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Islamic Human Rights Commission

Kingdom of Saudi Arabia

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The Islamic Human Rights Commission is an NGO in special consultative status with the United Nations Economic and Social Council.

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Executive Summary.

In this submission, the Islamic Human Rights Commission provides information under sections B, C and D as stipulated in the general guidelines for the Preparation of Information under the Universal Periodic Review. Under section B, the Islamic Human Rights Commission (IHRC) gives background information about the criminal justice system of Saudi Arabia and provisions of arbitrary detention, lack of fair trial, cruel, inhuman or degrading punishments and women's right to health. Under section C, the Islamic Human Rights Commission presents concerns on the right to fair trial in terms of incommunicado detention and torture and women's health right, and raises its concerns about the work of international agencies and co-operation of Saudi Arabia with the UN human rights. Under section D, IHRC makes a number of recommendations regarding right to fair trial and women's right to health for action by the government.

Key word: Arbitrary Detention, Fair trial, Women health right

B) Normative and Institutional Framework of kingdom of Saudi Arabia

Arbitrary Detention.

Detainees in Saudi Arabia are not only uninformed by the authorities of the crime of which they are accused of but also faces excessive pre trial delays and do not have access to lawyers. In addition to this detainees are unable to inform others about their arrest. According to IHRC research in 2007

Abdi Hakim Mohamed Gellani is a British resident who organized Hajj/Umrah tours in UK. He was detained in KSA while taking a group to perform Umrah in November 2005 and was held for several months without charge. He was released in June 2006 but was not permitted to leave the country. On 8 August 2007 Mr Gellani was rearrested; the Saudi authorities initially denied his arrest and have failed to give an explanation for it.¹

¹ For more information, see Islamic Human Rights Commission (2007), "Human Rights Abuse in Saudi Arabia." Available at : <http://www.ihrc.org/>

Rizana Nafeek is a Sri Lankan teenage girl who migrated to KSA to work to support her poor family. She arrived in the country on an altered passport which misstated her year of birth as 1982. She was employed to work for a Saudi family and was assigned to take care of their infant son, which she was not trained to do. On 22 May 2005, the infant son choked on the milk that Ms Nafeek was feeding him and died. Ms Nafeek was immediately handed over to the police was reportedly made to confess under duress and subsequently sentenced to death. She retracted her confession in court on 2 February 2007 and has filed an appeal against the sentence.²[2]

Islamic Human Rights Commission opposes arbitrary detention in all circumstances as a violation of right to fair trial.

Right to fair trial

The violation of right to fair trial is so deeply rooted that it is difficult to reconcile Saudi Arabia's criminal justice system with the basic principles of international human rights law. Islamic human rights commission has researched such cases and in particular, incommunicado detentions and torture in prison.³

Women human rights.

Women in Saudi Arabia continue to suffer which affects most aspects of their life especially the health rights. In Saudi Arabia women's health rights appear to be neglected. Cultural practices hinders women to practice these rights. Women's health rights focus on array of legal obligations arising from human rights commitment of the state, the chief (though not exclusive) are right to life, right to health and the right to equality and freedom from discrimination.

According to Al Jazeera, in many cases women cannot even get routine medical procedures without consent from her guardian.⁴

² Islamic Human Rights Commission (2007), "Sri Lankan Teenager Facing Miscarriage of Justice in Saudi Arabia." Available at : <http://www.ihrc.org/>

³ Islamic Human Rights Commission (2007), "Sri Lankan Teenager Facing Miscarriage of Justice in Saudi Arabia." Available at : <http://www.ihrc.org/>

⁴ Al Jazeera English. "Every women." 20 May 2008. Available at: <http://english.aljazeera.net/programmes/everywoman/2008/05/2008615165711906854.html> (accessed 7 September 2008).

C. Protection and Promotion of Human Rights in Kingdom of Saudi Arabia

Incommunicado detention and torture

Islamic Human Rights Commission has regularly raised its concern with the authorities of Kingdom of Saudi Arabia for arbitrary detention and held incommunicado for both Saudi and foreign nationals. Those responsible for “abuse of power” are said to be the persons of Ministry of Interior’s domestic intelligence service (Mabahith).⁵

Even though article 35 of Saudi Arabia’s Criminal Procedure code (LCP) states that “detained person shall be entitled to communicate with any person of his choice to inform him of his arrest.”⁶ Despite the fact that LCP contains the provision of “right to inform anyone,” but LCP is silent on the time frame.

There seems a significant gap between Saudi Laws and International Human Rights laws. For instance right to access to a lawyer, knowing of the right to a lawyer, obligation to charge promptly. Since Saudi Arabia’s criminal offences are not codified, nor there is any clarity in the case laws as a result of which criminal laws are neither accessible nor reasonably foreseeable.

Women are right to health.

Women’s health right in Saudi Arabia is jeopardized by the male guardianship system. The imposition of male guardianship imposes severe restrictions on women, as result makes it nearly impossible for women to obtain health care facilities.

The right to health contains both freedoms and entitlements. Freedoms include the right to be free from discrimination and non-consensual medical treatment. Entitlements include the right to a system of health protection (i.e. health care and the

⁵ For details see, Islamic Human Rights Commission (2007). IHRC expresses deep concern about the cases of human rights abuse in KSA in light of King Abdullah's visit to UK . Available at <http://www.ihrc.org/>

⁶ In 2002, Saudi Arabia promulgated the law of criminal procedure code.

underlying determinants of health) that provides equality of opportunity for people to enjoy the highest attainable standard of health.⁷

The Right to Freedom from Torture and Ill-Treatment

The right from freedom from torture or cruel, inhuman or degrading treatment is found in Article 7 of the ICCPR, reflecting article 5 of the UDHR. This right can be utilised by women in the context of the provision of medical interventions and the denial of desired medical care.⁸

D) Recommendations.

Islamic Human Rights Commission recommendations to Kingdom of Saudi Arabia:

Ratification of International Human Rights instrument

1. Accede to the International Covenant of Civil and Political Rights and its optional protocol.

Arbitrary Detention and Right to Fair Trial.

2. Ensure that detainees have immediate access to outside world especially to their lawyers and families.
3. Enact a penal code in order to remove the ambiguities in laws For example which allows detainees right to fair trial, and to challenge their detention in the court of law. In addition to this which also explains clearly what constitute an offence under the law.

Restriction on women's health right

4. To eliminate discrimination against women, there is a need to develop and implement a comprehensive national strategy for promoting women's right to health throughout their life span. Such a strategy should include interventions aimed at the prevention and treatment of diseases affecting women, as well as policies to provide access to a full range of high quality and affordable health care, including sexual and reproductive services.

⁷ United Nations Economic and Social Council, Report of the Special Rapporteur on the right to health, Paul Hunt, March 2004, Addendum: Mission to the WTO, March 2004, UN doc. E/CN.4/2004/49/Add.1.

⁸Bateup, C., Can reproductive rights be human rights? Some Thoughts on the Inclusion of Women's Rights in Mainstream Human Rights Discourse, 6 Australian Journal of Human Rights 2000.