



Response to Call for Input to a Report
on the Long Term Detention of Human Rights Defenders

To the Attention of:
UN Special Rapporteur on the situation of human rights defenders

New York, March 19, 2021

Prepared and submitted by:
The Human Rights Foundation Center for Law and Democracy

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I. Contact Details

Type of Stakeholder (please select one)	<input type="checkbox"/> International or Inter-governmental Organisations <input checked="" type="checkbox"/> Civil Society Groups or Organisations <input type="checkbox"/> Individual human rights defender <input type="checkbox"/> Academic/training or research institution <input type="checkbox"/> Other (please specify)
Name of Stakeholder/ Organization (if applicable) Name of Survey Respondent	Human Rights Foundation 350 Fifth Avenue, Suite 4202 New York, NY 10118 www.hrf.org
Email	joy@hrf.org
Can we attribute responses to this questionnaire to you or your organization publicly*? *On OHCHR website, under the section of SR on human rights defenders.	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No Comments (if any):

II. Documentation

Below is a list of human rights defenders who have been detained or imprisoned by the respective States on charges that carry a prison sentence of at least 10 years or more.

Saudi Arabia

1. Raif Badawi

Brief summary of case

Raif Badawi is a human rights activist and blogger in Saudi Arabia. In 2006, Badawi launched an online forum, "Saudi Arabian Liberals," to encourage the discussion of social issues in Saudi Arabia. In 2008, Badawi was arrested and released twice under Saudi Arabia's Anti-Cyber Crime Law and was then subjected to a travel ban. His bank accounts were also frozen and a fatwa was issued against him by a well-known sheikh. In 2014, Badawi was tried and convicted under Saudi Arabia's Anti-Cyber Crime Law for transmitting material online that affects "public order, religious values [and] public morals," in relation to a blog post about Valentine's Day and comments on his Facebook page that supported freedom of expression, his conception of liberalism, and women's rights.

Sentence

Badawi was sentenced to 10 years in prison, 1000 lashes, and a 1 million riyal fine, followed by a 10-year ban on travel and journalistic activity. He remains imprisoned.

2. Waleed Abu Al-khair

Brief summary of case

Waleed Abu al-Khair is a Saudi Arabian human rights lawyer and activist, outspoken on issues of political reform, particularly for establishing a liberal democratic state in the Kingdom of Saudi Arabia. His focus has been on advancing individual liberties and defending victims of human rights violations. In 2009, he founded the Monitor of Human Rights in Saudi Arabia (MHRSA), an independent human rights organization. On October 29, 2013, Abu al-Khair was sentenced by the Criminal Court in Jeddah to three months in prison for “contempt of the judiciary,” because he criticized Saudi Arabia’s lack of judicial independence. The sentence was upheld by the Court of Appeals of Mecca on February 6, 2014.

A few weeks earlier on October 6, 2013, a second case had been filed against him before the Specialized Criminal Court on various charges, including “harming the reputation of the Kingdom,” “inciting the public opinion against the Kingdom,” “breaking allegiance to the ruler,” and “subverting public order in the Kingdom.” All these charges were brought against him in response to his activism on the internet, through Twitter and his website.

Sentence

Abu al-Khair was sentenced in July 2014 to 15 years in prison (10 years executed and 5 years suspended). In response to this sentence, Abu al-Khair declared to the court that he did not recognize its legitimacy and refused to sign the verdict. On January 12, 2015, the Court of Appeal upheld the conviction of the Specialized Criminal Court and extended the sentence from 10 to 15 years after Abu al-Khair refused the judge’s offer to apologize for his acts. Abu al-Khair continues to be imprisoned.

Tajikistan

1. Maksud Ibragimov

Brief summary of case

Maksud Ibragimov was born in Dushanbe, Tajikistan on November 3, 1977. In 2004, he moved to Russia where he renounced his Tajik citizenship and became a Russian citizen, residing in Russia for more than 10 years. In 2014, while living in Moscow, he co-founded the opposition movement known as “Tajik Youth for the Revival of Tajikistan,” in collaboration with the leader of Group 24, Umarali Quvvatov, and others. He was thereafter elected the leader of this movement.

In October 2014, Ibragimov attempted to register the Tajik Youth for the Revival of Tajikistan movement with the Ministry of Justice of the Russian Federation but was refused registration, suspected to be due to interference by Tajik authorities. Later, in October 2014, the Tajikistan Supreme Court pronounced the movement to be illegal, and Tajikistan requested Ibragimov’s extradition which was eventually denied. On November 26, 2014, Ibragimov was shot and stabbed with a knife by two unknown persons in Moscow and left in a severe condition. Russian police launched an investigation into this incident. On January

20, 2015, Ibragimov was kidnapped and forcibly brought to Tajikistan.

For ten days, Ibragimov's relatives, including his mother, did not know of his whereabouts. During this time, Ibragimov was detained and physically tortured. In particular, he was coerced into telling the Tajik media that he had voluntarily returned to Tajikistan. On January 30, 2015, the Prosecutor General's Office of Tajikistan announced to the media that Ibragimov had been charged with "extremism" and was being held in pre-trial detention in Dushanbe, Tajikistan. Around the same time, Ibragimov's family discovered that he had been stripped of his Russian citizenship.

Sentence

At a court hearing on June 24, 2015, Ibragimov was sentenced to 17 years in prison for a number of offenses, including extremism. No members of the public were permitted to attend Ibragimov's trial, and while approximately 15 persons from the Prosecutor's office were in attendance, only Ibragimov's mother, father, and two lawyers who were unable to even participate in proceedings, were allowed to attend.

Despite a UN Working Group on Arbitrary Detention opinion in 2020 that his detention is arbitrary, Ibragimov remains in prison.

