

Mandates of the the Working Group on Arbitrary Detention; the Special Rapporteur on the rights of persons with disabilities; 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 situation of human rights defenders

REFERENCE:
AL BHR 1/2019

18 September 2019

Excellency,

We have the honour to address you in our capacities as Working Group on Arbitrary Detention; Special Rapporteur on the rights of persons with disabilities; Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health; Special Rapporteur on the situation of human rights defenders, pursuant to Human Rights Council resolutions 33/30, 35/6, 33/9 and 34/5.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning **the alleged denial of adequate health care for serious health conditions of several detainees held in the Jau Prison.**

The detainees, all Bahraini citizens, are the following: **Mr. Elyas Faisal Maki Ebrahim Ismaeel AlMulla; Mr. Hassan Mushaima; Mr. Husain Abdulaziz Ali Husain Mohamed; Mr. Sayed Kadhem Abbas Hashem Ali; Dr. Abduljalil Al-Singace; Mr. Mohamed Hameed Abdulla Hasan AlDaqqaq; Mr. Mohamed Merza Ali Moosa; Mr. Habib Ali Habib Mohamed Hasan Mubarak; Mr. Ali Mahdi Abdulhusain Mohamad Alaiwi and Mr. Khalil Ibrahim al-Saffar.**

Mr. Hassan Mushaima is the former Secretary-General of the Haq Movement for Liberty and Democracy and the co-founder and former Vice President of al-Wefaq National Islamic Society, dissolved in 2016.

Mr. Abduljalil Al-Singace is a former member of the AlWefaq and Haq political parties.

Mr. Moosa was an athlete who won several gold medals in international competitions for Jiu-jitsu between 2008 and 2010. He participated in demonstrations calling in favour of democracy and human rights in Bahrain in February 2011.

Some of the ten individuals included in this communication were the subjects of several communications by Special Procedures, including:

- Communication BHR 11/2014 concerning Mr. Elyas Faisal Maki Ebrahim Ismaeel Al Mulla (transliterated as "Elyas Al Mula"). We acknowledge Government reply.

- Communications BHR 5/2014; BHR 17/2011, and BHR 4/2011, concerning both Mr. Hassan Mushaima and Mr. Abduljalil Al-Singace together with other individuals. Communication 4/2011 addressed allegations of reprisals against Mr. Hassan Mushaima and Mr. Abduljalil Al-Singace for their cooperation with the UN in the field of human rights. We acknowledge Government replies.
- Additional communications have been sent concerning Mr. Hassan Mushaima, namely BHR 4/2012; BHR 3/2011 (along with other individuals), and BHR 2/2007 (together with another individual). We acknowledge Government replies.
- Additional communications have been sent concerning Mr. Abduljalil Al-Singace whose case has been raised together with others: BHR 18/2011; BHR 7/2010, and BHR 5/2010. We acknowledge Government replies.
- WGAD Opinion No 79/2018 concerning Mr. Mohamed Hameed Abdulla Hasan AlDaqqaq.

According to the information received:

Mr. Elyas Faisal Maki Ebrahim Ismaeel AlMulla

In August 2015, Mr. AlMulla's was transferred from Jau Prison to the Bahrain Defense Force Royal Medical Services Hospital due to his health condition. He was diagnosed with stage three colon cancer, underwent surgery and was prescribed eight rounds of chemotherapy and a pharmaceutical treatment. The prison administration reportedly interrupted his chemotherapy and on other occasions, did not transfer him to the hospital on schedule or did not bring his medical file to the hospital so that he could receive his treatment. He was allegedly transported to the hospital together with other prisoners who had infectious diseases.

In January 2018, he was taken to the hospital, where it was confirmed that his lymphatic glands had become infected. Thereafter, in August 2018, he underwent a medical examination and was prescribed multiple medications.

In September 2018, Mr. AlMulla's family reported that he fell after losing consciousness, but they were allegedly denied the opportunity to communicate with him. In December of the same year, he was transferred to Salmaniya Hospital, where the doctor ordered his admission to undergo a colonoscopy and a colon biopsy. The prison administration reportedly ignored the medical advice and returned him to Jau Prison. In February 2019, Mr. AlMulla stated through a phone call to his family that he had discovered blood in his feces.

On 27 March 2019, Mr. AlMulla fractured his forearm and was taken to the prison clinic and thereafter to Al-Qalaa hospital. A doctor put a temporary cast on his arm and requested his transfer to Salmaniya Medical Complex, where it was determined that Mr. AlMulla must urgently undergo surgery and scheduled it for the next day. The prison administration allegedly refused to take him to the scheduled appointment and postponed it for a few days, until he finally underwent surgery on 12 April 2019. Reportedly, as a result of this delay, Mr. AlMulla cannot currently move his wrist and the damage may be permanent.

