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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 torture and other cruel, inhuman or degrading treatment or punishment

REFERENCE: UA Health (2002-7) G/SO 214 (53-24)
BHR 4/2012

16 March 2012

Excellency,

We have the honour to address you in our capacity 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 torture and other cruel, inhuman or degrading treatment or punishment pursuant to General Assembly resolution 60/251 and to Human Rights Council resolutions 15/22 and 16/23.

In this connection, we would like to draw the attention of your Excellency's Government to information we have received the situation of Mr. **Hassan Mushaima**, aged 64, a national of the Kingdom of Bahrain and an opposition leader, who is currently detained in the Bahrain State Prison.

Mr. Hassan Mushaima, Secretary-General of the Haq Democracy Movement, the main opposition movement calling for democratic reforms, was the subject of an urgent appeal dated 5 August 2011, sent by the Special Rapporteur on the Independence of Judges and Lawyers; the Special Rapporteur on the promotion and protection of human rights and fundamental freedom of opinion an expression; the Special Rapporteur on the situation of human rights defenders; and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment; an urgent appeal dated 22 March 2011, sent by the Chair-Rapporteur of the Working Group on Arbitrary Detention; the Special Rapporteur on the promotion and protection of the right to freedom and opinion and expression; and the Special Rapporteur on the situation of human rights defenders; an urgent appeal dated 18 March 2011, sent by the Chair-Rapporteur of the Working Group on Arbitrary Detention; the Special Rapporteur on extrajudicial, summary or arbitrary executions; the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; the Special Rapporteur on the situation of human rights defenders; and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment; and an urgent appeal dated 2 February 2007 sent by the Chair-Rapporteur of the Working Group on Arbitrary Detention and the then Special Representative of the Secretary-General on the situation of human rights defenders . The

Special Rapporteurs acknowledge receipt of responses transmitted by your Excellency's Government to these communications on 23 September 2011, 26 April 2011, 20 April 2011 and 15 February 2007. However, we wish to bring the following new information to your Excellency's Government's attention.

According to reports recently received:

It is reported that in 2010 Mr. Mushaima has been diagnosed with stage IV follicular lymphoma, a malignant cancer, and sought treatment in the United Kingdom. It is also reported that he received six cycles of chemotherapy at the Royal Marsden hospital in London. After having responded to the initial chemotherapeutic drug regime, the plan was to have regular two monthly injections of Rituximab (a drug used to prevent relapse of disease, progression and death) for two years until January 2013.

In March 2011 Mr. Mushaima returned to Bahrain for a short visit and to express his support to the democratic movement in the country. He was arrested shortly thereafter. Despite his age and medical condition he was allegedly subjected to physical and psychological torture.

On 22 June 2011 Mr. Mushaima was sentenced by the National Safety Court, a military court, to life imprisonment for "attempting to overthrow the monarchy". It is reported that after informing the authorities of his medical condition, Mr. Mushaima was blindfolded and taken to a clinic on two occasions, given unknown injections, unaware of the hospital he was taken to, nor the doctor that was treating him.

Furthermore it is reported that while in detention his cancer relapsed and that the Bahraini authorities fail as of today to provide immediate medical attention. Mr. Mushaima has allegedly not received any treatment in the past six months and is denied access to an independent medical doctor.

Deep concern is expressed about the physical integrity of Mr. Mushaima should he not receive immediate medical treatment, which may eventually lead to his death.

While we do not wish to prejudge the accuracy of these allegations, we wish to draw your Excellency's Government's attention to the right to physical and mental integrity of the above-mentioned person. We would like to stress that each Government has the obligation to protect the right to physical and mental integrity of all persons. This right is set forth, inter alia, in the Universal declaration of Human Rights (UDHR) and the International Covenant on Civil and Political Rights (ICCPR), and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. We should like to appeal to your Government to seek clarification of the circumstances regarding the case of the person named above.

In this context, we would like to draw the attention of your Excellency's Government to the Standard Minimum Rules for the Treatment of Prisoners. Rule 22(2) provides that, "(s)ick prisoners who require specialist treatment shall be transferred to specialized institutions or to civil hospitals. Where hospital facilities are provided in an institution, their equipment, furnishings and pharmaceutical supplies shall be proper for the medical care and treatment of sick prisoners, and there shall be a staff of suitable trained officers. Furthermore, Rule 25(1) provides that, "(t)he medical officer shall have the care of the physical and mental health of the prisoners and should daily see all sick prisoners, all who complain of illness, and any prisoner to whom his attention is specially directed" (approved by the Economic and Social Council by resolutions 663 C (XXIV) of 31 July 1957 and 2076 (LXII) of 13 May 1977).

Furthermore, we would highly appreciate information from your Excellency's Government on the steps taken by the competent authorities with a view to ensuring the right to the highest attainable standard of health of the person mentioned above. This right is reflected, inter alia, in article 12 of the International Covenant on Economic, Social and Cultural Rights, which provides for the right of everyone to the enjoyment of the highest attainable standard of mental and physical health. This includes an obligation on the part of all States parties to ensure that health facilities, goods and services are accessible to everyone, especially the most vulnerable or marginalized sections of the population, without discrimination.

We urge your Excellency's Government to take all necessary measures to guarantee that the rights and freedoms of the above mentioned person 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.

In view of the urgency of the matter, we would appreciate a response on the initial steps taken by your Excellency's Government to safeguard the rights of Mr. Mushaima in compliance with the above international instruments.

Moreover, 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, when relevant to the case under consideration:

1. Are the facts alleged in the above summary of the case accurate?
2. Please indicate what measures are taken to ensure that the aforementioned person will receive accurate medical care while in detention compatible with international norms and standards as stated, inter alia, in Rule 22(2) and Rule 25(1) of the Standard Minimum Rules for the Treatment of Prisoners.?

We undertake to ensure that your Excellency's Government's response to each of these questions is accurately reflected in the report we will submit to the Human Rights Council for its consideration.

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

Juan E. Méndez

Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment