



THE PERMANENT REPRESENTATIVE
OF THE
UNITED STATES OF AMERICA
TO THE
ORGANIZATION OF AMERICAN STATES
WASHINGTON, D.C.

April 7, 2016

Ms. Naureen Shah
Director, Security with Human Rights
Amnesty International USA
600 Pennsylvania Avenue SE, 5th Floor
Washington, D.C. 20003

Re: Medical Treatment of Mustafa al-Hawsawi, Detainee at Guantanamo

Dear Ms. Shah:

Thank you for your letter dated February 18, 2016, concerning Precautionary Measure No. 422-14 issued by the Inter-American Commission on Human Rights (“Commission”). The United States strongly supports the Commission as an institution and its work to promote respect for human rights in the region.

The United States has undertaken a political commitment to uphold the American Declaration of the Rights and Duties of Man (“American Declaration”), a non-binding instrument that does not itself create legal rights or impose legal obligations on member States of the Organization of American States (OAS).¹ The United States takes this commitment seriously, as it does all its obligations and commitments to promote, protect, and respect human rights.

The United States filed a response to Mr. al-Hawsawi’s petition on October 6, 2015, in which we argued for dismissal of the petition on various

¹ Article 20 of the Statute of the Commission sets forth the Commission’s powers that relate specifically to OAS member States that, like the United States, are not parties to the legally binding American Convention on Human Rights (“American Convention”), including to pay particular attention to observance of certain enumerated human rights set forth in the American Declaration, to examine communications and make recommendations to the State, and to verify whether in such cases domestic legal remedies have been pursued and exhausted.

inadmissibility grounds and told the Commission we construe the request for precautionary measures as a nonbinding recommendation. We do not ordinarily release copies of such submissions in on-going cases without the concurrence of the Commission, but you may also wish to contact the petitioner should you desire a copy.

However, as a general matter, I can confirm for you that the United States takes very seriously its responsibility to provide for the safe and humane care of detainees at Guantanamo. On one of his first days in office, January 22, 2009, President Obama issued Executive Order 13491, Ensuring Lawful Interrogations. The Executive Order directed that individuals detained in any armed conflict shall in all circumstances be treated humanely, consistent with U.S. domestic law, treaty obligations, and U.S. policy, and shall not be subjected to violence to life and person (including murder of all kinds, mutilation, cruel treatment, and torture), nor to outrages upon personal dignity (including humiliating and degrading treatment), whenever such individuals are in the custody or under the effective control of an officer, employee, or other agent of the U.S. Government or detained within a facility owned, operated, or controlled by a department or agency of the United States. Certain key provisions of this Executive Order were codified in November 2015 in the 2016 National Defense Authorization Act.²

DoD policy for detainee medical care is contained in DoD Instruction 2310.01E, "Medical Program Support for Detainee Operations," (available at: <http://www.dtic.mil/whs/directives/corres/pdf/231008p.pdf>) which states that healthcare personnel have a duty to "perform, encourage, and support, directly and indirectly, actions to uphold the humane treatment of detainees. . ." The Joint Medical Group at Guantanamo (JMG) is committed to providing appropriate and exemplary medical care to all detainees. JMG providers take seriously their duty to protect the physical and mental health of the detainees and approach their interactions with detainees in a manner that encourages provider-patient trust and rapport and that is aimed at encouraging detainee participation in medical treatment and prevention. Detainees receive timely, compassionate, quality healthcare. Additionally, medical specialists are made available to provide consultations and care for medical needs that exceed the capabilities of the Joint

² S. 1356, 114th Cong. Sec. 1045 (2015).

Medical Group and the Naval Base Hospital at Guantanamo Bay. All military healthcare personnel, whose duties involve support of detainee operations or contact with detainees, receive training commensurate with their duties. The purpose of this training is to equip military healthcare personnel to provide quality care in a detention setting by ensuring that they have a working knowledge and understanding of the requirements and standards for providing healthcare to detainees. Consistent with the DoD Instruction, the healthcare provided to the detainees at Guantanamo is comparable to that which U.S. service personnel receive while serving at Joint Task Force–Guantanamo.

Finally, let me also reiterate, as we did in our October response and in numerous filings before the Commission in other matters, that the Commission's precautionary measures requests are not legally binding because such a power is not within the mandate given to the Commission by the OAS member States. Although the United States very much values the views of the Commission on matters related to its commitments under the American Declaration, the United States construes the Commission's requests for precautionary measures as nonbinding recommendations.³ As noted above, we have done so in this matter.

We trust this information is useful, and encourage you to contact the Commission with any further questions about the status of its pending petitions.

Sincerely,



Michael J. Fitzpatrick
Interim Permanent Representative

³ See Commission Statute, art. 20(b) (Commission has power “to make recommendations” to nonparties to the American Convention “when it finds this appropriate, in order to bring about more effective observance of fundamental human rights ...”).