Following his surgery, Mr. AlMulla was informed by the doctor that he could be transferred to Salmaniya Medical Complex to continue his cancer treatment, but the prison administration took him instead to Al Qalaa Ministry of Interior's Hospital, where he underwent X-rays and was given anti-coagulant and was then returned to Jau Prison.

On 15 April, his mother submitted a request for his release on humanitarian grounds to the Ministry of Interior Ombudsman and the National Institution of Human Rights. Mr. Al Mulla has been refused alternative sentencing.

Mr. Hassan Mushaima

Mr. Mushaima was diagnosed with cancer prior to his arrest in 2011. The prison administration has allegedly denied Mr. Mushaima appropriate medical care and information on this medical condition since his arrest in 2011. More recently, between 2014 and 2017, Mr. Mushaima developed multiple health conditions. In particular, in 2014 he suffered from loss of vision due to his inadequately monitored diabetes. He allegedly stopped receiving his medication for his diabetes in September 2017 and received it only occasionally when the prison administration started to administer the medication again. He was also allegedly denied treatment for an injured ear.

In August 2018, his son Mr. Ali Mushaima started a hunger strike outside the Bahraini Embassy in London to allow his father to have access to medical treatment. The Embassy responded that Mr. Mushaima had received medication regularly. In addition, the National Institute for Human Rights responded that it was Mr. Mushaima who had declined the medical services. That same month, Mr. Mushaima was taken for a cancer scan, but allegedly the results have not been shared with him nor his family.

In September 2018, the Ministry of Interior Ombudsman indicated that Mr. Mushaima was not permitted to leave Jau Prison to attend his medical appointments because he refused to follow the prison protocol which requires prisoners who have received a sentence over ten years to be handcuffed and shackled during transfer. The Ombudsman also reported that the prison administration has given assurances that inmates who refuse to be shackled will not be prevented access to health care, when there is an urgent need or medical

emergency. However, it has been reported that Mr. Mushaima has not been taken to his medical appointments, nor has he received the results of his cancer screening.

Mr. Husain Abdulaziz Ali Husain Mohamed

Mr. Mohamed was arrested in April 2015 and allegedly subjected to torture. He was reportedly forced to sign a confession and was sentenced to ten years in prison for illegal assembly and burning tires. The sentence was then reduced to five years on appeal. In 2016, when Mr. Mohamed turned 21 years old, he was transferred to the Jau Prison.

Mr. Mohamed had lost an eye as a child. In early 2018, Mr. Mohamed was transferred to Bahrain Defence Force Hospital, where he was diagnosed with retinal detachment in his remaining right eye, and recommended to be transferred to Salmaniya Medical Complex. The prison administration transferred Mr. Mohamed on 26 April 2018.

On 29 April 2018, Mr. Mohamed underwent surgery and his vision improved as he was able to see a little with prescribed eye drops. However, he did not undergo his second operation three months later as recommended. Mr. Mohamed also reported that he finished his eye drops in December 2018, and no other eye drops were provided to him.

In December 2018, a doctor was allowed to examine Mr. Mohamed in his cell but he was not transferred to the hospital and did not receive any medication. Mr. Mohamed has lost his sight as a result of a complete retinal detachment. It is reported that the prison administration's delay in taking him to the hospital and the lack of medication are partly responsible for his loss of vision. Moreover, as of May 2019, he has allegedly not received any reasonable accommodation for his disability in prison.

Mr. Sayed Kadhem Abbas Hashem Ali

Mr. Ali was arrested in 2015, charged with unlawful gathering and assault on the security officer who arrested him. He was sentenced in February 2016 to 10 years in prison, which was reduced on appeal to 5 years. He is currently detained in Jau Prison and has allegedly not had access to his lawyer except in court sessions.

Mr. Ali suffered from abnormal swelling of his nose and face, the inability to bear any kind of smell, severe headaches and the inability to stand. When his first symptoms appeared, Mr. Ali went to the prison clinic but allegedly did not receive treatment despite being unwell. Finally he was transferred to the Al-Qalaa police clinic, where he underwent an X-ray on his nose and was sent back to the prison, without receiving treatment. His condition worsened, he was unable to eat, vomited continuously, and suffered from stomach pain. He also lost a significant

amount of weight. Mr. Ali was taken again to the Al-Qalaa police clinic in May 2018, where he was transferred to the department for abdominal diseases. He was diagnosed only on his continuous vomiting.

