



Union Internationale des Avocats
International Association of Lawyers
Unión Internacional de Abogados

Lawyers' Rights Watch Canada

June 15, 2016

VIA EMAIL TO: <submissions@lsuc.on.ca>

Human Rights Award Selection Committee
c/o Ekoa Quansah
The Law Society of Upper Canada
130 Queen Street West
Toronto, ON M5H 2N6

Dear LSUC Human Rights Award Selection Committee,

**Re: Nomination of Waleed Abu al-Khair for Law Society of Upper Canada
(LSUC) 2016 Human Rights Award**

Nominee:

Waleed Abu al-Khair
Date of birth: 17 June 1979
Nationality: Saudi Arabian
Address of usual residence: Jeddah, Saudi Arabia

In accordance with the LSUC call for nominees for the LSUC 2016 Human Rights Award, Lawyers' Rights Watch Canada (LRWC) and the Union Internationale des Avocats (UIA) are pleased to recommend and nominate human rights lawyer **Waleed Abu al-Khair** of Saudi Arabia. The Nomination is endorsed by Tony Fisher, Chair of the Human Rights Committee of the Law Society of England and Wales.

Human Rights Advocacy

Waleed Abu al-Khair is one of the best-known advocates for democratic and human rights reform in Saudi Arabia. He is the founder of Monitor of Human Rights in Saudi Arabia (MHRSA), an independent human rights organization registered in Ontario. He has used the written and spoken word coupled with his legal knowledge to fearlessly advocate for reforms to improve the lives of all in Saudi Arabia by calling on the Government of Saudi Arabia to allow its citizens to enjoy internationally protected rights to freedom of expression, association, assembly and the right to participate directly and indirectly in public affairs. He has done this work through writing and public speaking, by providing a safe space for peaceful discussion of issues of public concern and by providing an example of responsible advocacy for justice for all. He has represented causes and clients unpopular with the Government of Saudi Arabia, including activists and reformists. One such client was Raif Badawi, founder of the Saudi Liberal Network internet discussion group. Mr. Badawi's wife and children were granted political asylum and are currently residing in Canada. At the risk of his own personal and professional safety and security, Waleed Abu al-Khair persisted in using his training and skills as a lawyer to be an outspoken advocate for an elected

**Waleed Abu al-Khair
Nomination for LSUC 2016 Human Rights Award by LRWC and UIA**

parliament, an independent judiciary, a constitutional monarchy and for recognition of internationally protected human rights. He has also advocated on behalf of prisoners of conscience and has written many articles identifying human rights abuses and the need for legal reform. He recommended reliance on the rule of law and proper legal procedures to effect reform and settle disputes and differences of opinion and has never advocated or used violence as a means of opposition.

Some details of Waleed Abu al-Khair's outstanding contributions to the promotion, protection and advancement of the human rights of all people in Saudi Arabia and their right to live in a fair and just society under the rule of law are provided in the enclosed curriculum vitae.

As part of his efforts to reform Saudi Arabia's approach to human rights, Waleed Abu al-Khair founded MHRSA in 2008. The MHRSA website was blocked in December 2008, and an attempt to re-establish the website on the social networking website Facebook was also blocked in May 2009. Saudi authorities would not permit MHRSA to be registered in Saudi Arabia. The Saudi Ministry of Social Affairs asserted that the founders had no authority to register or authorize the operation of a human rights organization. In 2012, MHRSA was registered and licensed with the Ontario Ministry of Labour and became the first Saudi human rights organization to be licensed abroad. Waleed Abu al-Khair subsequently wrote to the King of Saudi Arabia, requesting recognition of MHRSA in Saudi Arabia. The Royal Court transmitted the request to the Interior Ministry, which opened an investigation into the organization.

Following registration of MHRSA in Ontario, human rights organizations expressed concern that Waleed Abu al-Khair would be persecuted because of the registration. In May 2012, the Gulf Centre for Human Rights wrote that it was "concerned that Waleed Abu al-Khair may be targeted by authorities as a direct result of his human rights activities and his position as head of MHRSA, particular in light of the successful registration of the organization in Canada."¹

The Government of Saudi Arabia responded to this peaceful human rights advocacy on 1 April 2012 by banning Waleed Abu al-Khair from traveling outside Saudi Arabia.

Criminal Charges

In 2013, Waleed Abu al-Khair was charged with a variety of vague and over-broad offenses based on and aimed at sanctioning his peaceful advocacy for recognition of human and democratic rights. When these charges resulted in a sentence of only three months, the Government of Saudi Arabia re-charged him with further offenses of similar nature, one of which was a charge of setting up and supervising MHRSA.

