

Lawyers' Rights Watch Canada

NGO in Special Consultative Status with the Economic and Social Council of the United Nations
Promoting human rights by protecting those who defend them

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Tuesday, January 12, 2016

The Honourable Stéphane Dion
Canadian Minister of Foreign Affairs
and President of the Cabinet Committee in Environment, Climate Change and Energy
Email: stephane.dion@parl.gc.ca

The Honourable Jody Wilson-Raybould
Minister of Justice and Attorney General of Canada
284 Wellington Street
Ottawa, Ontario K1A 0H8
Email: mcu@justice.gc.ca

Dear Minister of Foreign Affairs and Minister of Justice:

Re: Release of Samar Badawi arbitrarily arrested in Saudi Arabia

Lawyers' Rights Watch Canada (LRWC) writes to request that Canada take action to secure the immediate release of prominent human rights defender Samar Badawi and her infant daughter. Samar Badawi is the wife, or former wife, of Saudi human rights lawyer Waleed Abu al-Kair, who has been arbitrarily detained since arrest on 15 April 2014. On 6 July 2014 Mr. Abu al-Kair was wrongfully convicted and sentenced to 15 years' imprisonment with five years suspended to be followed by a 15-year travel ban and a fine of two hundred thousand Saudi riyals for peacefully exercising his right and carrying out his duty to promote better human rights implementation and enforcement in Saudi Arabia. These rights and duties are protected by the Universal Declaration of Human Rights and further defined by the UN Declaration on Human Rights Defenders. Mr. Abu al-Kair was denied due process before and after his arrest and during the illegitimate process before the Specialized Criminal Court that preceded his conviction and sentencing and the 15 February process before the Specialized Criminal Court of Appeal that dismissed the 5-year suspension and otherwise confirmed the sentence. The Specialized Criminal Court is not competent to provide a fair trial in accordance with international law standards and in particular cannot ensure a determination by a "competent, independent and impartial tribunal" as required by the UDHR.

The prosecution, conviction and sentencing of Mr. Abu al-Kair violates internationally accepted standards protecting rights to liberty; expression; association; participation in public life; to make full answer and defense to charges; to access to an independent tribunal to determine rights and freedom; and from torture and other cruel, inhuman and degrading punishment or treatment. The 'charges' that the Specialized Criminal Court relied on to convict Mr. Abu al-Kair were so vague and broad as to result automatically and unavoidably in conviction, irrespective of any evidence, and therefore must be considered void for vagueness by any standards. For further legal and factual information about the arbitrary

conviction and imprisonment of Mr. Abu al-Kair, see the *Petition to the United Nations Working Group On Arbitrary Detention in the matter of Waleed Abu al-Kair v Saudi Arabia* filed on 14 April 2015.¹

The charges against Waleed Abu al-Kair were:

- i) Seeking to discredit state legitimacy.
- ii) Abuse of public order in the state and its officials.
- iii) Inciting public opinion and insulting the judiciary.
- iv) Publicly defaming the judiciary and discrediting Saudi Arabia through alienating international organizations against the Kingdom and making statements and documents to harm the reputation of the Kingdom to incite and alienate them.
- v) Adopting an unauthorized association and being its chairman speaking on its behalf and issuing statements and communicating through it.
- vi) Preparing, storing and sending what would prejudice public order.

Human Rights Watch reported that the charge sheet consisted of “little more than excerpts from statements [the Petitioner] had made to various media outlets and tweets that criticize Saudi Arabia’s treatment of peaceful dissidents, especially harsh sentences against them by Saudi courts.”²

The fifth charge listed above was based on the fact that the human rights organization, Monitor for Human Rights in Saudi Arabia, was registered as a non-profit society in the Province of Ontario. Samar Badawi was the Vice-President of this organization. The detention, investigation and possible prosecution of Samar Badawi cannot be reasonably separated from her role as Vice-President of the Ontario-registered organization Monitor for Human Rights in Saudi Arabia.

Ms Badawi has peacefully and vigorously lobbied for the release of Waleed Abu al-Kair since his arrest. She is known and respected internationally as a human rights advocate. Clearly Ms Badawi is being detained as a means to silence her and further punish her husband Waleed Abu al-Kair and brother Raif Badawi.

Samar Badawi was taken into custody along with her infant daughter (Joud) on 12 January in Jeddah and transferred to a police station. She was interrogated for four hours and then transferred to Dhaban prison. LRWC understands that her infant daughter was taken away from her and left with Ms Badawi’s parents. Reports indicate that she is being questioned about and possibly charged with managing a Twitter account in the name of Waleed Abu al-Kair. On 8 January, photos of Waleed Abu al-Kair and two other wrongly imprisoned human rights defenders were allegedly published on said Twitter account. That publication

¹ The Joint Petition filed by Lawyers’ Rights Watch Canada, Lawyers for Lawyers, The Law Society of England and Wales, The Law Society of Upper Canada, The International Federation for Human Rights (FIDH) and the World Organization Against Torture (OMCT) within the framework of their joint programme the Observatory for the Protection of Human Rights Defenders, The International Association of Democratic Lawyers, Human Rights Watch and the Union Internationale Des Avocats. Accessible online at <http://www.lrwc.org/saudi-arabia-wgad-petition-for-relief-waleed-abulkhair-petition/>

² Human Rights Watch, Saudi Arabia: 15-Year Sentence for Prominent Activist: Peaceful Rights Advocate Convicted on Vague Charges, 7 July 2014. Accessed on 11 March 2015 at <http://www.hrw.org/news/2014/07/07/saudi-arabia-15-year-sentence-prominent-activist>

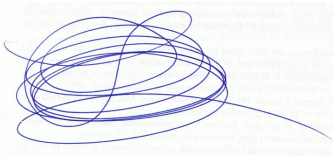
Canada's duty to effectively promote recognition of and adherence to internationally protected human rights law in Saudi Arabia is heightened by a number of factors, including the recent decision to confirm the unprecedented sale by Canada to Saudi Arabia of \$15 billion worth of light armoured vehicles.

LRWC asks that Canada act immediately to ensure:

- a) the immediate release of Samar Badawi;
- b) the return of her daughter; and
- c) cessation of the investigation and withdrawal of any charges.

We look forward to your reply. LRWC is pleased to provide you, on request, with additional information as it comes available. Thank you.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Gail Davidson', with a stylized, scribbled flourish.

Gail Davidson, Executive Director, LRWC

Copied to:

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