

Age of Majority in Saudi Laws
An Epistemic Study on the Provisions of the Saudi
Arabian Laws

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English Abstract:

The study can be summed up that the definition of a person is: A person or an entity that is eligible to acquire rights and assume obligations, and Majority means: The person's eligibility to acquire rights and assume obligations, Further the age of receptive legal capacity for a natural person is: The person's eligibility to establish rights for and against him or her. Personality starts from conception, and the full receptive legal capacity requires that a person be born alive. A person who has reached the age of eighteen years according to the Saudi laws does not have full capacity, which is called a minor, and accordingly the minor provisions for liability for action apply to him or her. It is evident that the Saudi Legislator adopts the age of eighteen to be the age of majority because it is the age of majority considered in civil, commercial and criminal actions.

Keywords: Liability for actions- Receptive legal capacity- Incomplete - Minor - Natural Person.

ملخص البحث باللغة العربية:

تتلخص الدراسة بأن تعريف الشخص هو: الإنسان أو الكيان الصالح لاكتساب الحقوق وتحمل الالتزامات، والأهلية تعني: صلاحية الشخص لاكتساب الحقوق وتحمل الالتزامات، كما أن أهلية الوجوب للشخص الطبيعي: صلاحية الإنسان لثبوت الحقوق له وعليه، والشخصية تكون بدايتها من بداية الحمل، وأهلية الوجوب الكاملة يُشترط فيها ولادة الإنسان حياً، ويتضح أن المنظم السعودي سلك بأن من لم يتم السابعة من عمره لا يُعد مميزاً، وأن شرط اعتبار التصرفات منه إتمامه السابعة من عمره، من لم بلغ سن الثامنة عشرة من عمره وفقاً للأنظمة السعودية، لا يكون كامل الأهلية، وهو ما يسمى بالقاصر، وبناء عليه تنطبق عليه أحكام أهلية الأداء القاصرة، ويتضح جلياً اعتماد المنظم السعودي على سن ثماني عشرة سنة لأنه يكون سن الرشد المعتبر في التصرفات المدنية والتجارية والجنائية.

كلمات مفتاحية:

أهلية الأداء - أهلية الوجوب - الناقصة - القاصرة - الشخص الطبيعي.

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Preface:

Surely all praise is for Allah. We praise Him, seek His help, and ask His forgiveness. We seek refuge in Him from the evil of our own souls and from the wickedness of our deeds. Whomever He guides then nothing can make him lost, and whomever He makes lost then nothing can guide him. I bear witness that none has the right to be worshipped but Allah, alone, Who has no partner, and I bear witness that Muhammad is. His servant and Messenger: ﴿O you who believe! be careful of (your duty to) Allah with the care which is due to Him, and do not die unless you are Muslims¹﴾. ﴿O mankind, fear your Lord, who created you from one soul and created from it its mate and dispersed from both of them many men and women. And fear Allah, through whom you ask one another, and the wombs. Indeed Allah is ever, over you, an Observer²﴾. ﴿O believers! Be mindful of Allah, and say what is right. (70) He will bless your deeds for you, and forgive your sins. And whoever obeys Allah and His Messenger, has truly achieved a great triumph³﴾. To Proceed:

The age of majority according to the Saudi laws is one of the issues related to the statutory provisions on the various branches of the Saudi legal system. It makes it possible to identify the rights and obligations on each person and when they become binding.

¹ Surat Al Emran, Verse. 102.

² Surat An-Nissaa, Verse. 1.

³ Surat Al Ahzab. Verses 70-71.

This study aims to indicate the age of majority. It is stated in a plethora of legal provisions in several laws, royal decrees, regulations, and the decisions of the Shura Council, through which the meaning of the specific age for each type of capacity becomes clear starting from incomplete receptive legal capacity until reaching full capacity.

