sup> which is known for the use of cruel and prolonged torture of political opponents of the government.<sup>20</sup> This “special wing” of the prison is controlled solely by the Islamic Revolutionary Guard Corps (IRGC) and operates with no semblance of transparency or legality.

Siamak Namazi has been intimidated and has continually undergone lengthy interrogations by the IRGC, even after his conviction. He continues to be subjected to extended periods of solitary confinement. His cell is dark, cold and humid and lacks even a bed, forcing him to sleep on the concrete floor. He was initially not provided with warm clothing, even as temperatures dropped in the winter. He has been tortured by the IRGC guards and has been beaten, tased, and forced to watch government propaganda attacking him and showing his father

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<sup>19</sup> *Lawyer Refused Access*, *supra* note 3.

<sup>20</sup> Iran 2016 Human Rights Report, *supra* note 4, at p. 5

in prison. Siamak has also been told at times that his father is gravely ill and has been taken to the hospital. Having no other means of protesting against his prison conditions and the manifold violations of his rights, he started a hunger strike during his incarceration. He has already lost 26 pounds (~12 kilograms) during his time in detention. Despite reporting ailments to the IRGC guards, he has not received medical treatment. The physical and mental suffering intentionally inflicted on Siamak, combined with his extended isolation, have caused Siamak's mental and physical wellbeing to deteriorate. This deterioration has been especially marked since the point of his unjust conviction, which further crushed his spirits and diminished his remaining hope. Siamak's conversations with his family raise serious concerns that he may now be suicidal.

Siamak's 80-year-old father, Baquer Namazi, has been held in similarly harsh prison conditions, including extensive periods of solitary confinement. He has serious heart conditions, including arrhythmia, that require him to take special medications. He previously has gone through triple bypass surgery due to his heart condition. He has lost at least 30 pounds (~14 kilograms) since being imprisoned and his energy is greatly diminished. In a highly unusual move that evidences the severity of his current condition, the IRGC did transfer Baquer to an external hospital for a period of several days on two separate occasions since his arrest, without providing any explanation to his family. On April 8, 2017, Baquer had a holter monitor attached to him. This is a battery-operated device that monitors the heart for arrhythmia – but does not treat it. It is possible that he requires a pacemaker due to his arrhythmia, which had been noted as a forthcoming medical issue by his personal physician prior to his arrest and detention, and he requires immediate medical attention. Baquer's family has urgently requested that Baquer's own heart specialist be allowed to see him, but this request has not been fulfilled, and the Office of the State Medical Examiner has informed the family that it may take "a few months" for them to conduct a medical review of Baquer's case.

Additionally, both Baquer and Siamak were repeatedly denied the weekly family visits allowed for other prisoners and have had extremely limited access to their attorneys. While, as of this month, they are being allowed weekly family visits, this has not previously been the case and seems to be a response to their rapidly deteriorating health. Up until this month, they were only allowed family visits with Siamak's mother – Baquer's wife. More recently, at least one other family member has been allowed to visit. While Baquer's visit is typically limited to roughly 45 minutes, Siamak's is confined to only 15 to 20 minutes – and, for some time, could only take place behind a partition. Family members are not able to bring them anything during these visits; when Siamak's mother has attempted to bring books and reading materials, they have been taken away. Until this month, Baquer and Siamak's calls to family members were limited to only once a week and they were only able to call Siamak's mother – Baquer's wife. While they are now allowed more frequent calls and have been allowed to call at least one other family member, their very brief calls (usually 3-5 minutes) are still closely monitored by IRGC guards. Finally, despite being held in the same ward of Evin Prison for over a year, Baquer and Siamak were only allowed to see each other for the first time on February 28, 2017, the day before their appeal hearing, and only for about 20 minutes. They have been able to briefly see each other on several occasions since then.

### **III. LEGAL ANALYSIS**



For the reasons set forth below, the detention of the Namazis constitutes an arbitrary deprivation of their liberty<sup>21</sup> under Category II and Category III as set forth by the United Nations Working Group on Arbitrary Detention (Working Group).

## **A. Category II: Substantive Fundamental Rights**

An arbitrary detention falls under Category II when detention results from the exercise of fundamental rights protected by international law.<sup>22</sup> These fundamental rights include the right to freedom of association,<sup>23</sup> as described in the Universal Declaration of Human Rights (UDHR) and the International Covenant on Civil and Political Rights (ICCPR), which Iran ratified in 1975.<sup>24</sup> The Namazis' detention is arbitrary under Category II because it resulted from their exercise of this fundamental right, as detailed below.

