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The Permanent Mission of the Kingdom of Saudi Arabia to the United Nations Office and Other International Organizations at Geneva presents its compliments to the Office of the High Commissioner for Human Rights, the Special Rapporteur on the independence of judges and lawyers, and would like to refer to the letter received regarding the call for inputs on the subject of the legal empowerment. In that regard, the Permanent Mission has the honor to attach herewith contribution of the Kingdom of Saudi Arabia to the afore-mentioned request.

The Permanent Mission of the Kingdom of Saudi Arabia avails itself of this opportunity to renew to the Office of the High Commissioner for Human Rights, the Special Rapporteur on the independence of judges and lawyers, the assurance of its highest consideration.



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This Memorandum has been drafted in response to the request of the Special Rapporteur on the independence of judges and lawyers, pursuant to Human Rights Council Resolution 44/8, to prepare his thematic report to be submitted to the General Assembly at its 78<sup>th</sup> session in October 2023 on "legal empowerment". Following is an account of the principal measures taken by the Kingdom in this regard:

- **Definitions, understandings, and varieties of legal empowerment approaches and practices**

The Kingdom's laws guarantee the equal right of every person to resort to national courts and other competent state institutions to obtain redress, reparation, compensation, and assistance - when necessary - as a result of any crime committed against him, including crimes of racial discrimination, as the system included Article (8) of the rule is basic to the ruling, that the ruling in the Kingdom of Saudi Arabia is based on justice and equality, and Article (47) also included that the right to litigation is guaranteed equally to citizens and residents in the Kingdom.

The judiciary in the Kingdom of Saudi Arabia derives its authority and principles from Islamic *Sharia* (law), which mandates justice and makes it the cornerstone of governance, and guarantees its independence. The independence of the judiciary is a constitutional principle established by *Sharia*. Article 46 of the Basic Law of Governance stipulates: "The Judiciary shall be an independent authority. There shall be no power over judges in their judicial function other than the power of *Sharia*". Similarly, Article 1 of the Law of the Judiciary states that "Judges are independent and, in the administration of justice, they shall be subject to no authority other than the provisions of *Sharia* and the laws in force. No one may interfere with the Judiciary." Article 2 of the same Law affirms that judges are not subject to removal from office except in the cases set forth in the Law". Article 69 of the same law also specifies cases of termination of service for members of the judiciary, pursuant to a decision issued by the Supreme Judicial Council. In addition, there are several other provisions that enhance the principle of judicial independence.



**- Examples of legal empowerment modalities and innovations at the community, local, national, and international level**

Lawyers are partners in achieving justice, and they exercise their roles with full transparency and independence. They adhere to trust and respect in speech and appearance, and in drafting regulations and memoranda. They also comply with the principles of honor and integrity. Therefore, both lawyers and judges are partners in achieving justice; accordingly, arguments should be based on respect and appreciation between them, especially that lawyers represent the legal aspect of the statutory guarantees provided for their clients. Lawyers enjoy a number of rights with the Judicial Council, including the following:

- A lawyer shall be entitled to obtain a professional practice license upon his fulfillment of the statutory requirements, without any kind of discrimination.
- Lawyers whose names are registered on the list of practicing lawyers shall be exclusively entitled to litigate on behalf of third parties before courts of law or the Board of Grievances or judicial committees, as stipulated in the Code of Law Practice and its Implementing Regulations.
- No court or administrative authority may refuse to recognize the right of any lawyer to appear before it on behalf of his client without legal justification.
- According to Article 13 of the Code of Law Practice and its Implementing Regulations, "Subject to Article 12, a lawyer may choose whatever strategy he may deem appropriate for defending the interests of his client and, in so doing, shall not be questioned in connection with the content of his written or oral arguments".
- A lawyer shall be entitled to have access to lawsuits and judicial papers, and to obtain data related to the lawsuits he is handling.
- The court shall give the lawyer appropriate time to peruse the documents and respond to them when required.
- The court may grant an appropriate period to the client if he has appointed a new lawyer within 15 days from the expiration of his first power of attorney, unless the case is ripe for judgment.



