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A Review of the Patients' Right of Confidentiality under the Saudi Arabian Laws

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Abstract

The concept of patient confidentiality is nearly as old as the practice of health professions and, has evolved and transformed over the years, from one jurisdiction to the other. Patient confidentiality can be a fundamental human right, an ethical duty or, a legal duty.

The Saudi laws have evolved around its Shari'ah-based legal culture, its history and the international human right laws (IHRLs). These elements have moulded the Saudi Arabia's unique perspective on patient confidentiality. Its confidentiality laws are found scattered in several legislations. Is the Saudi patient confidentiality law able to adequately deal with the contemporary challenges?

The study reviewed the relevant Saudi laws in the light the International Humana Rights Laws. Findings suggest that there are issues bordering on the lack of quality comprehensive data protection laws, on clarity and foreseeability of the existing laws, and on the accessibility of the courts. Furthermore, the lack of a system of law reporting and stare decisis potentially gave the judges a wider latitude of discretion in interpreting the laws.

Therefore, the study recommends for a comprehensive data protection law with a clear definition of "confidential information", of data controllers and their role, and of specific safeguards against potential abuses. Others include defining legitimate purposes for using the patient's data, and his role, and the extent to which he can control the use of his own data. Consistency in legal interpretations, and an improved law reporting system could positively enhance the overall outcome.

Keywords: Patient Confidentiality, Privacy, Data Protection, Saudi Arabia

1. INTRODUCTION

This article proposes to review and assess the legal safeguards to patient confidentiality under the Saudi Arabian legal system. To achieve this goal, the study examined the nature and extent of legal protections available to patient confidentiality under the Saudi Arabian legal system, and how the evolving technologies have impacted on the applicability of the existing laws purporting to protect patient confidentiality.

Protection of the patient's health data is an important issue in diverse contexts such as healthcare, including care given through eHealth or in a cross-border healthcare context, and research. However, an unauthorised disclosure of personal health information could negatively impact on an individual patient's personal and professional life.[1] Achieving a balance between giving access to information and respecting patients' confidentiality is a crucial issue for any healthcare setting(Alahmad, Hifnawy, Abbasi, & Dierickx, 2016). Nonetheless, the dynamics of technological advancements and the evolution and proliferation of social networks have resulted in creating difficulties in maintaining the duty of confidentiality as the information gathered tends to become more prone to unlawful disclosure to third parties in such insecure settings (Kassim & Ramli, 2016).

As the capabilities of information technology grow, legal frameworks and professional guidance need to be created or refined to safeguard the rights of patients (Strobl, 2002). Therefore, it has become imperative to have regulation to consider the changes triggered by these new technologies.[2] Sadly, despite the abundant literature that exists on patient confidentiality world-wide, there are only a few studies in the Saudi Arabian jurisdiction which, by themselves, have also raised concerns regarding potential breach of patient confidentiality (Alahmad et al., 2016).

Although the record of court cases involving issues of patient confidentiality is lacking (thanks to the lack of law reporting system), the rampant use of internet and social media could also raise the risk of breaching patient confidentiality. From the foregoing, therefore, it is apparent that it is also a problem in Saudi, and a reason to study the problem.

There is not a comprehensive law under the Saudi Arabian legal system that specifically provides for data protection excepting some provisions scattered here and there under some legislations (Alsulaiman & Alrodhan, 2014). Also, currently, there is a lack of national laws to protect electronic patient records (EPR), which may be due to both the lack of awareness and that of expertise to explore and establish such laws (Aldajani, 2012). The currently adopted EPR policies appear to be generic, inconsistent and potentially insecure. Furthermore, none of

[1] The new EU Regulation on the protection of personal data: what does it mean for patients? http://www.eu-patient.eu/globalassets/policy/data-protection/data-protection-guide-for-patients-organisations.pdf
[2] http://www.eu-patient.eu/globalassets/policy/data-protection/data-protection-guide-for-patients-organisations.pdf

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the Saudi laws require organisations to maintain adequate security or the confidentiality of personal information that they acquired or stored online (Alharbi & Zyngier, 2012). This lacuna in the law calls for stringent rules in the Saudi laws to apply to processing sensitive data, especially concerning health issues.

Some of the pitfalls of the existing Saudi data protections laws include lack of statutory definition of the term "personal data" or "disclosure", and requirement for a formal notification or for a registration before the processing of data in Saudi Arabia. The lack of a national data regulator means that personal data security breaches are not reported to any entity under any law in Saudi Arabia. Such lack of specific provisions gives the Saudi Arabian courts a great latitude of discretion in dealing with confidentiality violations under the Sharia law (Worldwide, 2015).

Furthermore, this study is not without its own challenges. The lack to enough empirical studies in English on patient confidentiality is a factor that may limit the scope of our study. Other challenges faced include the lack of structured law reporting and the non-implementation of the principles of *stare decisis* under the Saudi legal system. This has led to a scarcity of reported cases on breach of patient confidentiality under the Saudi legal system. Even the recently introduced system of judges reporting their own cases on the ministry of justice website is very defective, as the ingredient of the case is either obscured or the parties' identities are anonymised.

The article primarily focuses on the protection of patient confidentiality from arbitrary abuse and interference by both the state authorities and individuals. Initially, the study examines the Saudi Arabian constitutional and other statutory protections to patient confidentiality right, and then, focuses more specifically, on patient confidentiality under the relevant laws. The Saudi Arabian Basic law of Governance represents the constitution of Saudi Arabia, the Saudi Law of Healthcare Professions, Laws of Healthcare Research, among others partly provide for the duty of patient confidentiality.

The study reviewed these legislations in the light of the Saudi Arabia's historical antecedents, legal culture, and the influence of the international and regional declarations (e.g., UDHR), conventions (e.g., ECHR) and regional charters (e.g., the Arab Charter) on human rights (Bussmann, 2010 p.290). Here, the study took cognisance of the unique nature of the Saudi

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Arabian conservative culture and its strict rules on the issue of privacy and confidentiality. Therefore, the study attempts a thematic evaluation of several pieces of legislation within the same field related to confidentiality (Bussmann, 2010). However, the study did not digress into the consideration of political / economic benefits (Tomkins, 1974) or such other facilities derivable from the laws (Wong, Ping-hei, 2014), checks and balances available,(van Kampen, 2012) and other projected goals (McDonald, Lewison, & Read, 2016).