### **1. The Iranian Government Detained the Namazis Because They Exercised their Right to Freedom of Association**

The Iranian government's arrest and detention of the Namazis is a direct reprisal for exercising their right to freedom of association. Article 22 of the ICCPR states "Everyone shall have the right to freedom of association with others," and that, generally speaking, "no restrictions may be placed on the exercise of this right."<sup>25</sup> It is also protected by Article 20(1) of the UDHR.<sup>26</sup>

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<sup>21</sup> An arbitrary deprivation of liberty is defined as any "depriv[ation] of liberty except on such grounds and in accordance with such procedures as are established by law." International Covenant on Civil and Political Rights, G.A. Res 2200A (XXI), 21 U.N. GAOR Supp. (No. 16), at 52, U.N. Doc. A/6316 (1966), 999 U.N.T.S. 171, *entered into force* 23 March 1976, at art. 9(1) [hereinafter *ICCPR*]. Such a deprivation of liberty is specifically prohibited by international law. *Id.* "No one shall be subjected to arbitrary arrest, detention or exile." Universal Declaration of Human Rights, G.A. Res. 217A (III), U.N. Doc. A/810, at art. 9 (1948) [hereinafter *Universal Declaration*]. "Arrest, detention or imprisonment shall only be carried out strictly in accordance with the provisions of the law." Body of Principles for the Protection of Persons under Any Form of Detention or Imprisonment, at Principle 2, G.A. Res. 47/173, Principle 2, 43 U.N. GAOR Supp. (No. 49) at 298, U.N. Doc. A/43/49 (1988) [hereinafter *Body of Principles*].

<sup>22</sup> Specifically, a Category II deprivation of liberty occurs, "[w]hen the deprivation of liberty results from the exercise of the rights or freedoms guaranteed by articles 7, 13, 14, 18, 19, 20, and 21 of the Universal Declaration of Human Rights and, and insofar as States parties are concerned, by articles 12, 18, 19, 21, 22, 25, 26, and 27 of the International Covenant on Civil and Political Rights." Office of the High Comm'r for Human Rights, United Nations, Fact Sheet No. 26: The Working Group on Arbitrary Detention, pt. IV(B) [hereinafter *Fact Sheet No. 26*].

<sup>23</sup> *Universal Declaration*, *supra* note 21, at art. 20(1); *ICCPR*, *supra* note 21, at art. 22.

<sup>24</sup> *Ratification of 18 International Human Rights Treaties, as of Mar. 10, 2017*, Office of the High Comm'r for Human Rights, *available at* <http://indicators.ohchr.org>

<sup>25</sup> *ICCPR*, *supra* note 21, at art. 22 ("(1) Everyone shall have the right to freedom of association with others, including the right to form and join trade unions for the protection of his interests. (2) No restrictions may be placed on the exercise of this right other than those which are prescribed by law and which are necessary in a democratic society in the interests of national security or public safety, public order (ordre public), the protection of public health or morals or the protection of the rights and freedoms of others. This article shall not prevent the imposition of lawful restrictions on members of the armed forces and of the police in their exercise of this right. (3) Nothing in this article shall authorize States Parties to the International Labour Organisation Convention of 1948 concerning Freedom of Association and Protection of the Right to Organize to take legislative measures which would prejudice, or to apply the law in such a manner as to prejudice, the guarantees provided for in that Convention.")

<sup>26</sup> *Universal Declaration*, *supra* note 21, at art. 20(1) ("Everyone has the right to freedom of peaceful assembly and association.")

The Namazis' current detention is directly attributable to their exercising of the right to freedom of association, as the entire case against them is based on their association with Western organizations. Both Siamak and Baquer Namazi have US citizenship and have spent time working in the United States.<sup>27</sup> Siamak was educated in the US and has affiliations with several US-based institutions, having completed prestigious research fellowships with the National Endowment for Democracy (NED) and the Woodrow Wilson International Center for Scholars (Wilson Center). He is also a Young Global Leader (YGL) of the World Economic Forum (WEF), which is based in Switzerland.

Throughout Siamak's interrogations, trial, and conviction, these affiliations were continuously cited to as a primary basis for the Iranian government's suspicions against him. This first began with the Ministry of Intelligence's interrogations of Siamak in 2007, which focused on the nature of his work with the NED and the Wilson Center – and which led to a then-futile attempt to bring charges against Siamak for espionage and collaboration with a foreign government. When his targeting resumed in 2015, his ties to Western institutions were again brought front and center – this time by the IRGC. When Siamak was apprehended at the Tehran airport and had his passports and electronic devices confiscated by the IRGC, the alleged warrant that they briefly showed to him contained the phrase “Young Global Leaders.” Even after Siamak's conviction, IRGC guards have continued to interrogate him regarding his ties to these Western institutions, seeking to extract further support for their conspiracy theories. It is noteworthy that, while Siamak's association with the World Economic Forum's Young Global Leaders program has constituted a major part of the charges against him, high ranking government officials from Iran, including Foreign Minister Mohammad Javad Zarif, regularly attend World Economic Forum events such as its annual meeting in Davos, Switzerland, and yet has never been charged with any crimes.

Perhaps the clearest demonstration that the Namazis' targeting stems from their association with the West is the propaganda video posted online by Iran's judicial news service roughly one year after Siamak's arrest. In it, images of Siamak's arrest are directly juxtaposed with an image of his US passport and “a montage of anti-American-themed images.”<sup>28</sup>

It is a violation of international law that the Iranian government has criminalized the Namazis' exercise of their fundamental right to freedom of association, and this renders their detention arbitrary under Category II.

### **B. Category III: Due Process Rights**

The Working Group considers a deprivation of liberty to be a Category III arbitrary detention “[w]hen the total or partial non-observance of the international norms relating to the

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<sup>27</sup> While Iranian law technically prohibits citizens from holding dual nationalities, the Government itself has admitted that at least 40 government officials are currently in violation of this law, and it is typically not enforced. See e.g., *Iran to Revoke Citizenship of Those Holding Dual Nationalities*, AL ARABIYA, Jan. 9, 2017, available at <http://english.alarabiya.net/en/News/middle-east/2017/01/09/Iran-to-revoke-citizenship-of-those-holding-dual-nationalities-.html>.

<sup>28</sup> Rick Gladstone, *Video Shows Siamak Namazi, American Businessman Held by Iran*, THE NEW YORK TIMES, Oct. 17, 2016, available at <https://www.nytimes.com/2016/10/18/world/middleeast/iran-siamak-namazi-video.html>.

right to a fair trial, established in the Universal Declaration of Human Rights and in the relevant international instruments accepted by the States concerned, is of such gravity as to give the deprivation of liberty an arbitrary character.”<sup>29</sup> Additionally, the Working Group will look to the Body of Principles for the Protection of All Persons Under Any Form of Detention or Imprisonment (Body of Principles).<sup>30</sup>

While the Iranian government has tried to justify the Namazis’ conviction and sentencing, the international community has unambiguously condemned their arrest, trial, and conviction. US Secretary of State John Kerry told the media that “We have no information about charges against Siamak Namazi and Baquer Namazi, and we believe that they have been arrested unjustly.”<sup>31</sup> The US State Department has also expressed deep concerns about the Namazis sentences, and responded by releasing a statement that called “for the immediate release of all U.S. citizens unjustly detained in Iran.”<sup>32</sup> The US House of Representatives called on the Government of the Iran in its Resolution to unconditionally release Siamak and Baquer Namazi immediately.<sup>33</sup> Similarly, the International Campaign for Human Rights in Iran called on Iran’s Judiciary to immediately release on bail the unjustly imprisoned Namazis. “These individuals have been sentenced to prison under charges that have no legal basis,” said Hadi Ghaemi, the Campaign’s executive director.<sup>34</sup>

Furthermore, the UN and UNICEF representatives have issued numerous calls for the release of Baquer, who made significant contributions to UNICEF’s work during his career. The fourth and most recent UNICEF statement, released on February 22, 2017, expressed concern for Baquer’s deteriorating health and called for his release on humanitarian grounds: “After a lifetime of humanitarian service, [Baquer] has earned a peaceful retirement. We join his many colleagues around the world in appealing for his immediate release on humanitarian grounds.”<sup>35</sup> The UN Special Rapporteur on the Situation of Human Rights in Iran has also expressed deep concerns regarding Baquer’s detention conditions in light of his advanced age, noting that he was at the time being detained “on unknown charges and without access to a lawyer” and calling on the Government of Iran to release him and reunite him with his family.<sup>36</sup> Former UN Secretary-General Ban Ki-moon was also moved to intercede on Baquer’s behalf, writing in a letter to UNICEF retirees that the UN Secretariat had “spared no efforts in [its] attempts to ensure the

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<sup>29</sup> *Fact Sheet No. 26*, *supra* note 22, pt. IV(B).

<sup>30</sup> *Body of Principles*, *supra* note 21.

<sup>31</sup> *Lawyer Refused Access*, *supra* note 3.