Through research, it saw significant to research topics related to the age of majority by defining the terms, giving an opinion about them. Then the study investigates the Saudi regulations to identify the legal provisions that regulate the issue of age and stage of capacity. Whereas the regulations stipulated the age from the stage of conception to the stage of adulthood. The study relied on legal provisions identifying the researcher's perspective about every study question. The researcher referred to the provisions of the law, the books of jurists of Islamic law and the principles of jurisprudence, interpreters of regulations, and interpreters of comparative law. The study focus was about the age of majority without discussing some of the detailed provisions or denial of legal capacity for being out of the scope of this research.

Study Importance:

The study significance comes in terms of identifying the age of eligibility, from the point of conception, person's rights, and obligations to the stage of adulthood, in which a person is responsible for his or her legal actions.

and in which a person acquires rights. Looking at the Saudi laws, they stipulated statutory provisions about the age of majority, and for each stage the rights and obligations were explained in accordance with the Saudi laws. Since these topics are among what the jurists of Islamic law and the principles of jurisprudence tackled, and since the Saudi laws stipulated them; they even were mentioned in the books of interpreters, which are among the matters that are mentioned in the civil law in the comparative law studies. The researcher tried as much as possible not to be tediously elaborate, neither provide crude detail. The researcher

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believes that this study bears enough novelty that calls for research, and hope that the reader will find in it the answers sought for.

Study Significance:

- 1- The reasons stated in the Study Importance.
- 2- The topic of the research is related to the primary issues whose provisions should be uncovered under Saudi regulations.
- 3- The desire to discuss issues that may seem postulates at first sight, yet, new rulings are explained.
- 4- Informing the researchers on the subject by enriching the legal and regulatory library with the findings of this research.
- 5- Inform the legislators of the recommendations of this research.

Study Problem:

The study problem lies in determining the beginning of the age of majority, what rights can be acquired with it, and what obligations it may incur, in accordance with the legal texts, and when does the age of the minor stage of eligibility for performance begin? Determine the age of discrimination? The beginning of the age of eligibility for minor performance, up to the age of eligibility for full performance, and the consequences of all stages of eligibility in terms of civil, commercial or criminal obligations. Since there are many statutory texts in this regard, the research found that the collection and clarification at each stage, with the clarification of some relevant provisions ; to establish the cognizance necessary for the search.

Study questions:

This research answers the question about the definition of the capacity of the natural person, and identifies the definition of

capacity in each section and stage. It also identifies the stage of complete and incomplete capacity, and the age of majority and minority, according to Saudi laws.

Literature Review:

Undoubtedly, the topic of this research was discussed, whether in introductory books, to the study of legal systems, or in civil law books, but this research was based on an a specific point, which is determination of the age of majority by legal evidence from the Saudi regulations, utilizing some provisions related to the subject matter of the research, and it is one of the issues that the researcher did not find a dedicated research about which made this study necessary.

Study Scope:

Territory: The territory for addressing this topic is the Kingdom of Saudi Arabia.

Theme: Age of Majority.

References: Saudi laws, Islamic jurisprudence, comparative laws, and other academic sources.

Timescale: Since the inception of the legal systems in Saudi Arabia.

Study Methodology:

First: Search Methods: In this research, the researcher adopted the following methods:

- Epistemic Methodology: This is done by following the parts to reach a general rule, by returning each opinion or issue to its origins, and searching for the subject of research in the Saudi laws, and the extent of their compatibility with each other.

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Second: Study Procedures: The study follows the following procedures:

- 1- Collecting academic material from its original sources.
- 2- Formulating the study in an accurate and clear academic manner.
- 3- Documenting texts and movables from their sources, and documenting opinions, ideas and attributing them to their owners.
- 4- Attributing the noble Quranic verses.
- 5- Commitment to the accepted punctuation marks.
- 6- Putting a conclusion at the end of the research that includes the research findings and recommendations.
- 7- Placing quotation marks (") when citing, and when not citation, no quotation is made, and no other phrase is mentioned.
- 8- Commitment to mentioning the book's information in full when it is mentioned for the first time, according to what is written on the book or copy, and when some information is missing such as; the date or place of publication, it means that it is not mentioned on the book or copy itself.

