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	Say (No.): 419/2006 Tarix (Date): 4 Dec 2006
The Office of High Commissioner for Human Rights, Geneva, Please circulate this letter to Special Rapporteur on the Independence of Judges and Lawyers  CC Mrs. Harrison, Amnesty International, London	 Mr. Saleh Kamrani

Dear sir/madam,

**Re UPDATE NUMBER 4: MR. KAMRANI'S APPEAL**

Please find enclosed Update 4 on our Communication submitted on 15 September 2006 for safeguarding human rights of the distinguished human rights lawyer of the Southern Azerbaijani national. Mr. Kamrani. The documents presented in this update and their contexts are as follows:

- Table 1:** gives the translation of the appeal submitted by the lawyer of Mr. Kamrani to the Appeal Court, together with a copy of the source document.  
**Table 2:** gives updated log of our letters

In particular we draw your attention to the following to the passages in the appeal:

- Amnesty International maintains an authoritative determination that the accusations brought by Iranian authorities to Southern Azerbaijani activists are recognisable in international law and here we see that appeal is exactly eye-to-eye with Amnesty International, these include such terms as “promoting ethnicity,” “sending SMS messages,” or giving interview to the BBC or voice of America.
- Mr. Kamrani’s lawyer, Dr Movlai state “The suspension of the punishment of my Client for five years is not proportional with accusations pressed against him and this infringes upon his social, political and cultural ... rights.” We emphasise this is very serious and in our words it is designed to set precedence for gagging human rights defenders of Southern Azerbaijanis.

Once again, we stress that we have not consulted with Mr. Kamrani or his lawyer in compiling the Communication or its updates. We are of the opinion that absence of any data is not a pretext for inaction and if you do not act now it will be too late soon.

Now Mr. Kamrani’s defence rests before you. We thank you in advance for your care in taking up this case.

Yours faithfully,

Boyuk Resuloglu

The Committee for the Defence of the Rights of World Azerbaijanis



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**Table 1: The Translation of the Sentence Passed to Mr. Saleh Kamrani**

Wednesday 22 November 2006

**The appeal text of Dr. Movlai (Mr. Kamrani's lawyer) in relation to the sentence**

In the name of god

To the Head of the Appeal Court of the Province of Tehran

Dear sir,

I, Yusuf Movlai, acting on behalf of Mr. Saleh Kamrani as his lawyer, wish to appeal to the sentence passed to my Client comprising of one year of imprisonment accused of publicity activities against the system of the Islamic Republic of Iran, of which 9 months have been suspended for 5 years. I request your kind attention to review this case (as per File: F/7957/85; Case Reference: 27/6/5-1490/85/13) for the following reasons:

1. As I have presented in the draft document to Branch 13 of the Revolutionary Court and reiterated verbally them in my defences, the detention of my Client for 97 days violated the trial procedures and the release of my Client under bail was obstructed despite the fact that the agreed bail was ready to be mobilized [and yet court and interrogates abstained without intervention] (Translators Note: the phrase in the square bracket is our best interpretation of the following phrase: (بلاوجه دادگاه و بازپرس)).
2. The accusation against my Client is not related to security matters and therefore outside the remit of the respectful Revolutionary Court and the respectful primary court yet to agree on this.
3. The manner of arrest and detention of my Client violated the statutory laws and the law of respecting the citizen rights and individuals' freedom and therefore both I and my Client remain protesting to this very issue.
4. As specified in the relevant file, my Client is a lawyer of the Ministry of Justice and it is the requirement of his profession to defend his own clients within the framework of law irrespective of their deeds and beliefs. We mention this against the background that the Line 3 of the sentence document of the respectful court held against my Client that he had undertaken the defence of individuals who were in opposition with the system and those undermining national security by inciting their ethnic identity. However, it is outside the remit of my Client to be indulged with reconnaissance of these individuals (i.e. the opposition, subversive elements undermining national security and promoting ethnic identities) and he did not have to turn down the undertaking for their defence. In fact, my Client would have breached the law on engagement of lawyer and his professional code of conduct if he had refused his clients. On the other hand, these expressions, and in particular the expression of "promoting ethnicity", are not really legally binding and in addition within the penal codes of the Islamic Republic of Iran there is no such express provisions. If the clients of my Client have committed deeds worthy of punishment, they would bear the responsibilities for their deeds but not their defending lawyer (i.e. Mr. Kamrani). The plain fact is that the clients of my Client did not absolve their responsibility for their deeds even though my Client was defending their cases. The conclusion is that the issued sentence is founded on personal preferences and contrary to penal principles.
5. Giving interviews to foreigners (Translator's Note: foreigner in Persian (Arabic) is Kharejee but the word used in the sentence is the Persian word of "bigane" meaning alien and that is how it is meant in the sentence but some smoothening was needed) cannot be considered as an accusation if it is within the legal framework and the interviewee does not attack the integrity of the system. In general, my Client was not engaged in any publicity against the system and if he was interviewed, it was in relation to the right of mother tongue, economical issues and social problems; but then it is a common place for the members of



