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**HAUT COMMISSARIAT DES NATIONS UNIES**  
**AUX DROITS DE L'HOMME**

**PROCEDURES SPECIALES DU**  
**CONSEIL DES DROITS DE L'HOMME**

**UNITED NATIONS**  
**OFFICE OF THE UNITED NATIONS**  
**HIGH COMMISSIONER FOR HUMAN RIGHTS**

**SPECIAL PROCEDURES OF THE**  
**HUMAN RIGHTS COUNCIL**

**Mandates of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment; 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 independence of judges and lawyers.**

REFERENCE: UA Health (2002-7) G/SO 214 (3-3-16) G/SO 214 (53-24)  
USA 10/2013

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Excellency,

We have the honour to address you in our capacity as Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment; 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 independence of judges and lawyers; pursuant to Human Rights Council resolutions 16/23, 15/22, and 17/2.

In this connection, we would like to draw the attention of your Excellency's Government to information we have received regarding the use of prolonged solitary confinement that amounts to cruel, inhuman or degrading treatment or even torture of Mr. **Herman Wallace**, Mr. **Robert King Wilkerson**, and Mr. **Albert Woodfox**, as well as the insufficient medical care provided to Mr. Wallace at the Louisiana State Penitentiary and the David Wade Correctional Center, Louisiana.

According to the information received:

In 1971, Mr. Herman Wallace, Mr. Robert King Wilkerson and Mr. Albert Woodfox, commonly known as the "Angola Three", reportedly created a chapter of the Black Panther Party in the Louisiana State Penitentiary (Maximum Security Prison) also known as "Angola prison" to advocate for fellow prisoners and improve the living conditions in the prison. A year after its creation a prison guard was allegedly murdered, and Mr. Woodfox and Mr. Wallace were charged and found guilty of murder.

Mr. Wilkerson was convicted of conspiracy to murder a fellow inmate and spent thirty-one years in the Louisiana State Penitentiary. In total, he allegedly spent

twenty-nine years in solitary confinement. He was released in February 2001 and advocates against the use of solitary confinement and for the release of Mr. Wallace and Mr. Woodfox ever since.

According to the information received, Mr. Woodfox and Mr. Wallace were convicted for the murder of the prison guard and were placed in solitary confinement over forty years ago, reportedly the longest period of solitary confinement of any prisoner in the United States.

It is reported that Mr. Woodfox's conviction has been overturned three times and reaffirmed twice since 1973. In 1992 the conviction was overturned but he was re-indicted in 1993, convicted in 1998 and re-sentenced for life in prison in 1999. The second instance was reportedly in 2008 when the US Federal District judge for the Middle District of Louisiana stated that the right to adequate assistance of counsel in the 1998 trial was denied and the conviction should be vacated or the case should be retried. The State appealed to the Fifth Circuit which, in 2010, reversed the district court's decision and affirmed the conviction, but remanded for an evidentiary claim. Finally, in the February 2013 decision regarding the evidentiary claim, the US Federal District judge for the Middle District of Louisiana again ordered the conviction be vacated or the case retried because of racial discrimination behind the selection of the grand jury foreperson in the 1993 trial. Allegedly, there was no racially neutral reason to explain the underrepresentation of African Americans in the grand jury forepersons. The Fifth Circuit's hearing is expected to take place in September while it is allegedly still possible that the District Court Judge's ruling will stand.

It is reported that within the last five years, Mr. Woodfox has been transferred to the David Wade Correctional Centre, Louisiana, where he is allegedly still being subjected to solitary confinement in a Closed Cell Restricted tier. It is reported that for approximately two months, Mr. Woodfox has been subjected to additional punitive measures, including strip searches each time he leaves or enters his cell, being escorted in ankle and wrist restraints, restricted phone access, and non-contact visits through a perforated metal screen. Temperatures in the prison cells are reportedly extremely high, regularly reaching up to 100 degrees Fahrenheit. It is also alleged that the prison review boards in both institutions have not made efforts in good faith to have fair and meaningful hearings to assess the necessity of solitary confinement, setting aside the prisoner's behaviour in the assessment.

