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CONTRIBUTION OF THE LEGAL REFORMS IN KSA TOWARDS WOMEN'S LEGAL EMPOWERMENT IN EMPLOYMENT

ABSTRACT

KSA is one of the well-known Middle Eastern countries as an oil producer, an economic advantage that plays an important role in shaping the characteristic of its society. Reliance on oil had the effect of significantly reducing the numbers of female's participation in the public sphere and economy. Realising the effect of such low participation, the country started undergoing several developments recently. The purpose of this article is to analyse the most apparent development plans of legal reforms pertaining to women's employment. The major reforms took place in the country are those opening opportunities for women in The Ministry of Justice and The Ministry of Defence, those introducing new university majors and the those annulling the guardianship system, reforms that enable Saudi women to drive and obtain Identification Cards. In addition to several reforms in Civil Status Law and Labour Law and overall reforms related to women in leadership positions as the article would discuss. This article aims to appraise the reforms that opened new areas for women and encouraged them to participate in the economy, nonetheless, it argues (as a contribution to research) how this top-bottom approach takes long time for changes to take place in the society. It calls for the use of different approaches along the reforms. It suggests a bottom up approach of legal empowerment, starting from changing people's minds and women's agency and self-conscious to accelerate the process of changing women's status, thus leading to more participation in the economy as aspired.

Keywords: KSA, women's legal empowerment, Legal reform, employment, bottom-up approach

1. INTRODUCTION

The significance of women's economic participation has been acknowledged worldwide; most countries and developmental organisations share the aim of eliminating stereotypes and social norms that visibly affect women's right to employment. Firstly, legal factors, such as unclear national legislation and

enforcement procedures have contributed to the limitations of women's rights and empowerment.¹ Secondly, social norms and society's patriarchal traditions also play an important role in hindering women's participation in the economy. Therefore, the significance of social and legal empowerment of women lies in the fact that they ensure women's access to social and legal protection and enable women to have choices and act in the economic sector as agents² individually or through representatives.

The significance of women's legal empowerment mostly appears in creating a new social constituency. That is, by fostering women's participation in society through empowerment, by giving them a choice to act as agents in all spheres, a new social constituency would be created. Empowered women would come about and would be able to question the bases of norms, which affect their participation in the economy. Saudi women are indeed emerging as a divergent constituency, acting as agents with their own interests and projects. Nonetheless, Saudi women are still in need of empowerment, in fact women's legal empowerment in employment is an area in need of research in the country. The United Nations Development Programme (UNDP) stated, '[T]he predominant characteristic of Arab reality today seems to be the existence of deeply rooted shortcomings that stand as obstacles to building human development ... the three deficits of freedom, women's empowerment and knowledge.'³

This article tends to elaborate on women's employment and the law in KSA. It begins with presenting a literature review of Saudi women experience in employment in Saudi Arabia, with reference to the most recent governmental reforms in the country and how they impacted women in Saudi Arabia. The is then to be followed by a discussion about these reforms and women's legal empowerment to participate in the economy. The first upcoming section reviews women's position in the economic sector in KSA by addressing legal amendments relating to women's participation in the country's economic development.

¹ Goulding, K., *Gender dimensions of national employment policies: A 24 country study*, Geneva: International Labour Organization, 2013 and Chacko, P., *Women's economic empowerment in the Indian Ocean region through gender equality in work: building a common agenda* 13 Journal of the Indian Ocean Region 1, 2017.

² Kabeer, N., *Resources, agency, achievements: Reflections on the Measurement of Women's Empowerment* 30 Development and Change 435, 1999

³ United Nations Development Programme, Regional Bureau for Arab States, *The Arab human development report 2000*, Building a knowledge society, United Nations Publications, 2003.

2. LAW REFORMS RELATED TO WOMEN'S EMPLOYMENT IN KSA

Understanding several historical, cultural, customary, and religious factors is important in order to empower women in KSA's economy. Saudi Arabia has been criticised for taking the most restrictive approach in regard to women's participation in civic life.⁴ Recently, KSA started to undergo major changes in relation to women's participation in the economy. In fact, it has even become a requirement for the country to initiate those social and economic reforms. KSA realised the risk of relying on oil as the only source driving the economy; oil demands are decreasing, and the earth's reserves are declining in addition to the growing number of KSA's population.⁵ Some of the examples undertaken in the country include introducing jobs that were previously limited to males and making them available to women such as Soldier rank positions, Sales/retail positions, Passport control and Air traffic control.⁶

The recent decades witnessed more highlights on facilitating access of Saudi women to employment opportunities; women became more involved in the country's goals and plans. Many of the disregarded issues on women's equality are being addressed, prospects and opportunities for Saudi women are being provided as part of the execution of the Crown Prince Mohammed bin Salman's proposal for transformation of the economy in the country⁷, which is mostly translated in vision 2030. In pursuant to the recently proposed country's plan, vision 2030, KSA has issued various laws in commitment to its new policies to fulfil the rights of women to equality. It has taken several reforms to eliminate discrimination against women in employment such as allowing for travel, removing restrictions of women's free movements at night, and offering freedom in the workplace and offices. Additionally, introductions of improvements in entrepreneurship policies; access to credit is made easier to women by removal of gender discriminatory regulations and ascertaining women's equal recognition in contracts as signatories.⁸

⁴ Kibria, N., *Muslims in Motion: Islam and National Identity in the Bangladeshi Diaspora*, Rutgers University Press, 2011, 125.

⁵ Soekarba, S., *Determinants of Patriarchy in the Middle East: Hope for the 2030 Vision in a New Saudi Arabia*, 365 Advances in Social Science, Education and Humanities Research, 2018. (2nd International Conference on Strategic and Global Studies. Atlantis Press, 2019).

