

# The Status of Women in Light of the Constitutional Development in the Kingdom of Saudi Arabia and International Conventions

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## Abstract

The rights of women are among the most essential areas that researchers look forward to in social and legal fields as they are affiliated with cultural, social political and economic fields of life. The woman is the half of the society, as they say. Her role in the family and society is undeniably great, as she takes part in building her country by doing her job and raising generations to be relied upon for the nations' progress; it was quite an important element needed for the development of legislation and the global concerns connected with rights of women at the local and global levels. The significance of the study originates by developing connection between the Saudi systems and international conventions affiliated with rights of women and responding the suspicions directed at the Kingdom of Saudi Arabia regarding women and the extent to which they fully enjoy their rights by researching the Saudi laws that regulated women's rights and adapting them following the international charters and conventions signed by the Kingdom of Saudi Arabia. We take a look at the Kingdom's Vision 2030 and the rights it holds for women, which negates majority of accusations on any derogation of women's rights at present.

**Keywords:** Kingdom's Vision 2030, Saudi Arabia, Women's Rights.

## 1. Introduction

The rights of women have been claimed by the researchers as the most critical areas as far as social and legal sectors are concerned as these revolve around the cultural, economic, political and social fields. These women have earned a significant amount of attention through the United Nations, that have laid an emphasis on all occasions equally among women and men in terms with the subjects on international conventions summarized below the flag, of which we mention:

- Convention for the Suppression of the Traffic in Persons and the Exploitation of the Prostitution of Others 1949.
- Convention on the Political Rights of Women 1952.
- Convention on the Nationality of Married Women 1957.
- Convention Against Discrimination in Education 1966.
- The two International Covenants on Human Rights 1966.
- Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) 1979.
- Optional Protocol to the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) regarding submission of complaints by individuals and groups 1999
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The International Labour Organization also gave full protection to women, through which many international conventions were concluded to protect women's rights, including:

- The International Labor Organization's Maternity Protection Convention, was revised in 2000.
- International Labor Organization Convention on Women's Night Work.

In our true Islamic religion, Sharia has paid great attention to women, as it equates them with men in creation and earning, and there is no discrimination or derogation of one over the other under any circumstances or in any field.

#### Significance of the Topic:

The significance of the research appears in building integration between the Saudi systems and international conventions related to women's rights and trying to respond to the suspicions directed at the Kingdom of Saudi Arabia regarding women and the extent to which they fully enjoy their rights by researching the international conventions in which the Kingdom participated and related to women and their rights, as well as the Saudi laws that regulated women's rights and adapting them in accordance with the international charters.

#### Research Questions:

Through this topic, a few questions come to mind, the most important of which:

1. Have the international conventions and the rights they contain for women achieved their desired goal on the global level and what is the extent of their application to our reality in the Kingdom.
2. Has the Kingdom of Saudi Arabia taken the measures necessary for internal regulations to keep up with the international conventions it signed?
3. Do Saudi regulations need to be reviewed to ensure women have more rights?

4. Are women in the Kingdom given the rights granted by Saudi regulations?
5. Has the Kingdom's Vision 2030 included what enhances and supports the rights of Saudi women as provided in the international conventions and Saudi regulations?

#### Research Objectives:

Reaching a conclusion that indicates the extent to which Saudi women can enjoy all their rights, whether approved by international conventions or in accordance with Saudi regulations.

Through this research, we aim to urge the relevant authorities to continue this victorious process that supports and empowers women locally and internationally.

#### Research Limits:

The research limits cover local and international jurisdiction since the founding of the United Nations in 1945, the Kingdom's position on women's rights to the present day, and what the Kingdom's Vision 2030 included regarding this matter.

## 2. Research Methodology:

This research used the analytical approach, discussion and analysis of local and global legal texts that were related with rights of women at the regional and global levels, to reach the desired conclusion: the extent to which women enjoy all the rights provided to them by local and international legislation.

#### Previous Studies:

- Nareman Fadil Al-Thumeri: International and legislative mechanisms for protecting women's rights in light of globalization, Master's thesis, Faculty of Law, Middle East University, 2014 AD.
- Doredi Nareman: Women's Rights in International Conventions, Master's thesis, University Mohamed Khider Biskra, Faculty of Law and Political Science, Algeria, 2015 AD.