<sup>32</sup> *The Sentencing of Siamak and Baquer Namazi*, U.S. DEP’T OF STATE, Oct. 18, 2016, available at <https://ir.usembassy.gov/statement-mark-toner-sentencing-siamak-baquer-namazi/>.

<sup>33</sup> US House of Representatives, *H.Res. 808 – Calling on the Government of the Islamic Republic of Iran to Release Iranian-Americans Siamak Namazi and His Father, Baquer Namazi*, 114<sup>th</sup> Congress, available at <https://www.congress.gov/bill/114th-congress/house-resolution/808/text?q=%7B%22search%22%3A%5B%22namazi%22%5D%7D&r=1>.

<sup>34</sup> *Iran’s Judiciary Should Release Siamak and Baquer Namazi and Allow Them Full Defense in Appeals Court*, CENTER FOR HUMAN RIGHTS IN IRAN, Oct. 24, 2016, available at <https://www.iranhumanrights.org/2016/10/judiciary-should-release-namazi/>.

<sup>35</sup> *UNICEF Statement on Baquer Namazi*, UNICEF, Feb. 22, 2017, available at [https://www.unicef.org/media/media\\_94904.html](https://www.unicef.org/media/media_94904.html).

<sup>36</sup> *Iran: UN Rights Expert Calls for the Immediate Release of Dual Nationals*, Office of the High Comm’r for Human Rights, Oct. 7, 2016, available at <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=20653&LangID=E>.

release of Mr. Namazi,” whom he described as “a distinguished United Nations official and a champion for children.”<sup>37</sup>

Because the Iranian government violated numerous procedural requirements under both international and domestic law in this case, the continued detention of the Namazis is arbitrary under Category III.

### **1. The Iranian Government Arrested the Namazis Without a Proper Warrant**

Article 9 of the ICCPR provides that “no one shall be deprived of his liberty except on such grounds and in accordance with such procedure as are established by law.”<sup>38</sup> Article 9 of the UDHR states that “no one shall be subjected to arbitrary arrest, detention or exile.”<sup>39</sup> Article 32 of the Iranian Constitution similarly states that, “No one can be arrested except in accordance with the rule and the procedures that are set by the law. In the case of arrest, the charge and the reason for the arrest must be immediately conveyed and communicated to the defendant in writing.”<sup>40</sup> Under the Body of Principles, an arrest “shall only be carried out strictly in accordance with the provisions of law”<sup>41</sup> and shall be “duly recorded” with the reasons for the arrest, the time of the person’s first appearance before a judicial authority, and information about the place of custody all noted.<sup>42</sup>

In this case, the Namazis were arrested without proper arrest warrants and without any reasonable or probable grounds that the suspects committed any offense.

On October 13, 2015, Siamak Namazi was arrested by IRGC guards who orally informed him of the charges. While it is possible that Siamak was briefly shown a document claiming to be a warrant at the time of his arrest, no written document or warrant was ever provided to his family or his lawyers.

On February 22, 2016, Baquer Namazi was intercepted by the IRGC upon his arrival at Tehran airport. The IRGC guards drove him home, searching his house and confiscating his personal belongings. After the search, Baquer was arrested. He was momentarily presented with a document that they alleged to be a warrant, but it has never been handed over to him. The purported warrant did not mention an “arrest.”

Therefore, the Iranian Government failed to promptly provide the Namazis with either the reason for arrest or the authorization for the arrests, as well as with proper information about the charges and with explanation of the legal remedies available to them.

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<sup>37</sup> *UN Secretary-General Ban Ki-Moon’s Letter to Mr. Thomas McDermott, UNICEF Retirees Group* 4 Baquer, Nov. 14, 2016, available at <https://drive.google.com/file/d/0B8Ki9j3yqNFNVUVxeU5oMXp5RVk/view?usp=sharing>.

<sup>38</sup> *ICCPR*, *supra* note 21, at art. 9(1).

<sup>39</sup> *Universal Declaration*, *supra* note 21, at art. 9.

<sup>40</sup> *Constitution of the Islamic Republic of Iran*, at art. 32, English translation available at <http://www.wipo.int/edocs/lexdocs/laws/en/ir/ir001en.pdf>.

<sup>41</sup> *Body of Principles*, *supra* note 21, at Principle 2.

<sup>42</sup> *Id.*, at Principle 12.