⁶ Parveen, M., *Women empowerment: New paradigm shift of Saudi women into labor workforce* 17 Society and Business Review 1, 2022

⁷ *Ibid.*

⁸ World Bank Group, *Women, Business and the Law 2021*, International Bank for Reconstruction and Development / The World Bank. 31 <

The legal reforms play a role in strengthening the position of women against discriminatory practices; thus, policies, legal and regulatory changes assist in achieving gender equality at work.⁹ Nonetheless, law reforms may not necessarily be effective if not combined by social and legal empowerment of women. Such empowerment would result in achieving improvement in the social and economic structures that contribute to inequality.¹⁰ Moreover, ensuring women's social empowerment would result in access to legal and social protection needed in the economic sector such as anti-discrimination laws, childcare and social protection.¹¹ The upcoming subsections would analyse the most relevant governmental reforms related to women's economic rights that are taking place in the country.

2.1. Saudi Women for the First time in The Ministry of Justice and The Ministry of Defence

One of the reforms the country has enacted to advance the rights of women to participate in the economy is enabling women to work in the Ministry of Justice for the first time in 2017. The opened posts were administrative assistants and social, religious and legal researchers. The Ministry has announced that it is working towards attracting the best talents who will contribute to the realization of the Ministry's vision and the country's development. By offering the opportunity to both men and women to become part of the ministry, it is stressing its support of universal participation and gender equality.¹² Later in 2020 the Ministry of Justice appointed 100 women for public notary positions as a part of the Ministry's plan to expand women's participation in the legal sector.¹³ Saudi women undertook these opportunities, the number of women working with the Ministry of Justice in all 13 regions in KSA are 2164 compared to the 35861 male in the profession according to the data released in May 2021.¹⁴ The

<https://openknowledge.worldbank.org/bitstream/handle/10986/35094/9781464816529.pdf?sequence=7&isAllowed=y> > accessed 2 December 2021 and Parveen, *op. cit.* note 6.

⁹ Chacko, *op. cit.* note 1.

¹⁰ *Ibid.*

¹¹ *Ibid.*

¹² Ministry of Justice, Employment at the Ministry of Justice ,2021 < <https://www.moj.gov.sa/English/Ministry/recruitment/Pages/default.aspx> > accessed: 29th November 2021.

¹³ Ministry of Justice, *Saudi ministry of justice appoints 100 women as public rotaries*, 2020 < <https://www.moj.gov.sa/English/MediaCenter/news/Pages/NewsDetails.aspx?itemId=633> > accessed 4th December 2021.

¹⁴ Open Data, *Manpower in the Ministry of Justice*, May 4, 2021 < <https://data.gov.sa/Data/en/dataset/manpower-in-the-ministry-of-justice/resource/c879f874-d7fc-49c0-8368-56f03c20b1dc> > accessed 6th February 2022.

Ministry praised its female employees whose level of participation in public sector has risen and have been empowered as number of them were assigned with supervisory tasks.¹⁵

Similarly, KSA has also enabled women to participate in the security field. Saudi women for the first time are allowed to serve as soldiers in the internal security. In 2019, KSA's General security proclaimed that Saudi women can now apply to soldier ranks positions.¹⁶ In 1st September 2021, the first batch of women soldiers have graduated from the Armed Forces Women's Cadre Training Centre after completion of a 14 weeks training course.¹⁷ Women are now enabled by the law to sign up to join the Saudi Arabian Army, Royal Saudi Navy, Royal Saudi Air Defence, the Armed Forces Medical Services and the Royal Saudi Strategic Missile Force.

Both reforms opened new opportunities for women by attracting women's talents outside the traditional sectors of health and education. Nonetheless, it is still to be established if women are empowered by those opportunities. A study asserted that even if more jobs are created for women in KSA, Saudi women would be in a dilemma between their career bath on one hand and the traditional female roles rooted in the conservative society on the other hand.¹⁸ Therefore, it is not clear whether women are going to join the sectors had the culture and tradition been disregarded, one could assume certain forms of women's empowerment is needed. This article argues for consideration of feminists' dimensions of women's empowerment in line with law reforms and jobs creation. In the above situations, KSA's approach to women empowerment seems to be generally providing women with the opportunity to engage in the economic and social spheres of life.¹⁹ We argue that to empower women, women's access to valued resources have to translate into changes in their capacity for agency, and consequently challenge the gendered structures of constraint.²⁰ Therefore, for Saudi women to be empowered to work on these fields, they should have an agency to challenge the traditional structure as Batliwala elaborated, empowerment is 'the process of challenging existing power relations, and of

¹⁵Arab News, *Saudi Justice Ministry praises female employees*, December 2021 < <https://www.arabnews.com/node/1978611/saudi-arabia> > accessed 6th February 2022.

¹⁶ Parveen, *op. cit.* note 6.

¹⁷ Saudi Gazzette, *First batch of Saudi women soldiers graduate*, 2021 < <https://saudigazette.com.sa/article/610477> > accessed 4th December 2021.

¹⁸Al-Asfour, A.; Khan, S., *Workforce localization in the Kingdom of Saudi Arabia: issues and challenges*, 17 Human Resource Development International 2, 2014

¹⁹ Sushama, S., *Women and Empowerment– Approach and Strategies*, Discovery Publishing house, New Delhi: India, 1998.

²⁰ Kabeer, N., *Resources, agency, achievements: reflections on the measurement of women's empowerment*, 30 Development and Change 3, 1999.

gaining greater control over the sources of power'.²¹ Other example of recent reforms includes opening more diverse university qualifications for women in addition to the annulment of guardianship system, which is to be elaborated next.