#### Research Terms:

A woman– when being defined with Al – is used to mean a man's female: Islam gave women all their rights - This world is all temporary conveniences, and the best temporary convenience of this world is a righteous woman (Hadith) , and in our research about women's rights, we mean that she is the subject of the right, i.e. for whom the right was established.

International charters: Charter, noun plural: charters, and what charters are - Charter: An convention to do something; Covenant , a charter in the language of the law: what two or more people formally pledge or ally to, an association formed for joint action, the Human Rights Charter: (the law) the law of individuals, a summary of the rights that people are entitled to under being human, regardless of their citizenship, nationality, racial or ethnic origin, language, sex,

sexual orientation or abilities: human rights become binding when they are enacted in conventions, charters or treaties, or when they are recognized as international customary law .

#### Research Plan:

First Theme: Women's Rights according to Saudi regulations and the Kingdom's Vision 2030.

First topic: women's rights in Saudi regulations.

Second topic: women's status in light of the Kingdom's Vision 2030.

Second theme: Women's Rights according to international charters and conventions.

First topic: Women's rights in general international conventions related to human rights.

Second topic: Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) as a specialized convention.

#### First theme

##### Women's Rights according to Saudi regulations

There are multiple rights provided through the global conventions and charters that can be generalized like international conventions connected with CEDAW or the Universal Declaration of Human Rights that might acknowledge an idealized quality within the women and men in terms with all sort of obligations and rights that are provided through Under internal regulations, the Kingdom did not ignore establishing rights for women that distinguish them from men due to their circumstances, except for women who require special treatment in some areas. Anyone who follows the Basic Law of Governance through the founding father, His Excellency King Abdul Aziz bin Abdul Rahman Al-Faisal Al Saud, will notice that it has not neglected the role of Saudi women in all aspects of life. His Excellency the late King Abdullah bin Abdul Aziz also issued the noble royal decree for women's membership in the Shura Council, and the Kingdom's Vision 2030 did not neglect to emphasize the special status of women and the extent of the Kingdom's attention to them.

#### First topic

##### Women's Rights in Saudi regulations

In this topic, we deal with examples of Saudi regulations that granted women, besides their equal rights with men, additional rights of their own to keep up with women's special circumstances. Before we get to the texts of these regulations, we would like to emphasize an important point, which is that the texts of international charters and conventions that the Kingdom ratified or joined at the global level are binding texts that any internal legal text may not contradict, rather, they complement each other at the international and local level.

#### First: Labor Law

The labour law is primarily related to the right to work and the freedom of the individual to choose the type and place of work. Work is considered a national right and duty and an honour

guaranteed by regional rights, charters, and national constitutions, as the Basic Law of Governance establishes: "the state facilitates work fields for every capable individual, and enacts regulations to protect the worker and the employer." The Saudi Labor Law provided a set of rights enjoyed by the worker vis-à-vis the employer, and the law did not differentiate between a male and a female worker in the enjoyment of these rights in addition to the rights it provided for the working woman in particular. The labour law assigned an independent section for provisions related to women's employment, taking into account the theme related with the subject on special provisions found to be consistent on the kind of work where women must bring their working hours into practice. The regulators of Saudi have assigned various constrictions and controls affiliated with women's work in recognition of the nature of her body composition and the circumstances she goes through during her married life, such as pregnancy, childbirth, breastfeeding and caring for her child, and other situations that require her to have the appropriate legal status in terms of vacations, working hours, and working conditions . The texts of the labour law dealt with the provision for working women in articles 149 – 160 of section 9 of requirements related to women's employment, and the text contains what will be explained in the following paragraphs:

1- The law prohibits women from being employed in dangerous or harmful professions or jobs that would expose women to specific dangers or harms, so their work in them must be prohibited or restricted under special conditions .

The Minister of Labor is the one who, by his decision, determines the professions and jobs that are considered dangerous or harmful and prohibits contracting with women for any of them, such as work in mines, quarries, underground excavation work, and work in which a woman is exposed to radioactive or chemical activity, which affects her health and the health of her pregnancy.

