

Mandates of the Working Group of Experts on People of African Descent; 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; the Independent Expert on the enjoyment of all human rights by older persons; and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment

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Excellency,

We have the honour to address you in our capacity as Working Group of Experts on People of African Descent; 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; Independent Expert on the enjoyment of all human rights by older persons; and Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, pursuant to Human Rights Council resolutions 45/24, 44/10, 42/16, 42/12 and 43/20.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning the **serious medical condition and lack of access to appropriate medical care whilst in detention of Mr. Mumia Abu-Jamal**, an African-American man incarcerated in the State Correctional Institution at Mahanoy, Pennsylvania.

Mr. Abu-Jamal was the subject of a joint allegation letter sent on 30 April 2015 by 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 (USA 10/2015). In particular, the allegation letter expressed serious concern about violations of the human rights of Mr. Abu-Jamal given his lack of access to appropriate medical care in detention. We thank your Excellency's Government for its replies of 24 June and 15 September 2015, but note that they did not respond to many concerns contained in the allegation letter, specifically those related to Mr. Abu-Jamal's medical condition.

According to the information received:

Mr. Mumia Abu-Jamal (born Wesley Cook) is currently serving a life sentence without parole at the State Correctional Institution at Mahanoy, State of Pennsylvania. He was born on 24 April 1954, and is nearly 67 years of age. Mr. Abu-Jamal is affected by cirrhosis of the liver caused by Hepatitis C. It is reported that he contracted Hepatitis C in early 2015, but that he went untreated for nearly two years, until his lawyers sued the Department of Corrections of the state of Pennsylvania for failure to meet basic treatment guidelines.

Mr. Abu-Jamal's legal victory gave him access to treatment, which reportedly saved his life, but also set a precedent for access to medical treatment for all persons who are incarcerated and affected by Hepatitis C.

Mr. Abu-Jamal is also affected by several chronic illnesses, including hypertension and a severe chronic skin condition, also reportedly caused by his Hepatitis C, and he has reported, for months, severe itching and ulcerations on his skin. He has received no medical treatment for the skin condition, and he has attempted to personally treat the severe itching and ulcerations using Vaseline, purchased from his own commissary allowance.

On 27 February 2021, Mr. Abu-Jamal called the coordinator of the collective, "International Concerned Family and Friends of Mumia Abu-Jamal," to report severe symptoms, including difficulties for breathing, and to indicate that he could have contracted COVID-19. It is reported that the medical staff of the Department of Corrections had tested Mr. Abu-Jamal for COVID-19 three times and that the results came back negative. The collective started an action campaign for Mr. Abu-Jamal to be brought to an outside medical facility.

On the same day, 27 February 2021, Mr. Abu-Jamal was admitted to an external medical facility, experiencing chest pain and shortness of breath. There, he tested positive for COVID-19 and was diagnosed with congestive heart failure. According to the source, 50 percent of patients diagnosed with congestive heart failure do not live past 5 years. This statistic fails to account for the existing complications of Mr. Abu-Jamal's other illnesses. He received medical care for four days, during which time fluid was removed from his lungs. It is alleged that Mr. Abu-Jamal had his legs and arms shackled to the hospital bed during the entire hospital stay. This created additional suffering, as the shackles exacerbated his skin condition and resulted in bloody wounds, of which there is photographic evidence.

On 3 March 2021, Mr. Abu-Jamal returned to the prison's infirmary, where he was placed in isolation. It is alleged that care in the prison infirmary is inadequate for the serious illnesses that affect Mr. Abu-Jamal. As way of example, it is reported that in 2015 Mr. Abu-Jamal was repeatedly given courses of steroids – known to elevate blood sugar level – for his skin condition despite clear documentation of a grossly elevated blood sugar level. Shortly after this, Mr. Abu-Jamal had to be admitted to an Intensive Care Unit in diabetic ketoacidosis.