Since patient confidentiality springs out from the universal human right to privacy, one of the study's criteria is to assess for its conformity to the universal human rights laws, e.g., its consistency with the universal declaration of human rights (UDHR), or even the regional conventions or charters (e.g., the Arab Charter) on human rights (HENKIN, 1989). The UDHR is considered as a living document that has been accepted as a contract between a government and its people throughout the world (The United Nations & UN General Assembly, 1948). It is an admirable attempt at a statement of common principles setting a minimum standard for human rights protection, but it is not justiciable.

As part of the patient autonomy, the study evaluates the law for the privilege given to the patient can, for instance, to consent to an otherwise unlawful disclosure,(ECtHR, 2006) or when the patient's consent may be dispensed. The law will also be assessed for the impact of the patient's own disclosure (or contribution thereto) of his/her personal data on his claim for a breach, and for the patient's right (and limits, if any) to access, portability, object to data processing, e.g., for research, and rectification of inaccuracies, or erasure, if no longer legal or if its purpose is outdated (European Union, 2016).

2. SAUDI ARABIA AND THE UNIVERSALITY OF HUMAN RIGHTS

The concept of human rights is viewed in different ways by different schools of thought. The common definition is that human rights are the rights possessed by all humans by virtue of their humanity(Tasioulas, 2002 p. 86), or because one is human(Donnelly, 2013). How are far have the Saudi laws conformed to the United Nations Declaration of Human Rights (UDHR) and other international treaties and conventions?(Herring, 2018 p. 228) We selected the UDHR because, although "not binding with the same force as domestic legislation,"(Khadduri & Hallaq, 1986 p. 236) the UDHR, which Saudi Arabia has affirmed, is considered as "a common standard of achievement for all peoples and of all nations" (UN, 1948, Preamble), or "an

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inclusive set of rights that transcend most cultural and ideological divisions."(Eckert, 2000 p. 22) The high incidence of consensus (80 percent) with which the resolutions of the Commission on Human Rights were adopted further stresses the universality of the Declaration itself (Ramcharan, 1998 p. 423).

This declaration has been further reaffirmed and reinforced in several other international covenants to which Saudi Arabia is a signatory, e.g., the International Covenant on Civil and Political Rights (ICCPR) (UN, 1966), the UN Convention on Migrant Workers (UN, 1990 Article 14) and the UN Convention on Protection of the Child (UN, 1990, Article 6). Regionally, the Arab Charter on Human Rights (Rishmawi, 2005a) and the European Commission's Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR) made privacy right enforceable within the their member countries.

2.1. Saudi Arabia and the UDHR

Before the final affirmation of the UDHR through the Arab Charter, Saudi Arabia and a few third world nations had resisted it for several decades after its declaration in 1948. These nations had sought to redefine the term "human rights" because, in their view, the UDHR, as it were, was part of what they referred to as "the ideological patrimony of Western civilisation" (Cerna, 1994 p. 740). Saudi Arabia initially abstained from reaffirming the 'universality of human rights'(Council, 2006) at the world conference (Cerna, 1994 p.742) because, it felt that the Declaration "went too far in some regards and not far enough in others"(Arzt, 1990). Some of its objections to the affirmation, include issues covered by Article 18, which borders on freedom of thought, conscience and religion etc.

Saudi Arabia and its allies wanted the definition of human right to include their own peculiarities, while the West maintained that such rights cannot be measured differently in some countries (Cerna, 1994 p. 741). The Muslim world doubted the compatibility of the UDHR with the whole world (Saedén, 2010 p. 13) which they considered, simply, as a manifestation of liberal, Western, Christian ideas. And so, they sought for alternatives.

Islamic Human Rights Declarations

The Muslim critics of the UDHR have further argued that its secular philosophy does not take cognisance of the fundamental diversity of the people around the world, particularly, that of

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the Muslims (Olayemi, Alabi, & Buang, 2015 p. 29). Therefore, the Muslim countries, including Saudi Arabia, had felt that the UDHR is contrary to Islam and, therefore, is of no validity in the Islamic countries, because, it represents a secular understanding of the Judeo-Christian tradition, and did not represent the Islamic values recognised by Muslims. Muslims recognise no authority or power but that of Almighty God and that there is no any legal tradition apart from Islamic law (Olayemi et al., 2015 p. 31). Therefore, they believe that the Human Rights are given only by God and not by any king or legislative assembly. They assert that when "we want to find out what is right and what is wrong we do not go the United Nations; we go to the Holy Koran"(Saedén, 2010 p. 17).

Under the Islamic law, no ruler, government, assembly or authority has the authority to curtail or violate, in any way, the human rights conferred by God, nor can they be surrendered (Azzam, 1998). Unlike the UDHR, which is not legally binding and can be withdrawn or modified, the rights ordained by God cannot be withdrawn nor can it be amended, they asserted (Olayemi et al., 2015 p.28). And therefore, they clamoured for alternatives to the UDHR.