According to the information received, Mr. Wallace was also convicted for the murder of the prison guard. It is reported that on 14 June 2013, he was diagnosed with liver cancer. He reportedly lost 50 pounds over a six month period and allegedly received insufficient medical care. He was reportedly being held in isolation in the infirmary in Hunt Correctional Centre and has only recently been

reclassified from maximum to medium security and is now living in quarters with multiple prisoners. It is reported that Mr. Wallace in addition to his active habeas petition seeking to overturn his conviction in the final stages of review in federal court, is currently seeking his release from prison to his family on humanitarian grounds, in order to be cared for during his last months.

It is reported that the evidence used in Mr. Woodfox and Mr. Wallace's initial conviction has been questioned. The DNA evidence has allegedly been "lost" the authorities and an incriminating testimony was reportedly found to be unreliable because the witness was allegedly bribed with cigarettes and the promise of a successful effort to get him released early from prison. Aside from this false testimony considered to be false, there was reportedly no physical evidence to implicate either Mr. Woodfox or Mr. Wallace in the murder.

It is reported that Mr. Woodfox and Mr. Wallace have been subject to 23 hour daily confinement since over forty years in cells measuring 2 by 3 meters, sometimes even smaller. They are allegedly allowed access to outdoor exercise up to a maximum of seven hours for only three hours a week, which is taken alone in a cage. It is also alleged that they have limited social interaction and no access to work, education or rehabilitation programs. It is also reported that communication with family and friends is restricted to occasional visits and limited telephone calls. The conditions have reportedly had negative psychological and physical consequences on the inmates, which were reportedly also acknowledged by a federal judge in 2007.

Finally, it is reported that a civil suit is pending in the Middle District of Louisiana against the State of Louisiana for violations of Eighth Amendment of cruel and unusual punishment for the extensive period of time in solitary confinement and a Fourteenth Amendment violation of due process for the lack of meaningful review regarding placement in solitary confinement. In a letter Congressmen John Conyers, Cedric Richmond, Jerrold Nadler, and Bobby Scott expressed their concern for these Constitutional violations and alleged that the Attorney General in Louisiana was colluding with the Department of Corrections to fabricate violations of prison rules to justify the inmates' placement in solitary confinement.

Without expressing at this stage an opinion on the facts of the case we should like to appeal to your Excellency's Government to seek clarification of the circumstances regarding the case of the persons named above. 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), the International Covenant on Civil and Political Rights (ICCPR), which your Excellency's Government ratified on 8 June 1992, and the Convention against Torture

and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), which your Excellency's Government ratified on 21 October 1994.

In this context, we would like to draw the attention of your Excellency's Government to paragraph 6 of General Comment No. 20 of the Human Rights Committee. It states that prolonged solitary confinement of the detained or imprisoned person may amount to acts prohibited by article 7 [on the prohibition of torture and other cruel, inhuman or degrading treatment or punishment] of the International Covenant on Civil and Political Rights (adopted at the 44th session of the Human Rights Committee, 1992). In this regard, we would also like to draw your attention to article 7 of the Basic Principles for the Treatment of Prisoners, which provides that "efforts addressed to the abolition of solitary confinement as a punishment, or to the restriction of its use, should be undertaken and encouraged" (adopted by the General Assembly by resolution 45/111 of 14 December 1990).

In addition, we would like to draw the attention of your Excellency's Government to Special Rapporteur on torture's interim report to the General Assembly of 5 August 2011 (A/66/268) stating that where the physical conditions and the prison regime of solitary confinement cause severe mental and physical pain or suffering, when used as a punishment, during pre-trial detention, indefinitely, prolonged, on juveniles or persons with mental disabilities, it can amount to cruel, inhuman or degrading treatment or punishment and even torture. Paragraph 26 of the report states that, "of particular concern to the Special Rapporteur is prolonged solitary confinement, which he defines as any period of solitary confinement in excess of 15 days. He is aware of the arbitrary nature of the effort to establish a moment in time which an already harmful regime becomes prolonged and therefore unacceptably painful. He concludes that 15 days is the limit between "solitary confinement" and "prolonged solitary confinement" because at that point, according to the literature surveyed, some of the harmful psychological effects of isolation can become irreversible."

