

During yesterday's open session of the Majlis, Jamileh Kadivar, the spokesperson of the Article 90 Commission read the report number one on the review of file 4952 on reasons and factors involved in Zahra Kazemi's killing.

On the 18<sup>th</sup> of Tir, Ezzat Ebrahimi, Zahra Kazemi's mother's complaint was received begging for help. She said that her daughter was at Baghiatoallah Hospital, in critical condition, and unconscious. And her recovery in staying alive considered doubtful. The Commission sent a letter on the same date to his honorable Mr. Alizadeh, chief of Tehran's justice administration ( Raseh Kolleh Dadgostarieh Tehran,) which was responded to :” I have no role in this issue. This is to do with Mr. Mortazavi, Tehran's Public Prosecutor.” [it seems like this was said in writing] On the 19<sup>th</sup> of Tir, another letter [90M 15504 4952] was faxed to Mr. Marvi, Deputy to the Judiciary Branch [moaveneh mohtarrameh ghoveye ghazai] and on that the commission introduced the reporter of the Commission as someone who they want to go visit Kazemi.

Five days later, on the 24<sup>th</sup> of Tir, a response from Mr. Mortazavi, the honorable Tehran Public Prosecutor, letter number 20/M/31/182 dated the 19<sup>th</sup> of Tir, which said: “based on the report of the executive director of foreign publication and media department of the ministry of culture and Islamic Guidance ( Vezarateh Ershad )– Mr. Mohammad Hossein Khoshbakht, the above mentioned (Zahra Kazemi) has entered the country without permission from the Information Ministry and following protocol and has made reports and taken pictures for a foreign news service.

The Executive Director of Foreign Publications and Media asked for stopping/preventing her from her activities. The issue [request] was followed up by Deputy for Anti-Espionage within the Ministry of Information. Ms. Kazemi was delivered to the Department to look into the above case. Kazemi, after the first stage of inquiry [tahqiqat]<sup>1</sup> claimed illness and was transferred to Baghiatollah by the deputy of the anti-espionage department.”

At the bottom of the letter, Mr. Mortazavi adds that she, the reporter for the Commission can personally go to the hospital and have a face to face visit with Kazemi.

This letter arrived at the commission after the report of Kazemi's death had been reported in various news media.

After this on the 7<sup>th</sup> of Mordad, in the presence of Mr. Masjid-Jamii minister of Culture and Islamic Guidance (Vazireh Farhang va Eslami), and Mr. Shushdari, minister of Administration of Justice (Vazireh Mohtarrameh Dadgostary), and Mr. Pezeshkian Ministry of Health, and some Deputy Ministers from different ministers, as well as the Vice President Abtahi and some of the Deputies of the ministry of Interior and the Ministry of Information, and Mr. Khoshbakht and director of coroner's office (Riasateh Mohtarrameh Pezeshkeh Qanuni), Mr. Dr. Sadr. met in a committee and the gentlemen's statements were all transcribed in 92 pages. The terms of the report of the 28<sup>th</sup> of Tir and

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<sup>1</sup> Note that this may be that because they are saying *tahqiqat* versus *bazresi*, they don't implicate the right to counsel.

tPresident's special groups's investigation on death of Kazemi was also discussed and is included in the report.

In that session, Mr. Khokhbakht: "on the 4<sup>th</sup> of Tir, Wednesday morning, first thing in the morning, there was a message on my mobile phone from the office of Mr. Mortazavi which said that he wanted me to contact him immediately. I contacted him immediately. He told me that 'hey have captured a spy journalist *kharnegareh jasus* while she was in the act of spying. We realized that you had in fact given her a pass for activities *mojavezeh faaliaat*. Why did you give this spy this permit?' (When he was talking about this permit, the picture of Kazemi was in the file we were reviewing, and Mortazavi said yes this is Kazemi who is a spy and she has confessed to being a spy. She has confessed that she is connected to a 'service.' Regardless, you have helped her in this crime that she has committed, and what are you going to do if she confesses that she has been in contact with you before leaving Iraq for Iran and that she has done this crime *edameh mojremaneh* with your collaboration? You are in it together. What are you going to do?") And I said to Mr. Mortazavi, you have to prove this. And he said, "If we really want to prove this, it is going to take a long time. If I want to send you Evin under the control of the interrogators, I don't know how long it will be until you get out of there. And I am not going to do that. If I want to set bail, it is four o'clock now and it is too late. So I am not going to do that either. However, if you sign this form saying that you have been collaborating with the crime of espionage. Since I realized he was not going to give up, I told him about my familial relationship with someone high up in the regime. When Mortazavi heard this, his treatment of me changed completely. Of course, he did not apologize, but he trusted me totally and said 'anyways, the situation is very hard and very dangerous.' 'These journalist spies come here and they create lots of problems and you need to help us so that up until the end of Tir none of the foreign reporters can come to Iran.' And I welcomed this comment from Mortazavi and I said, "If that is the fact, we will be very sensitive in doing so." Mr. Mortazavi said, "this woman, aside from being a spy, had other responsibilities and that was in order to look into the distribution of 100 million or 500 million dollars (I am not sure of the figure), money from America for different people to overthrow the government." Kazemi has come in order to investigate whether or not those who have received the money have performed their duties thus far.

Saturday, 21 Tir, Mortazavi asked me to go his office again. His office called and said that Mr. Mortazavi wants to see you at 3pm. I went there, and he said, 'Well, this woman has died. How are you going to report this?' Mr. Mortazavi insisted that you should write for the reporters that this lady has been to the interrogators [BOZJUYAN] of the Ministry of Information and there has claimed that she felt sick and was sent to the hospital and had a stroke there in the hospital and then she died. And then Mortazavi insisted I write this on behalf of myself, and not attribute it to him, because the Ministry of Information does not approve of this. [don't say mortazavi has said this because noone believes me. Say it is from you.] Regardless, I said I will concede a bit, and say that it is coming from a representative of the judiciary/or a judiciary authority; not from the Prosecutor's office (dodsetan). After typing this report which Mortazavi dictated and was typed (the story of her death) Mr. Mortazavi said, sign, and I signed. He said to his office, take the text of this interview which is signed, and fax it to the reporters. And I was just about to say

goodbye when Mr. Mortazavi, with a beautiful laugh said, You stay here and don't go anywhere until the news that this has gone out on IRNA wires is faxed back to us. Ask God that this issue does not get complicated because under any circumstances you are guilty because you gave her the permit.

When I heard that comment, I realized that I had to give the right reaction to him: and I said you can take whatever action against me that you want.

But when Mr. Mortazavi, in answering Mr. Armin in writing, made contrary statements [wrong declarations] I was shocked and my conscience did not allow me to stay quiet and I was obliged to give the response in writing.

Mr. Khoshbakht, in a different part of his declarations said Mr. Sahafi, the Deputy of Publications and Propogand in the Ministry of Guidance, was completely aware of these two meetings of Mortazavi and myself. It was very probable that I would be arrested. And this would have assisted in this tangle.

When I realized that Mortazavi was intimidating and scaring me, I told him do whatever you want to do and whatever is best for you, and I will go based on the law and I will defend myself based on the law. [this is the end of Khoshbakhat's report]

On the 4th of Shahrivar, Ms. Ezzat Kazemi, came to the Commission and while repeating her complaint on looking into the murder of her daughter, she clearly said that in the hospital, there were signs of injury and beating [zarb] on her body. After her death, there was a phone call to me from Evin prison wherein they asked me to go there. And since I was not in any condition to go, I sent my landlord to go there in my stead. And they had told him/her that it is to your benefit that you bury the body as soon as possible. And the next day they contacted me and got my approval, and I had to give my approval.

On the same day, the 4th of Shahrivar of 1982, this Commission, with the Legal Deputy of Protecting Information and Anti-Espionage in Ministry of Information and several of the members of the parliament from other special commissions met and Mr. Mortazavi, in spite of having been invited, did not come to the meeting. In this meeting, the deputy of the ministry of information gave us some very good information on the reason and the factors (avamel) of the murder of Kazemi, which has been taped, typed, and attached to the file. Some of the interesting or important points that the deputies of the Ministry of Information gave us are as follows:

- All the angles to this problem were very obvious [to the Ministry] from the very first of this event. IN the last 50 days, the Minsitry has tolerated pressures and has accepted all the efforts that have come to work. They have contacted the Supreme Leader, the head of the judiciary, the President, as well as the different departments that have been in charge of different areas in writing several times. We have conducted various conversations and meetings with various people who have been responsible in this issue so that we could get on the right path with the investigation and so that the system (Nizam) is not hurt.