The Universal Islamic Declaration on Human Rights (UIDHR)

The UIDHR was introduced in 1981 at the UNESCO headquarters in Paris as an Islamic version of Universal Human Rights to serve as an alternative to the UDHR. Unlike the UDHR, it was a religious declaration for mankind, a guidance and instruction as enjoined by the Qur'an (Al Qur'an, Al-Imran 3:138). A reference to "the Law" in the Declaration text in its foreword refers to the *Shari'ah*, and are sourced from verses of the Qur'an or specific parts of the Hadith. The West would view this as limiting the application of human rights as obtainable under the UDHR. The UIDHR further reiterates, in its foreword, that:

> *"... no ruler, government, assembly or authority can curtail or violate in any way the human rights conferred by God, nor can they be surrendered"*

Under Article XXII of the UIDHR (1981), *"(e)very person is entitled to the protection of his privacy."* The explanatory note No. 3 indicates that this right is only subject:

> *"... to such limitations as are enjoined by the Law for the purpose of securing the due recognition of, and respect for, the rights and the freedom of others and of meeting the*

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> *just requirements of morality, public order and the general welfare of the Community (Ummah).”*

The Cairo Declaration on Human Rights in Islam (CDHRI) 1990

On the other hand, the CDHRI 1990, which, unlike the UIDHR, was a governmental approach, was adopted in Cairo by the 19th Islamic Conference of Foreign Ministers of the Organization of the Islamic Conference (OIC). The OIC is the second largest inter-governmental organization, surpassed only by the United Nations. With 57 members from four different continents, the organization acts globally to promote Islamic solidarity. The organization does maintain permanent observer status with the UN. OIC acknowledges the Cairo Declaration of Human Rights in Islam, not the Universal Declaration of Human Rights. The CDHRI was presented for approval at the OIC Summit Meeting of Heads of State and Government, held in Dakar, Senegal on 9 December 1991. However, this was averted following a press release from their Geneva-based International Commission of Jurists (ICJ) (Littman, 2013). The CDHRI, which was considered as the only acceptable and practicable International Islamic Instrument on human rights, establishes the *shari’ah* law as "the only source of reference" for the protection of human rights in Islamic countries (Olayemi et al., 2015 pp 30-32). Despite the initial aversion to it, the CDHRI was presented to the UN in 1992 and, was accepted into Volume II of the Human Rights Commission’s Compilation of International Instruments in 1997 (see pp. 478-484). This singular act (Resolution No. 49/19-P on the Cairo Declaration on Human Rights in Islam, U.N. Doc. A/45/421 (1990)) was arguably viewed as an official veneration of the document by the UN. Since then the CDHRI has formed a part of the international instrument on human rights.

Article 18 of the CDHRI (1990) provides for privacy as follows:

> (b) *Everyone shall have the right to privacy in the conduct of his private affairs (….) It is not permitted to spy on him, to place him under surveillance or to besmirch his good name. The State shall protect him from arbitrary interference.*

Under Article 24 of the CDHRI, all rights are subject to the *Shari’ah,* and Article 25 further states that *Shari’ah* is the only source of reference for the explanation or clarification of any of the articles of this Declaration. That, just like the UIDHR, would be considered a strong limiting factor to the application of the UDHR to the Muslim countries.

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Given to the strong Muslim belief that only God makes laws, to their inclination towards the God's laws as compared to the human made laws, and the limitation to powers of the legislative bodies to alter or curtail the "God-given" human rights, it is not surprising that they have constantly clamoured for a different set of human rights distinct from those proposed by the "human UDHR".

Despite their affirmation of the UDHR, the regional Arab Charter on Human Rights, to which Saudi Arabia is a signatory, is still based on the *Shari'ah*. To that extent, therefore, it seems safe to submit that the Arab Charter and Saudi Arabian laws on the right to patient confidentiality, originating from *Shari'ah*, would not be consistent with the UDHR.

3. THE ARAB CHARTER ON HUMAN RIGHT TO CONFIDENTIALITY

The Arab charter on human rights is a supposed regional replica of the UDHR, but in an Islamic way, and has been already been criticised for its inconsistencies with the international laws on human rights. For instance, the UN High Commissioner for Human Rights, Louise Arbour had asserted that the Charter is incompatible with international standards for women's, children's and non-citizens' rights(UN, 2008). For instance, Article 6 still imposes death sentence to 'most serious crimes'; Article 8(a) does not prohibit 'physical or psychological torture' and 'cruel, inhuman, degrading or humiliating treatment', as a punishment(Rishmawi, 2005a). Article 24 grants the right to peaceful assembly and association to 'citizens' only, etc.(Rishmawi, 2005 p. 371). This is despite its declaration that its aim is to "place human rights at the centre of the key national concerns of the Arab States" and to "entrench the principle that all human rights are universal..."(Al-Midani & Cabanettes, 2006 Article 1). In its preamble, the Arab Charter on Human Rights reaffirms the Charter of the United Nations and the Universal Declaration of Human Rights, as well as the provisions of the United Nations International Covenants on Civil and Political Rights and Economic, Social and Cultural Rights and the Cairo Declaration on Human Rights in Islam. Saudi Arabia is a signatory to the 'Arab Charter on Human Rights' that affirms the UDHR and other conventions on human rights which is seen as a move towards universalism rather than relativism (Rishmawi, 2005a).

Article 17, Arab Charter on Human Rights, 1994 provides:

> *"Privacy shall be inviolable and any infringement thereof shall constitute an offence. This privacy includes (...) the confidentiality of correspondence and other private*

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means of communication."

The 'modernized' version of 2004 did not amend the substance of the Article 4 of the 1994 Charter(Rishmawi, 2005a). The new Article 21 that provides as thus:

(1) *"No one shall be subjected to arbitrary or unlawful interference with his privacy, family, home or correspondence, or to unlawful attacks on his honour and reputation. (2) "Everyone has a right to the protection of the law against such interference or attacks."*

However, this is subject to Article 4(a):

> *"No restrictions shall be placed on the rights and freedoms recognised in the present Charter except where such is provided by law and deemed necessary to protect the national security and economy, public order, health or morals or the rights and freedoms of others"*

Article 4(a) of the Charter is quite similar to the ECHR Article 8(2) from which (the latter), three main ingredients can easily be identified: legality, legitimate aims and democratic necessity. ECHR (Article 8(2) provides:

> *"There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others."*

All, but the democratic requirement, are also required under Article 4(a) of the Charter. Even the revised version of the Charter of 2004 has not materially changed this provision. Article 24 (7) of the Arab Charter (2004) provides:

> "*No restrictions may be placed on the exercise of these rights other than those imposed in* ***conformity with the law*** *and which are* ***necessary in a society that respects freedom and human rights***, ***in the interests of*** *national security or public safety, public order, the protection of public health or morals or the protection of the rights and freedoms of others." (Emphasis supplied).*