Study Plan: The research consists of the introduction, the study importance, the study significance, the study problem, the study questions, the literature review, the scope of the study, the study methodology, and then the following divisions:

The introductory topic is about defining the age of the majority of a natural person.

First requirement: Definition of a natural person

Part 1: Definition of a person in language.

Part 2: Definition of a person in convention.

The Second Requirement: Definition of Capacity.

Part 1: Definition of a Capacity in language.

Part 2: Definition of a Capacity in convention.

The first topic: Receptive legal capacity:

The First Requirement: Receptive legal capacity definition.

The Second Requirement: Incomplete receptive legal capacity stage.

The Third Requirement: The inception of complete receptive legal capacity.

The Second Topic: Liability for actions

The First Requirement: Liability for actions definition.

The Second Requirement: Incomplete liability for actions.

The Third Requirement: Age of majority.

Introductory Topic: Definition of the eligibility of a natural person:

First requirement: Definition of a natural person:

Part 1: Definition of a person in language:

A person in language: “The origin of the word in Arabic language indicates something of high status.”⁴ , and the person: “refers to any human being if noticed from afar”⁵ and then to a

⁴ Dictionary of language standards, Ahmad bin Faris bin Zakariya Al-Razi, Abu Al-Hasan (deceased: 395), investigated by: Abdel Salam Mohamed Haroun, publisher: Dar Al-Fikr, Publication year: 1979 A.D., Part 3, Book 3, p. 245.

⁵ The Book of the Eye, Abu Abd al-Rahman al-Khalil bin Ahmad bin Amr bin Tamimi al-Farahidi al-Basri, (deceased: 170), investigated by: Dr. Mahdi Al-Makhzoumi - Dr. Ibrahim Al Samarai, publisher: Al-Hilal Library and Publishing House, Part 4, pg. 165.

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particular person if he or she is close enough. ⁶meaning: The essence of the human being, and “anything whose bodies I have seen, I have seen it personified, and its plural is persons and people.”⁷ ; From the foregoing, it is clear that the origin of the word person in the Arabic language means the elevated thing, and it was used historically to refer to a human being, and this remains true until this present time as the word person means a human being.

Part 2: Definition of a person in the convention:

When looking at the term natural person, the word “natural” is added to the word natural”. The word “person” in the law refers to the natural person and the legal person. Therefore, from a legal perspective, the person is defined in laws, and when deliberating the opinions of the jurists and commentators of the law, they mention several definitions in defining the person, and some of them tried to explain what is meant by this term, stating: “Everyone who enjoys legal personality, or who is fit to acquire rights and assume obligations, and proves to be a natural person, who is a human being, or to a group of funds or persons such as companies, associations, and institutions.”⁸ Although, this definition, is a description of what is meant by a person, and not a definition in the academic sense.

⁶ Al Kollyyat, a dictionary of linguistic terms and differences, Ayoub bin Musa Al-Husseini Al-Quraimi Al-Kafawi, Abu Al-Baqaa Al-Hanafi, (deceased: 1094), investigated by: Adnan Darwish and Muhammad Al-Masry, publisher: Al-Ressala Foundation, Beirut, p. 325.

⁷ Tahdheeb Al-Lugha, Muhammad bin Ahmad bin Al-Azhari Al-Harawi, Abu Mansour, (deceased: 370), investigated by: Mohamed Awad Mereb, publisher: Arab Heritage Revival House, Beirut, first edition, 2001 AD, Part 7, pg. 36.

⁸ Introduction to the science of law, Prof. Dr. Ibrahim bin Suleiman Al-Harbi, second edition, 1442 AH, pg. 240.

liabilities⁹, and some bring it in the words of an object without formation¹⁰ and some go to that he is whoever he was, not every being, nor every being or formation, but rather “everyone who is fit to decide his or her rights and assume obligations.”¹¹.