-However, unfortunately, the claims on the side of the representatives of the judiciary ( the people in charge --in the judiciary) have been the same before looking into the matter and as a conclusive report. [the judiciary says the same things before investigating the case as they are saying now as their final results or conclusions.] And when there is such a treatment by the judiciary of the country's security forces (dastgayeh amniati) in such and unjust and unfair manner, we have to be worried for the destiny of the individual citizens of the country. [If this is treating the security system, one can only imagin what the citizen's experience]

-In another part, the Deputies of the Minsitry say, the representatives of the legal consultants working for the Anti-Espionage group complained to the public prosecutor (Mortazavi), why did you not send someone accused of espionage to the people whose specialty is this issue. You should have sent this woman to the Ministry of Information. We had it in mind to let her free. The day that you captured her, the rule would have been to deliver her to the Ministry of Information so that we could do our search and let you know the results.

-In the case of the implemented beatings to Ms. Kazemi, one of the deputies said, the research shows that in two different places, Ms. Kazemi had been beaten. One was the case when they wanted her backpack and she was resisting giving them the backpack. And in this case, there was a harsh blow to the left side of her face. And she fell down because of that blow. The medical documents from the hospital confirm this claim. In this situation (Marhaleh), she was in the hands of a few judges who were Evin's personnel (employees of the prison). Borjak, the soldier and the prison personnel, and the soldiers who had seen this event, who altogether make up 20 gave first testimony [shahadat] of this blow. later these witnesses were collected and were convinced to retract everything, and this was done by Evin prison's protection of information officers responsible (Masulaneh Hefazateh Etelaateh Zendaneh Evin.)

Based on The records of the jail - the journal - and the events that have now been edited and crossed out, our understanding is that the judiciary (the office of the public prosecutor of tehran) had had this plan to keep this information within this information within the Ministry of Information

-It is documented in the report of the police force [Niruyeh Entezami] to the President's special group that Ms. Kazemi had written in her own handwriting that they broken my nose and my thumb and they have broken my toes, too. How could it be that the Ministry of Information who had said to the personnel to let her go, would go and kill her in the prison?

Mr. Younesi, the Minsiter of Information, in a letter to the President has written: "the personnel of the Ministry of Information are paying the price for being a part of your government and trying to stay away from unfairness and cruelty."

In another place in the declaration of the Ministry of Information, it says that the Supreme Leader in this case has emphasized two points:

- 1) Mr. Shahrudi discovers the truth and not what is best to be.
- 2) expediency in this issue must be carried out and a decision has to be issued (hokm sader shavad).

The referee in the office of the Supreme Leader who has looked into all the documents from the Ministry of Information and the office of the Public Prosecutor and has issued a decision that the Ministry is right. However, nothing has been done to follow up on this.

The Friends from the Judiciary say, based on what the doctors have said, you should not even pay attention to the second or third day of detention. Whatever has happened has happened on the 5th day. .. Mr. Shahrudi told me ( a deputy of the Ministry of Information) that, ok, say two people from the Ministry are arrested, it is good for the system, I said but the guilty person has to be arrested. it has nothing to do with our ministry. And he said don't interfere with the work of the judiciary)

With attention to all the contents of this file, in order to hear the views of the Prosecutor of Tehran and in order to clear the vagueness in this issue, according to letter 90/15742/4952 we have sent 15 distinct questions to Mr. Mortazavi on the 5th of Shahrivar. And we have asked him to respond to these questions on the 9th of shahrivar.

Some of the questions are as follows:

- 1) why Ms. Kazemi's activities, since she had the permit from the Ministry of Culture and Islamic Guidance, been said to have been carried out without a permit.
- 2) Why has it been emphasized that the reason for her death was stroke;
- 3) Why, while she was unconscious, her arrest warrant changed into a bail agreement?
- 4) What were the reason and documents for issuing a warrant , and actually any legal reasoning for accusing her of espionage and disturbing national security.

And questions as such.