## **2. The Iranian Government Held the Namazis Without Charge**

ICCPR Article 9(2) provides that anyone arrested “shall be informed, at the time of arrest, of the reasons for his arrest and shall be promptly informed of any charges against him.”<sup>43</sup> Furthermore, ICCPR Article 14(3) provides that anyone arrested for a criminal charge has the right “to be informed promptly and in detail in a language which he understands of the nature and cause of the charge against him.”<sup>44</sup>

The Namazis were held in harsh prison conditions for months without being officially informed of the charges that were made against them. It is not known whether official charges were provided privately to the Namazis before the first hearings on their cases, but if so, it is highly unlikely that they were presented in sufficient detail, as required by ICCPR Article 14(3). Therefore, the Namazis have been deprived of full enjoyment of their pre-trial right to be promptly informed of the charges against them.<sup>45</sup>

## **3. The Iranian Government Has Detained the Namazis Without Access to Family**

According to Principle 15 of the Body of Principles, “communication of the detained or imprisoned person with the outside world, and in particular his family or counsel, shall not be denied for more than a matter of days.”<sup>46</sup>

The Namazis have been detained with extremely limited access to their family members for more than a year. They have until recently only been allowed visitors once a month, while other detainees in the same section of the prison were allowed to have weekly visits. Furthermore, Siamak and Baquer were only allowed to receive visits from Siamak’s mother, Baquer’s wife. The term of these visits were extraordinarily short, with Baquer’s monthly visit lasting roughly 45 minutes and Siamak receiving one visit of only 15 to 20 minutes. Prior to February 28, 2017, the father and son were continuously prohibited from seeing each other, despite the fact that they were being held in the same section of the prison. Furthermore, they’ve repeatedly been denied broader contact with the outside world through extended periods of solitary confinement.

## **4. The Iranian Government Failed to Provide the Namazis an Independent and Impartial Tribunal**

ICCPR Article 14(1) affords individuals “a fair and public hearing by a competent,

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<sup>43</sup> *ICCPR*, *supra* note 21, at art. 9(2).

<sup>44</sup> *Id.*, at art. 14(3) (“In the determination of any criminal charge against him, everyone shall be entitled to the following minimum guarantees, in full equality: (a) To be informed promptly and in detail in a language which he understands of the nature and cause of the charge against him;”).

<sup>45</sup> *Id.*, at art. 9(2) (“Anyone who is arrested shall be informed, at the time of arrest, of the reasons for his arrest.”); *United States v. Carll*, 105 U.S. 611, 612 (1881) (“in an indictment . . . it is not sufficient to set forth the offence in the words of the statute, unless those words of themselves fully, directly, and expressly, without any uncertainty or ambiguity, set forth all the elements necessary to constitute the offense intended to be punished.”).

<sup>46</sup> *Body of Principles*, *supra* note 21, at Principle 15.

independent and impartial tribunal established by law.”<sup>47</sup> Similarly, UDHR Article 10 establishes that every individual “is entitled in full equality to a fair and public hearing by an independent and impartial tribunal, in the determination of his rights and obligations and of any criminal charge against him.”<sup>48</sup>

As previously stated, Iran’s Judiciary is significantly influenced by the Supreme Leader. Although limited information is publicly known about the composition of the tribunal, the clear political motivation with regard to the charges made against the Namazis, the lack of evidence for the charges made against them, the refusal to provide public access to their hearings, and the inability of the Namazis to call witnesses or present evidence together demonstrate the tribunal’s lack of independence and impartiality. This further supports the finding that their detentions are arbitrary under Category III.

## **5. The Iranian Government Failed to Provide the Namazis a Public Hearing**

Article 14(1) of the ICCPR states that “any judgment rendered in a criminal case or in a suit at law shall be made public” with limited exceptions relating to juveniles.<sup>49</sup> Article 14(1) also notes that the government may exclude members of the press and the public from attending a trial in person for any of several reasons, including “morals,” “public order,” “national security,” “the interest of the private lives of the parties,” or “in special circumstances where publicity would prejudice the interests of justice.”<sup>50</sup> However, the United Nations Human Rights Committee has cautioned that these reasons for exclusion should not be applied too broadly, noting that “apart from such exceptional circumstances, the Committee considers that a hearing must be open to the public in general, including members of the press, and must not, for instance, be limited only to a particular category of persons.”<sup>51</sup> Article 10 of the UDHR also provides that “[e]veryone is entitled in full equality to a fair and public hearing by an independent and impartial tribunal, in the determination of his rights and obligations and of any criminal charge against him.”<sup>52</sup>

The Namazis’ hearings, which took place in early October, 2016, each lasted for only a few hours and no public access was granted. The judiciary also failed to make its judgment publicly available, despite broadly publicizing that the Namazis had been convicted and sentenced to 10 years in prison – a revelation made by the Tehran Prosecutor General in violation of domestic Iranian law, which prohibits publicizing the name and charges of defendants until a final court ruling.<sup>53</sup> No further details regarding the alleged evidence for these convictions or the reasoning of the Court were shared.

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<sup>47</sup> ICCPR, *supra* note 21, at art. 14(1) (“All persons shall be equal before the courts and tribunals. In the determination of any criminal charge against him, or of his rights and obligations in a suit at law, everyone shall be entitled to a fair and public hearing by a competent, independent and impartial tribunal established by law....”)

<sup>48</sup> *Universal Declaration*, *supra* note 21, at art. 10.

<sup>49</sup> ICCPR, *supra* note 21, at art. 14(1).

<sup>50</sup> ICCPR, *supra* note 21, at art. 14(1).

<sup>51</sup> Office of the High Comm’r for Human Rights, United Nations, General Comment No. 13: Equality Before the Courts and the Right to a Fair and Public Hearing by an Independent Court Established by Law (Art. 14), Apr. 13, 1984 at ¶6 [hereinafter *General Comment 13*].

<sup>52</sup> *Universal Declaration*, *supra* note 21, at art. 10.

<sup>53</sup> As an appeal was still possible, the trial court’s ruling was not considered a final court ruling.

## **6. The Iranian Government Interfered with the Namazis' Right to Prepare a Defense, Call and Examine Witnesses, and Withheld All Evidence from the Defense**

Article 14(3) of the ICCPR ensures that, “[i]n the determination of any criminal charge against him, everyone shall be entitled [t]o have adequate time and facilities for the preparation of his defense and to communicate with counsel of his own choosing”.<sup>54</sup> What is “adequate time” depends on the circumstances of each case, but the facilities must include access to documents and other evidence which the accused requires to prepare his case.”<sup>55</sup> In practice, this means that “(t)he accused or his lawyer must have the right to act diligently and fearlessly in pursuing all available defenses and the right to challenge the conduct of the case if they believe it to be unfair.”<sup>56</sup> In addition, the ICCPR specifically guarantees a defendant the right “to obtain the attendance and examination of witnesses on his behalf under the same conditions as witnesses against him.”<sup>57</sup>

In the cases of the Namazis, the Iranian Government clearly denied their right to defend themselves by providing extremely limited the time to prepare a defense, denying access to all evidence (and thus the opportunity to challenge the evidence), and providing no opportunity for the Namazis to call witnesses in their defense. The Namazis were prevented from meeting with their lawyers until shortly before their trials, at which time they were only given 20 to 30 minutes to meet and were not allowed to bring any documents into the meeting, significantly curtailing their ability to prepare a defense. Even if the Namazis had had sufficient time to meet with counsel, the tribunal’s denial of access to all evidence in their cases would have still made it impossible to prepare a defense. As it was, the lack of access to evidence deprived the Namazis of any chance to challenge the evidence. Furthermore, the Iranian Judiciary’s practice of calling on the defendant to present his or her own defense, rather than allowing the lawyer to speak on his or her behalf, presented an additional barrier to the Namazis’ ability to effectively defend themselves before the tribunal. Further hampering their ability to present a defense, the Namazis were not allowed to bring any prepared defense documents into the court. Finally, the Namazis were unable to call on any witnesses in their defense.

## **7. There Was No Valid Evidence to Find the Namazis Guilty**

To be clear, it is well understood that the UN Working Group on Arbitrary Detention will not substitute itself for a domestic fact-finder in its work. However, as the Namazis have consistently maintained, there is absolutely no evidence of “espionage” and “collusion with an enemy state,” as defined by the law.

There is an overwhelming lack of credible evidence against the Namazis. A fair and impartial judiciary, especially one applying the strictest criminal standard of proof could not have concluded that the Namazis were guilty. Therefore, the Iranian courts’ determination can

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<sup>54</sup> *ICCPR*, *supra* note 21, at art. 14(3)(b).

<sup>55</sup> *General Comment 13*, *supra* note 51, at ¶9(3)(b).

<sup>56</sup> *Id.*, at ¶11.

<sup>57</sup> *ICCPR*, *supra* note 21, at art. 14(3)(e).

only be characterized as a miscarriage of justice, unfair, arbitrary, political and utterly prejudicial against the Namazis.