2.2. Saudi Women with New University Majors and the Annulment of The Guardianship System

Allowing women to get access to different qualifications at the universities is also a way of realizing women's rights to work and removing educational constrains. KSA opened the doors of many university schools for women that have been considered as "men only" qualifications, such as flights schools.²² Saudi women currently can study aviation in the country and seek employment as part of the governmental plans. They can pursue careers as co-pilots and cabin crew. Women in KSA constituted the majority of university graduate for decades. Recent statistics show that female graduate constituted 75% in 2010, slightly fluctuating over the years to constitute 55.8% in 2019.²³ Nevertheless, their educational background does not guarantee them jobs after graduation. That is, the educational system does not simply equip them with the skills and background needed to compete in the labour market.²⁴ Moreover, since most of female graduates hold degrees in education, human sciences, Islamic and Arabic studies, their numbers outweigh the jobs available in these fields. Besides, the demand of labour market of computer science, technology and management is different from the educational output.²⁵ Those factors explain the reason of the low rate of Saudi female participation in the labour market, in addition to the social, cultural, and Islamic suitability²⁶ as important factors affecting their choices and participation in the economy.

²¹Batliwala, S., *The Meaning of Women's Empowerment: New Concepts from Action*, in Sen, G.; Germain, A.; Chen, L., (eds), *Population Policies Reconsidered: Health, Empowerment, and Rights*, Harvard Center for Population and Development Studies, Boston: MA, 1994.

²² Saudi Gazette, Flight school is opening doors for Saudi women, 2018 < <https://saudigazette.com.sa/article/539263/SAUDI-ARABIA/Flight-school-is-opening-doors-for-Saudi-women> > accessed 4th December 2021.

²³ Statista, 'Share of female graduates in Saudi Arabia from 2010 to 2019' < <https://www.statista.com/statistics/1118988/saudi-arabia-share-of-female-graduates/> > accessed 7th February 2022.

²⁴ Al-Asfour, A. et al., op. cit. note 18; and Al-Munajjed, M., Women's employment in Saudi Arabia: a major challenge, Booz & Co, 2010 < https://www.arabdevelopmentportal.com/sites/default/files/publication/235.womens_employment_in_saudi_arabia_a_major_challenge.pdf > accessed 7th February 2022.

²⁵ Al-Munajjed, Loc. cit.

²⁶ Al-Asfour A. et al., op. cit. note 18.

Another reform in KSA is the annulment of the guardianship system in 2019 which has had great impact on women's life. The annulment has enabled women to apply for jobs without the requirement of a guardian's consent and to travel for the sake of employment without the requirement of guardianship approval documents. The law enabled them to obtain their passports for such reasons. Article 2 of Travel Documents Law²⁷, stated that passports are only granted to male Saudi guardians. This has been amended to '[a] passport may be granted to any person who has Saudi citizenship'²⁸. The amendment allows women to obtain their passports without guardians' approval.

These contemporary changes are in line with Vision 2030 intending to shake up the *status quo* of the cultural and socioeconomic fabric of the country and liberalize its conservative social dynamics.²⁹ These reforms indicate the attention paid by KSA to empower women economically and socially too, nonetheless, it is to be determined if this approach sufficiently empowers women to participate in the economy. Economic empowerment of women refers to progression of women to be self-sufficient to give rise to earning from the developmental projects³⁰ while social empowerment addresses areas of gender discriminations that persist among male and female in the society.³¹ While vision 2030 aims to empower women socially, politically and economically, this article argues for the significance of legally empowering women as an important approach to reach the economic goals set for women in Saudi Arabia.

Since studies revealed that KSA have recognised women as key players in contributing to the economic growth if given the opportunity,³² women's legal empowerment is expected in this thesis to significantly contribute to women's participation in the economy. The reason is that it would focus on women's direct capacity to exercise their rights. They would be able to utilize what have been

²⁷ Bureau of Experts at the Council of Minister, Travel Document Law, 2000, Royal Decree /M24 amended by Royal Decree M/134 <
<https://laws.boe.gov.sa/BoeLaws/Laws/LawDetails/e29f08fa-d53e-4944-b22b-a9a700f17fd9/1>> accessed 30/7/2021. Also, at <
<https://laws.boe.gov.sa/BoeLaws/Laws/LawDetails/e29f08fa-d53e-4944-b22b-a9a700f17fd9/1>> accessed 30/7/2021. Also, at <
<https://laws.boe.gov.sa/BoeLaws/Laws/LawDetails/e29f08fa-d53e-4944-b22b-a9a700f17fd9/1>> accessed 30/7/2021.

²⁸ *Ibid.*

²⁹ Spittler, R., *Blurry vision: institutional impediments to reform in Saudi Arabia*, (master's thesis) Naval Postgraduate School, Monterey, CA, 2017

³⁰ Elliot, C., *Global Empowerment of Women: Responses to Globalization and Politicized Religious*, Routledge, New York, 2008.

³¹ Parveen, , *op. cit.* note 6.

³² Agboola, M., *Female Labour Force Participation in Saudi Arabia and its Determinants*, 1 The Polish Journal of Economics 305, 2021.

provided for them by the law. The definition adopted in this paper of women's legal empowerment is that it is a 'process of systemic change through which the poor and excluded become able to use the law, the legal system, and legal services to protect and advance their rights and interests as citizens and economic actors'.³³ The upcoming paragraphs are going to use some more examples of the reforms taken by KSA to find out the need for women's legal empowerment in the country.

2.3. Saudi Women's Ability to Drive and Obtain Identification Cards

Along with the Saudi reforms that eases women access to employment is lifting the driving ban in 2018. By examining the original Saudi Traffic Law³⁴, the system clearly adopts a gender-neutral language. Words like "driver" or "person" are used without gender specification which indicates that driving licences should have been issued to males or females. Therefore, one could stipulate that the long-standing ban was based only upon customs and traditions as Islamic law does not prohibit women from driving as well.³⁵ The impact of the new policy of lifting the driving ban is economically apparent, it became easier for women to enter the workforce. Transportation issue was one of the hurdles facing women at work; some women were forced to resign from their jobs because of their relative's inability to drive them back and forth³⁶ combined with the unavailability or suitability of public transportation and the costly burden of hiring a private driver. Secondly, husbands or male are now expected to spend more time in the workforce as previously driving family members was a legitimate reason not to be present at work.³⁷ Additionally, the automotive

³³ The Commission on Legal Empowerment of the Poor, *Making the Law Work for Everyone*, 1 New York: UNDP, 2008, 3.