With regard to allegations of the provision of insufficient medical care to Mr. Wallace, we would also like to call on your Excellency's Government to take all necessary steps to ensure his enjoyment of the right to the highest attainable standard of health in accordance with fundamental principles as set forth in article 25 of the UDHR which provides that "Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control.

We also wish to draw the attention of your Excellency's Government to the Standard Minimum Rules for the Treatment of Prisoners (Adopted by the Economic and Social Council by resolutions 663 C (XXIV) of 31 July 1957 and 2076 (LXII) of 13 May

1977). Rule 22 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). We would like to refer your Excellency's Government to the Basic Principles for the Treatment of Prisoners, adopted and proclaimed by General Assembly resolution 45/111, according to which “Prisoners shall have access to the health services available in the country without discrimination on the grounds of their legal situation” (Principle 9). In addition, the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment adopted by the General Assembly resolution 43/173 provide that “A proper medical examination shall be offered to a detained or imprisoned person as promptly as possible after his admission to the place of detention or imprisonment, and thereafter medical care and treatment shall be provided whenever necessary. This care and treatment shall be provided free of charge” (Principle 24). The Committee against Torture and the Human Rights Committee have consistently found that conditions of detention can amount to inhuman and degrading treatment.

Furthermore, we would like to refer your Excellency's Government to article 14(1) of the International Covenant on Civil and Political Rights, which states: “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.”

We would like to refer your Excellency's Government to the Basic Principles on the Independence of the Judiciary, adopted by the Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders held at Milan from 26 August to 6 September 1985 and endorsed by General Assembly resolutions 40/32 of 29 November 1985 and 40/146 of 13 December 1985, and in particular principle 6, which states: “The principle of the independence of the judiciary entitles and requires the judiciary to ensure that judicial proceedings are conducted fairly and that the rights of the parties are respected.”

The Bangalore Principles of Judicial Conduct, adopted in The Hague in 2002 (E/CN.4/2003/65) also state: “Ensuring equality of treatment to all before the courts is essential to the due performance of the judicial office.” (principle 5).

We would further like to refer your Excellency's Government to the Guidelines on the Role of Prosecutors, adopted by the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Havana, Cuba, 27 August to 7 September 1990, and in particular guideline 12, which states: "Prosecutors shall, in accordance with the law, perform their duties fairly, consistently and expeditiously, and respect and protect human dignity and uphold human rights, thus contributing to ensuring due process and the smooth functioning of the criminal justice system."

Moreover, it is our responsibility under the mandates provided to us by the Human Rights Council, to seek to clarify all cases brought to my 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 summary of the case accurate?
2. Please provide information about the legal grounds and the reasons for Mr. Woodfox's and Mr. Wallace's solitary confinement for over forty years, and Mr. Wilkerson's solitary confinement for twenty-nine years.
3. Please provide information on all safeguards in place to ensure that the disciplinary process is in compliance with the minimum due process requirements, including the access to adequate remedies to question the reason and the length of the measure and the access to legal counsel and medical assistance.
4. Please provide information on measures taken by your Excellency's Government to reduce the use of solitary confinement and to abolish prolonged solitary confinement and other extreme isolation practices within the penitentiary system.
5. Please provide information on steps taken by your Excellency's Government to define a maximum term beyond which solitary confinement would be considered prolonged and therefore banned.
6. Please provide information on measures taken by your Excellency's Government to ensure the access of Mr. Wallace to adequate medical treatment. Please also explain steps taken by your Excellency's Government to release Mr. Wallace from prison to his family on humanitarian grounds.

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.

While waiting for your response, we urge your Excellency's Government to take all necessary measures to guarantee that the rights and freedoms of the above mentioned persons 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.

Juan E. Méndez  
Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment

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

Gabriela Knaul  
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