## **8. The Iranian Government Interfered with the Namazis' Right to the Presumption of Innocence**

The ICCPR affords individuals “the right to be presumed innocent until proved guilty according to law.”<sup>58</sup> The Human Rights Committee has noted that the presumption of innocence is expressed in unambiguous terms, and “the burden of proof of the charge is on the prosecution and the accused has the benefit of doubt. No guilt can be presumed until the charge has been proved beyond reasonable doubt. Further, the presumption of innocence implies a right to be treated in accordance with this principle. It is, therefore, a duty for all public authorities to refrain from prejudging the outcome of a trial.”<sup>59</sup> In *Raúl Linares Amundaray v. Bolivarian Republic of Venezuela*, the Working Group applied this principle in finding that any hindrance of the ability to exercise the right to be presumed innocent until proven guilty according to law in a public trial constitutes a violation of the right to a fair trial, as enshrined in the ICCPR and UDHR.<sup>60</sup> This right is also protected in the Constitution of Iran.<sup>61</sup>

There are numerous ways in which it is clear that the Government of Iran has failed to provide the Namazi with any semblance of the presumption of innocence.

For example, during Siamak's recurring interrogations from July to October 2016, he was repeatedly told that he must “prove [his] innocence” and “admit it [his guilt].”

Additionally, a purported video of Siamak's arrest was circulated widely on Iranian media. This was a direct violation of Iranian law that bars the Government from naming a criminal defendant or the alleged crime until a final verdict is issued. By circulating this video, Siamak's name and the accusations against him became public, and he was characterized as a criminal, even though a verdict had not yet been issued in his case.

Furthermore, Iranian newspapers and TV media have continuously provided negative coverage of the Namazis' cases since the time of their arrests, making unsupported claims of their guilt while posting personal photos of their family and copies of their passports. In their defamatory presentation of the case, the media outlets featured photos that were seized from Baquer Namazi's home during the search that immediately preceded his arrest. In these stories as well, the Namazis were characterized as criminals before they were given any opportunity to challenge the allegations against them in a court of law.

And perhaps most egregiously, the Tehran Prosecutor General made a public statement

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<sup>58</sup> *Id.*, at Art. 14(2). This same right is established by the Universal Declaration Article 11(1): “Everyone charged with a penal offence has the right to be presumed innocent until proved guilty according to law in a public trial at which he has had all the guarantees necessary for his defence.”

<sup>59</sup> *General Comment 13*, *supra* note 51, at ¶308 (emphasis added).

<sup>60</sup> *Raúl Linares Amundaray v. Bolivarian Republic of Venezuela*, Communication No. 28/2012, UN HUMAN RIGHTS COMMITTEE, at ¶ 29.3.

<sup>61</sup> *Constitution of the Islamic Republic of Iran*, *supra* note 40, at art. 37 (“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”).



about the case, violating domestic Iranian law by stating the names of the Namazis and revealing their sentences just days after their initial conviction in October 2016. He was quickly admonished by the Deputy Head of the Judiciary for this brazen violation of domestic law, but the statement was not retracted, nor was a punishment imposed.

## **9. The Iranian Government Substantially Limited the Namazis' Right to Access to Counsel**

Article 14(3) of the ICCPR ensures the right of an individual “[i]n the determination of any criminal charge against him . . . to communicate with counsel of his own choosing” and “to defend himself in person or through legal assistance of his own choosing.”<sup>62</sup> Principle 18(1) of the Body of Principles further elaborates “[a] detained or imprisoned person shall be entitled to communicate and consult with legal counsel.”<sup>63</sup> While the Body of Principles does not specifically identify when access to counsel must be granted, Principle 15 notes that, notwithstanding exceptional circumstances, “communication of the detained or imprisoned person with the outside world, and in particular his family or counsel, shall not be denied for more than a matter of days.”<sup>64</sup>

The Namazis have had virtually no contact with their lawyers. When Siamak was subject to three months of interrogations by the IRGC from July to October 2015, no lawyer was allowed to be present during the interrogations. Siamak’s lawyer was present during his indictment, but not permitted to speak. No lawyer was allowed to be present during Baquer’s indictment.

Both Siamak and Baquer were given one 30-minute meeting with their lawyer prior to their respective trials. Incredibly, they were expected to discuss and prepare their entire defense in 30 minutes, and they were not allowed to review or exchange any documents. They could not even hear the outcome of their trial from their lawyer – rather, Baquer heard news of his conviction on state media and the family informed Siamak of his conviction during a phone call. They were permitted to meet with the lawyer again before the recent appeal, but again for only for a short time.

The Iranian authorities have attempted to justify the limited access to lawyers by claiming that the Namazis need an “approved lawyer.”<sup>65</sup> However, when pressed for a list of “approved lawyers,” the authorities could not produce a list. It is likely this was merely a tactic to prevent the Namazis from securing and benefiting from legal representation.