2- Emphasis on the impermissibility of women working at night, as Article 150 of the law stipulates that it is not permissible for women to work at night for not less than eleven consecutive hours, except in cases where the Minister the Minister issues a decision issues a decision.

To further protect the rights of working women, the law did not neglect to stipulate the penalties that will be imposed on the employer who violates the provisions of this law regarding the controls on women's employment .

3- The law also indicated that the employer must provide medical care during pregnancy and childbirth, and the facility where woman works shall bear the expenses of the medical examination, treatment and childbirth expenses.

- The Saudi Labor Law prohibits postpartum women from being employed under any circumstances during the six weeks following childbirth, and they have the right to extend their leave for one month without pay.

The law did not neglect to provide one of the most important human rights for working women, which is the right to health care, in addition to a breastfeeding break for one hour a day if the

worker is breastfeeding so that this does not affect the worker's wages. The law has obligated the employer to establish a nursery, either alone or in cooperation with other employers, or to contract with a nursery and provide nannies to care for working women's children if the number of female workers exceeds fifty, to ensure their right to social care, which is stipulated in international charters and conventions . Thus, we find that the Saudi regulator did not diminish the rights of working women in any way but rather gave them more rights when comparing the Saudi labour law with many other laws, in addition to the international conventions and charters that the Kingdom has obligated itself to join by ratification and joining those conventions that provided many human rights, whether man or woman.

#### Law of Criminal Procedure:

The law of criminal procedure was keen to preserve the status and dignity of the human being and respect his legal rights in general, so he is not detained or arrested except within the limits of the circumstances stipulated in the law. It also prohibits subjecting him to torture or moral or physical coercion . The Law of Criminal Procedure deals with dangerous stages in a person's life, which are the stages that relate to the commission of a crime, whether he was the perpetrator of the crime or the crime was committed against him. The Law of Criminal Procedure texts affirm that no person may be arrested, searched, detained or imprisoned except in cases provided by law. Detention or imprisonment may be carried out only in places designated for such purposes and for the period prescribed by the competent authority following the provisions of the law . A person under arrest may not be subjected to any bodily or moral harm, torture or degrading treatment . The Law also affirmed the right of every accused person to seek the assistance of an attorney or lawyer to defend him during the investigation and trial . This article is considered one of the guarantees for the accused person in the criminal law in the Kingdom. This article established permissibility, which is the expression of the right without the obligation or necessity to seek the assistance of a lawyer or attorney to defend him in minor or major crimes.

If we look for women's privacy in the criminal procedure law, we find that it obligates criminal investigation officers to immediately hear the statements of the accused person who has been detained, and if it becomes clear that there is sufficient evidence for the accusation, he should be sent within twenty-four hours along with the report to the interrogator, who must interrogate the arrested defendant within twenty-four hours, then he orders him to be referred for arrest or release . However, if the person under arrest is a female, then she is not bound to provide any statement and this can be forced and detected unless she is provided the facility of adult mahram. If this does not seem quite possible then it would be carried out in solicitation . The law requires that people, their homes, offices, and vehicles have sanctity that must be maintained, And the law emphasizes the sanctity of the person and the protection of his body, clothes, money, and what he possesses. The sanctity of a home includes every place that is fenced, surrounded by any barrier, or prepared for use as a shelter .

Regarding the procedures for searching a dwelling, the law requires that the search be conducted during the day from sunrise to sunset within the limits of the authority granted by the law. The search can continue until night as long as it is conducted continuously, and it is not permissible to enter dwellings at night in the event of a crime being caught in the act .

Considering the possibility if there is no other individual besides the accused woman to be interrogated, then the officers working on the case would be accompanied through a female officer . The rules of the sanctity of the dwelling are violated if entering the home is due to request that is based on a demolition, fire or the entry to chase the assailant . The law laid down some regulations concerning the treatment of women under such circumstances, where the search is handled specially; The law also decided that a woman must be searched by a woman assigned to do so .

The name of the person searching for the woman and her identity and address would be noted in the report. Females would be searched out of the sight of men, and if the accused woman removes the items to be seized, there is no need for a search unless there is a reason that justifies the continuation . Also, if there are women inside the dwelling to be searched, the officers searching must be accompanied by a woman, and the women inside shall be given time to take cover or leave the dwelling without interfering with them if the purpose of the search is not to arrest or search said women, and they shall be afforded all necessary assistance that does not negatively affect the search or its results . All of this is only a sign of the Saudi regulator's appreciation for women in ensuring basic rights and freedoms for humans, especially Saudi women.