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- the parliament to give such interviews ... and their deliberation channels would often be in these radios.
6. Another accusation is pressed against my Client is in Line 4 of the sentence (escalating the insecurity through diverse approaches and sending SMS to individuals with messages undermining the system). This accusation is also very general and cannot really encompass all his deeds including his speeches, interviews, articles and SMS messages sent by him. After all, the deeds of my Client are generally directed towards supporting the legitimate (legal) rights of his own clients and also those of (Southern) Azerbaijanis and these rights comprise the right of education in mother tongue and enjoying equality before law in relation to economics, the rights as conferred in Articles 15, 19 and 48 of the Constitution, as well as conferred in international Covenants undersigned by Iran and adopted by Iranian legislations. My Client wants these laws to be operated and utilized under the umbrella of the Constitution and these demands cannot be regarded in conflict with generative Constitutional bases.
  7. The suspension of the punishment of my Client for five years is not proportional with accusations pressed against him and this infringes upon his social, political and cultural ... rights.

Thus, I request that the case brought against my Client is quashed and he is vindicated.

Yours sincerely

Dr. Yusuf Movlai

The lawyer acting on Behalf of Mr. Saleh Kamrani

Translator's Notes:

1. The symbol "T" in the file name is taken to represent "ط"
2. The text under Item 4, there two streams of clients and we have been very careful not to mix them at the expense of some wordiness. An extra measure was adopted by the capital letter so that whenever Dr. Movlai is the lawyer to Mr. Kamrani, then he refers to as my Client, else lower cases are used to refer to the clients of Mr. Kamrani.
3. The translator added the word Southern within a bracket to Azerbaijan to manage the risk of incriminating the Republic of Azerbaijan, who is not a party to this ongoing struggle.

Source Document downloaded from [http://salehkamrani.blogspot.com/2006/11/blog-post\\_22.html](http://salehkamrani.blogspot.com/2006/11/blog-post_22.html)

۲۰۰۶, ۲۳ Wednesday, November

متن نامه اعتراضی آقای دکتر مولایی (وکیل آقای صالح کامرانی) نسبت به رای بدوی

بسمه تعالی

ریاست محترم دادگاه تجدید نظر استان تهران

با سلام

احتراماً اینجانب یوسف مولایی وکیل آقای صالح کامرانی در پرونده کلاسه ۷۹۵۷/۸۵ ط د نسبت به دادنامه شماره ۱۳/۸۵/۱۴۹۰-۸۵/۶/۲۷ مبنی بر محکومیت موکل به یک سال حبس به اتهام انجام فعالیت تبلیغی علیه نظام جمهوری اسلامی ایران که مدت ۹ ماه آن برای ۵ سال معلق شده به دلایل ذیل معترض بوده و تقاضای رسیدگی مجدد دارم.

۱- همانطوریکه در لایحه ی ارائه شده به شعبه ۱۳ دادگاه انقلاب و در دفاعیات شفاهی ارائه داده ام بازداشت موقت موکل به مدت ۹۷ روز خلاف قانون آیین دادرسی کیفری بوده، بلاوجه دادگاه و باز پرس علیرغم آماده بودن وثیقه موکل از پذیرش و صدور قرار قبولی وثیقه امتناع نموده اند.

۲- اتهام موکل امنیتی نبوده و خارج از صلاحیت دادگاه محترم انقلاب می باشد که این موضوع هم مورد قبول دادگاه محترم بدوی قرار نگرفته است.



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۳- نحوه ی دستگیری و بازداشت موکل خارج از قوانین مصوب و قانون حفظ حقوق شهروندی و آزادی های فردی بوده، از این بابت هم مورد اعتراض اینجانب و موکل می باشد.

۴- همانطوریکه در پرونده مربوطه مندرج می باشد موکل، وکیل دادگستری است و شغلش اقتضا می کند از موکلین خود بدون در نظر گرفتن اعمال و عقاید آنها در چارچوب قانون دفاع نماید. این در حالی است که دادگاه محترم در سطر سوم دادنامه، یکی از دلایل اتهام موکل را وکالت از افراد مخالف نظام و مخلفین امنیت ملی و قومیت گرا ذکر نموده است بنابراین نه تنها شناسایی این افراد (مخالفین و مخلفین امنیت ملی و قومیت گرا) از وظایف موکل نمی باشد تا از پذیرش وکالت آنها خودداری نماید، بلکه این امر (یعنی عدم پذیرش وکالت آن افراد) از طرف هر وکیل دادگستری خود خلاف وظایف و قوانین وکالتی می باشد. از طرف دیگر این عبارات خصوصاً قومیت گرا مفهوم حقوقی نداشته و از دایره عناوین مجرمانه مصرح در قوانین کیفری جمهوری اسلامی ایران خارج می باشد. اگر افراد فوق مرتکب جرمی شده باشند خود آنها هستند که مسئول عواقب کیفری اعمال خود می باشند و نه وکیلی که از آنها دفاع می کند (از جمله موکل) که این افراد هم اگر موکل وکالت آنها را به عهده گرفته در موردشان قضاوت شده و مسئولیت اعمال خود را به عهده گرفته اند. بنا براین به نظر می رسد صدور این رای خلاف اصل شخصی بودن جرم و مجازات می باشد.