These definitions included the following:

each: and (each) in the definitions shall not be appropriate; Because the definition is in fact: “A set of attributes that make the concept of a thing distinct from anything else.”¹²; This is why it is not appropriate to use the word “each”.

Creature: The word (creature) is not accurate if it intends human beings only, as it does not include every person, in addition it excludes the legal person. But if he meant every existing thing, then it may be appropriate if it fits the rest of the definition, and it is not correct to use it for a person. Because if a person is meant by it, human beings comes added.

Formation: (Formation) and the use of an entity is the most appropriate, which is what the Saudi corporate system has followed¹³ Chamber of Commerce System¹⁴; as a single entity, and

⁹ Introduction to the study of legal sciences, Dr. Khalid bin Abdulaziz Al-Ruwais - Dr. Rizq bin Maqbool Al-Rayes, publisher: Al-Shaqri, Riyadh, 1441 AH, p. 235

¹⁰ Principles of law, Dr. Abdel Fadhil Mohamed Ahmed, publisher: House of Thought and Law, Mansoura, first edition. 2018, p. 169

¹¹ Introduction to the study of law, Dr. Muhammad bin Ahmed Al-Budairat Publisher: Al-Mutanabi Library, second edition, 2020, p. 276.

¹² Methods of inference and their introductions, Dr. Yaqoub bin Abd al-Wahhab al-Bahsain Publisher: Dar Al-Rushd, Riyadh, second edition, 2001, p. 139.

¹³ Whereas, in the second article, it was stipulated that the company is "a legal person..." The Saudi Companies Law, issued by Royal Decree No. (M/132), dated 1/12/1443 AH (Corresponding with July 4, 2022).

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its plural are entities, and it is called a body or structure¹⁵. As for the word formation, it is singular, and its plural is formations, and formation for the speakers is bringing the non-existent out of non-existence into existence.

In language, it revolves around formation, structure, and creation¹⁶. Taking into account that it comes in the present tense, which does not fit the definition, and perhaps the most correct is, as previously mentioned, is to use the term “entity” rather than formation.

Therefore, and from the foregoing, and since a person is either natural or legal, and since a natural person is a human being¹⁷ This is what the jurists of Sharia and law have settled on, and as for the legal person, it means: “A group of persons or funds intended to achieve a specific legitimate purpose, for which the law recognizes legal personality to the extent necessary to achieve this purpose.”¹⁸, i.e.: The term “person” is not restricted to the human being. A person may be a group of people or funds, so here a “Person” is defined as: A person or an entity that is eligible to acquire rights and assume obligations.

¹⁴ Article No. (2) of the Chambers of Commerce Law, Issued by Royal Decree No. (M/37), dated 22/02/1442 AH (Corresponding with December 7, 2022

¹⁵ Contemporary Arabic Dictionary, Dr. Ahmed Mukhtar Abdel Hamid Omar (deceased: 1424 AH) Publisher: The World of Books, first edition, 2008 AD, p3 , p. 1974.

¹⁶ Ibid., c3p. 1974.

¹⁷ 22 Referring to references may not be appropriate. Because it is established by the scholars that

¹⁸ Introduction to the study of law, d. Muhammad Ahmad Al-Budairat, p313.

