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Sheikh Hamad bin Thamer Al Thani
Chairman, Al Jazeera
Ehab.Alshihabi@aljazeera.net

Mr Mohamed Nanabhay
Head of Online
Al Jazeera English
mohamed.nanabhay@aljazeera.net

Fax: (+974) 4489-7472

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Dismissal and Deportation of MR on the Basis of HIV Status

Dear Sheikh Hamad bin Thamer Al Thani and Mr Mohamed Nanabhay,

The International Trade Union Confederation (ITUC), which represents 175 million workers in 151 countries worldwide, is deeply concerned about the humiliating detention, dismissal and deportation of MR,¹ a South African employee of Al-Jazeera English Online (“Al-Jazeera”) on the basis of his HIV status. This case was recently brought to our attention by SECTION27, a renowned South African human rights organization.

According to SECTION27, MR was hired by Al-Jazeera English in October 2010 as a Senior Editor and was required to relocate to Doha, Qatar. As a migrant worker, he was sent for medical tests by the employer (for residency permit purposes) and was tested for HIV. MR was not informed about the nature of any of the medical tests he was required to undertake, nor was he given the results of those tests. In fact, while a number of public officials and his employer were informed of his HIV status while he resided in Doha, MR only discovered that he has HIV upon his return to South Africa.

MR alleges that upon the discovery of his HIV status by the government and Al-Jazeera, he was taken to the Doha State Prison by the employer’s human resources officials. He was detained in the prison, locked up in a crowded cell and subjected to a medical examination, including a full body search, in full view of other prisoners. At no point was he informed of the reason for his detention. He recalls that he was later collected from the prison, again by employees of Al Jazeera, who instructed him to leave the country immediately in order to avoid further detention. He was forced to leave Qatar on 3 January 2011.

MR was dismissed and deported solely on the basis of his HIV status, with no apparent attempt made to protect his rights to privacy and confidentiality or to consider measures of reasonable accommodation to allow MR to continue to carry out his work. MR has on

¹ MR has requested that we do not disclose his identity at this stage.

numerous occasions contacted Al Jazeera management to request an explanation for his dismissal and has received no response.

Before his dismissal, MR had been informed that, due to his outstanding performance and experience, he would be promoted to the newly-created position of Managing Editor, in which he would have supervised the Senior Editors. Notably, the work of the Managing Editor does not require physical presence in the news room and can be performed from outside of Qatar.

The fact of his detention, dismissal and deportation, as well as his treatment leading up to and during his detention, illustrate egregious non-compliance with international human rights standards, including ILO Recommendation 200,² which calls on governments to prohibit discrimination on the basis of HIV status. His treatment in detention also potentially constitutes cruel, inhuman and degrading treatment. These acts were committed both by government officials as well as employees of Al-Jazeera, a state-owned entity.

We wish to draw your attention to the fact that on 14 February 2012, a picket took place at the Al-Jazeera office in Johannesburg. SECTION27, the Treatment Action Campaign (TAC), and ITUC affiliates – the Confederation of South African Trade Unions (COSATU) and the Federation of Unions of South Africa (FEDUSA) joined efforts in urging Al-Jazeera to end discrimination on the grounds of HIV status. A memorandum was handed to Thembisa Fakude, Al Jazeera Bureau Manager, demanding that MR be re-employed in the position of Managing Editor, that he be allowed to perform his duties from outside of Qatar and that Al-Jazeera formally acknowledge the numerous violations of MR's rights.

We stress that although MR's detention and deportation was pursuant to current (and deeply flawed) Qatari law, allowing for detention and deportation of HIV positive migrant workers, Al-Jazeera is not stopped from acting responsibly and with full respect for international human rights. As communicated to MR, the position of Managing Editor, to which he would have been appointed had he not been dismissed, does not require physical presence in Doha and can be performed remotely. As established by SECTION27, the Managing Editor appointed after MR's dismissal is currently working from London. In the same way, even in presence of discriminatory deportation laws in Qatar, MR can continue to perform his duties from South Africa.

We therefore urge that MR be re-employed in the position of Managing Editor with retroactive effect. He should be able to perform his duties from outside Qatar for as long as the travel restrictions relating to foreigners living with HIV remain in place. We would also point out that Al Jazeera is a powerful company and can play a leading role in working with the Qatari government to eliminate the discriminatory laws that undermine universal access to HIV prevention, treatment, care and support and deepen the stigma attaching to HIV status.

² International Labour Organization's Recommendation on HIV and AIDS and the World of Work (No. 200), adopted in 2010.

The ITUC stands ready to provide whatever technical assistance necessary to resolve the matter as soon as possible in the interests of MR. We would therefore appreciate it if you could respond to this request by no later than March 20, 2012.

Yours sincerely,



General Secretary

CC:

Zwelinzima Vavi, General Secretary, Congress of South African Trade Unions (COSATU)
Dennis George, General Secretary, Federation of Unions of South Africa (FEDUSA)
Manene Samela, General Secretary, National Council of Trade Unions (NACTU)
Khulile Nkushubana, General Secretary, Confederation of South African Workers' Unions (CONSAWU)
Mark Heywood, Executive Director, SECTION 27

Encl:

ITUC Letter to H.H Sheikh Hamad Bin Khalifa Al Thani dated 25 January 2012