³⁴ Traffic Law by issued by Royal Decree No. 85, issued and published (2007) < <https://laws.boe.gov.sa/BoeLaws/Laws/LawDetails/85364e57-c01e-41ba-8def-a9a700f183e9/2> > accessed 7th February 2022.

³⁵ Hamdan, A., *Women and education in Saudi Arabia: Challenges and achievements* '6 International Education Journal 1, 2005; and Fawzi El-Solh, F.; Mabro, J., (Eds) *Muslim Women's Choices: Religious Belief and Social Reality. Cross-Cultural Perspectives on Women*, Providence: Berg Publications, 1994.

³⁶ Eleanor Abdella Doumato, E., *Women and Work in Saudi Arabia: How Flexible Are Islamic Margins?* 23 Middle East Journal 4, 1999.

³⁷ Soekarba, *op. cit.* note 5 ; and Hvidt, M., *The new role of women in the new Saudi Arabian economy*, Syddansk Universitet: Center for Mellemstudier. News Analysis, 2018

< https://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=&ved=2ahUKEwi3uZSW4KT2AhURV8AKHdviDAcQFnoECAUQAQ&url=https%3A%2F%2Fwww.sdu.dk%2F-%2Fmedia%2Ffiles%2Fom_sdu%2Fcentre%2Fcm_mellemoest%2Fvidencenter%2Fartikler

industry has boosted after the decision, expatriate drivers were released as 70% of women chose to drive after the prohibition is lifted.³⁸

Another amendment is the right of women to have their own national identification card (ID) in Article 67 of the Civil Status Law.³⁹ Guardianship approval for women to get an ID card has been abolished and it is now only required for male and female minors under the age of 15. In terms of employment, ID card amendment has the effect of accelerating the process of being employed; it became easier for employers to verify the identity of the applicants. In order to fully participate in the economy, women's access to identification cards has to be eased. Unequal access to identification limits women's economic opportunities as proof of identity is necessary to sign an employment contract, to open a bank account, or to borrow from a financial institution.⁴⁰ There is a significant link between access to identification and financial inclusion of women⁴¹, enabling them means that they can access to bank loans, they can open their own business⁴² and would be less likely to face human rights violations. Those reforms seem to advantage women; nonetheless, it is to be seen if they contributed to their self-agency and empower them. Similar reforms are taken in some civil laws and labour regulations that are to be discussed next.

2.4. Women's Related Reforms in Civil Status Law and Labour Law

The major changes to empower women have been in the Civil Status Law and in Labour Law, these reforms have elevated women's capacity to work and be employed. In terms of women's rights in Civil Status Law, some amendments have been taken to ensure women's equality. For example, Article 33 amendment

%2F2018%2Fhvidt%2Barticle%2Bapril%2B2018.pdf&usg=AOvVaw3VdDumVUTAqn
PFByQyWmwB > accessed 1st March 2022.

³⁸ Rizvi, L., and Hussain, Z., *Empowering woman through legal reforms evidence from Saudi Arabian context* 64 International Journal of Law and Management 2, 2022.

³⁹ KSA Civil Status Law, issued by Royal decree No. M7 1986 Cabinet decision No. 1(21/12/1986) and published (09/01/1987), Article 67 Amended by Royal Decree M/28, Issued on 2nd April 2013.

⁴⁰ Braunmiller, J., *The importance of women's equal access to identification in times of a global crisis*, World Bank Blogs, 2020 <
<https://blogs.worldbank.org/developmenttalk/importance-womens-equal-access-identification-times-global-crisis> > accessed 5th December 2021.

⁴¹ *Ibid.*

⁴² The Global Findex Database 2017<
https://globalfindex.worldbank.org/sites/globalfindex/files/2018-04/2017%20Findex%20full%20report_0.pdf > accessed 1st March 2022.

by Royal Decree M/7 of Civil Status Law⁴³ allows women to report birth of their new-born child to the authority and get a birth certificate. Males have been considered the only legal heads of households and the only one able to report, obtain and change their wife's and children's civil status documents. Previously in the article, it was only for the father or the closest male relative above the age of 18 to report birth and obtain birth certificates. Now, women have the legal capacity to exercise paternity rights over their children. Another amendment is of Article 30 of the Civil Status Law, which has been limiting women's freedom of movement and independence. The article previously states, 'a married woman's domicile is the place of residence of her husband if the marriage is still intact, and a minor's domicile is the place of residence of his father or guardian'.⁴⁴ The article has been amended to apply only on minors. Mandatory legal residency of a married women to be her husband's home is no longer applicable.

The above policies seem to put women on equal footing with men in relation to their families and promoting their independence; nonetheless, other deeper obstacles are not addressed by the reforms. Even if women can register their child, register as the head of the family and get access to identification cards, can they amend or update information in the similar manner of fathers. Would the reforms give them equal authority upon their children in terms of education and travel without documents specifying the fathers' approval. There have been instances where Saudi women act as the head of the family whether their spouses are present or not prior to the reforms but the law did not serve them, would they use the law, break the traditions, and assert independent legal residency for themselves after the reforms are questions to be examined. It has been argued that since the changes in Civil Law are imposed rather than being 'socially contracted'; there will be societal resistance.⁴⁵ The situation is that men are still regarded as the only heads of the families, and everything related to their families are connected to them.⁴⁶

Moving from Civil law reforms to Labour Law reforms, it is important to realize the reforms undertaken in the Saudi Labour Law for women. Firstly, the definition of workers in Article 3 of labour Law has been amended to include both men and women which the previous definition did not include. The

⁴³ KSA Civil Status Law, issued by Royal decree No. M7 1986 Cabinet decision No. 1(21/12/1986) and published (09/01/1987).