Mr. Mortazavi gave a response, in letter 20/5602/82 dated 9/6/82 (9th of Shahrivar) which was sent to the Minister of Information as well as the head of police force (Niru Entezami) so that they would look at the details of the response and the Commission could then, by looking at those detailed explanations, issue an opinion. However, Niru Entezami, in spite of all communications, has not yet provided a response.

But, the Ministry of Information, and the other sources who have been asked to help, have given the following regarding the response of the honorable public prosecutor:

**FIRST:**

More than two pages of the public prosecutor's letter has no legal weight. And the reason for not being present in the formal Commission Meeting has been claimed to have been actually the fault of the Members and the way that some of the Members of the

Commission have been reading into this, and the Ministry of Information says that this is an insult, untrue, and has no basis. "This is an excuse that is worse than the crime you have committed.' It is even stranger that he says that there is no legal requirement for him to be present at the article 90 Commission meetings. The Ministry continues, if he had done a short review of the laws which have been passed in terms of the boundaries of the authority [hudud ekhtiarat] of the commission passed by the Majles, he would have never made this huge mistake with such clarity.

Mortazavi has accused the commission of not knowing the law, and he wouldn't accuse the Commission of not knowing the law if he had studied the law. To shed light upon this point, the Art. 2 of The Way that the Art. 90 Commission has to BE Implemented (Nahveyeh Ejra) was passed on 25/8/1365 by the Majles with the approval of the Guardian Council. This is the law: this commission can, in order to get sufficient information, request the presence of the three branches, all the Ministries all the offices and organizations that are related to the Ministries, all the foundations, and all revolutionary institutions, and institutions who in any way are related to the branches of the government aforementioned. They can invite them or write to them directly. The ones contacted are obliged to respond. In case of violation, and proof of the crime of not responding to the commission, a competent court(Dadgeh Saleh) has the responsibility of looking into the matter expediently (not in the order that other complaints were received) and after proving the crime, they have to issue the punishment as has been described in the amendment to the first article (tabsareyeh maddeyeh vahed) -- passed on 5/2/1365— so they have to say what the punishment is and give the result/decision to the Commission

With this explanation, Mr. Mortazavi's statement as the Public Prosecutor, is surprising.

## SECOND:

In the response to "why, if she had a permit was she called someone who was acting without a permit" it is said that on line 11 and 12 of page 3 of the report of the President's Special Group (heyateh vijeyeh riasateh jomhuri) it has been stated that Ms. Kazemi had acted against her permit and had taken a picture in an area which there was a sign that taking pictures are forbidden. SO, she has violated her permit. However, in the answer by Mr. Mortazavi it says that Ms. Kazemi had a permit, but that she was taking pictures of Evin where there was a sign. Which has made him get away from answering the question and getting into some other details and he has not really responded to the Commission's questions and has given a different answer.

In addition, him being the public prosecutor, it is unimaginable for him to declare, without paying attention to the issues that have been involved in committing a crime (the elements of a crime) which are specified in detail in the Penal Code, that taking a picture of a wall of Evin is a crime. Or to think that such a person just for doing this deserves to be arrested or issued writ of attachment (qharareh ta'min). Meanwhile, regarding this issue there was another communication in writing with the Public Prosecutor 9/15810/4952 on 1/7/82 with a deadline for response for 6/7/82 which has asked to give documentation for the claim in response to number 1 dated 19/4/82.

### THIRD:

Mr Mortazavi had considered the commission's surprise over Mrs Kazemi's "under observation" status lack of commission's knowledge in legal articles relevant to this case including article 24 of the penal proceedings regulations( AA'een e dadressy e keyfari) it should be mentioned that Mr Mortazavi has confused two different legal issues because what is said in article (assl) 32 of the constitution and article ( maddeh)24 of penal proceedings regulations is regarding the disciplinary force ( police force/ neeroye entezami) for the sake of "observation" can only hold the arrestee for 24 hours and is obligated to bring the case to the right judiciary authority. However, in this case as Mr. Mortazavi claims Mrs Kazemi was directed to Evin campus for giving explanations. There were judges in Evin who, based on priliminary inquiries, could have issued Mrs Kazemi's release or set an acceptable bail. Therefore, having put Mrs Kazemi's "under observation" in presence of the honorable prison judges, under no circumstances can be based on article 24 quoted by Mr. Mortazavi. If he had paid the needed legal attention to the law regarding this matter, which is the duty of every judiciary authority, he would have not accused the committee unfairly of not knowing the law