#### Women's Status in the Vision of the Kingdom of Saudi Arabia:

The Saudi woman enjoys a special status in the Kingdom's Vision 2030 to accomplish great achievements at the global and regional levels by being recognized by the political leadership for her scientific and job excellence despite the social challenges closing in on women who have made their distinctive mark in various scientific fields, to participate in continuing the process of progress and renaissance. The themes of the Kingdom's Vision 2030 emphasized that Saudi women are an important element of the Kingdom's strength, constituting more than 50% of the total number of university graduates. Women's talents will be developed, their energies will be invested, and they will be enabled to obtain proper opportunities to build their future in the development of Saudi society and economy . Besides of, the goal is to raise women's participation in the labour market from 22% to 30%. The Kingdom's Vision 2030 also emphasized the need to develop legislation to integrate women into the labour market sectors and raise awareness of the importance of their participation in the labour market. Also promoting the integration of women into sports and diversifying their activities within this sector by empowering women to contribute to the sports system . Also, increasing the percentage of women assuming senior positions in the Kingdom and investing in their energies and empowering them. Within this framework, the Ministry of Civil Service is adopting a program to activate remote work and increase women's participation in the civil service .

Anyone who follows the renaissance taking place in the Kingdom of will find that women have the highest regard, and this is because Women have never entered a field without achieving remarkable success. Among the most prominent measures and decisions promoting women's rights that began over the past years are:

- The system of protection from abuse and its executive regulations.
- Anti-harassment criminal law.

- Approval of the organization of the alimony fund.
- Assignment of a centre to receive reports of domestic violence.
- Establishing the Family Affairs Council and assigning one of its committees to handle women's affairs.
- Establishing family courts to hear family cases.
- Issuing driving licenses for women.
- Establishing women's employment units in the Labor Office.
- Qurrah programs support child care services for working women, Wusool to support their mobility and support self-employment, part-time work and remote work.
- Allowing women to report births, marriages, divorces, and mukhala`ah.
- Obtaining a passport without requiring the approval of her guardian and travelling without the need for a permit.
- The right to obtain a family registry from the Civil Status Department.
- The retirement age for women is raised from 55 to 60 years, similar to the retirement age for men, which is raised from 55 to 60 years, identical to that of men.
- Issuing rules to accelerate the completion and organization of cases of deprivation of marriage.
- Prohibiting the marriage of women under the age of 18.
- Women are not required to obtain guardian approval when providing or terminating services.

## Second Topic

### Women's Rights according to international charters and conventions

#### Introduction and Segmentation:

Since the founding of the United Nations, the issue of human rights has always been at the forefront of its topics. Human rights issues cast a direct shadow over all areas of international relations and are among the most important issues raised on the global, regional and local scene. They are subject to international charters and conventions that have consistently emphasized in their texts the equality of men and women in dignity and worth as human beings, as well as equality in rights and obligations; as Imam Al-Ghazali said, "Women and men are the wings of humanity with which it flies". It was stated at the beginning of the Charter of the United Nations : "We, the peoples of the United Nations, have pledged to regain faith in fundamental human rights, the dignity and worth of the human person, and the equal rights of men, women, and of nations large and small" .

#### First Section



## The Universal Declaration of Human Rights

At the beginning of The Universal Declaration of Human Rights , it was stated that the United Nations and all of its members believe in fundamental human rights ,the dignity and worth of the human person, and the equal rights of both men and women, which aim to raise the standard of life in an atmosphere of freedom . The Universal Declaration of Human Rights also emphasized the total equality between men and women in all rights mentioned in the Declaration , which include the right to life, freedom, human dignity, freedom of movement, nationality, thought, opinion, and education ... and other rights as confirmed Article 2 of the Universal Declaration of Human Rights, which affirms the right of every human being to enjoy all the rights and freedoms mentioned in this declaration, without distinction as to sex, whether male or female.