⁴⁴ *Ibid.*

⁴⁵ Kinninmont, j., *Vision 2030 and Saudi Arabia's Social Contract Austerity and Transformation*, Middle East and North Africa Programme, The Royal Institute of International Affairs: Chatham House, UK, 2017 <
<https://www.chathamhouse.org/sites/default/files/publications/research/2017-07-20-vision-2030-saudi-kinninmont.pdf>> accessed 1st March 2022.

⁴⁶ *Ibid.*

amendment prohibits discrimination on basis of gender, and it also extends to the process of recruitment. The Article now reads:

Work is the right of every citizen. No one else may exercise such right unless the conditions provided for in this Law are fulfilled. All citizens are equal in the right to work without any discrimination on the basis of gender, disability, age or any other form of discrimination, whether during work performance or when hiring or advertising work vacancies.⁴⁷

Moreover, women were only able to work in designated works for them as the minister of labour sees fit. In 2020, Article 149 of the Labour Law has been abolished.⁴⁸ The Article read:

It is forbidden to employ women in dangerous and harmful occupations and jobs, and the minister would specify the occupations and jobs considered dangerous or harmful and would expose women to specific dangers or harms so as to prohibit their work in such jobs or restrict them under special conditions.

All different kinds of works should now be open to women in theory; the legal constraints in the country are lifted as a part of women's empowerment plans. Previously women faced exclusion from certain sectors of economy because vocational programmes were acknowledged to take into account the difference between genders.⁴⁹ Abolishing the article has the effect of opening more opportunities to women in employment and more participation in the economy. Nevertheless, it is deeply enshrined in the society that men are the breadwinners of the family and women are to take care of the family and stay at home, what is considered 'suitable for women' was not clarified in the regulation itself which makes it even vaguer to clarify what women and society considers as suitable. One could still assume men would have priority over women in securing the jobs because policy implementations in the country have been an ongoing issue⁵⁰, in analogy to the Saudization policies where many private sectors tend to avoid hiring women due to the uncertainty of what 'suitable workplace' for women is and what is compatible with the cultural norms. Additionally, with the phenomenon of young men struggling to find jobs, it is assumed that there is a resistance to the trend of opening more areas for women to work.⁵¹

⁴⁷ KSA Labour Law, issued by Royal decree No. M/51 and Cabinet Decision No. 219 in 27/09/2005 and published in 28/10/2005, Article 142 amended by Royal Decree No. M/134, issued on 25 July 2019.

⁴⁸ *Ibid.*, Article 149 abolished by Royal Decree No. M/5, issued on 26 August 2020.

⁴⁹ Musawah for equality in the family, *Thematic report on Muslim family law and Muslim women's rights in Saudi Arabia*, 2018, 69th CEDAW Session Geneva, Switzerland.

⁵⁰ Kinninmont, *op. cit.* note 45.

⁵¹ *Ibid.*

It has to be said that Saudi employment law does not seem to explicitly discriminates against women⁵², specially that amendments have been made, however, the issue lies in the implementations of the laws. Even though the rights exist in theory, they are not worked upon in practice and women find themselves in the same position prior to the reforms. Full implementation lags on existing legislations at both international and national levels.⁵³ As a result, efforts are needed to enforce the law in practice, perhaps a follow up mechanism to be put in place by the ministry of labour to monitor the implementation of the laws and evaluate their impacts⁵⁴. Results can be attained if women are legally empowered to ask for their rights and demand full implementations. They might stablish a bureau for women affairs in the Ministry⁵⁵ for suitable policies to be put in place.

All in all, existence of external opportunities may alter women's potential reality, nonetheless, they are not empowering in and of themselves unless they enter into women's actual reality.⁵⁶ The last reforms aiming to empower women in KSA was to place them in leadership positions as the next paragraphs explains.

2.5. Saudi Women in Leadership Positions

Inclusion of women in decision making process within the legislative bodies, employing them in leadership positions or engaging them in international representation of the country are important in women's empowerment in employment and are considered areas by KSA recent initiatives too. For example, a royal decree has been issued to amend Article 3 of Law of the Consultative Council (Majlis Al-Shura) to enable women to participate in the council which has been an all-men assembly ever since. Article 3 of Shura Council Law now reads:

Majlis Ash-Shura shall consist of a chairman and sixty members chosen by the King from amongst scholars and men of knowledge, expertise and specialists, provided that women representation shall not be less than (20%) of the number of members. Their rights, duties and all other affairs shall be defined by Royal Decree.⁵⁷

⁵² Al-Munajjed, *op. cit.* note 24.

⁵³ *Ibid.*

⁵⁴ *Ibid.*

⁵⁵ *Ibid.*

⁵⁶ Brown, S., *Empowerment as Subjective Operant*, 2003, World Bank, Washington DC.

⁵⁷ Shura Council Law, Royal Order No. A/19 issued 01/03/1992 and published 06/03/1992, Article 3 of the Shura Council Law amended by Royal Order No. A/26 dated

Al-shura council advises the government on new legislations. In 2013 King Abdullah appointed the first woman to acquire a seat in the council. Women had an active and passive suffrage right in his time which led to the election of 20 women in the council.⁵⁸ Nonetheless, active participation of women in the council is still needed. Women in the council need to get involved in decision making and acquiring leadership roles as the council has been for long under the direct leadership of men.