The Second Requirement: Definition of Capacity:

Part 1: Definition of Capacity in Language:

Capacity is: “It is being eligible for acquiring rights and being liable for obligations ”¹⁹ It means efficiency and merit²⁰

Capacity means: Eligibility, aptitude, and merit, which is appropriate to the subject matter of this research is eligibility. It is customary in the Arabic language to say: This person is eligible for this position, meaning He is fit for it. In the meaning indicated at the beginning, it is: Eligibility due to the obligation of rights and obligations, and therefore this is valid for one of the types of eligibility, as follows:

Part 2: Definition of Capacity in convention:

If we reflect on the definition of capacity idiomatically, we find that according to the jurists of the Sharia, it is a person’s eligibility for something, i.e. his eligibility for issuing it and requesting it from him, which is an expression of his eligibility for receiving his legitimate rights and for performing the obligations required from him.²¹ According to jurists, the capacity is: “The power of a person to prove his or her rights against others, and his or her obligations

¹⁹ Al-Jurjani Definitions Book, p. 40. The clarifications on the missions of definition, Zain al-Din Muhammad, called after al-Rauf bin Taj al-Arifin bin Ali bin Zain al-Abidin al-Haddadi, then al-Manawi al-Qahri (deceased: 1031 AH), the publisher, Allam al-Kutub, Cairo, first edition 1990 CE, p. 67. (Taj Al Arous from Jawaher AL Qamoos), Crown of the bride from the jewels of the dictionary, Muhammad bin Muhammad bin Abdul Razzaq Al-Husseini, Abu Al-Fayd, nicknamed Mortada, Al-Zubaidi (deceased: 1205), Publisher Dar Al-Hidaya, c 28, p. 45.

²⁰ Contemporary Arabic Dictionary, Dr. Ahmed Mukhtar Abdel Hamid Omar, p.1 , p. 136

²¹ Revealing Secrets, Explanation of the Origins of Al-Bazdawi, Abdul Aziz bin Ahmed bin Muhammad, Aladdin Al-Bukhari Al-Hanafî (Deceased in: 730 AH), published by Dar Al-Kitab Al-Islami, vol. 04, p. 237

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towards them and the power to use these rights and perform these obligations.”²² Scholar stated about this matter that: The capacity of a person to assume the provisions of the law, whether in connection with the acquisition of rights and the assumption of obligations, or in connection with the correct conduct of legal actions.”²³.

Considering the views of jurists of Islamic law and jurists of common law, it is evident that capacity means: The person’s eligibility to acquire rights and assume obligations. It is divided into two parts: The receptive legal capacity and the eligibility of performance, and when looking at what the jurists of law have gone to in this issue, what is clear is that the issue is due in its inception to the scholars of Islamic jurisprudence, and this is clear from what the scholars of the principles of jurisprudence have gone to; where they divide eligibility according to the division that we see in modern law books, where the scholars of the fundamentals stated the following: “The Chapter” Statement of eligibility and what is related to it. Eligibility is two types of eligibility and obligation, and eligibility to perform...”²⁴ This division will be adopted in this research.

²² The contract in jurisprudence and order, Dr. Abd al-Rahman bin Muhammad al-Zeer, publisher: University Book House, Saudi Arabia - Egypt, 1442 AH, p. 97

²³ Introduction to the study of Saudi regimes, Dr. Muhammad Ali Abd al-Salam Wafi, Publisher: Dar Al-Jawharat Al-Uloom, Saudi Arabia, first edition 1440 AH, p. 189

²⁴ Osoul Al Bazdawi - The treasure of identifying the principles, Ali bin Muhammad Al-Hussein bin Abdul Karim, Abu Al-Hassan, Fakhral-Islam al-Bazdawi (Deceased in: 482 AH), publisher: Jawed Press Karachi, p. 324

The first topic: Receptive legal capacity:**First requirement: Receptive legal capacity definition:**

If the meaning of eligibility in general is: The person's eligibility to acquire rights and bear obligations, so when a person has capacity, this is what determines the rights acquired by that person and obligations might be incurred by it.

