



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

www.lrwc.org – lrwc@portal.ca

Tel: +1 604 736 1175 – Fax: +1 604 736 1170

3220 West 13th Avenue, Vancouver, B.C. CANADA V6K 2V5

January 14, 2020

His Majesty, King Salman
bin Abdulaziz Al Saud
King of Saudi Arabia and
Custodian of the two Holy
Mosques
Fax (via Ministry of the
Interior): +966 11 403 3125
Email: info@moi.gov.sa

His Excellency Mohammad
Bin Salman Al Saud
Crown Prince of Saudi
Arabia
Fax (via Ministry of the
Interior): +966 11 403 3125
Email: info@moi.gov.sa

His Excellency Waleed bin
Mohammad Al Samaani
Minister of Justice, Kingdom
of Saudi Arabia
Fax: + 966 11 405 7777
Email: info@moj.gov.sa

His Royal Highness Prince
Abdulaziz Bin Saud Bin Naif
Bin Abdulaziz
Minister of Interior,
Kingdom of Saudi Arabia
Fax: + 966 11 401 1111 / +
966 11 401 1944 / + 966 11
403 1125
Email: info@moi.gov.sa

His Excellency Adel bin
Ahmed El Jubeir
Minister of Foreign Affairs
Fax: + 966 11 403 0645
Email: info@mofa.gov.sa

His Excellency Abdulaziz Alwasil
Ambassador, Permanent Mission of the
Kingdom of Saudi Arabia to the United
Nations Office in Geneva, Switzerland
Fax: +41 22 758 00 00
Email: saudiامission@bluewin.ch

His Excellency Abdulrahman bin Soliman
Al-Ahmed
Ambassador, Embassy of Saudi Arabia in
Brussels, Belgium
Fax: +32 2 6468538
Email: beemb@mofa.gov.sa

Your Majesties and Excellencies:

Re: Unconditionally free Waleed Abu al-Khair immediately

Lawyers' Rights Watch Canada (LRWC)¹ and the Raoul Wallenberg Centre for Human Rights (RWCHR)² call on the ruling powers of the Kingdom of Saudi Arabia (Saudi Arabia) to immediately and unconditionally release Mr. Abu al-Khair from detention to a person or persons of his own choosing so he can seek necessary care and treatment within or outside Saudi Arabia.

The unlawful treatment of Waleed Abu al-Khair by Saudi authorities during his imprisonment had, by November 2015, impaired his physical and psychological health. In November Saudi authorities further asserted their powers by transferring him to solitary confinement and denying all access to books. In response, Mr. Abu al-Khair began a hunger strike, the only means of non-violent protest available to him. His life is now at risk and Saudi authorities must act swiftly to prevent permanent injury or death by unconditionally releasing him.

Background

Waleed Abu al-Khair, internationally respected lawyer and human rights advocate, has been unlawfully imprisoned by Saudi Arabia since 15 April 2014 under unremittingly severe conditions. Mr. Abu al-Khair was unlawfully convicted on 6 July 2015 by the Specialized Criminal Court and sentenced to 15 years of imprisonment, followed by a 15-year travel ban and a fine of two hundred thousand Saudi riyals on charges solely related to peacefully exercising his right and carrying out his duty to promote better human rights implementation and enforcement in Saudi Arabia.

Since his arrest, United Nations (UN) authorities and civil society organizations around the world have called on Saudi Arabia to release him in compliance with international law. The UN Working Group on Arbitrary Detention (WGAD) has twice called for his immediate release, each time after careful consideration of all the facts and law. On both reviews the WGAD concluded that the detention of Waleed Abu al-Khair is arbitrary (unlawful) and in contravention of the *Universal Declaration of Human Rights* (UDHR), the *International Covenant on Civil and Political Rights* (ICCPR), and other applicable international law and standards. The WGAD ruled in both cases that the remedy required was immediate release. In the second case the WGAD also stated that compensation was required to comply with Saudi Arabia's international law obligations.

¹ LRWC is a committee of lawyers and other human rights defenders who promote human rights and the rule of law internationally through advocacy, legal research and education. LRWC also campaigns for lawyers and other human rights defenders in danger because of their advocacy. LRWC has Special Consultative status with the Economic and Social Council of the United Nations.

² The RWCHR is a Montreal-based non-governmental organization dedicated to pursuing justice through the protection and promotion of human rights. The RWCHR's name and mission is inspired by Raoul Wallenberg's humanitarian legacy.

In 2015, the WGAD ([A/HRC/WGAD/2015/38](#)) directed Saudi Arabia to immediately release Mr. Abu al-Khair after concluding that the April 2014 arrest was unlawful, having been ordered by the Minister of the Interior and not ordered in compliance with any law, and that Mr. Abu al-Khair's right to a fair trial had been so impaired by the detention and deprivation of counsel that release was the only option.

