



PROCEDURES SPECIALES DU
CONSEIL DES DROITS DE L'HOMME

SPECIAL PROCEDURES OF THE
HUMAN RIGHTS COUNCIL

Mandates of the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health and the Special Rapporteur on the human rights of migrants

REFERENCE: AL Health (2002-7) G/SO 214 (106-10)
ARE 6/2013

12 November 2013

Excellency,

We have the honour to address you in our capacities as Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health and Special Rapporteur on the human rights of migrants pursuant to Human Rights Council resolutions 24/6 and 17/12.

In this connection, we would like to bring to your Excellency's Government's attention information we have received concerning Mr. [REDACTED], an Indian national, who was deported from the United Arab Emirates on the basis of a mandatory medical test that revealed an old tuberculosis scar in his lung.

According to the information received:

Mr. [REDACTED] arrived in the United Arab Emirates on 3 March 2013, after securing a job in a law firm at the Dubai International Financial Centre. As was required, he underwent a mandatory medical test, including a chest X-ray, at the Al Muhaisna Medical Centre of the Dubai Health Authority. The X-ray results allegedly revealed an old tuberculosis scar. Mr. [REDACTED] was consequently informed by his employer that he would be shortly deported.

According to the Ministerial decrees 28/2010 and 7/2008, newcomers to UAE who have been found to have active or old pulmonary tuberculosis are reportedly denied a health certificate, which is required for a residence visa. It is alleged that despite the law's provision of a month period to appeal the decision of deportation, Mr. [REDACTED] was not given an opportunity to challenge the decision or the test results; nor was he given a copy of the medical reports related to his diagnosis. The company, where Mr. [REDACTED] was employed, allegedly failed to provide him with documentation stating the grounds on which he was deported.

After deportation to his home country, Mr. [REDACTED] undertook comprehensive tuberculosis tests, which reportedly produced a negative result for active tuberculosis infection.

Concern is expressed about the alleged discriminatory policy of mandatory deportation of migrant workers who are considered cured and whose lungs had scarring from old tuberculosis that appear in X-rays.

While we do not wish to prejudge the accuracy of these allegations, we would appreciate information from your Excellency's Government on the steps taken by the competent authorities with a view to ensuring Mr. [REDACTED] and other migrant workers' right to the highest attainable standard of health. This right is reflected, inter alia, in article 25 of the Universal Declaration of Human Rights (UDHR), article 12 of the International Covenant on Economic, Social and Cultural Rights (ICESCR) and articles 28 and 43 of International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.

We would also like to refer your Excellency's Government to the Human Rights Council report of the Special Rapporteur on the right to health (A/HRC/23/41), which considers issues concerning the right to health of migrant workers. In the report, the Special Rapporteur notes that ensuring the availability, accessibility, acceptability and quality of health facilities, goods and services on a non-discriminatory basis, especially for vulnerable populations like migrant workers, is a core obligation under the right to health (para. 38). He also observes that laws linking immigration control and health systems are a direct barrier to accessing health care, and perpetuate discrimination and stigma rather than promote social inclusion (para.5). Deportation, based on the health status of migrant workers discriminates against them and discourages them from accessing health goods, facilities and services. Furthermore, the Special Rapporteur states that compulsory testing is inconsistent with the right to health, as it is done without informed consent and fails to respect the rights to autonomy, privacy, dignity and confidentiality of health information, and he stresses that limitations on the right to health and informed consent, including for public health reasons, should be based on scientific evidence, must be the least restrictive alternative available and respect human dignity, rights and freedoms (para.31).

It is our responsibility under the mandates provided to us by the Human Rights Council to seek to clarify all cases brought to our attention. Since we are expected to report on these cases to the Human Rights Council, we would be grateful for your cooperation and your observations on the following matters:

1. Are the facts alleged in the above summary of the case accurate?
2. What steps, if any, have been taken to ensure that laws and policies of the U.A.E related migrant workers comply with the State's international obligation to prevent discrimination against them and protect and promote their right to health?

3. Please provide the details, and where available the results, of any inquiries or reform proposals which may have been carried out in relation to the allegations. If no inquiries have taken place, or if they have been inconclusive, please explain why.

4. Please provide information on the measures taken to ensure the enjoyment of the right to the highest attainable standard of physical and mental health of migrant workers in the U.A.E.

We would appreciate a response within sixty days. Your Excellency's Government's response will be made available in a report to the Human Rights Council for its consideration.

While waiting for your response, we urge your Excellency's Government to take all necessary measures to guarantee that the rights and freedoms of migrant workers are respected and, in the event that your investigations support or suggest the above allegations to be correct, the accountability of any person responsible of the alleged violations should be ensured. We also request that your Excellency's Government adopt effective measures to prevent the recurrence of these acts.

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

Anand Grover
Special Rapporteur on the right of everyone to the enjoyment of the
highest attainable standard of physical and mental health

François Crépeau
Special Rapporteur on the human rights of migrants