Leadership positions in the country in general has been the monopoly of men. KSA is situated among the twenty countries where gender gap in managerial posts is as large as 80% or more according to the 2021 GGGR⁵⁹, in fact KSA figures show 93% gap in such position as the presence of women is almost rare in senior roles. For example, KSA has no female ministers at all.⁶⁰ Another example is diplomatic posts and international representation of the country that have been traditionally allocated to men. Women have just recently been able to acquire such posts. The Ministry of Foreign Affairs started to employ women in 2008, Nonetheless, women's participation in the international arena is still minimal. The ministry stressed that its top leadership positions are open to male and female alike with the requirement of experience in diplomacy which is accumulated over the years.⁶¹ Nonetheless, there were only three female ambassadors appointed by the country⁶², the first female ambassador to the USA was appointed by a royal decree in 2019⁶³, the second and third ambassadors were appointed consecutively by royal decrees in 2020 and 2021. There are still

2/3/1426 AH < <https://laws.boe.gov.sa/BoeLaws/Laws/LawDetails/b5cf540a-e6ac-426a-b348-a9a700f163de/1> > accessed 28 November 2021. [Original Arabic version].

⁵⁸ Karolak, M.; Guta, H., *Saudi Women as Decision Makers: Analyzing the Media Portrayal of Female Political Participation in Saudi Arabia*, 2020, 18 Journal of Women of the Middle East and the Islamic World 75–95.

⁵⁹ World Economic Forum, Global Gender Gap Report 2021. Insight report March 2021, < https://www3.weforum.org/docs/WEF_GGGR_2021.pdf > accessed 2 December 2021, 14.

⁶⁰ *Ibid.*

⁶¹ Arab News, *Saudi female diplomats are making great progress, says ambassador*, 2021 < <https://www.arabnews.com/node/1203406/saudi-arabia> > accessed 15th December 2021.

⁶² Alarabiyah News, *Saudi Arabia appoints third female ambassador Inas al-Shahwan to Sweden and Iceland*, 2021 < <https://english.alarabiya.net/News/gulf/2021/04/22/Inas-al-Shahwan-appointed-as-Saudi-Arabia-s-Ambassador-to-Sweden-and-Iceland> > accessed 14th December 2021.

⁶³ Alarabiyah News, *Princess Reema bint Bandar: Saudi Arabia's first female ambassador*, 2019) < <https://english.alarabiya.net/features/2019/02/24/Princess-Reema-bint-Bandar-Saudi-Arabia-s-first-female-ambassador> > accessed 15th December 2021.

clearer policies and empowerments needed this area. Recently in 2023 more two ambassadors are appointed⁶⁴ but no policies or regulations enacted.

In conclusion, this section examined the most recent Saudi reforms in relation to women's empowerment. It highlighted whether they have the effect of empowering Saudi women, and whether they facilitate their access to the labour market as a way of overcoming patriarchal traditions and customs along with a proposal of the use of women's legal empowerment as an approach that assists in attaining the most favourable results of the reforms. It pointed out how legal reforms are important steps to empower women; nonetheless, continues work towards ending guardianship and patriarchal believes in the country is required⁶⁵ for economic development. Additionally, women individual and collective abilities to identify their rights and interest and work towards them by making strategic choices⁶⁶ is what Saudi women need.

The upcoming section is going to highlight the impacts of the elaborated reforms on Saudi women's agency and if it is enough to empower Saudi women to participate in the economy.

3. KSA DISCOURSE: ARE LEGAL REFORMS ENOUGH?

This section starts with a discussion of the possible impacts of the law reforms upon norms and the society. It is then followed by the statistical impact of reforms taken in KSA. The section would then conclude with general remarks on the effects of policy changes on the country.

As highlighted in the previous section, in order to weaken or possibly eliminate gender inequality in the country, KSA appears to reform its legislation with the aim of providing equal opportunities for all in the economic sector. This approach seems to pay off as statistics show the impact of the reforms on the number of Saudi female's participation in the workforce. However, an important point to note on one hand is that this approach has been implemented in the West as a solution to gender discrimination, they assumed that gender is a social construct; thus, defining the set of attitudes and behaviours that are considered socially acceptable based on sex, and it has not ended discrimination or

⁶⁴ Saudi gazettes, *5 women diplomats represent Saudi Arabia abroad*, 2023 < <https://saudigazette.com.sa/article/630491> > accessed 4th September 2023

⁶⁵ Soekarba, *op. cit.* note 5.

⁶⁶ Maranlou, S., *Access to Justice in Iran: Women, Perceptions, and Reality*, Cambridge: Cambridge University Press, 2014.

patriarchy.⁶⁷ To the contrary, it has the possible effect of reinforcing patriarchy by promoting a universal; social attitude associated with masculinity by giving more value to work outside the household and devaluing labour in childcare.⁶⁸ Reinforcement of equal opportunities in legislations may present masculinity as the universal gender to be embraced by women to be successful. Therefore, it is proposed that legal reforms must be combined with empowerment initiatives for a balanced result. It is to give voice to the empowered and not to speak for them⁶⁹, this is required to avoid repeating similar faults such as the ongoing depiction of the West about Saudi women, many studies are speaking for them and not giving them the chance to speak for themselves.

On the other hand, policies changes and legal reforms have its positive effects, there are interrelations between household composition, norms, and policies.⁷⁰ Therefore, it is assumed that changing the policies of a country lead to changes in its household compositions.⁷¹ The society is expected to accept the changes and thus feeds the policies back into the norms⁷² and as a result, there will be a reshape of the household composition. The changes manifested by KSA's plans appears in its policies. Women are encouraged to enter the public sphere, since they are doing so, it could be assumed that the patriarchal norms are gradually changing. Nevertheless, what is difficult to be changed is not the traditional family norms and values but the institutionalised side of patriarchy.⁷³ A change of the societal norm does not have the immediate effect in changing institutionalised patriarchal policies regarding women's role in the public sphere, even though both require time and effort to be altered. Therefore, it is essential to consider the degrees of patriarchy in both the society and the policies in the country for changes.