Mr. Mortazavi in his response dated 9/6/82( day, month, year) has mentioned the head of Evin's prison Security and Dention center's letter dated 19/4/82 as a source regarding Mrs, Kazami's " stroke" where as the Information Ministry's letter dated 29/6/82 says that primarily the head of Evin's security detention center's letter dated 6/4/82 to section 12 of Tehran's local #7 inquiry unit has mentioned that " ... Mrs. Kazemi from the time of entering had refused wearing blind folds ( chemband) and prison uniform and went on a hunger strike and due to the consequences of the hunger strike on 5/4/82 at 25/23 (time) was sent to baghyatollah hospital and now due to rupture of brain veins is in coma and any minute anything can happen. The situation is being reported for information purposes and any necessary action." the Information Ministry continues in the same letter that Mr. Mortazavi complained about the letter and came to the Security Detention center and asked why you had mentioned the hunger strike? and asked for the sent letter to be altered. And based on this, another letter on 7/4/82 is prepared and sent. In this letter the head of the Evin's security detention center writes to the the section 12 of inquiry unit : " accused Zahra Kazemi due to brain problems according to orders of Evin's doctor on 5/4/82 was sent to bagheyyollah hospital for treatment who to this date is being treated in the mentioned hospital and according to the hospital's doctor she had had a stroke and is presently in coma"

So, base on the response of the Information Ministry the second letter was sent under the order and directives of Mr. Mortazavi and it is the source used by Mr, Mortazavi in his letter to us! We could be of this opinion that both Mr. Mortazavi's influence on the director of the security dentention center is out of bounderies of a judiciary person's duties and authority and the director of the detention center's obliging to this defensible. On another section of the honorable Information Ministry's response dated 29/6/82 is mentioned that " the issue of the rupture of the brain veins and following declaration of

stroke comes from the care takers who have heard from the doctors and nurses and is not related to an specialist's opinion. In fact the expectation of a medical (specialist) opinion from the detention center's personnel and guards and accepting and referring to that opinion on the side of an experienced judge seems illogical.

...Now considering the Tehran's public denfender's response to the article 90 commission and his insistence in the manner of composition of the letters and sending them could have a variety of meanings and dimensions..." This commission in order to complete the documents and information regarding this file on 8/6/82 has had electronic communication( in writing) with the hornorable Minister of Culture and Islamic Guidance, honorable Minister of Information, honorable Minster of Health, Treatment, and Medical Education, honorable cheif of police force( neeroye entezami) honorable head of Bagheyollah hospital, and the honorable President of Islamic Republic for them to respond to this commission the latest by 10/6/82. However, the hsopital and the police force have not responded sufficiently to this date. In spite of the fact due to internal and international importance of the said event and within the framework of the duties stipulated for article 90 commission of the constitution legislated laws on the duties and authorities of this commission radified by Islamic Parliment ( majlis shora ye eslami) and considering all aspects and the responses received, the following legal issues regarding the file mentioned are worth mentioning:

1. Certainly, Mrs Kazemi had prepared legal permit for her professional activities from the Ministry of Culture and Islamic Guidance, Therefore, Mr. Mortazavi, Tehran's public prosecutor's claim in his response # 20/m/82/31 dated 19/4/82 regarding lack of permit does not correspond with truth.
2. Certainly, the primary arrest of the above mentioned which has been interpreted as " directing Mrs. Kazemi to Evin prison" with focus on accusation of espionage has been without sufficient reason. The view of the information ministry as the legal authority to discover crimes such as espionage (item b article 10 in law of establishing(ghanoon e t'ssiss) Ministry of Information radified 27/5/78) on freeing Mrs. Kazemi clearly demonstrates the fact that there had not been enough reasons and document to accuse her of this. in addition after her arrest the principles of article 39 of the constitution had not been followed in her case.
3. Items 32, 35, and 134 of the law for the protocol of proceeding in public and revolutionary courts for the permissibility or necessity of issuance of arrest warrant has called for observations, evidence, and legal reasons in placing accusations and the first assumption for this warrant is bail. In this case considering the disagreement of Information Ministry in Mrs. Kazemi's arrest and the continuation of her detention, the only imaginable document had been the film in her camera which based on the testimony of all concerned authorities had been exposed to light by Mrs. Kazemi in front of the prison personnel which made it impossible to develop. Therefore we could be of this opinion that the issuance of the arrest warrant by the honorable judge residing in Evin prison had not been justified. Additionally, the altering of the arrest warrant on 15/4/82 to