In May 2018, his family submitted another complaint to the Ministry of Interior Ombudsman on the deprivation of medication and improper treatment. The complaint indicates that Mr. Ali's symptoms refer to a brain tumour. Mr. Ali already had memory loss and lack of focus.

On 22 June 2018, he lost consciousness and was taken to the Bahrain Defence Force Hospital, where he underwent a magnetic resonance imaging test that revealed a brain tumour. The following day, he underwent surgery and a tube was placed to drain fluid from his head and relieve pressure. On 30 June 2018, Mr. Ali was readmitted to the hospital to change the tube and thereafter had a second surgery on 2 July 2018. Most of his symptoms disappeared, but he lost his vision. The doctor informed the family that Mr. Ali required radiation treatment at the King Hamad Hospital, but his transfer to the hospital was allegedly delayed.

In July 2018, he was temporarily released on humanitarian grounds, travelled abroad for medical treatment and then returned to Bahrain in November 2018. Mr. Ali has not been able to recover his vision.

Mr. Abduljalil Al-Singace

Mr. Al-Singace was detained in 2011, reportedly subjected to torture and held in solitary confinement for two months before he was sent to Jau Prison. Prior to 2011, he had been arrested several times.

Mr. Al-Singace was arrested for his role in the 2011 protests. In June 2011, he was convicted of "plotting to overthrow the government."

Mr. Al-Singace suffers the effects of polio and sickle-cell anaemia. His symptoms include chronic pain, numbness of the extremities, shortness of breath, and constant dizziness. The prison administration has allegedly repeatedly prevented him from having access to medical care and basic amenities, resulting in the deterioration of his health. He has allegedly been denied medical treatment since October 2018. In addition, he has allegedly been denied slippers that would alleviate the effects of his condition and the rubber of his crutches soles have worn away, but the prison administration have refused to replace them. The Ministry of Interior Ombudsman claims that he had been provided with new rubber soles for his crutches, but this has been denied by Mr. Al-Singace.

In addition, Mr. Al-Singace has been forced to wear shackles during family visits and any transportation. In response to such measures, Mr. Al-Singace has been

one of the prisoners to engage in a visit strike and has not had a family visit since March 2017.

Mr. Mohamed Hameed Abdulla Hasan AlDaqqaq

As indicated above, Mr. AlDaqqaq was one of the subjects of the Working Group on Arbitrary Detention Opinion 79/2018. He was arrested in 2015, and sentenced on multiple charges to 21 years in prison, reduced on appeal to 17 years. Mr. AlDaqqaq is currently awaiting sentences for other charges and is detained in Jau Prison.

Mr. AlDaqqaq was born with one kidney and has sickle-cell anaemia. The prison administration allegedly refused to give him his medication. As a result, he was hospitalised twice for 45 consecutive days in 2016 and 2018. The prison administration refused to transfer him to a specialised hospital for genetic blood diseases.

In March 2018, he had a tooth infection caused by the removal of a wisdom tooth while in detention. He was not provided with any painkillers or antibiotics after the operation, and after more than a week of suffering from pain, his face became swollen. Due to constant pain, he was taken to the military hospital, where he claimed that a doctor gave him medication orally.

In April 2018, Mr. AlDaqqaq suffered from severe pain due to his sickle-cell anaemia. At the prison's clinic, he claimed that the clinic's doctor despite his suffering, only provided him painkillers, which are insufficient to alleviate the pain.

In January 2019, after repeated seizures and several requests by Mr. AlDaqqaq and his cellmates, he was transferred twice to the prison clinic but allegedly did not receive any treatment. In late January, his parents filed a complaint to the National Institution for Human Rights, and subsequently, to the Ministry of Interior Ombudsman in February.

In February 2019, the Ombudsman visited Mr. AlDaqqaq and discovered that he required urgent transfer to the Salmaniya Medical Complex. The family was informed by a witness that Mr. AlDaqqaq was transferred on a wheelchair, he was handcuffed and shackled while they were admitting him to the kidney unit at the hospital. In the same month, Mr. AlDaqqaq was discharged from Salmaniya Medical Complex and returned to Jau Prison.

In March 2019, the prison administration refilled his prescriptions, after three days without medication. In April 2019, Mr. AlDaqqaq was taken to solitary confinement for a week, reportedly for having committed an infraction towards a prison guard.

Mr. Mohamed Merza Ali Moosa

Mr. Moosa was detained in 2011, was allegedly forcibly disappeared and tortured before he was sentenced to 20 years in prison, which was reduced on appeal to 10 years. He was convicted of attempted kidnapping of a police man. His family believes that he was targeted for his participation in the 2011 protests.