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The only difference was, instead of the phrase "necessary in a democratic society" of the ECHR, the revised Charter used "necessary in a society that respects freedom and human rights". This move could be seen as a compromise between the "democratic necessity" of the Convention and the complete lack of qualifiers in the 1990 version of the Arab Charter. But it is still debatable as to whether some of the member states of the Arab League, including Saudi Arabia, meet the requirements of a "society that respects freedom and human rights" given to the numerous criticisms cited previously

Despite some of the reservations that the Arab Charter do not meet international norms and standards, the adoption and entry into force of the Arab Charter was a major step forward for the region although a number of concerns still persist on its implementation and compliance by member states(Mayer, 1994). Unlike its equivalents in elsewhere, the Arab Charter has no court to interpret and enforce it (McCrone & Alhariri, 2015) or to harmonise the differences between international human rights law and Islamic law through, e.g., the adoption of the 'margin of appreciation' doctrine, or retaining room for manoeuvre in the interpretation and application of both bodies of law(Stork, 2014). Even the updated version of 2004 does not provide for an effective enforcement mechanism, and the expert Committee, without the powers of a court, still remains the only system of monitoring state compliance(Al-Midani & Cabanettes, 2006).

The Arab Charter on human Rights (1994), was later updated in 2004. The main weakness with the 1994 version was the lack of any human rights enforcement mechanism, particularly in comparison to the mechanisms within the European and American Conventions on Human Rights, and the African Charter on Human and Peoples' Rights(Al-Midani & Cabanettes, 2006). The debate is still raging as to whether the revised Charter has become consistent with international human rights standards(Rishmawi, 2005b). And, despite its affirmation of the UDHR, the Arab Charter on human rights is, still founded on, and heavily influenced by the *Shari'ah* law. Are the Saudi human rights laws consistent with the UDHR and the ECHR?

4. THE SAUDI LAWS ON PRIVACY AND CONFIDENTIALITY

Although Saudi Arabia endorsed the UDHR through the Arab Charter, the substance of its law did not accurately reflect the spirit of the UDHR(Mayer, 1994). Moreover, unlike the UK's complete adoption of the ECHR through the Human Rights Act of 1998, the Saudi law did not

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adopt the Arab Charter into its domestic law in a like manner. Accordingly, article 4(a) of the Arab charter of 1990 provides similarly:

> *"No restrictions shall be placed on the rights and freedoms recognised in the present Charter except where such is provided by law and deemed necessary to protect the national security and economy, public order, health or morals or the rights and freedoms of others"*

It is also important to reiterate that there is not a comprehensive data protection law in effect in the Kingdom of Saudi Arabia like those in the UK jurisdiction. Confidentiality protection can only be found scattered in several laws, and their scope is limited (Alharbi & Zyngier, 2012).

Article 26 of the Basic Law provides that the State shall protect human rights *"in accordance with the Islamic Shari'ah,"* while its Article 7 provides that the *Shari'ah* shall prevail over all laws of the state. Saudi legal system relies on *Shari'ah* principles when interpreting and implementing of secular international human rights laws (Alkahtani, 2016). Note that neither the UN Declaration nor any other covenant or convention relies on any religious law.

Article 40 of the Basic Law also broadly provides for privacy and confidentiality(Al-Daraiseh, Al-Joudi, Al-Gahtani, & Al-Qahtani, 2014):

> *"Correspondence by telegraph and mail, telephone conversations, and other means of communication shall be protected. They may not be seized, delayed, viewed, or listened to except in cases set forth in the Law."*

Similarly, the Saudi Telecommunications Act reinforced that the confidentiality and security of telecommunications information is sacrosanct(CITC, 2001, Article 3). It is an offence to intentionally disclosure (other than during duty) of any telephone call or data carried on the public telecommunications networks in violation of the provisions of this Act(CITC, 2001, Article 37). On the other hand, the Electronic Transaction Law(BOE, 2010) issued under the Council of Ministers Decision No. 80 dated 7/3/1428 H, and it was approved by Royal Decree No. M/18 dated of 8/3/1428H. The Law was published in the Issue No. (4144) of the Official Gazette (Um Al Qura) on 13/04/1428H. has provided for the confidentiality of personal data shared during electronic transactions. It prohibits the use or sharing of consumers' personal

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data with third parties without their consent. Similar protection of confidentiality could be found under Article 3 of the Anti-Cybercrime Law (Royal Decree No. M/17 8 Rabi 1 1428 / 26 March 2007) under which it is an offence to engage in spying and defamation by the use of camera operated devices.

Note that none of these laws explicitly stipulate the exceptions where a breach of confidentiality could be deemed justified as being "according to the law" and "necessity" to fulfil a "legitimate aim". The phrase "except for cases stipulated by (set forth in the) law" seems to suggest that any such exception would only be justified if it is provided by, according to, or under a (any other) law validly established.

One of such exceptions could be found under Article 17 of the Terrorisms and Financial Crimes Law (Royal Decree No. M / 16 Dated 24 / 02 / 1435 H) under which the Minister of Interior may authorise the monitoring, seizure and recording of all forms of communication in relation to a committed or plotted crime, *if deemed useful*. The Law did not specify under what circumstance it would be *deemed useful*. Moreover, Article 23 provides that where, an accused person cooperates with investigator and helps in apprehending the accomplices of said crime or similar crime, the Minister of Interior may stay his prosecution, or order his release under Article 24, if the Minister has reasonable ground to do so.

Does this law pass the legality test which implies that there must be a "measure of legal protection in domestic law against arbitrary interferences by public authorities with the rights safeguarded by" the law?(*Malone v The United Kingdom, ECHR*, 1984) Although these exceptions "set forth" in a law, and therefore, "according to the law", the legality test further requires sub-tests for sanctions against the infraction, safeguard against arbitrariness, precision/foreseeability, and accessibility to the citizens.