These circumstances establish that the Namazis’ right to counsel was substantially limited, rendering their detention arbitrary under Category III.

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<sup>62</sup> ICCPR, *supra* note 21, at art. 14(3)(b),(d).

<sup>63</sup> *Body of Principles*, *supra* note 21, at Principle 18(1).

<sup>64</sup> *Id.*, at Principle 15.

<sup>65</sup> See e.g., *Iran: Detainees Denied Fair Legal Representation: New Criminal Code Restricts Choice of Lawyer*, HUMAN RIGHTS WATCH, Mar. 24, 2016, available at <https://www.hrw.org/news/2016/03/24/iran-detainees-denied-fair-legal-representation>.

## **10. The Iranian Government Substantially Limited the Namazis' Right to an Adequate Appellate Review According to Law**

Under the ICCPR, “everyone convicted of a crime shall have the right to his conviction and sentence being reviewed by a higher tribunal according to law.”<sup>66</sup>

The appeal hearing that took place on March 1, 2017 was an appeal in name only. The Namazis had no documentation or evidence from the trial court, and therefore it was absolutely impossible for them to lodge anything more than a general appeal of their conviction and sentencing.

Additionally, while no witnesses were present to attest to the specifics, the appeal hearing was no more than two to three hours. Even if the Namazis were able to prepare a robust appeal, it would have been impossible for both of them to present separate defenses within the given time. Furthermore, Siamak was deliberately brought to the appeal hearing late. Claiming to be “lost,” the guards escorting him drove around for an extended period of time. Instead of rescheduling or extending the hearing for the time that Siamak missed, the judge simply made Siamak rush his defense statement so the hearing could conclude within the two to three hours. Furthermore, not all of the appeals judges were present at the hearing, in violation of Iranian domestic law.

Therefore, it is patently clear that the Namazis right to an appeal was severely undermined, and their detention is arbitrary under Category III.

## **11. The Iranian Government's Ongoing Denial of Medically Appropriate Detention Conditions for the Namazis Constitutes Cruel, Inhuman, and Degrading Treatment**

Article 7 of the ICCPR and Article 5 of the Universal Declaration and both state that “[n]o one shall be subjected to torture or to cruel, inhuman, or degrading treatment or punishment.”<sup>67</sup> Principle 24 of the Body of Principles further elaborates that “medical care and treatment shall be provided whenever necessary” to persons who are detained or imprisoned.<sup>68</sup>

The Iranian Government's treatment of the Namazis during their current detention has violated these international standards.

The Namazis are being held in the Ward 2A section of the infamous Evin prison of Tehran,<sup>69</sup> which is known for the use of cruel and prolonged torture of political opponents of the government.<sup>70</sup> This “special wing” of the prison is controlled by the Islamic Revolutionary Guard Corps (IRGC) and operates with no semblance of transparency or legality. Furthermore, the IRGC guards and the doctors of Evin Prison frequently dismiss the detainees' health

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<sup>66</sup> *ICCPR*, *supra* note 21, at art. 5.

<sup>67</sup> *Universal Declaration*, *supra* note 21, at art. 5; *ICCPR*, *supra* note 21, at art. 7.

<sup>68</sup> *Body of Principles*, *supra* note 21, at Principle 24.

<sup>69</sup> *Lawyer Refused Access*, *supra* note 3.

<sup>70</sup> Iran 2016 Human Rights Report, *supra* note 4, at p. 5.

problems as trivial, and often refuse treatment for pre-existing health problems.<sup>71</sup>

As described previously in this petition, both Siamak and Baquer's current detention conditions clearly constitute clear, inhuman, and degrading treatment, and may very well rise to the level of torture. Without intervention, it is unclear how much longer the Namazis can withstand the physical and psychological distress imposed by the IRGC. There is a great risk that the suffering inflicted on the Namazis may cause irreversible damage to their physical and mental health, or even death.

The Government of Iran's ongoing denial of medically-appropriate detention conditions for the Namazis constitutes cruel, inhuman, and degrading treatment, if not torture, and could soon result in serious injury or death. It is reasonable to conclude the purpose of this mistreatment is to inflict pain on the Namazis and to try and break their spirit and their will to fight against their wrongful conviction.

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

An appeal was sought and a verdict on the appeal has not yet been issued, but the egregious violations of due process during the appeal make an end to the Namazis' arbitrary detention via the appeal process extremely unlikely. Furthermore, administrative channels for submitting complaints regarding detention conditions are effectively closed off to prisoners held in Ward 2A, which is under the complete control of the IRGC.

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<sup>71</sup> *Id.*, at p. 6.