In 2018, the WGAD ([A/HRC/WGAD/2018/10](#)) again directed Saudi Arabia to immediately release Mr. Abu al-Khair, this time after reviewing all aspects of the arrest, prosecution, charges, trial, sentencing and appeal. In a carefully reasoned opinion dated 4 July 2018,³ the WGAD concluded that the charges were illegitimate, the Specialized Criminal Court was not sufficiently independent to deliver a valid determination, and that the detention of Mr. Abu al-Khair, being in contravention of articles 2, 3, 6, 7, 8, 9, 10, 11, 12, 13, 19, 20 and 25 of the UDHR, was arbitrary and fell within Categories I, II, III, IV and V.⁴ The WGAD called for his immediate release and compensation.⁵ Saudi Arabia has refused to comply with the recommendations of the WGAD to release or compensate Mr. Abu al-Khair. In August 2018, the Office of the High Commissioner of Human Rights (OHCHR) reported that, “[t]he Committee Against Torture was concerned about the lack of independence of the Specialized Criminal Court.”⁶

Amnesty International reports that on 26 November 2019 authorities in charge at the maximum security Dhaban Prison transferred Mr. Abu al-Khair without legal justification to solitary confinement and banned him from access to any books. In protest, Mr. Abu al-Khair began a hunger strike on 27 November that continued until 10 December and resumed on 11 December when authorities refused to budge.⁷ The Gulf Centre for Human Rights reports that Mr. Abu al-Khair was transferred on 9 January to the King Farhd Hospital in Jeddah because his health had deteriorated “dramatically” since he began a hunger strike.⁸ LRWC efforts to contact Mr. Abu al-Khair at the hospital have not succeeded.

Saudi Arabia, throughout its unlawful detention of Mr. Abu al-Khair, has subjected him to additional punishments and treatment prohibited by international law including:

- torture and denial of remediation;
- denial of necessary medical care and attention;
- refusal to provide or to allow others to provide the daily food needed to prevent

³ UN Human Rights Council, *Opinions adopted by the Working Group on Arbitrary Detention at its 81st session, 17-26 April 2018, No. 10/2018 concerning Waleed Abu al-Khair*, A/HRC/WGAD/2018/10, 4 July 2018, available at:

https://www.ohchr.org/Documents/Issues/Detention/Opinions/Session81/A_HRC_WGAD_2018_10.pdf.

⁴ *Ibid.*, at para. 86.

⁵ *Ibid.*, at para. 88.

⁶ Periodic Review: Compilation on Saudi Arabia: Report of the OHCHR, A/HRC/WG.6/31/SAU/2, 30 August 2018, at para. 26.

⁷ Amnesty International, “Saudi Arabia: End ill-treatment, arbitrary detention of human rights defender Waleed Abu al-Khair,” 6 December 2019, available at:

<https://www.amnesty.org/en/latest/news/2019/12/saudi-arabia-end-ill-treatment-arbitrary-detention-of-human-rights-defender-waleed-abu-al-khair/>.

⁸ *Saudi Arabia: Human rights lawyer Walid Abu al-Khair transferred to the hospital after being on a hunger strike for one month*, GCHR, 10 January 2020 at www.gc4hr.org/news/view/2304.

- worsening of his medical condition;
- denial of visits with family, friends, colleagues and lawyers;⁹
- failure to provide adequate or appropriate and timely medical care as part of Saudi Arabia's duties to ensure the enjoyment by all persons of the rights to life, freedom from torture and to humane treatment;
- refusal of the health care necessary to ensure his life and wellbeing;¹⁰
- restriction of access to family members including his daughter, mother and sister;
- restriction of social contact within the prison;
- denial of access to books, newspapers and other intellectual materials; and
- curtailment of telephone use to contact LRWC and others.

Waleed Abu al-Khair suffers from type 2 diabetes and a chronic colon condition both of which require special diets to prevent deterioration. An additional factor that causes concern is that type 2 diabetes is associated with a heightened risk of colorectal cancer and therefore regular medical testing, assessment and treatment should be part of adequate medical care. Saudi Arabia has not provided any such care. In the past authorities allowed Mr. Abu al-Khair's sister to bring the medication required by the diabetes. Credible reports indicate that authorities are now denying him this medication.

LRWC and the RWCHR believe this unlawful treatment was intended to pressure Mr. Abu al-Khair to sign a prepared pledge whereby he apologizes, recants and agrees not to engage in human rights advocacy in the future in exchange for his release. Authorities threaten that if he does not sign, he will remain in prison for a long time.¹¹ Waleed Abu al-Khair's refusal has apparently angered Saudi authorities. In response, Saudi authorities 'starved' Mr. Abu al-Khair of the food and medication he needed to maintain his health, 'starved' him of reasonable and humane access to his daughter, family, friends and colleagues, and 'starved' him of access to news and access to prisoners with whom he could share ideas. When these punishments failed to force Mr Abu al-Khair to falsely confess and to recant his belief in increased respect for human rights, Saudi authorities withdrew all social and intellectual contact.