The principal laws have made both positive and negative duties to protect personal data from unlawful disclosure to third parties, and can attract a fine of millions of riyals under Article 39 of the Telecommunications Law. Similarly, under Article 37 of the law, it is a crime to, unlawfully eavesdrop, record or disclose information conveyed on public telecommunication network. Therefore, the answer is yes, that the principal law has adequately sanctioned an infraction of the right to privacy and confidentiality. However, as to whether the law has provided adequate safeguard to prevent an arbitrary abuse of the exceptions, this could be

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deduced from the nature of power vested in the Minister, under Article 17, authorising him to breach the privacy and confidentiality rights of persons being investigated for terrorism related crimes. Although it might sound justified to achieve a legitimate aim under the circumstance, but is this proportionate to the aim? Does it allow for arbitrariness?

Ordinarily, under the ECHR, national authorities are allowed a broad margin of appreciation in interpreting domestic law and in determining whether legislative procedures have been followed (*Kruslin v France*, 1990 paragraph 29). However, the only precondition placed in this provision is "if deemed useful". In the case of ***Malone v United Kingdom*** (ECtHR, 1984), the ECtHR has frowned at granting an unfettered discretionary power to the executive. It recommends that the scope of such discretion should be clear to avert possible abuse. The court held, at paragraph 68:

> *"…it would be contrary to the rule of law for the legal discretion granted to the executive to be expressed in terms of an unfettered power. Consequently, the law must indicate the scope of any such discretion conferred on the competent authorities and the manner of its exercise with sufficient clarity, having regard to the legitimate aim of the measure in question, to give the individual adequate protection against arbitrary interference*.

Also, in the case of ***Herczegfalvy*** the court had held, at paragraph 89, that "if a law confers a discretion upon a public authority, it must indicate the scope of that discretion." Therefore, the phrase "if deemed useful" seems too vague and can give the authority an unfettered and limitless discretion that could be open to arbitrary abuse. Therefore, just like in ***Huvig*** *and* ***Kruslin*** where it was held that the system under which official telephone tapping took place in France did not provide adequate protection against possible abuses, so does this provision unable to provide adequate safeguard against arbitrary abuse as required (*Kruslin v France*, 1990 p. 35).

Is the law accessible to the citizen?(*Sunday Times v. The United Kingdom, Strasbourg*, 1979) In ***Leander v. Sweden,*** the Court, while deciding if a secret collection of information by the Swedish police was "in accordance with the law", held that the accessibility requirement was fulfilled by the fact that the system operated under a published law(*Leander v Sweden EHRR*, 1987). The provisions of Article 41 of the Law of Terrorism Crimes and Financing came into

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effect after it was duly published in the official gazette, and therefore, it is hereby submitted that the provision has fulfilled the requirement of accessibility.

Is the law sufficiently precise and its consequences, reasonably foreseeable? Although the law had to be "sufficiently clear" to give the public an adequate indication as to the circumstances in which and the conditions on which the public authorities are empowered to resort to the interference with this right(*Leander v Sweden EHRR*, 1987), it was not necessary that the public should know the precise criteria by which information was stored and released (Greer, 1997, p.12). However, since the provisions of the Terrorism and Financial Crimes Law "does not indicate with reasonable clarity the scope and manner of exercise of the relevant discretion conferred on the public authorities", "the minimum degree of legal protection to which citizens are entitled under the rule of law in a democratic society is lacking"(para 79). The interference complained of lacked foreseeability and was, consequently, not "in accordance with the law" " (para 87).

The democratic test requires us to determine, not only that the state acted reasonably, carefully and in good faith, but also that the restriction was proportionate and justified by relevant and sufficient reasons(*Vogt v. Germany EHRR*, 1996). The test consists of three principal elements: the nature of democratic necessity, the burden of proof/proportionality, and the margin of appreciation/European supervision.

Even though Saudi Arabia is neither democratic nor aspiring to be one, we would apply the test for the nature of the necessity(*Lingens v Austria EHHR*, 1986). The interference must be necessitated by a "pressing social need" relating to one or more of the legitimate aims(*The Observer and The Guardian v. The United Kingdom*, 1991 paragraph 71). The study submits that preventing terrorism is indeed, a "pressing social need". It is, therefore, argued that the provision fulfils the requirement of "democratic necessity."

Is the infringement proportionating to the aim pursued?(*The Observer and The Guardian v. The United Kingdom*, 1991) A secret surveillance can constitute an interference with the right to privacy and confidentiality(*Klaus v. Germany*, 2000) but can be justified if they are "strictly and proportionately necessary for safeguarding the democratic institutions"(*Klaus v. Germany*, 2000 para 44). And a legitimate aim, that is common to both the Charter and the Convention, is the maintenance of security and prevention of crimes which may include combat of terrorism.

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The last element of the necessity test is the margin of appreciation. It refers to the latitude of discretion states are permitted in their observance of rights and, in particular, to the application of the various exceptions to the Convention. Is the aim and necessity of this infringement allowed for the public interest compatible with the Convention? It could be elicited by using either the "reasonableness test" in which the state has the burden of proof of the reasonableness of its decision, or the "unreasonable test", where the burden shifts to the applicant to prove that the decisions were unreasonable, the benefit of any doubt being given to the state(Greer, 1997 p. 15). The study argues that, given the seriousness of the impact of terrorism on the society, the impact of the provisions is reasonable and proportionate to the legitimate aims.

Consequently, although the exceptions would have passed the necessity and proportionality tests, however, the law is not precise/clear enough to be foreseeable, and its preconditions are too wide and vague that could result in abuse. Therefore, the legality test is not passed.

5. PATIENT CONFIDENTIALITY UNDER THE SAUDI LAWS

Article 21 of the Law of Healthcare Professions (Royal Decree No. M/59 dated 4 / 11 / 1426 H and Council of Ministers Resolution No. 276 dated 3 / 11 / 1426 H (December 6, 2005) exclusively provides for the duty on health care professionals to maintain the *patient's* confidentiality:

> *"A healthcare professional shall maintain the confidentiality of information obtained in the course of his practice and may not disclose it except (as provided by the law) …"*

A violation of this law could, under Article 30, attract criminal liability, which attracts a fine, a warning, or revocation of the license for the practice and/or a further ban from re-registration for a period of two years from the date of revocation (see Article 31).