On 15 April 2014, Waleed Abu al-Khair was arrested while appearing at the fifth session of his trial on the above-mentioned charges before the Specialized Criminal Court in Riyadh. On 28 May 2014, at the seventh session before the Specialized Criminal Court, Judge Yousef Al-Ghamdi stated that he was charged under the *Penal Law for Crimes of Terrorism and its Financing*. The *Penal Law for Crimes of Terrorism and its Financing* is a piece of terrorism legislation containing vague, overbroad provisions which allows criminalization of peaceful

¹ Gulf Centre for Human Rights, May 12, 2015, online: <<http://www.gc4hr.org/news/view/143>>.

free expression.

On 26 June 2014, during the eighth session before the Specialized Criminal Court, Waleed Abu al-Khair stated that he would not attempt to further defend or respond to the charges and accusations, citing persistent refusal by the prosecution and court to properly consider the defenses raised.

On 6 July 2014, the Court imposed a sentence of 15 years in prison, a travel ban of 15 years following completion of the prison sentence and a fine of SAR 200,000 after announcing conviction of Waleed Abu al-Khair on the following charges:

- seeking to discredit state legitimacy;
- abuse of public order in the state and its officials;
- inciting public opinion and insulting the judiciary;
- 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;
- running an unauthorized association and being its chairman speaking on its behalf and issuing statements and communicating through it;
- making international organizations hostile to the kingdom; and
- preparing, storing and sending what would prejudice public order.

On 15 February 2015, the Specialized Criminal Court of Appeal in Riyadh upheld the conviction and sentence.

The charges all arose from the Nominee's exercise of internationally protected rights to engage in peaceful activities associated with his legitimate work as a lawyer and a human rights defender. His activities are protected by the *Universal Declaration of Human Rights* and many other instruments, including the *1998 United Nations Declaration on Human Rights Defenders*, the *Basic Principles on the Role of Lawyers* and the *International Covenant on Civil and Political Rights*.

Awards

In 2012 Waleed Abu al-Khair was awarded the Olof Palme Prize for "... his strong, self-sacrificing and sustained struggle to promote respect for human and civil rights for both men and women in Saudi Arabia. Together with like-minded citizens and colleagues, Waleed Sami Abu al-Khair does so with the noble goal of contributing to a just and modern society in his country and region".²

In 2015, Waleed Abu al-Khair was awarded the XXth Ludovic-Trarieux Human Rights International Prize.³ The award is Europe's most prestigious tribute to human rights activism and was initially bestowed on Nelson Mandela.

² Olof Palmes Minnesfond, 2012, online: <<http://www.palmefonden.se/2012-radhia-nasraoui-och-waleed-sami-abu-alkhair-2/>>.

³ The XXth "Ludovic-Trarieux" Human Rights International Prize 2015, online: <<http://www.ludovictrarieux.org/uk-page3.callplt2015.htm>>.

Treatment in Prison

On 18 April 2015, Waleed Abu al-Khair, who was facing continued harassment in prison, lodged a complaint to the prison administration regarding beatings he underwent on the same day. The complaint has never been considered. On 21 April 2015, as retaliation for lodging the complaint, Mr. Abu al-Khair was further beaten, threatened and insulted by another prisoner. In May 2016, the United Nations Committee Against Torture noted that 2014 reports of in-custody torture of Mr. al-Khair have not been investigated or remedied.⁴

Waleed Abu al-Khair has been in prison continuously since 15 April 2014. From the outset of his incarceration, he has experienced complications from a long-term chronic disorder and his weight has dropped by 15 kilograms. On or about 25 December 2015, Waleed Abu al-Khair was transferred from al-Ha'ir Prison in Riyadh to Dhahban Central Prison in Jeddah. Requests for a medical examination, access to medication and the food required to control his condition have been denied since the transfer. Since transfer to Dhahban Central Prison he has also been denied visits with family, friends and his lawyer(s). On 7 June 2016, Waleed Abu al-Khair commenced a hunger strike to protest his ill-treatment. He ended his hunger strike on 12 June in response to prison authorities promising a medical examination, daily visits to the prison library and permission to receive books.

On 8 March 2016, he was physically assaulted by a prison official reportedly because he had expressed his objection to, and protested against, the beating of a fellow prisoner who was experiencing racist treatment due to his Ethiopian heritage.

The arrest, prosecution and imprisonment of Waleed Abu al-Khair by the Government of Saudi Arabia contravene the *Universal Declaration of Human Rights* guarantees of liberty, freedom from arbitrary detention, freedom of expression, freedom of association and rights to be presumed innocent until proven guilty according to law, to pre-trial release, to a fair trial before an independent tribunal and the right to an effective remedy. The United Nations Working Group on Arbitrary Detention concluded in 2015 that the detention of Waleed Abu al-Khair was arbitrary and in contravention of Articles 9 (freedom from arbitrary arrest and detention), 10 (fair trial rights), 19 (freedom of expression) and 20 (freedoms of assembly and association) of the *Universal Declaration of Human Rights* and recommended immediate release.⁵

Waleed Abu al-Khair has vigorously advocated for the recognition of human rights and democratic reform in Saudi Arabia. His efforts have reached as far as Canada in an attempt to establish a legitimate base for his human rights organization, MHRSA. He has sought the legitimacy afforded by Ontario society registration to create space for dialogue in Saudi Arabia. Through personal endeavour, he has made an outstanding contribution to the promotion of human rights of individual clients, from advocating for legal reforms to ensure the implementation and enforcement of internationally protected rights within Saudi Arabia, to advocating for the advancement of democratic reform and protection and advancement of the human rights of all with respect to their right to live in a fair and just society under the

⁴ Committee Against Torture, Concluding Observations on the second periodic review of Saudi Arabia, Advance Unedited Version, Adopted by the Committee at its fifty-seventh Session 18 April – 13 May 2016 at paras. 6 and 7.