On 11 March 2021, Mr. Abu-Jamal reportedly told a medical consultant over the phone that, while he was now able to breathe, his skin was on fire and that nobody seemed to be controlling the situation. It is alleged his skin condition is not being treated in the infirmary, as it should be. When the medical consultant suggested he return to the hospital, Mr. Abu-Jamal refused, citing the four days he spent there with his hands and feet shackled and the resulting case that his lower legs were bloody because of them. Mr. Abu-Jamal has reportedly been

unable to speak to his other medical consultant, despite having completed and sent the necessary prison forms.

The source alleges that the medical condition of Mr. Abu-Jamal is linked to years of medical neglect by the Department of Corrections.

It is further reported that the rules implemented to contain the spread of COVID-19 in detention centres prevent outside monitoring of the health condition of Mr. Abu-Jamal. In particular, in-person visits have reportedly been suspended and replaced by video visits, but Mr. Abu-Jamal reportedly does not have access to satisfactory video visits or to a tablet, which could facilitate him access to his medical consultant, family and friends, as well as to his remote studies. It is further alleged that families are not always informed of the health situation of their relatives and that multiple prisoners have died of COVID-19 unbeknownst to their families. According to the source, 90 percent of inmates who died of COVID-19 in Pennsylvania in 2020 were over the age of 50, whereas inmates in this age category formed 25 percent of the State's inmates in 2020. The authorities of Pennsylvania have indicated that the older inmate population has grown steadily since 2000.

Finally, it is reported that in Pennsylvania there is a compassionate release programme, which could be applied to Mr. Abu-Jamal given his age and health condition.

While we do not wish to prejudge the accuracy of information received, we are deeply concerned about the physical integrity of Mr. Mumia Abu-Jamal in contravention to his right to life. In particular, we express grave concern about the allegation that Mr. Abu-Jamal does not have access to appropriate medical care and treatment, while in detention, especially in light of the seriousness of his various health conditions including his heart failure diagnosis. We express additional serious concern about the allegation indicating that Mr. Abu-Jamal was shackled to his bed during his hospitalization, causing him additional and unnecessary suffering. We further raise serious concerns that the situation described may be the result of racial discrimination against people of African descent by prison authorities in the facility and state authorities outside. Finally, we are concerned that older prisoners in Pennsylvania have been disproportionately affected by COVID-19 and that some of the rules taken to contain the spread of the virus negatively affected their health and well-being.

In this regard, we would like to remind the Government of your Excellency of its obligations under the International Convention on the Elimination of all Forms of Racial Discrimination, ratified by the United States of America on 21 October 1994, in particular article 2 and article 5 which states: "In compliance with the fundamental obligations laid down in article 2 of this Convention, States Parties undertake to prohibit and to eliminate racial discrimination in all its forms and to guarantee the right of everyone, without distinction as to race, colour, or national or ethnic origin, to equality before the law, notably in the enjoyment of the following rights: [...] (e) Economic, social and cultural rights, in particular: [...] (iv) The right to public health, medical care, social security and social services".

We further recall that the International Covenant on Civil and Political Rights (ICCPR), ratified by the United States of America on 8 June 1992, stipulates that “All persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person.” (see article 10 (1)), and contains an absolute and non-derogable prohibition of torture and ill-treatment (see article 7). The absolute prohibition of torture and ill-treatment is also codified in the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment, ratified by the United States of America on 21 October 1994. Both the Human Rights Committee and the Committee against Torture have consistently found that certain conditions of detention can amount to inhuman and degrading treatment or even torture.

We would like to also refer to Article 6 of the ICCPR which protects the right to life. In its General Comment No. 36 (CCPR/C/GC/36), the Human Rights Committee clarifies that the obligation of States to respect and ensure the right to life extends to reasonably foreseeable threats and life-threatening situations that can result in loss of life. States parties may be in violation of article 6 even if such threats and situations do not result in loss of life (see paragraph 7). The Committee also stresses States’ heightened duty of care to protect the lives and bodily integrity, in particular of individuals deprived of their liberty, including through the provision of the necessary medical care and appropriate regular monitoring of their health (see paragraph 25).