Note that, the protection to patient confidentiality under this law is not absolute. Where a statute requires or allows a disclosure of an otherwise confidential information under some defined circumstances, such disclosure would not be in breach of confidentiality. Article 21 of the Law made exceptions to that duty which, under Article 20, include disclosures to the appropriate authorities for reporting a case of crime-related death, or for notification communicable or epidemic diseases to public health authorities, pursuant to Article 11 thereof. Where findings

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suggest a crime-related injury notification is in the public interest. Violators shall be subject to imprisonment, fine or both, under Article 28.

Other exceptions under the law include disclosure during a court session, or valid consent in writing authorising disclosure, or a disclosure to a family member (Article 18), or a disclosure pursuant to court order (Article 21). These provisions are similar to the statutory authorisations under the English laws that allow for the reporting of infectious diseases (Infectious Disease (Notification) Act, 1889), or stating of the underlying cause of death in a death certificate(Coroners and Justice Act, 2009) or notification of birth and deaths(Coroners and Justice Act, 2009), and, reporting of suspected child abuse(section 130, Coroners and Justice Act, 2009). There are, also, circumstances where disclosure is permitted in the patient's own interest(Law of Criminal Procedure (Saudi Arabia) 2011 and Section 60, Health and Social Care Act (UK), 2001). Lastly, a healthcare professional may be compelled to divulge confidential information in court during proceedings(General Medical Council, 2018, p76). One very important omission from this law and its implementing regulations, is that, it failed to definite the term "confidential information". This lack of clear definition of this term could give rise to ambiguity in the interpretation of the law

Let us now subject the laws to our testing grids to see if they pass the "triple" test to provide the much-needed safeguards against abuse or arbitrary disclosure to other third parties.

5.1. Legality Test

This legal protection would clearly seem to be "according to the law" since it is founded on a law properly established. It was established by a Royal Decree: Royal Decree No. M/59 dated 4 / 11 / 1426 H and Council of Ministers Resolution No. 276 dated 3 / 11 / 1426 H (December 6, 2005). However, answering the four questions on legality could give us a definitive answer as to its legality. Firstly, is the relevant legal provision accessible to the citizen? Yes, it properly published in the official gazette and only became effective after sixty days from date of publication as required by Article 33 of the Law (*Leander v Sweden EHRR*, 1987)**.** Article 38 of the Basic Law assures that *"... there shall be no punishment except for deeds subsequent to the effectiveness of a statutory provision."* Secondly, does the law sanction the infraction? Article 21 of the Law clearly prohibits unlawful disclosure and thereby making it an offence under Article 28 of the Law. Thirdly, is the law precise and clear such that it effects and course

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could be foreseen? Unfortunately, the term "personal data" is not defined in any laws or regulations except in the new policy on the novel health information exchange portal of Saudi Ministry of Health which does not carry a legal weight (Reda, Alsheikh, Piper, & Arabia, 2017). Under the laws, there is no provision for data controllers, guardian or such similar instruments to deal with and control the use of the patient's sensitive data.

Policy No.1 Saudi Health Information Exchange Definitions, Saudi Health Information Exchange Policies defines patient's sensitive data as:

> *"Information about an identifiable person which relates to the physical or mental health of the individual, or to provision of health services to the individual, and which may include: a) information about the registration of the individual for the provision of health services; b) information about payments or eligibility for health care with respect to the individual; c) a number, symbol or particular assigned to an individual to uniquely identify the individual for health purposes; d) any information about the individual collected in the course of the provision of health services to the individual; e) information derived from the testing or examination of a body part or bodily substance; f) identification of a person (e.g., a health professional) as provider of healthcare to the individual."*

On the other hand, the law provided for reasonable exceptions to those grounds on account of, e.g., public policy or public interest as may be necessary to avert danger or to warn others of potential harm(*Tarasoff v Regents Of Univ Of California*, 1976). The exceptions are; a disclosure to the family if the patient consents in writing, or disclosure public authorities for the purposes reporting or prevention of crimes or communicable diseases, or in defence of professional accusations, as provided under Article 21, Law of Practicing Healthcare Professions.

Does the law provide adequate safeguards against arbitrary interference with the respective substantive rights? The Court had frowned at granting a "legal discretion to the executive with (…) an unfettered power. ..."(*Malone v The United Kingdom, ECHR*, 1984). What Article (11-1) of the Regulation stated is that "the competent authority in the Ministry of Health shall identify the infectious diseases to be reported, and the procedure thereto. In this case, the scope of this discretion given to the competent authority at the Ministry Health could not be held to be precise enough to avoid potential abuse.

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The Regulation itself does not provide for adequate safeguards against the potential risk of secondary disclosure of the sensitive data and, if there are any exceptions to this rule, as required (*Ilascu & Others v. Moldova & Russia*, 2004). There are no clear and detailed statutory regulations clarifying the safeguards applicable, and setting out the rules governing, *inter alia*, on data collection, storage, use and destruction (*MM v The United Kingdom ECHR*, 2012). But, again, the new policy has offered some of these stipulations. The Purpose of Use Policy categorises circumstances under which a use of the data shall be permitted, may be permitted and when not permitted without a valid court order to that effect. Policy No. 2 Saudi Health Information Exchange Purpose of Use Policy. Unfortunately, the policy has its limitations; as it only applies the Ministry of health facilities and affiliates. And, has no explicit legal weight.

From the foregoing, therefore, the study argues that the Saudi Arabia laws have not sufficiently passed the "legality test" under article 8(2) of the Convention.