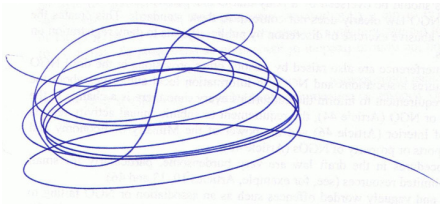
⁵ Opinions of the Working Group on Arbitrary Detention at its seventy-third Session, 31 August – 4 September 2015, No. 38/2015 (Saudi Arabia), Advance Unedited Version, A/HRC/WGAD/2015, 26 October 2015 at paras. 82 to 84.

rule of law. He has also encouraged and provided space for peaceful public discussion and has provided education through writing and speaking about the need for democratic reform. He has done so in an unforgiving environment of undemocratic state rule, uncodified law and an inconsistent judiciary. His contribution to the recognition of human rights, democratic reform and an independent judiciary has led to his own prosecution and imprisonment. Accordingly, he experienced firsthand the full destructive power of a failed legal system that offers no protection against the arbitrary use of power by the state, no protections for basic human rights and no remedies for violations.

Waleed Abu al-Khair is an example for other advocates of human rights in Canada and internationally who must risk personal costs to advocate fearlessly and effectively for the equal and universal recognition and implementation of internationally protected rights, including the right to a fair and just legal system governed by the rule of law.

The nominators are proud to recommend Waleed Abu al-Khair as the recipient of the LSUC 2016 Human Rights Award in recognition of his extraordinary and selfless advocacy to promote, protect and advance human and democracy rights for all. We refer the LSUC to his curriculum vitae for a list of his work and contribution to the universal understanding and recognition of human rights.

Submitted by:



Gail Davidson

Executive Director, LRWC



Mr. Jean-Jacques Uettwiller,

President, UIA

Endorsed by: Tony Fisher, Chairperson, Human Rights Committee, Law Society of England and Wales

Enclosures: Curriculum vitae, Waleed Abu al-Khair
Letters of support from:

Adam Coogle, Middle East Researcher, Middle East and North Africa
Division, Human Rights Watch

Alex Neve, Secretary General, Amnesty International Canada

The Nominating and Endorsing Organizations

Lawyers' Rights Watch Canada (LRWC) is a committee of lawyers and others who promote human rights and the rule of law internationally by: protecting advocacy rights; campaigning for jurists in danger because of their human rights advocacy; engaging in research and education; and working in cooperation with other human rights organizations. LRWC has Special Consultative status with the Economic and Social Council of the United Nations.

The **Union Internationale des Avocats (UIA-International Association of Lawyers)** was founded in 1927. It is the oldest worldwide legal association and brings together around two million lawyers through its individual members and collective members (bars, federations, and associations) from more than 110 countries. The main aims of the UIA are to promote the fundamental principles of the legal profession; to contribute to the establishment of an international legal order based on the principles of human rights and justice between nations, through law and in the cause of peace; and to defend lawyers and their clients.

The **Law Society of England and Wales** is the professional body representing more than 166,000 solicitors in England and Wales. Its concerns include the independence of the legal profession, the rule of law and human rights throughout the world. The Law Society has Special Consultative Status with the Economic and Social Council of the United Nations since 2014.

Contacts

Gail Davidson

Executive Director, Lawyers' Rights Watch Canada
3220 West 13th Avenue
Vancouver, British Columbia, Canada V6K 2V5
Tel: +1 604 736 1175;
Email: lrwc@portal.ca; Web: www.lrwc.org

Maya Duvage

Member, Lawyers' Rights Watch Canada
Tel: +1 778 952 6292;
Email: mduvage@aboriginal-law.com;

Romina Bossa-Abiven

Human Rights and Legal Profession Project Assistant,
Union Internationale des Avocats (UIA-International Association of Lawyers)
25 rue du Jour - 75001 Paris - France
Tel : +33 1 44 88 55 66 - Fax : +33 1 44 88 55 77
Email: rbossa@uianet.org; Web: www.uianet.org

Tony Fisher

Chairperson, Human Rights Committee, Law Society of England and Wales
The Law Society, 113 Chancery Lane
London WC2A 1PL
Tel: +44 (0)20 7320 5934
Email: TFisher@fjg.co.uk; Web: www.lawsociety.org.uk

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