The Universal Declaration of Human Rights also affirmed the right of men and women to marry and form a family without any restrictions due to race, nationality, or religion, whether the marriage union was established or was dissolved . Those who follow the path of the Kingdom of Saudi Arabia and this declaration may notice the Kingdom's reservation on Article 16 of this Universal Declaration because it violates the provisions of Sharia regarding the prohibition of a Muslim woman from marrying a non-Muslim man. The logic of our honourable Sharia law in this restriction is not merely a restriction of freedom but rather the preservation of the family and its entity in the event of a difference of religion of the spouses and their lack of respect for each other's religion .

## The International Covenant on Civil and Political Rights:

This Covenant dealt with civil and political rights in a more detailed and comprehensive manner than the Universal Declaration of Human Rights, as it included some rights, such as the right to self-determination. The Covenant prohibited states from calling for war or calling for national, racial, or religious hatred that constitutes incitement to discrimination, hostility, or violence . Article 3 of the Covenant emphasized the need for the state to guarantee the equality of men and women in the civil and political rights it regulated . Article 23 of the Covenant also emphasized the importance of the family. It stressed the importance of equal rights in more detail for the spouses and their duties upon marriage, during the establishment of the marriage, and at its dissolution .

## The Covenant on Economic, Social and Cultural Rights :

This Covenant set out some rights in more detail than what was stated in the Universal Declaration of Human Rights , as it stipulated the right of peoples to freely dispose of their wealth and natural resources without prejudice to any obligations arising based on the requirements of international trade and economic cooperation, the basis of which is the equality of states in sovereignty and which is based on the principle of mutual benefit following the provisions of international law. The provisions of the Charter also affirmed that no people may be deprived of their means of living .

## Second Theme

### Convention on the Elimination of All Forms of Discrimination Against Women

Various texts emphasize equality between men and women in all rights, but the international community felt that these conventions were not sufficient to provide real protection for women's rights, so it turned to adopt a group of international conventions and declarations related to women's rights, the most important of which was the Convention on the Elimination of All Forms of Discrimination Against Women 1979, known as (CEDAW), where this Convention was set down the general framework for the protection of women . The Convention equated the discrimination at the level of governmental practices or between individuals themselves. The Convention worked to remove the stereotypes about the role of women and men in society on the cultural and social levels, and it permitted states to take several temporary positive measures to accelerate the achievement of actual equality between men and women .

To achieve the main aim of the Convention, which is the "elimination of discrimination against women" , it imposed several obligations on states, the most prominent of which are:

- a. Including the principle of equality between men and women in national constitutions or legislation applied in member states, if not yet incorporated therein, and ensuring the realization of this principle by legislating this principle through legislation and other appropriate means to change or abolish existing laws, regulations, customs and practices that constitute discrimination against women .
- b. States commit to enforce legal protection for women's rights on equal terms with men and to ensure effective protection of women, via specialized courts and other public institutions to protect women against any act of discrimination .
- c. States parties refrain from embarking on any discriminative act or practice against women, ensure that authorities and public institutions shall act following this obligation, and abolish all national criminal procedures that discriminate against women.

There are various rights that the Convention provided for women without discrimination between them and men, including:

- Women's right to exercise political life by granting them the right to vote in all elections and public referenda and to be eligible for election to all publicly elected bodies.
- The Convention also emphasized the need for women's participation in formulating government policy and its implementation and for them to hold public office on equal terms with men.
- In addition to that, the Convention did not neglect to stipulate the need to activate the role of women in the country's public life through their participation in non-governmental organizations and associations concerned with the public and political life of the country .

The Convention also ensured that women, on equal terms with men and without any discrimination, had the opportunity to represent their government and country at the international

level through the country's participation in international organizations and to participate in the work of these organizations . The Convention did not neglect to stipulate women's rights, on equal terms with men, to pass her nationality to her children from her alien husband . The Kingdom had reservations about the second clause of Article 9 of the Convention relating to the nationality of children from a Saudi woman married to a non-Saudi man, where the Kingdom kept its right to apply the Saudi Arabian Nationality Regulations promulgated by Cabinet Resolution No.4 for 1374 AH, which stipulated some requirements determined by the state for the child of a Saudi woman from her alien husband to acquire Saudi nationality . The Convention stressed the need for Member States to take all measures to ensure non-discrimination against women in enrolling in schools and obtaining academic degrees in educational institutions of all categories, in both rural and urban areas, and equality in school curricula, in examinations, and the quality of study facilities and equipment .