5.2. The "Legitimate Aim" Test

An infringement thereunder would not be justified under Article 8(2) of the Convention unless it pursues one or more of the legitimate aims referred to in the Article(*Radu v The Republic Of Moldova ECHR*, 2014) i.e., if there is a causal relationship between the interference and its legitimate objectives (Gerards, 2013). All of the exceptions under Article 21 tally with the "legitimate aims" listed under Article 8(2) of the ECHR and Article 4(a) of the Arab Charter. The exceptions under 8(2) of the ECHR and 4(a) of the Arab Charter are: national security, public safety or economic well-being, prevention of disorder or crime, protection of health or morals, and protection of others' rights and freedoms. Therefore, it is submitted that, this test is passed.

5.3. "Necessity Test"

The nature of the necessity should be tested for three principal elements; i.e., it is related to a "pressing social need," "proportionate" to the aim, and the justification is "relevant and sufficient" (*Sunday Times v. The United Kingdom, Strasbourg*, 1979). Yes, the disclosure to competent authorities to avert harm, diseases and prevent crimes are related to pressing social needs.

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But, is the infringement proportionate to the legitimate aim pursued? Such interference could not be compatible with the Convention unless it was justified by an overriding requirement in the public interest (ECtHR, 1997). It would seem to be in the public interest that the Saudi Arabian laws have allowed for these exceptions.

Conclusion

The examination of the Saudi Arabian legal safeguards to patient confidentiality has produced a mixed result of compliance, partial compliance and non-compliance to the various elements of the chosen grids.

The study has clearly shown that the Saudi Arabian human rights do not conform to the international human rights law as it follows the *Shari'ah* law which is distinct from and run parallel to the UDHR and other conventions.

Neither the Arab Charter, the Basic Law nor other Saudi legislations have successfully passed the legality test because they have not provided for a clear, precise and foreseeable safeguard from abuse of exceptions to infringement of Article 8 rights. There is an unfettered discretionary power to state authorities that could result in arbitrariness and abuse.

These results are in addition to the paucity of literature, laws, and law reports on patient confidentiality in the Saudi jurisdictions which could potentially lead to wider discretion to the courts and executive authorities leading to inconsistent interpretation and implementation of the laws.

In addition to these tests, it would be interesting to review theses snippets of confidentiality laws in the light of the newly created European General Data Protection Regulation, 2016 which came into effect on May 26th, 2018. This is not within the scope of this article, and would be discussed extensively in another forthcoming article.

References:

Al-Daraiseh, A. A., Al-Joudi, A. S., Al-Gahtani, H. B., & Al-Qahtani, M. S. (2014). Social Networks Benefits, Privacy, and Identity Theft: KSA Case Study. *International Journal of Advanced Computer Science and Applications*, *5*(12).

Al-Midani, M. A., & Cabanettes, M. (2006). ARAB CHARTER ON HUMAN RIGHTS

2004. *Boston University International Law Journal*, *24*, 147.

Alahmad, G., Hifnawy, T., Abbasi, B., & Dierickx, K. (2016). Attitudes toward medical and genetic confidentiality in the Saudi research biobank: An exploratory survey. *International Journal of Medical Informatics*, *87*, 84–90. https://doi.org/10.1016/j.ijmedinf.2015.12.015

Aldajani, M. (2012). *Electronic Patient Record Security Policy in Saudi Arabia National Health Services*. De Montfort University.

Alharbi, I. M., & Zyngier, S. (2012). A Holistic View On The Opportunities and Risks Faced by Saudi Arabia Government in Their Adoption Of The New Law Regulating Electronic Privacy and. *WIAR 2012; National Workshop on Information Assurance Research*, 1–7.

Alkahtani, F. S. (2016). The Protection of Human Rights in Saudi Counter-terrorism Laws. *Arab Journal of Forensic Sciences and Forensic Medicine*, *1*(4), 443–445. https://doi.org/10.12816/0033140

Alsulaiman, L. A., & Alrodhan, W. A. (2014). Information Privacy Status in Saudi Arabia. *Computer and Information Science*, *7*(3). https://doi.org/10.5539/cis.v7n3p102

Arzt, D. E. (1990). The Application of International Human Rights Law in Islamic States. *Human Rights Quarterly*, *12*(2), 202–230. https://doi.org/10.2307/762377

Azzam, S. (1998). Universal Islamic declaration of human rights. *The International Journal of Human Rights*, *2*(3), 102–112. https://doi.org/10.1080/13642989808406750

BOE. Electronic Transaction Law, Pub. L. No. M/18 (2010). Saudi Arabia: Burea of Experts at Council of Ministers.

Bussmann, W. (2010). Evaluation of legislation: Skating on thin ice. *Evaluation*, *16*(3), 279–293. https://doi.org/10.1177/1356389010370252

Cerna, C. M. (1994). Universality of Human Rights and Cultural Diversity: Implementation of Human Rights in Different Socio-Cultural Contexts. *Human Rights Quarterly*, *16*(4), 740. https://doi.org/10.2307/762567

CITC. Saudi Telecom Act, Pub. L. No. Royal Decree No.M/12, Citc 1 (2001). Saudi Arabia.

 doi:10.20944/preprints201908.0231.v1

Coroners and Justice Act (2009). Statute Law Database.

Council, H. R. (2006). *Resolution adopted by the General Assembly on 15 March 2006 No. 60/251 60th Session*.

Donnelly, J. (2013). *Universal Human Rights in Theory and Practice*. Cornell University Press.

Eckert, B. A. (2000). Universality by Consensus : The Evolution of Universality in the Drafting of the UDHR, 21–24.

ECtHR. Z v Finland (1997), 10 European Journal of Health Law 1–78 (1997).

ECtHR. L.L. v. France, Eur. Court of HR, judgment of 10 October 2006, application no. 7508/02 (2006).

