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The Protection of Human Rights in Saudi Counter-terrorism Laws

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Abstract

Human rights constitute a significant aspect of the law. Human rights are protected by national and international legal and judicial apparatuses. In addition, promoting respect for human rights is a key purpose of the United Nations (UN) and its international bodies, such as the UN Human Rights Council, established in 2006, and the International Criminal Court, created in 1998. The UN has also issued a variety of protocols, declarations and agreements regarding human rights and their protection, specifically the Universal Declaration of Human Rights in 1948 and the International Convention on Civil and Political Rights in 1966.

In the Kingdom of Saudi Arabia, Saudi legislation has initiated and allowed various Saudi human rights institutions, namely the Saudi Human Rights

Commission and Saudi National Society for Human Rights. In particular, Saudi legislation has focused on Sharia principles when it comes to the interpretation and implementation of secular international human rights laws. Saudi legislation has enacted a variety of contemporary human rights laws, including the Child Protection Law and the Law of Protection from Abuse.

The human cost of terrorism has been felt virtually in every part of the globe. Terrorism has disrupted peace, security, liberty and physical integrity of individuals at every level. Protection and security of its individuals is a fundamental obligation of the state. Accordingly, the Kingdom of Saudi Arabia has taken several legal measures, allowed under Islamic Sharia and International laws, to ensure the protection of human rights of its citizens and residents and safeguard the society against possible threats of terrorism and bring the criminals to justice. Saudi legislation has ensured human rights applications in other Saudi criminal laws, such as the Saudi Criminal Procedure Law of 2002, amended in 2014 (hereinafter SCPL), and the Saudi Law of Terrorist Crimes of 2014 (hereinafter SLTC).

This short commentary provides a concise summary about the existing Saudi legislation related to terrorist crimes and human rights protection.

Keywords: Forensic Science, Human Rights, Saudi Law for Terrorist Crimes, Terrorism, Islamic Sharia.

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ضمانات حقوق الإنسان في ضوء نظام جرائم الإرهاب وتمويله في المملكة العربية السعودية

المستخلص

تهدف هذه الدراسة إلى توضيح ضمانات حقوق الإنسان في ضوء النصوص النظامية الواردة في النظام السعودي لجرائم الإرهاب وتمويله. ومن المعلوم بأن حقوق الإنسان تشكل جانباً كبيراً في القانون الدولي المعاصر، وحماية حقوق الإنسان من قبل المنظمات الدولية والوطنية هي الهاجس الأكبر للمجتمع الدولي. وقد أصدرت الأمم المتحدة مجموعة متنوعة من الاتفاقيات والإعلانات والبروتوكولات المتعلقة بحقوق الإنسان، ومنها على سبيل المثال الإعلان العالمي لحقوق الإنسان لعام 1948م، والاتفاقية الدولية لحقوق المدنية والسياسية لعام 1966م. وفي الجانب الآخر، ركز المنظم السعودي على مبادئ الشريعة الإسلامية فيما يتعلق بتفسير وتنفيذ مبادئ حقوق الإنسان. وقد قام المنظم السعودي بإصدار مجموعة متنوعة من الأنظمة التي تخاطب مبادئ حقوق الإنسان الدولية، ومنها على سبيل المثال قانون حماية الطفل، وقانون الحماية من الإيذاء. وعلاوة على ذلك، كفل المنظم السعودي تطبيقات حقوق الإنسان في القوانين الجنائية السعودية، مثل قانون الإجراءات الجزائية السعودي، وقانون نظام جرائم الإرهاب. وقد خلصت هذه الدراسة إلى أن حقوق الإنسان مكفولة بناءً على نصوص الأنظمة السعودية المستقاة من الشريعة الإسلامية السمحاء.

الكلمات المفتاحية: حقوق الإنسان، النظام السعودي، الجرائم الإرهابية، الشريعة الإسلامية.

1. Introduction

Human rights are defined as “Rights inherent to all human beings, regardless of nationality, place of residence, sex, national or ethnic origin, colour, religion, language, or any other status” [1-2]. The implementation of human rights differs from one society to another according to political and religious factors. In regard to the Kingdom of Saudi Arabia, human rights are respected and legally binding by Sharia principles and Saudi laws. Sharia (or Islamic law), the primary source of law in modern Saudi Arabia, is based on the Holy Quran and Hadith (sayings and teachings of Prophet Muhammad *Peace be upon him*) and developed gradually by muslim judges and scholars between the seventh and tenth centuries [3-4]. Allah revealed in the Holy Quran, “And We have certainly honoured the children of Adam and carried them on the land and sea and provided for them of the good things and preferred them over much

of what we have created, with [definite] preference” [5].

Moreover, Article 26 of the Saudi Basic Law of Governance states that “The State shall protect human rights in accordance with the Islamic Sharia” [6]. Therefore, it can be seen that the protection of human rights in Saudi Arabia is constitutional since it is encouraged by Islamic principles and Saudi laws. Human rights are usually discussed with specific regard to the implementation of criminal punishment and procedure. Therefore, human rights are the subject matter of lots of international debates and conferences.

In recent times, the majority of the countries all over the world, and especially Saudi Arabia, have suffered from terrorism. Saudi Arabia has enacted a variety of criminal laws that look after the benefits of Saudi society, one of which is the Saudi Law of Terrorist Crimes (SLTC). This law examines terrorism incidents and facilitates Saudi authorities to protect the society from terrorism and terrorists. This law contains 41 legal clauses. It explains the criminal procedure for terrorist crimes as well as referring to the superior law, which is Saudi Criminal Procedure Law (SCPL), and addresses any legal clause that is not provided in the SLTC (Article 40 of the SLTC). This commentary briefly looks at human rights protection identified under the SLTC.

2. Research Methodology

The research methodology involved two aspects: a critical analysis of the relevant literature and SLTC; and a comparison using the legal transplantation approach (i.e. reviewing the compatibility of the SLTC with the SCPL).

3. Results

The study showed that there are a variety of human rights which are protected under the SLTC and the SCPL. Examples of these rights are as follows:

- It is prohibited to arrest or detain any accused without any legal reason.
- The right of the accused to remain silent and the right not to self-incriminate.
- The right of the accused to consult a lawyer.
- The right of the accused to contact his family and relatives.
- The right of the accused not to be subjected to torture.
- The right of the accused to have a fair trial.
- The right of the accused to be brought before a competent, independent and impartial adjudicator.



- The right of the accused to have adequate time and facilities to prepare a defence case.
- The right of the accused to a public hearing.
- The right of the accused to appeal before an appellate court.
- The right of the accused to receive compensation for wrongful conviction.
- The right of the accused to be provided with legal and medical support during arrest process.
- The right of the accused not to be subjected to Ex post facto law or more severe punishment other than allowed under the law.

4. Conclusion

This commentary shows that human rights are fully looked after by Saudi legislation in its judicial system. The SCPL and the SLTC includes variety of human rights that are supported and protected by Saudi as well as Islamic legislation. In general, it seems that

Saudi Arabia is second to none among other countries when it comes to the implementation of human rights principles which are derived from a sacred source, which in this context is Islamic Sharia.

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