

Mandates of the Working Group of experts on people of African descent; 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: AL
USA 10/2015:

30 April 2015

Excellency,

We have the honour to address you in our capacities as Chair-Rapporteur of the Working Group of experts on people of African descent; 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 Human Rights Council resolutions 27/25, 24/6, and 25/13.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning **racial discrimination against people of African descent and lack of access to appropriate medical treatment whilst in detention.**

According to information received:

Mr. Mumia Abu-Jamal (born Wesley Cook, d.o.b 24 April 1954), an Afro-American detainee in State Correctional Institution at Mahanoy, Pennsylvania, has not received appropriate health care and as a consequence his health situation has deteriorated this year. This case illustrates an alleged general concern related to access to appropriate health care for detainees in American prisons.

Mr. Mumia Abu-Jamal was allegedly detained following an unfair trial which found him guilty of murder. According to information received he was falsely charged with the crime of murder of police officer Daniel Faulkner in 1981. In July 1982, he was convicted and sentenced to death. Having spent 29 years on death row, he is now in general population after the death sentence was overturned on appeal and the Philadelphia DA elected to not convene a new trial. He is reportedly serving a life sentence without parole and has not been given a re-sentencing hearing in violation of Pennsylvania constitutional and statutory law. During his years in detention he has been active in writing about racial

discrimination in the criminal justice system and to advocate for justice and the rights of his fellow detainees.

It is reported that Mr. Mumia Abu-Jamal had informed prison staff that he was ill and needed medical treatment since January 2015 however he did not receive appropriate health care for his condition. On the morning of 30 March 2015 Mr. Mumia Abu-Jamal allegedly fainted in the prison and was taken to the intensive care unit (ICU) of a nearby clinic. His blood sugar count was dangerously high at 779 and he was in a diabetic shock. He is reported to be recovering slowly and still in ICU.

Prior to 30 March 2015, Mr. Mumia Abu-Jamal had been under medical care for months in the prison and diagnosed with eczema. It is alleged that as he had had three "comprehensive" blood tests since February 2015, diabetes should have been diagnosed and treated accordingly. Instead his medical condition was reportedly ignored by the prison guards. In January 2015 he was reportedly shaken out of a deep sleep by guards during count. Deep trance-like sleep and lethargy were reportedly the first signs of diabetes. For the infraction of not being awake during count he was punished for 2 weeks, without calls or yard. In addition to the physical depletion produced by untreated diabetes, he was and is also dealing with a severe outbreak of eczema. His skin was raw, blistered and bloody all over. The medical treatment he was given for his skin reportedly produced an extreme adverse reaction: his skin swelled and ruptured and he was put in the prison infirmary for two weeks.

It is also reported that Mr. Mumia Abu-Jamal's family and lawyers have been given very little information about his treatment and his condition. It is alleged that his family waited for 20 hours in the Intensive Care ICU Schuylkill Medical Center in Pottsville, PA and were not informed about his condition. His lawyer is in Pottsville and taking steps to gain access to his client for the family and access to his medical records so that independent doctors can intervene.

Serious concern is expressed about the physical integrity and right to the highest attainable standards of physical and mental health of Mr. Mumia Abu-Jamal. In particular, concern is expressed regarding allegations that Mr. Mumia Abu-Jamal has not had access to appropriate medical treatment while in detention and that due to this his health condition has deteriorated over the past few months. Concern is expressed that this could be a case of racial discrimination against people of African descent.

In connection with the above alleged facts and concerns, please refer to the **Reference to international law Annex** attached to this letter which cites international human rights instruments and standards relevant to these allegations.

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. We would therefore be grateful for your observations on the following matters:

1. Please provide any additional information and/or comment(s) you may have on the above-mentioned allegations.
2. Has a complaint been lodged? If so, please describe how these have been processed and what has been the outcome.
3. Please provide the details, and where available the results, of any investigation, medical examinations, and judicial or other inquiries which may have been carried out in relation to this case. If no inquiries have taken place, or if they have been inconclusive, please explain why.
4. More specifically, please provide information regarding the medical assistance provided to Mr. Mumia Abu-Jamal, including information about his health situation provided to his family and legal counsel.

We would appreciate receiving a response within 60 days.

While awaiting a reply, we urge that all necessary interim measures be taken to halt the alleged violations and prevent their re-occurrence and in the event that the investigations support or suggest the allegations to be correct, to ensure the accountability of any person(s) responsible for the alleged violations.

It is our intention to publicly express our concerns in the near future as, in our view, the information upon which the press release will be based is sufficiently reliable to indicate a matter warranting immediate attention. The press release will indicate that we have been in contact with your Excellency's Government to clarify the issue/s in question.

Your Excellency's Government's response will be made available in a report to be presented to the Human Rights Council for its consideration.

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

Mireille Fanon Mendes-France
Chair-Rapporteur of the Working Group of experts on people of African descent

Dainius Puras
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

Annex

Reference to international human rights law

In connection with above alleged facts and concerns, we would like to refer to provisions of the International Convention on the Elimination of all forms of racial discrimination (ICERD, ratified by the United States of America in 1994) notably its articles 2, 5 and 6.

We would also like to refer to article 12 of the International Covenant on Economic, Social and Cultural Rights, signed by the USA in 1977, which establishes the right to the enjoyment of the highest attainable standard of physical and mental health. Moreover, General Comment 14 of the Committee on Economic, Social and Cultural Rights indicates that States parties have immediate obligations in relation to the right to health, such as the guarantee that the right will be exercised without discrimination of any kind (art. 2.2), including on the basis of legal status, and the obligation to take steps (art. 2.1) towards the full realization of article 12. Such steps must be deliberate, concrete and targeted towards the full realization of the right to health. (GC 14, Para.30)

We would like to remind your Excellency's Government of the absolute and non-derogable prohibition of torture and other ill-treatment as codified in articles 2 and 16 of the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), which the United States of America ratified on 21 October 1994. In this context, the Committee against Torture and the Human Rights Committee have consistently found that conditions of detention can amount to inhuman and degrading treatment.

We would like to draw the attention of your Excellency's Government to Rules 22(1) and 22(2), respectively, of the Standard Minimum Rules for the Treatment of Prisoners, which provide that "[t]he medical services should be organized in close relationship to the general health administration of the community or nation", and 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).