bail for 5 million tomans at the time that Mrs. Kazemi was in process of being brain dead is a clear evidence that the initial arrest warrant had been issued without following the principles of the law; and as a result, this arrest could be a type of crime regarding illegal arrests which is the subject of article 575 of Islamic criminal law ratified in 1375 which says the one who issues the warrant without a complainant, for the public honor could be considered a crime and disciplinary violation suitable/inditable in the office of the disciplinary prosecutor of advocates and later in Tehran's public prosecutor's office.

4. According to the presidential special group, which consisted of five cabinet ministers, report on 2/4/ 82 after the initial inquiry had been "under observation", it seems considering the information ministry's anti espionage specialists opposition to Mrs Kazemi's arrest and continuation of her detention and other issues mentioned in the file, confusion and unrest between the police and the judiciary in case of Mrs, Kazemi before and even after her death can be observed. According to the response of the Information Ministry and Mr. Khoshvaght's declarations, Tehran's public prosecutor's conscious attempt and tendency in explaining Mrs. Kazemi's death has been against the truth and the manner Mr. Mortazavi had put together the initial communication and his untrue and conflicting declarations, the two day arrest of the person responsible for security of information at Evin prison and his release later, the total declarations of the honorable deputies of Ministry of Information in the meeting of 4/6/82 and their emphasis on the fact that the judiciary reviewing department had focused its principle legal actions on only two of the ministry's personnel, and specifically crossing out of writings in Evin's records and alteration of the initial testimonies of the witnesses at the prison regarding Mrs. Kazemi's beater( zareb:some one who has committed the act of beating) all tell the story of Tehran prosecutor's unrest and distressed behavior which eventually is to derail Mrs. Kazemi's file from the right track. In this case it is necessary to pay careful attention and review the role of the two judges referred to in the presidential special group's report and the reason for their presence at certain hours in Evin prison and eventually the manner they came to the decisions they did.

5. Based on the declarations of Mr. Masjedjame'i the honorable Minister of Culture and Islamic Guidance on this commission's meeting of 7/5/82 and the copy attached to the response of the ministry of Culture, and Islamic Guidance dated 15/6/82 the whole event of calling in Mr. Khoshvaght's and meeting with him at Tehran's public prosecutor's office and based on mr. Khoshvaght, chief executive of foreign publication and media of that ministry's declarations of what went on between him and Mr. Mortazavi the honorable prosecutor, had been at the bottom of the presidential special group's report signed by 5 ministers which had eventually been deleted. Finding the reason for the deletion and the people who had played a role in deleting this important subject can reveal more facts towards discovering the truth in this case.

6. Based on Mr. Pezeshkian, the honorable minister of Health, Treatment and Medical Education, declarations at this commission's meeting on 7/5/82 regarding the fact that if

Mrs. Kazemi had been transferred to any of the public medical centers where they have brain surgeon residents " she would have definitely survived" there is room to bring up the question that considering there is a clinic and doctors at Evin prison, who has been directly or indirectly responsible for such a fateful decision.

7. Mr. Mortazavi, Tehran's public prosecutor's lack of presence in spite of formal invitation which would have certainly been helpful in discovering the truth, based on article 2 in the manner to implement article 90th of the constitution of the Islamic Republic of Iran ratified on 25/8/65 by Majlis Shoraye Islami is considered a violation.

8. A copy of this report as documented and clarified in nota bona (tabssareh) of article 5 of the law in manner to implement the article 90th of the constitution of Islamic Republic of Iran ratified on 25/8/65 and confirmed by the guardian council was sent to the judiciary branch to refer the case to competent court and a copy was sent to the office of the disciplinary prosecutor of advocates for reviewing , which based on the mentioned article will be processed out of order ( expediated). Tehran's public prosecutor's violations and the judges who had participated and had received unlawful directives in case of Mrs. Zahra Kazemi's case and inform this commission of the results.

Hossein Anssari Rad  
Chair of Article 90 Commission.