- The clerk shall – under the supervision of the judge – enter the minutes of the arguments in the record, stating the date and time of the beginning and end of each argument, grounds for reviewing the case, name of the judge and names of litigants and agents. The judge, clerk and persons whose names are stated therein shall sign the record. If the lawyer declines to sign, the judge shall indicate the same in the hearing record.
- All the oral statements made by the lawyer that the circuit deems relevant to the case shall be recorded.
- A lawyer shall be entitled to receive judicial notices on behalf of his client (his principal).
- A lawyer shall have the right to obtain a copy of the record indicating the facts relating to the case.
- A lawyer shall be entitled to practice the legal profession and legal advice, either individually or jointly with a licensed lawyer.
- A professional law firm may be formed between two or more lawyers whose names are registered on the list of practicing lawyers, in accordance with the provisions of the Professional Companies Law.
- A lawyer may seek the assistance of one or more non-Saudi (expatriate) lawyers at his office pursuant to an employment contract under his responsibility and supervision, and as per the work needs.
- Any lawyer who has spent a period of no less than five years practicing the profession may admit new lawyers for training.
- A lawyer may appeal against the decisions of the Lawyers Registration and Admission Committee with regard to his denied requests.
- A lawyer shall be entitled to renew his practice license or obtain a replacement in case of damage or loss after fulfilling the legal procedures.
- The Ministry of Justice shall publish the names of lawyers who have been registered in the list of practicing lawyers, immediately upon the issuance or renewal of the license. A list showing the names and addresses of practicing lawyers shall be prepared and kept at the court and at the Board of Grievances. This list shall be available for perusal by any interested party.



- A lawyer whose name has been struck off the list pursuant to a decision issued by a disciplinary committee may, after three years from the effective date of that decision, apply to the Lawyers Registration and Admission Committee to reinstate his name.
- A lawyer whose name has been struck off the list or his license revoked or who has been subject to a *hadd* (Qur'anic prescribed punishment) or any other punishment in connection with a crime that impugns integrity, may, after the lapse of five years at least from the date of execution of the sentence, apply to the Lawyers Registration and Admission Committee to reinstate his name.
- A lawyer shall be entitled to a fair trial before the Lawyers Disciplinary Committee, and he may appear in person or assign one or more lawyers on his behalf pursuant to a power of attorney issued by the competent authority, unless the Disciplinary Committee requires him to appear before it in person.
- A lawyer shall be given an opportunity to defend himself before the decision of the Lawyers Disciplinary Committee is issued and after the prosecution and lawyer's defense have been heard. Said decision shall be reasoned. The decision and the reasoning thereof shall be read out in full in a closed session. After having been notified or provided with a copy of a default decision, the lawyer shall have fifteen days to appeal.
- A lawyer shall have the right to run for and be elected to the board of directors of the Saudi Bar Association.
- A lawyer shall, pursuant to a license issued by the Public Prosecution, have the right to visit a detainee in a public prison at any time and to meet with him individually in an appropriate place inside the prison.
- An investigator shall not, during the investigation, separate the accused from his accompanying representative or attorney.
- An investigator may not seize any papers or documents delivered by the accused to his representative or attorney in connection with the performance of the service entrusted to him, nor the correspondence exchanged between them in the case.



- In all cases, an investigator shall order that the accused may not communicate with any other prisoner or detainee, and that he not be visited by anyone for a period not exceeding sixty days if the interest of the investigation so requires, without prejudice to the right of the accused to communicate with his representative or attorney.
- A lawyer may defend an accused in major crimes, provided that the accused personally appears before the court, and in other crimes, even if he did not appear, unless the court issues an order for the personal appearance of the accused, as prescribed in detail in the Law of Criminal Procedure.
- According to Article 26 of the Code of Law Practice and its Implementing Regulations, the lawyer's fees and method of payment shall be determined by agreement with his client. If there was no such agreement, or if the agreement was disputed or void, such fees shall be assessed by the court that has adjudicated that case, pursuant to a request by either the lawyer or the client, consistent with the effort expended by the lawyer and the benefit obtained by the client. This provision shall also apply to any subsidiary claim ensuing from the original case.



- **Promising approaches to partnership between lawyers and paralegals and other grassroots justice advocates.**

Not applicable

- **Shortcomings of existing judicial and other legal systems that illustrate the value of a legal empowerment approach, such as systemic discrimination, exclusion, and harms implemented within legal systems.**

The Kingdom protects human rights in accordance with Islamic *Sharia*. The Judiciary in the Kingdom is an independent authority, and there is no power over judges in their judicial function other than the power of *Sharia*. Furthermore, the right to litigation is guaranteed equally for both citizens and residents, in accordance with Articles 26, 46, and 47 of the Basic Law of Governance in the Kingdom, issued by Royal Order no. A/90, dated 2 March 1992.

The Law of the Judiciary, promulgated pursuant to Royal Decree no. M/78, dated October 1, 2007, and amended by Royal Decree no. M/141, dated June 11, 2020, emphasizes the independence of the judiciary, and defines the courts, their levels, and their jurisdictions, namely the courts of first instance, the courts of appeal, and the Supreme Court.

- In addition, the Code of Law Practice was issued pursuant to Royal Decree no. M/38, dated October 15, 2001. This Law aims to regulate the legal profession, and, in Article 19, stresses the obligation of competent courts and investigation authorities to provide lawyers with the necessary assistance to carry out their duties.