We would like to draw the attention of your Excellency’s Government to the United Nations Standard Minimum Rules for the Treatment of Prisoners (known as the Nelson Mandela Rules) adopted on 17 December 2015 by General Assembly resolution 70/175. In particular, Rule 24 states that: “[...] Prisoners should enjoy the same standards of health care that are available in the community, and should have access to necessary health-care services free of charge without discrimination on the grounds of their legal status.” (paragraph 1), and that: “Health-care services should be organized in close relationship to the general public health administration and in a way that ensures continuity of treatment and care, including for HIV, tuberculosis and other infectious diseases, as well as for drug dependence.” (paragraph 2). Rule 27(1) stipulates that: “All prisons shall ensure prompt access to medical attention in urgent cases. Prisoners who require specialized treatment or surgery shall be transferred to specialized institutions or to civil hospitals. [...]”.

In addition, Rule 47 clearly states that “The use of chains, irons or other instruments of restraint which are inherently degrading or painful shall be prohibited.” (paragraph 1), and that “Other instruments of restraint shall only be used when authorized by law and in the following circumstances: (a) As a precaution against escape during a transfer [...]; (b) By order of the prison director, if other methods of control fail, in order to prevent a prisoner from injuring himself or herself or others or from damaging property; in such instances, the director shall immediately alert the physician or other qualified health-care professionals and report to the higher administrative authority.” (paragraph 2). Rule 48 further clarifies that: “When the imposition of instruments of restraint is authorized in accordance with paragraph 2 of rule 47, the following principles shall apply: (a) Instruments of restraint are to be

imposed only when no lesser form of control would be effective to address the risks posed by unrestricted movement; (b) The method of restraint shall be the least intrusive method that is necessary and reasonably available to control the prisoner's movement, based on the level and nature of the risks posed; (c) Instruments of restraint shall be imposed only for the time period required, and they are to be removed as soon as possible after the risks posed by unrestricted movement are no longer present." (paragraph 1).

We also wish to stress that Rule 2(2) provides that "prison administrations shall take account of the individual needs of prisoners, in particular the most vulnerable categories in prison settings" in order to apply the principle of non-discrimination. Older prisoner must benefit from all the human rights guarantees on an equal footing with other prisoners. This requires prison authorities to take specific measures to ensure age-sensitive and adapted detention conditions, including the provision of adequate and specialised healthcare services. Older prisoners are particularly vulnerable to COVID-19 as many places of detention are affected by overcrowding, making physical distancing and observance of sanitary measures challenging. In this context, a number of United Nations entities as well as the Secretary General in his Policy Brief on the impact of COVID-19 on older persons called on States to consider options for release and alternatives to detention to mitigate such risks, particularly for older persons and people with underlying health conditions.

The full texts of the human rights instruments and standards recalled above are available on www.ohchr.org or can be provided upon request.

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 the above-mentioned person(s) in compliance with international instruments.

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 comment(s) you may have on the above-mentioned allegations.
2. Please provide information concerning the medical assistance and treatment provided to Mr. Mumia Abu-Jamal, including information about his health situation.
3. Please provide information on the types of medical care and treatments available in the infirmary of the State Correctional Institution at Mahanoy, in particular please indicate if the infirmary is equipped to closely monitor and adequately treat the various medical conditions that affect Mr. Abu-Jamal.

4. Please explain why Mr. Abu-Jamal's legs and arms were reportedly shackled to his bed while he was treated in an external medical facility, in particular explain why other lesser forms of control were not considered.
5. Please indicate why Mr. Abu-Jamal is not being considered under the compassionate release programme.
6. Please provide information about measures taken to ensure the equal enjoyment of the right to life and adequate medical care by older prisoners in Pennsylvania as well as measures to protect older prisoners from the higher risk of COVID-19, for example through temporary or medical release options.

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 responsible of the alleged violations.

We may 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. We also believe that the wider public should be alerted to the potential implications of the above-mentioned allegations. The press release will indicate that we have been in contact with your Excellency's Government's to clarify the issue/s in question.

This communication and any response received from your Excellency's Government will be made public via the communications reporting [website](#) within 60 days. They will also subsequently be made available in the usual report to be presented to the Human Rights Council.

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

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