Hong Kong (China)

1. 47 pro-democracy activists & former lawmakers:

Benny Tai (戴耀廷), AU Nok-hin (區諾軒), Ben Chung (鍾錦麟), Andrew Chiu Ka-yin (趙家賢), NG Ching Hang (吳政亨), Tiffany Yuen (袁嘉蔚), Fergus Leung (梁晃維), Andy Chui (徐子見), Tat Cheng (鄭達鴻), Clarisse Yeung (楊雪盈), Michael Pang (彭卓棋), Jimmy Sham (岑子杰), Helena Wong (黃碧雲), Calvin Ho (何啟明), Frankie Fung (馮達浚), Nathan Lau (劉澤鋒), Claudia Mo (毛孟靜), Lawrence Lau (劉偉聰), Jeremy Tam (譚文豪), Wu Chi Wai (胡志偉), SZE Tak Loy (施德來), Kina Li (李嘉達), Joshua Wong (黃之鋒), TAM Tak Chi (譚得志), NG Kin Wai (伍健偉), Eddie Chu (朱凱迪), Sam Cheung (張可森), WONG Ji Yuet (黃子悅), Roy Tam (譚凱邦), KWOK Ka Ki (郭家麒), Andrew Wan (尹兆堅), Carol Ng (吳敏兒), Ventus Lau (劉穎匡), Gwyneth Ho (何桂藍), Gary Fan (范國威), Ricky Or (柯耀林), LEUNG Kwok-hung (梁國雄), Mike Lam (林景楠), Owen Chow (鄒家成), CHAN Chi Chuen (陳志全), Alvin Yeung (楊岳橋), LAM Cheuk Ting (林卓廷), Hendrick Lui (呂智恆), Lester Shum (岑敖暉), Henry Wong (王百羽), Shun Lee (李予信), Winnie Yu (余慧明)

Brief summary of case

47 pro-democracy activists and former lawmakers in Hong Kong were recently charged with "conspiracy to commit subversion" under the city's new national security law, facing up to life in prison if convicted.

All 47 individuals participated in an unofficial and lawful democratic primary election held in July 2020. The primary was held to identify frontrunners in the democratic camp, in preparation of the city's Legislative Council elections. Of those charged, 5 individuals were charged for their organization of the primaries, while the other 42 were candidates in the primary election.

Informal democratic primary elections have been held in Hong Kong in the past, and are not against Hong Kong's election law. In 2018, the pro-democracy camp in Hong Kong held primaries in two electoral districts. In the July 2020 democratic primary elections, a record 600,000 voters turned out to cast ballots for the pro-democracy candidates despite threats of arrests from the pro-Beijing government. Following the large turnout of the primary, the Hong Kong government postponed the election for an entire year, citing COVID-19 concerns.

The mass persecution of opposition politicians is by far the largest scale crackdown on pro-democracy activities since the Chinese Communist Party's widely-criticized, unilateral implementation of the national security law in June 2020. The law was Beijing's response to Hong Kong's year-long protests movement against the deterioration of freedom in the city. The vaguely worded national security law criminalizes any activity that falls under the broad umbrella of "secession, subversion, terrorism, and collusion with foreign forces." Since its implementation, the law has been consistently invoked to punish pro-democracy activists. Dozens of other opposition figures, including Joshua Wong, Jimmy Lai and Agnes Chow, have also been detained and charged with similar allegations in recent months. Other prominent pro-democracy activists have been forced into exile to flee prosecution under the national security law.

Notably, Benny Tai was previously arbitrarily imprisoned for his involvement in Hong Kong's 2014 Umbrella Movement, a nonviolent pro-democracy protest that lasted 79 days. A previous submission to the Working Group on Arbitrary Detention on behalf of Tai and three other activists jointly imprisoned is attached to this submission. Additionally, Joshua Wong was imprisoned twice in 2017 and 2019 for his activism.

Sentence

The 47 activists are being charged under Article 22 of Hong Kong's national security law. If convicted, they face up to life imprisonment. 36 out of the 47 activists are currently detained. The remaining 11 are out on bail subject to conditions severely restricting their rights to speak and organize.

Article 22 specifies that if a defendant is found to be "[a] person who is a principal offender or a person who commits an offense of a grave nature [, they] shall be sentenced to life imprisonment or fixed-term imprisonment of not less than ten years."

There is a strong possibility that these 47 individuals would be imprisoned for more than 10 years, a prediction that is consistent with recent subversion cases decided in mainland China. Recent sentencing of activists in Chinese courts include Wang Yi 王怡 (9 years), Qin Yongmin 秦永敏 (13 years), Ren Zhiqiang 任志强 (18 years), and Li Huaiqing 李懷慶 (20 years).

As of March 17, 2021, the trials for Hong Kong's 47 activists have not commenced. There is no information on the specific allegations the prosecution will make. However, because the "conspiracy to commit subversion" charge arose under Article 22, it is likely that all 47 activists would receive sentences of at least 10 years.

The 36 currently detained activists are expected to remain in custody until the next hearing of

this case, which is scheduled to take place on May 31, 2021.

III. Recommendations to the Special Rapporteur

- a) Raise the cases of known detained human rights defenders with States on a regular basis.
- b) Issue public statements once information is received as to the detention of human rights defenders.
- c) Issue regular reports on the status of arbitrarily detained human rights defenders.
- d) Conduct country visits, in particular to the prisons, in which human rights defenders are frequently detained.
- e) Note any patterns of the systematic persecution of human rights defenders and proactively engage other member States to address the patterns.
- f) Engage the media and social media, both internationally and locally, to raise awareness on the issue of the imprisonment of human rights defenders.