European Union. (2016). Regulation 2016/679 of the European parliament and the Council of the European Union. *Official Journal of the European Communities*, *2014*(April), 1–88. https://doi.org/http://eur-lex.europa.eu/pri/en/oj/dat/2003/l_285/l_28520031101en00330037.pdf

General Medical Council. (2018). Confidentiality - GMC Good Medical Practice. Retrieved February 15, 2019, from https://www.gmc-uk.org/ethical-guidance/ethical-guidance-for-doctors/confidentiality

Gerards, J. (2013). How to improve the necessity test of the European Court of Human Rights. *International Journal of Constitutional Law*, *11*(2), 466–490. https://doi.org/10.1093/icon/mot004

Greer, S. (1997). The exceptions to Articles 8 to 11 of the European Convention on Human Rights. *Human Right Files*, (15), 64.

Health and Social Care Act (2001). Statute Law Database.

HENKIN, L. (1989). The Universality of the Concept of Human Rights. *The ANNALS of the American Academy of Political and Social Science*, *506*(1), 10–16. https://doi.org/10.1177/0002716289506001002

Herring, J. (2018). *Medical law and ethics* (7th ed.).

 doi:10.20944/preprints201908.0231.v1

Ilascu & Others v. Moldova & Russia (2004).

Infectious Disease (Notification) Act (1889). UK: Queen's Printer of Acts of Parliament.

Kassim, P. N. J., & Ramli, N. (2016). The Inviolability of Medical Confidentiality in Malaysia: An Analysis of the Rules and Exceptions. *IIUM Law Journal*, *24*(2).

Khadduri, M., & Hallaq, W. B. (1986). The Islamic Conception of Justice. *Middle East Studies Association Bulletin*, *20*(2), 305–308. https://doi.org/10.2307/23058995

Klaus v. Germany (2000).

Kruslin v France (1990).

Law of Criminal Procedure - Saudi Arabia, Pub. L. No. Royal Decree No. (M/39) 28 Rajab 1422 - 16 October 2001, University of Minnesota Law Library 1 (2011).

Leander v Sweden EHRR (1987).

Lingens v Austria EHHR (1986).

Littman, D. (2013, January 19). Human Rights and Human Wrongs: Sharia can't be an exception to international human-rights norms. *National Review*, pp. 59–64.

Malone v The United Kingdom, ECHR (1984).

Mayer, A. E. (1994). Universal versus Islamic Human Rights: A Clash of Cultures or Clash with a Construct. *Mich. j. Int'l L.*, *15*, 307, 404.

McCrone, M., & Alhariri, W. (2015). Challenges Abound in Proposed Arab Court of Human Rights | IPI Global Observatory. *Global Observatory*. International Peace Institute.

McDonald, S. L., Lewison, R. L., & Read, A. J. (2016). Evaluating the efficacy of environmental legislation: A case study from the US marine mammal Take Reduction Planning process. *Global Ecology and Conservation*, *5*, 1–11. https://doi.org/10.1016/j.gecco.2015.11.009

MM v The United Kingdom ECHR (2012).

Olayemi, A. A. M., Alabi, A. H., & Buang, A. H. (2015). Islamic Human Rights Law: A Critical Evaluation of UIDHR & CDHRI in Context of UDHR. *Journal of Islam, Law*

and Judiciary, *1*(3), 27–36.

Radu v The Republic Of Moldova ECHR (2014).

Ramcharan, B. G. (1998). How Universal Are Human Rights ? *Internationale Politik Und Gesellschaft*, *4*(98), 423–438.

Reda, E., Alsheikh, T., Piper, D. L. A., & Arabia, S. (2017). Data protection in Saudi Arabia: overview | Practical Law, 1–10.

Rishmawi, M. (2005a). The revised Arab Charter on Human Rights: A step forward? *Human Rights Law Review*, *5*(2), 361–376. https://doi.org/10.1093/hrlr/ngi021

Rishmawi, M. (2005b). The revised Arab Charter on Human Rights: A step forward? *Human Rights Law Review*, *5*(2), 361–376. https://doi.org/10.1093/hrlr/ngi021

Saedén, L. (2010). *Alternative Islamic Human Rights*. *Human Rights Studies*. Lunds Universitet.

Stork, J. (2014, November 26). New Arab Human Rights Court is Doomed from the Start. *International Business News*.

Strobl, J. (2002). Data protection legislation: interpretation and barriers to research. *BMJ*. https://doi.org/10.1136/bmj.321.7265.890

Sunday Times v. The United Kingdom, Strasbourg (1979).

Tarasoff v Regents Of Univ Of California (1976).

Tasioulas, J. (2002). Human rights, universality and the values of personhood: Retracing Griffin's steps. *European Journal of Philosophy*, *10*(1), 79–100. https://doi.org/10.1111/1468-0378.00150

The Observer and The Guardian v. The United Kingdom (1991).

The United Nations, & UN General Assembly. Universal Declaration of Human Rights, 8 United Nations § (1948). https://doi.org/10.1080/13642989808406748

Tomkins, R. M. (1974). Evaluating National Health Insurance Legislation. *Hospita Administration*, 37–40.

UN. (1948). Universal Declaration of Human Rights: The Foundation of International Human Rights Law. Retrieved January 6, 2019, from http://www.un.org/en/sections/universal-declaration/foundation-international-human-rights-law/index.html

UN. (1966). *International Covenant on Civil and Political Rights*. Geneva.

UN. International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, General Assembly resolution 45/158 of 18 December 1990 § (1990). OHCHR.

UN. (2008). Arab rights charter deviates from international standards, says UN official | UN News. Retrieved February 24, 2019, from https://news.un.org/en/story/2008/01/247292-arab-rights-charter-deviates-international-standards-says-un-official

van Kampen, M. (2012). The adequacy of legislation regulating the environmental effects of mining. *New Zealand Journal of Environmental Law*, *16*.

Vogt v. Germany EHRR (1996).

Wong, Ping-hei, B. (2014). *Evaluating Hong Kong's air pollution legislation and policies*. The University of Hong Kong, Pokfulam Road, Hong Kong SAR. https://doi.org/10.5353/th_b5334442

Worldwide, F. (2015). Cyber security and data privacy law in Saudi Arabia — Financier Worldwide. Retrieved August 1, 2018, from https://www.financierworldwide.com/cyber-security-and-data-privacy-law-in-saudi-arabia/#.W2Hqy9Iza00