### Women's Judicial Rights

The Convention did not neglect to ensure the equality of men and women before the law, women's right to movement and the freedom to choose their residence, equality with men in the right to conclude contracts and to administer property and equal treatment in all stages of procedure in courts and tribunals . Facilitating litigation procedures for women requires ensuring legal and effective protection through the courts by carrying out reforms to the justice system and the judicial system so that women can obtain their rights . The Convention dealt with many rights that seek to make women equal to men, including the same right to contract marriage and to choose a spouse freely, and not to contract marriage except with her free and complete consent, the same rights and responsibilities during marriage and upon its dissolution, and the same rights for children concerning guardianship, guardianship, and guardianship of children . Arab countries had reservations about Article 16 relating to marriage and family relations, which were either comprehensive, that is, about all clauses of the article, or partial, that is, only about some of the article .

Article 16 is the article that needs amendment the most because it is a package of incompatibility with Sharia, and thus, the Kingdom of Saudi Arabia has reservations about it; among those texts:

- a. Cancellation of Guardianship: just as a man has no guardian, then under this clause, any guardianship or ward ship over a woman shall be cancelled, responding to absolute equality between men and women, so that a woman may marry whomever she wants, even if he is an infidel, without the permission of her guardian.
- b. Children shall bear the mother's family name, and they bear the father's family name, which is against the provisions of Sharia.

The Convention stipulated the establishment of a committee on the elimination of discrimination against women to study the progress made in implementing the Convention and to monitor the measures taken by Member States to implement the obligations stipulated according to the texts of the Convention. Article 17 of the Convention specifies the committee's formation, powers and tasks .

### 3. Conclusion:

In this research, we discussed the Saudi regulations and the mechanism of their treatment of women and the rights granted to them by the Basic Law of Governance, so we highlighted the Saudi Labor Law and social insurance system and the rights and privileges they approved for working women, as well as the Personal Status System, which contained in several of its texts the sanctity of women and recognition of their status and privacy, as well as other systems. Then, we discussed women's rights in the texts of Saudi laws and the international Convention. We then looked at the situation of women at the various stages that the Basic Law of Governance in the Kingdom of Saudi Arabia went through and international conventions and charters such as the Universal Declaration of Human Rights and all conventions related to forms of discrimination against women (CEDAW). We explained the position of the Kingdom of Saudi Arabia regarding those international conventions and charters, in which the Kingdom spared no effort in joining, signing, and implementing them on the ground within the Kingdom of Saudi Arabia unless there is anything found in those international texts that contradicts the provisions of Sharia, which is the basic source of legislation in the Kingdom.

Through this thesis, we reached the most important results and recommendations.

The most important results:

1. In its applied legislation, the Kingdom of Saudi Arabia considered preserving women's dignity through texts that distinguished them and granted them rights commensurate with their human nature, and that preserved their dignity.
2. The Kingdom of Saudi Arabia has spared no effort in participating in or joining any international conventions, whether general or specific, related to human rights or related to women's rights.
3. The Kingdom's Vision 2030 did not neglect to emphasize the importance of women participating in all fields to advance Saudi women and increase their participation in all aspects of life in the Kingdom.

The most important recommendations:

1. We recommend reviewing all legislation and working to continue the awakening to eliminate all forms of discrimination against women, in line with international conventions related to women's rights.
2. We recommend spreading a culture of national laws and international conventions among all elements of society.
3. There is a need to change behavioural, cultural, and social patterns that exclude women through workshops, seminars, and lectures to raise awareness of women's rights.
4. Improving the terms and conditions of women's work and developing social insurance and civil retirement systems in a way that helps increase their economic participation.

5. The call to conclude the Universal Declaration of the Rights of Muslim Women, including restating women's rights following the provisions of Sharia and the customs and traditions of Islamic societies.

6. The need to develop mechanisms and plans to follow up on member states that have signed the United Nations Charter and the conventions related to women and the extent of their commitment to implementing those conventions.

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