The Saudi General Authority for Statistics (GASTAT) shows the number of women in employment throughout the years in the country. Saudi women's unemployment rates proved to be improving according to the labour market

⁶⁷ Butera, A., *The Kingdom of Saudi Arabia Through the Eyes of Saudi Women*, Lexington Books, London: UK, 2021.

⁶⁸ *Ibid.*

⁶⁹ An argument proposed by several authors such as: O'Hara, P., *Exercising agency: Women, space and Place in Saudi Arabia*, 86 *The Cornell International Affairs Review*, 2019

⁷⁰ Spierings, N., *The Influence of Patriarchal Norms, Institutions, and Household Composition on Women's Employment in Twenty-eight Muslim-Majority Countries*, 20 *Feminist Economics* 4, 2014

⁷¹ Kandiyoti, D., *Bargaining with Patriarchy*, 2 *Gender and Society* 3, 1988; and Olmsted, J., *Gender, Aging, and the Evolving Arab Patriarchal Contract*, 11 *Feminist Economics* 2, 2005.

⁷² Ross, M., *Oil, Islam and Women*, 102 *American Political Science Review* 1, 2008.

⁷³ Spierings, *op. cit.* note 73.

statistics. Saudi female unemployment rate has dropped from 31.7% in the first quarter of 2019⁷⁴ to 28.2% in the first quarter of 2020.⁷⁵ It continued to decrease reaching 21.2% during the first quarter of 2021⁷⁶. Statistics show significant decrease of the total number of unemployed Saudi women in a duration of five years, the number of females made up 55.1% of the total unemployed Saudi people in 2017⁷⁷ and currently it decreased to reach 22.3% in the second quarter of 2021.⁷⁸

From the statistics above it appears that the reforms in the country made it easier for women to get into the labour market and be employed. KSA for decades had been among the countries with low female labour force participations. Since women's empowerment was considered as one of the main pillars of the kingdom in the last country plan of vision 2030; the country started stressing on many occasions that it will continue to develop women's talents and invest in their productive capabilities. The government recognized women as great assets; therefore, it set the aims to enable them to strengthen their future and contribute to the development of their country. Those objectives have been affirmed explicitly in KSA's plans⁷⁹, especially the last 2030 vision which stressed that it would increase women's participation in the workforce from 22% to 30%.⁸⁰ The impacts of the reform accelerated the process of achieving this objective several

⁷⁴ General Authority for statistics, KSA, Labour Market Statistics Q1 2020 < <https://www.stats.gov.sa/en/news/395> > accessed 30 November 2021.

⁷⁵ General Authority for statistics, KSA, Labour Market Statistics Q1 2019 < https://www.stats.gov.sa/sites/default/files/labour_market_q1_2019_en.pdf > accessed 30 November 2021.

⁷⁶ General Authority for statistics, KSA, Labour Market Statistics Q1 2021 < https://www.stats.gov.sa/sites/default/files/LM_Q1%202021%20%28Press%20release_EN%29_1.pdf > accessed 30 November 2021.

⁷⁷ General Authority for statistics, KSA, Labour Market Statistics Q1 2017 < https://www.stats.gov.sa/sites/default/files/labour_market_2017_q1.pdf > accessed 30 November 2021.

⁷⁸ General Authority for statistics, KSA, Labour Market Statistics Q2 2021 < https://www.stats.gov.sa/sites/default/files/LM_Q2%202021En.pdf > accessed 30 November 2021.

⁷⁹ For example, kingdom of Saudi Arabia Ministry of Economy & Planning, 'The Eighth Development Plan 2005 – 2009' < <https://www.mep.gov.sa/en/AdditionalDocuments/PlansEN/8th/Eighth%20Development%20Plan%20-%20Index.pdf> > accessed 9th November 2021 and kingdom of Saudi Arabia Ministry of Economy & Planning, 2005 – 2009 'Objectives of the Ninth Development Plan 2010–2014' < <https://www.mof.gov.sa/en/about/OldStratigy/Ninth%20Development%20Plan%20-%20Appendix-مدمج.pdf> > accessed 9th November 2021; and Arab National Development Planning Portal, 'The Tenth Development Plan 2015-2019 KSA' < <https://andp.unescwa.org/node/1239> > [Arabic Version] accessed 3rd March 2022.

⁸⁰ Vision 2030, kingdom of Saudi Arabia, < https://www.vision2030.gov.sa/media/rc0b5oy1/saudi_vision203.pdf > accessed 29/7/2021.

years earlier. KSA has in fact sailed past its target of 30 % to be achieved by 2030. The figures show notable decrease of Saudi female unemployment rate and an increase of the number of employments. The labour force participation rate among Saudi females is 32.4% in the second quarter of 2021.⁸¹

Moreover, KSA has also proved significant improvement globally on women's right to work which is apparent in the 2021 World Bank's women, business, and law report. The report states that Saudi Arabia eliminated all restrictions on women's employment under the *pay* indicator.⁸² It has also eliminated all restrictions in industrial jobs, such as mining, construction, manufacturing, and the water sector, and has also lifted bans on women rights to work.⁸³ It affirmed that KSA has eliminated restrictions on women's employment in jobs previously deemed dangerous for women.⁸⁴ To be mentioned likewise is 'Saudization' later 'Nitaqat' rule in the country that aim to include more Saudis in all job sectors especially the private sectors. Private sectors were obliged to hire more women in line with the government's initiatives to employ both genders and follow the diversification plans. Despite the fear of negative social impact of the Saudization/ Nitaqat policy addressed by some studies. Mainly that the participation of females in the workforce may cause social and family problems that might resulted in a sharp increase in the number of divorce rate, same as similar policies adopted in the neighbouring countries such as the Qatarization policy.⁸⁵ Nonetheless, for KSA these recent years have witnessed promotions and enhancement of women's opportunities paving the way to their success at all levels, which has been acknowledged by several scholars.⁸⁶

Lastly, the KSA 2030 vision has been acknowledged as giving Saudi women the opportunity to prove their value, keeping pace with the aspirations of Saudi society and thus contributing to the process of economic and social development.⁸⁷ The reforms and regulations in women's favour indicate the government's intention to enhance their value and ensure their empowerment. The reforms have also contributed to a major shift in the Saudi perspective on women's rights, they resulted in finding out a lot of the obstacles women are

⁸¹ General Authority for statistics, KSA, Labour Market Statistics Q2 2021(n 167).