Currently, Mr. Moosa has a degenerative disc disease, corrosion in the right knee joint, a tear in his anterior cruciate ligament, broken teeth and damage in the right side of the lower jaw. Mr. Moosa claims that all these injuries were a result of torture. According to his family, he had no health issues before his arrest as he was an athlete who took care of his health.

His family has filed five complaints regarding his health condition with the prison administration and the Ministry of Interior Ombudsman. In addition, his wife filed complaints to the National Institution of Human Rights, and the Prisoner and Detainee's Rights Commission. Allegedly, he was examined by a doctor three months after his arrest and only given painkillers.

In August 2018, following the lack of response to his complaints, Mr. Moosa started a hunger strike in solidarity with his inmate Mr. Hassan Mushaima (mentioned above), but he ended his hunger strike in September 2018. In February 2019, he called his wife for the last time before he was transferred to solitary confinement.

Mr. Habib Ali Habib Mohamed Hasan Mubarak

Mr. Mubarak was arrested in October 2014, allegedly subjected to torture and convicted in November 2015 to 15 years in prison. When his wife Mrs. Zahra Salman Shaikh Ali Hasan arrived to the Dry Dock Detention Centre, where Mr. Mubarak was being transferred after his detention, she was detained by officers in order to serve a prison sentence that was issued in January 2014. She was taken to Isa Town Women's Prison with their six-month old son, where she was imprisoned until July 2015.

In 2017, Mr. Mubarak claimed that he was experiencing depression and anxiety. He asked for mental health care, but the prison administration refused. In June 2018, he was taken to the hospital after suddenly collapsing in prison. He was later told at the hospital, that this was caused by high blood pressure.

While Mr. Mubarak's wife was released, Mr. Mubarak remains in Jau Prison and reported that the prison administration have continued to deny him access to mental health care and blood pressure medication.

Mr. Ali Mahdi Abdulhusain Mohamad Alaiwi

Mr. Alaiwi was detained while a minor in 2013 and charged with arson, illegal assembly and riots, and sentenced to 10 years in prison. He was transferred to New Dry Dock, the section of Jau Prison for individuals under the age of 21 and remained there for almost two years. After reaching 21, he was transferred to the general prison.

His family reported that he faces mental health issues and refuses to family visits. They also report that he experiences anxiety and hallucinations. He may also have Trichotillomania, as he is shaving his eyebrows and plucking his eyelashes. They affirmed that he did not have any mental health conditions prior to his detention.

In February 2019, his family filed a complaint with the Ministry of Interior Ombudsman, in which they asked for Mr. Alaiwi to be examined by a specialized doctor or a neurologist. Later, in March 2019, the family's lawyer submitted a letter to the Public Prosecutor requesting to have access to a mental health professional and a complaint to the National Institution for Human Rights regarding the conditions of Mr. Alaiwi's detention. In April 2019, Mr. Alaiwi's family was informed that the request for a meeting with a psychiatrist was accepted, although there is still no date for the appointment.

Mr. Khalil Ibrahim al-Saffar

In 2012, Mr. Al-Saffar was shot in the head by security police, causing him severe injury to the skull and ear. In consequence, he suffered a severe brain hemorrhage which requires surgery by a Specialist Doctor in Salamanca Hospital. His family contacted the prison administration and asked them not to deprive Mr. Al-Saffar of treatment, as his health condition is critical and he is suffering seizures of epilepsy.

His health complications have led to partial paralysis in his right hand and loss of hearing in one ear. According to a medical report from the Ministry of Health dated February 2016, Mr. Al-Saffar has an increase in the size of his cranial cavity, which requires surgery. It is reported that, to date the administration at Jau Prison has not taken any action in this case and Mr. Al-Saffar's health is deteriorating.

Without prejudging the accuracy of these allegations, we would like to express our grave concern at the allegations of torture and ill-treatment of the above-mentioned individuals, violations of their physical and mental integrity while in State custody, in particular considering the deterioration of their health status and the restrictions to access adequate medical treatment, and health care in detention. We are furthermore concerned that the measures taken by the authorities appear to be directly related to the activities of the above mentioned individuals, and represent a criminalization of the exercise of the rights to freedom of expression and freedom of peaceful assembly. Additional concern is

expressed that some of these individuals have been already subjects of previous communications of Special Procedures and that they form part of the mounting pressure exerted over civil society actors in Bahrain

We reiterate the call of the Working Group on Arbitrary Detention (Opinion 79/2018) to release Mr. AlDaqqaq immediately, and accord him an enforceable right to compensation in accordance with article 9(5) of the International Covenant on Civil and Political Rights.