۵- مصاحبه با رادیو های بیگانه اگر در چارچوب قوانین باشد و علیه کلیت نظام مطلبی از طرف مصاحبه گر مطرح نگردد نمی تواند به عنوان دلیل ارتکاب اتهام اتسابی در نظر گرفته شود. بطور کلی موکل مصاحبه ای در جهت تبلیغ علیه نظام نداشته است و اگر مصاحبه ای داشته است در خصوص حقوق زبانی، اقتصادی و اجتماعی موکلین خود در چارچوب قانون اساسی بوده است که این نوع مصاحبه ها معمولاً از طرف نمایندگان مجلس و... هم در این رادیو ها صورت می گیرد.

۶- یکی دیگر از دلایل اتهام موکل در سطر چهارم دادنامه (دامن زدن به عدم امنیت به طرق مختلف و ارسال sms برای افراد و اشخاص که موضوع آن تبلیغ علیه نظام می باشد) ذکر شده است که این موضوع هم بسیار کلی بوده و نمی توان همه ی اعمال موکل از جمله سخنرانی ها و مصاحبه ها و نیز مقالات و sms های ارسالی از طرف موکل را تحت عنوان فوق آورد. چرا که اعمال موکل بطور کلی در جهت حمایت از حقوق قانونی و طبیعی موکلین خود و نیز آذربایجانی ها می باشد که این حقوق عبارت از حق تدریس و تحصیل به زبان مادری، برخورداری از حقوق مساوی در حوزه ی اقتصاد و... که در اصل ۱۵، ۱۹ و ۴۸ قانون اساسی و نیز کنوانسیون های مصوب بین المللی که در ایران بصورت قانون درآمده باشد و موکل اجرا و استیفای آنها را از همین نظام منبعت از قانون اساسی طلب نموده است که این خواسته های قانونی نمی تواند بر علیه همان قانون مادر تلقی شود.

۷- تعلیق مجازات موکل به مدت ۵ سال متناسب با اتهام موکل نبوده، و موجب سلب حقوق اجتماعی، سیاسی، فرهنگی و... موکل می باشد.

لذا از آن ریاست محترم نقض دادنامه ی صادره و نهایتاً صدور رای برائت موکل مورد استدعا است.

با احترام

دکتر یوسف مولایی

وکیل آقای صالح کامرانی

تاریخ ارسال خبر ۱۳۸۵/۰۹/۰۱

۰۲:۲۸ در نویسنده SSSS





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**Table 2:** DunAzHAK Correspondences Log in relation to Mr. Saleh Kamrani

**Initial informative letters by DunAzHAK**

- The letter: Ref. 338/2006 on 19 June 2006 introducing more 30 individuals arbitrarily detained
- The letter: Ref. 340/2006 on 24 June 2006 mentions Mr. Kamrani in our Appeal to Mr. Kofi Annan
- The letter: Ref. 344/2006 on 28 June 2006 mentions Mr. Kamrani as the 200<sup>th</sup> person in the name list of the detained Southern Azerbaijanis
- The letter: Ref. 382/2006 on 17 September 2006 mentions Mr. Kamrani as the 60<sup>th</sup> person for sentencing
- The letter: Ref. 346/2006 on 4 July 2006 informing you of the shifting goals for the release of Kamrani
- The letter: Ref. 348/2006 on 7 July 2006 responding to a number of questions
- The letter: Ref. 362/2006 on 22 July 2006, a news concerning the health of Mr. Kamrani
- The letter: Ref. 351/2006 on 23 July 2006 informing you of an extension of Mr. Kamrani's detention
- The letter: Ref. 360/2006 on 9 August 2006 that a court proceedings will be brought against Mr. Kamrani
- The letter: Ref. 365/2006 on 9 August 2006, a general update on Southern Azerbaijani prisoners of conscience
- The letter: Ref. 360/2006 on 9 August 2006 informing you of the irregularities for compiling a file against Mr. Kamrani

**General Communication submitted (this was inappropriately referred to as a complaint):**

- The Communication – Ref: 379/2006 lodged on 15 September 2006 on the blatant court irregularities

**Updates:**

- The letter: Ref. 384/2006 on 20 September 2006 – the release of Mr. Kamrani under bail
- The letter: Ref. 405/2006 on 31 October 2006 with the information to attention the court for the delivery of the sentence
- The letter: Ref. 414/2006 on 21 November 2006 providing the court sentence