⁹ See the following cases: Human Rights Committee 'Concluding Observations: Georgia' (2002) UN Doc A/57/40 vol I 53 para 78(7); *Pinto v. Trinidad and Tobago* (Communication No. 232/1987) Report of the Human Rights Committee vol 2 UN Doc A/45/40 p. 69 para 12.7; *Kelly v. Jamaica* (2 April 1991) UN Doc CCPR/C/41/D/253/1987 para 5.7; Human Rights Committee 'Concluding Observations: Portugal' (2003) UN Doc A/58/40 vol I 56 para 83(11); Human Rights Committee 'Concluding Observations: Cambodia' (1999) UN Doc A/54/40 vol I 57 para 306; Human Rights Committee 'Concluding Observations: Congo' (2000) UN Doc A/55/40 vol I 43 para 282; Human Rights Committee 'Concluding Observations: Mongolia' (2000) UN Doc A/55/40 vol I 49 para 332; Human Rights Committee 'Concluding Observations: Syrian Arab Republic' (2001) UN Doc A/56/40 vol I 70 para 81(13).

¹⁰ Lines, Rick, "The right to health of prisoners in international human rights law," *International Journal of Prisoner Health*, March 2008; 4(1): 3_53, available at http://www.ahrn.net/library_upload/uploadfile/file3102.pdf, citing *Lantsova v. Russian Federation* (26 March 2002) UN Doc CCPR/C/74/763/1997 para 9.2.

¹¹ The pledge reportedly requires the prisoner to apologize and express regret for statements and actions, to admit to being foolish and accepting from outside Saudi Arabia, ideas against Islam and the royal family and to promise to reject such ideas, be loyal to the royal family and not to communicate with the media.

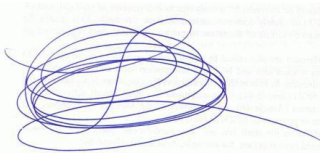
These treatments constitute grave and continuing violations of the *UN Convention against Torture* (Articles 2, 12 & 16), UDHR (Articles 2, 3, 5, 7 & 8), ICCPR (Articles 2, 6, 7, 8 & 10), the *UN Standard Minimum Rules for the Treatment of Prisoners* (Nelson Mandela Rules) (Articles 2, 3, 22-24, 27, 39, 58, 60, 60.2, 61 & 71)¹² and other instruments.

LRWC and the RWCHR condemn Saudi Arabia's widespread and systematic repression and arbitrary detention of human rights defenders through misuse of its laws and legal and prison systems. The arrest, detention and imprisonment of Mr. Abu al-Khair indicates an appalling situation where victims of rights violations by state actors are denied access to remedies, legal representation and prompt access to medical treatment required in an urgent situation.

LRWC and the RWCHR urgently call on Saudi Arabia to:

1. Immediately and unconditionally release Mr. Abu al-Khair to a person or persons of his choice in conditions that ensure his safety;
2. Vacate his conviction and commute his sentence;
3. Remove the travel ban prohibiting Mr. Abu al-Khair from leaving Saudi Arabia so that he is free to seek medical care or refuge outside Saudi Arabia;
4. Ensure Mr. Abu al-Khair has unhindered access to his family and lawyers;
5. Put an end to all forms of harassment, including at the judicial level, against Mr. Abu al-Khair;
6. Comply in all circumstances with all the provisions of the UDHR, UNCAT, and Nelson Mandela Rules; and
7. More generally, ensure in all circumstances the respect for human rights and fundamental freedoms in accordance with international human rights standards and instruments.

Sincerely,



Gail Davidson, Executive Director, LRWC



Tamara Friedman, Saudi Arabia Monitor



Irwin Cotler, Chair of the Raoul Wallenberg Centre for Human Rights

¹² General Assembly Resolution 70/175, *United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules)*, A/RES/70/175 (17 December 2015), available at: https://www.unodc.org/documents/justice-and-prison-reform/Nelson_Mandela_Rules-E-ebook.pdf.

Copied to:

Justin Trudeau
Prime Minister
justin.trudeau@parl.gc.ca

Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression
Mr. David Kaye
freedex@ohchr.org

Special Rapporteur on the independence of the judges and lawyers
Mr. Diego Garcia-Sayan
SRindependenceJL@ohchr.org

Special Rapporteur on the rights to freedom of peaceful assembly and of association
Mr. Clément Nyaletsossi Voule
freeassembly@ohchr.org

Special Rapporteur on the situation of human rights defenders
Mr. Michel Forst
defenders@ohchr.org

Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment
Prof. Nils Melzer
sr-torture@ohchr.org

United Nations Working Group on Arbitrary Detention
Mr. José Guevara Bermúdez
Ms. Leigh Toomey
Dr. Elina Steinerte
Mr. Sètondji Adjovi
Mr. Seong-Phil Hong
wgad@ohchr.org