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

As 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 be grateful for your observations on the following matters:

1. Please provide any additional information and/or comments(s) you may have on the above-mentioned allegations.
2. Please provide information about the above mentioned prisoners' current physical and mental integrity and the measures taken, if any, to safeguard their right to health, ensure their access to appropriate medical treatment and psychosocial support, and alleviate their pain.
3. Please provide the details, and where available the results, of any investigation, judicial or other inquiries which may have been carried out in relation to these cases. If no inquiries have taken place, or if they have been inconclusive, please explain why, and how this is consistent with Bahrain's domestic and international human rights obligations.
4. In the event that torture or ill-treatment has occurred and the perpetrators of these alleged acts have been identified, please provide the full details of any penal, disciplinary, or administrative sanction that has been taken against them, as provided for under the Convention against Torture.
5. Please indicate the measures adopted to ensure that human rights defenders in Bahrain are able to carry out their legitimate work in a safe and enabling environment without fear of persecution, violence or harassment of any sort.
6. Please provide information about the provision of reasonable accommodation to prisoners with disabilities.

We would appreciate receiving a response within 60 days. Following this period, this communication and any response received from your Excellency's Government will

be made public via the communications reporting website. They will also subsequently be made available in the usual report to be presented to the Human Rights Council.

We would like to inform your Excellency's Government that after having transmitted an allegation letter to the Government, the Working Group on Arbitrary Detention may transmit the case through its regular procedure in order to render an opinion on whether the deprivation of liberty was arbitrary or not. Such letters in no way prejudice any opinion the Working Group may render. The Government is required to respond separately to the allegation letter and the regular procedure.

While awaiting a reply, we urge that all necessary interim measures be taken to halt the alleged violations and prevent their recurrence 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.

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

Leigh Toomey
Vice-Chair of the Working Group on Arbitrary Detention

Catalina Devandas-Aguilar
Special Rapporteur on the rights of persons with disabilities

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

Michel Forst
Special Rapporteur on the situation of human rights defenders

Annex

Reference to international human rights law

In connection with the above alleged facts and concerns, we would like to refer your Excellency's Government to Article 2 and 16, of the Convention against Torture which the Kingdom of Bahrain ratified on 6 March 1998, and to Article 15 of that Convention that prohibits the use of evidence obtained under torture in proceedings.

We would also like to draw the attention of your Excellency's Government to Article 12 of the International Covenant on Economic, Social and Cultural Rights (ICESCR) ratified by the Kingdom of Bahrain on 27 September 2007, which enshrines the right to physical and mental health. The Committee on Economic, Social and Cultural Rights in its General Comment 14 defines this right as an inclusive one which extends not only to timely and appropriate health care but also to the underlying determinants of health, such as access to safe and potable water and adequate sanitation, an adequate supply of safe food, nutrition and housing, healthy occupational and environmental conditions, and access to health-related education and information (para. 11). States are under the obligation to *respect* the right to health by, *inter alia*, refraining from denying or limiting equal access for all persons, including prisoners or detainees to preventive, curative and palliative health services (para. 34).

In addition, 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" (Basic Principles for the Treatment of Prisoners. Principle 9). Furthermore, we also wish to refer your Excellency's Government to the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment, adopted by General Assembly resolution 43/173, which states 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).

We would like to further refer to the UN Standard Minimum Rules for the Treatment of Prisoners (the "Mandela Rules" reviewed on 5 November 2015) and in particular Rules 24 and 27(1). These establish that healthcare for prisoners is a State responsibility; that prisoners should be ensured continuity of medical treatment and care, and that prisoners who require specialized treatment or surgery shall be transferred to specialized institutions or to civil hospitals.

We furthermore refer to article 15 of the Convention on the Rights of Persons with Disabilities, ratified by Bahrain on 22 September 2011. We would like to stress in particular the rights of persons with disabilities, as enshrined in articles 14 (2) on the provision of reasonable accommodation; article 15 which compels States Parties to take all measures for the effective prevention of torture or cruel, inhuman or degrading

treatment perpetrated against persons with disabilities; article 17 on the protection of the integrity of the person; and article 25 on the provision of health care, including early identification and intervention as appropriate and services designed to minimize and prevent further disabilities.

Finally, we would like to refer your Excellency's Government to the fundamental principles set forth in the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, also known as the UN Declaration on Human Rights Defenders. In particular, we would like to refer to articles 1 and 2 of the Declaration which state that everyone has the right to promote and to strive for the protection and realization of human rights and fundamental freedoms at the national and international levels and that each State has a prime responsibility and duty to protect, promote and implement all human rights and fundamental freedoms.