- The Kingdom is also committed to regional and international instruments, which strengthens and develops its laws and judicial bodies, as well as regional and international declarations consistent with the provisions of *Sharia*, including the Universal Declaration of Human Rights (1948), and the GCC Human Rights Declaration (2015). The Kingdom has also become a party to many related regional and international agreements. The Kingdom has expressed general reservations regarding all provisions contained in these agreements that contradict *Sharia*,



notably the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment; the Convention on the Rights of the Child and its two Optional Protocols on the Rights of the Child on the sale of children, child prostitution and child pornography, and on the involvement of children in armed conflict; the Convention on the Elimination of All Forms of Racial Discrimination; the Convention on the Elimination of All Forms of Discrimination against Women; the Convention on the Rights of Persons with Disabilities and its Optional Protocol; and the Arab Charter on Human Rights.

- **The contribution of legal empowerment and other people-centered approaches to efforts to achieve equal and effective justice for all in line with Sustainable Development Goal 16**

The Kingdom's laws observe criminal justice in line with Sustainable Development Goal 16. Articles 7, 26, 36, 37, 38 and 40 of the Basic Law of Governance stipulate that governance in the Kingdom is derived from the Book of Allah (*Qur'an*) and the *Sunnah* (traditions) of His Messenger, which both govern this Law and all other State laws. The State protects human rights in accordance with *Sharia*, and provides security to all its citizens and residents. In addition, a person's actions may not be restricted, nor may he be detained or imprisoned, except under the provisions of the Law. Residences shall be kept inviolable, and they may not be entered or searched without their owner's permission except in cases set forth in the Law. Punishment shall be carried out on a personal basis. No crime or punishment may be imposed except on the basis of a *Sharia* or a statutory provision, and there shall be no punishment except for deeds subsequent to the effectiveness of a statutory provision. Correspondence by telegraph and mail, telephone conversations, and other means of communication shall be protected and may not be seized, delayed, viewed, or listened to except in cases set forth in the Law.

The Law of the Judiciary also enhances the independence of the judiciary, and sets out the courts, their levels and their jurisdictions. The Law of Criminal Procedure and its Implementing Regulations reinforce the principle of the legality





of criminalization and punishment. It stipulates that no penal punishment is to be imposed on any person except in connection with a forbidden and punishable act, whether under *Sharia* principles or under the statutory laws, and after he has been convicted pursuant to a final judgment rendered after a trial conducted in accordance with *Sharia* principles. The Law also provides for the stages of criminal proceedings and the guarantees of the rights of the accused. These guarantees mainly include the following: He shall be presumed to be innocent and shall not be subjected to any bodily or moral harm; nor shall he be abused or tortured. He shall be advised of the reasons for his detention and shall have the right to seek the assistance of a lawyer and to communicate with any person of his choice to inform him of his arrest. His arrest or detention period shall not exceed the statutory periods. He shall only be interrogated by the Public Prosecution at its headquarters and shall be freed from his fetters during his interrogation or trial. He shall not be influenced, and his dwellings, office, vehicles, correspondence, conversations, and means of communication shall not be searched except in accordance with the provisions of the Law. His interrogation shall be documented, and he shall be tried in public. He shall have the right to object to any ruling issued against him by filing a petition for appeal, cassation, and reconsideration. He shall also be entitled to receive appropriate compensation for any harm to which he may have been subjected. Furthermore, during investigation and trial of juveniles and females, the relevant rules and regulations shall be observed.

The Law of Civil Procedure also enhances the principles and procedures for achieving justice for all litigants, which makes it complementary to the Law of Criminal Procedure. Article 7 of the Law of Regions states that the Emir of each Region shall, in accordance with the general policy of the State, and in accordance with the provisions of the Law, implement judicial rulings which have become final.

The Code of Law Practice regulates the legal profession and obligates competent courts and investigation authorities to provide lawyers with the necessary assistance to carry out their duties.



**International and regional declarations and agreements:** The Kingdom adheres to the relevant regional and international declarations, foremost of which is the Universal Declaration of Human Rights (1948) and the Cairo Declaration on Human Rights in Islam (1990). The Kingdom also complies with the treaties to which it has become a party, namely those that include principles and provisions related to criminal justice. The most notable examples comprise: the Arab Charter on Human Rights; the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment; the Convention on the Rights of the Child and its two Optional Protocols on the Rights of the Child on the sale of children, child prostitution and child pornography, and on the involvement of children in armed conflict; the International Convention on the Elimination of All Forms of Racial discrimination; the Convention on the Elimination of All Forms of Discrimination against Women; and the Convention on the Rights of Persons with Disabilities and its Optional Protocol.

- **Challenges experienced by those seeking to advance and/or implement legal empowerment approaches; and other topics that you believe may be relevant to the Rapporteur's work on legal empowerment.**

The Kingdom has guaranteed the rights of judges and lawyers, which spares them the effort of confronting challenges. You can also refer to the answers to questions 2 and 5 to be informed of the guarantees and legislation that apply to judges and lawyers.