⁸² World Bank Group, *op. cit.* note 8.

⁸³ *Ibid* 16.

⁸⁴ *Ibid.*

⁸⁵ Al-Asfour A. *et al.*, *op. cit.* note 18; and Al-Asmari, M., *Saudi labor force: challenges and ambitions*, 16 JKAU: Arts & Humanities 2, 2008.

⁸⁶ For example, Khalid, A., *Are the Male Guardianship Laws in Saudi Arabia a Challenge to Human Rights of Women as Advocated in Islam?* 1 Journal of Human Rights Law and Practice 1, 2018

⁸⁷ Assem, A.; Kamini, D., *Issues and Challenges of Saudi Female Labor Force and the Role of Vision 2030*, 7 International Journal of Economics and Financial Issues 4, 2017

facing in many sectors specially work. It could be said that the commitment of KSA to reduce the country's gender gap and preserve the rights of women is significant. Nonetheless, there is still more to be done in order to realize women's autonomy and empowerment compared to women around the world.

The GGGR Index classified Saudi Arabia as one of the most gender unequal countries in the world. In 2021 KSA has been ranked the 149th, at the bottom ten countries out of the 156 countries in reflecting gender gap in Economic Participation and Opportunity.⁸⁸ In the overall ranking reflecting the gender gap in the countries, Saudi Arabia in the bottom 10 countries.⁸⁹ is placed in the 147 nationally and internationally. Nonetheless, in 2022 the country's position has significantly improved, it is now the 6th MENA country in gender equality and is no longer in the bottom 10 of countries reflecting gender gap in Economic Participation and Opportunity.⁹⁰ This improvement points, on one hand, to the impact of legal reforms and other initiatives undertaken in the country to empower women and further improvements are yet to be seen. on the other hand, there are still more efforts to be done in line with legal reforms.

Legal reforms as a strategy are normally not enough by its own, there is always a need for combining strategies to legally empower women in any country. This has been alleged to be true for several reasons. Firstly, there are organisations such as CLEP who focused on legal reform to empower the poor, but they encounter several obstacles and criticisms. Therefore, the strategy of legal reforms in its own was not sufficient to empower women. Secondly, women in the country proved not to be significantly affected by politics and policies, other factors such as self-efficacy, family support and economic empowerment proved to play more roles in their lives and thus they are more likely to empower them.⁹¹ Therefore, emphasis should be put on the most factors affecting women's participation in the economy to empower them.

⁸⁸ World Economic Forum, Global Gender Gap Report 2021 < https://www3.weforum.org/docs/WEF_GGGR_2021.pdf > accessed 8th November 2021, 18.

⁸⁹ *Ibid.*

⁹⁰ World Economic Forum, Global Gender Gap Report 2022: Insight Report < https://www3.weforum.org/docs/WEF_GGGR_2022.pdf > accessed 25th March 2024.

⁹¹ Al-Rashdi, N.; Abdelwahed, N., *The Empowerment of Saudi Arabian Women through a Multidimensional Approach: The Mediating Roles of Self-Efficacy and Family Support*, 14 Sustainability 24, 2022.

In KSA, time is needed for the top down approach of legal reform to enter into the social fabric of nation.⁹² It is the most common way to change societal norms in the country⁹³, changes mostly start by legal decrees, implementations and then gradually a new standard of norm would be observed in the society. The new introduction of the new reforms is expected to take time to be fully accepted by the society. This is in analogy to the introduction of education for women in the country as an example, it took time for the people to get convinced about the significance of women's education and allow their girls to join schools, colleges, and universities. Therefore, actual change of women's status is always motivated from the bottom in the country.

Legally empowering women either by legal reforms- top -bottom- approach as adopted by KSA or bottom-up approach require understanding of the society and women in the society, outlining strategies to be adopted would accelerate the changes, combining those approaches with feminists and development approaches would also assist in accelerating and understanding the situation of women in the country. This paper suggests Naila Kabeer's theory of agency and CLEP developmental approach in empowering women to participate in the economy in KSA.

4. CONCLUSION

This paper has attempted to contextualise women's legal empowerment in employment in KSA by examining the legal reforms in the country related to women. It outlined the new areas opened for women recently in the country to encourage them to participate in the economy. The paper concluded how legal orders and decrees are the usual methods adopted in the country to change a societal habits or values. It has its advantages, but it tends to take long time for the change to take place similarly to the introduction of women's education in the country. The use of different approaches, that of bottom up, starting from changing people's minds and women's agency and self-conscious are expected to accelerate the process of changing women's status thus leading to more participation in the economy as aspired.

⁹²Pilotti, M.; Abdulhadi, E.; Algouhi, T.; Salameh, M., *The New and the Old: Responses to Change in the Kingdom of Saudi Arabia*, 22 Journal of International Women's Studies 1, 2021.

⁹³ Le Renard, A., *A society of young women: Opportunities of place, power, and Reform in Saudi Arabia*, Stanford University Press. 2014.

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