Thus, it is in the receptive legal capacity, therefore, this capacity relates to the extent of the person's suitability to acquire rights and assume obligations, whether they are financial or non-financial.²⁵

Therefore, the origin of receptive legal capacity is only after the existence of a valid legal liability to be the subject of this obligation, and the object that is valid for the obligation is the legal liability, which is valid to be added to and cannot be added to the legal liability of others in any case, and it is one of the characteristics of the human being, and for this the eligibility for obligation means: Validity of the rule of obligation, so whoever has this competence is qualified for it to be obligatory, and whoever is not fit for the rule of obligation is not.²⁶ Eligibility for obligation is that he is a living human being with a legal liability²⁷". Some Sharia jurists claim that it is his eligibility (meaning: The human being) due to the obligation of legitimate rights for him or her and obligations against him or her.²⁸ This is the view of the jurists of Islamic law. Whereas legal jurisprudence

²⁵ Introduction to law (theory of right), Dr. Nabil Ibrahim Saad Publisher: Al-Halabi Al Hoqooqia, 2010 AD, p. 162

²⁶ Osoul al-Sarkhasi, Muhammad ibn Ahmad ibn Abi Sahl Shams al-Imaam al-Sarakhsi (Deceased in: 483), publisher: Dar al-Ma'rifah, Beirut, Part 2, pp. 332-333

²⁷ The balance of principle in the conclusions of minds, Aladdin Shams Abu Bakr Muhammad bin Ahmed Al-Samarqandi (Deceased in: 539 AH), investigated by: Dr. Muhammad Zaki Abdel Bar, publisher: Doha Modern Press, first edition, 1984, p. 0742

²⁸ Explanation of the waving on the illustration, Saad al-Din Masoud bin Omar al-Taftazani (Deceased in: 793 AH), Publisher: Sobeih Library, Egypt, P2, p. 321

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considers that the views of the scholars of the fundamentals of Islamic jurisprudence in defining the eligibility of obligation is in fact the person himself viewed from a legal point of view. Obligations, for each human being has the capacity for receiving rights, and this capacity starts from birth.²⁹ For this reason, jurists define the receptive legal capacity as: “It is the capacity of a person to enjoy the rights and assume the duties established by law”.³⁰ Therefore the scholars explained this point as: “It is being eligible for acquiring rights and being liable for obligations ”³¹. From the foregoing we deduce that, the receptive legal capacity for a natural person can be defined as: The person’s eligibility to establish rights for him or her and incur obligations against him or her.

The Second Requirement is: Incomplete receptive legal capacity stage:

The receptive legal capacity for a natural person can be defined as The person’s eligibility to establish rights for him or her and incur obligations against him or her. The incomplete capacity for an obligation is by establishing rights for him or her, not against him or her. It is for the fetus in the mother’s womb, for even though it is in his mother’s womb, it is a unique life, destined to have a soul. If this aspect is taken into consideration, then this person has an incomplete capacity for obligation. Hence, he or she has the right to inheritance, lineage, and will, and is not eligible to bear obligations of rights³² The condition that these rights are

²⁹ The Mediator in Explanation of Civil Law, Abdul Razzaq Al-Sanhouri, Publisher: Dar Al-Shorouk, first edition. 2010P.1 , p. 226.

³⁰ The General Theory of Obligations, Mohamed El-Zein, Tunisia. 1997P.1 , p. 87

³¹ Sources of commitment Dr. Khaled El-Sayed Mohamed Abdel-Majeed Moussa ,publisher: University Book House, 2017, p. 074

³² Osoul al-Sarkhasi, al-Sarkhasi, P.2 , p. 333

established for the fetus is that it is born alive. Whereas if it was a still birth, no capacity is established for it.³³

Among the statutory provisions that distinguish the Kingdom of Saudi Arabia, and its observance of the application of the provisions of Islamic law. Then, the right of the fetus in his mother's womb to have a decent living is to spend on his mother while she is pregnant as an inherent right of the wife in general, as an alimony was stipulated for her for that purpose: "Every person shall support himself or herself, except for the wife, her support is the duty of her husband, even if she was well off."³⁴ Therefore, in the event of an irrevocable divorce, this right is forfeited, except in the event that she is pregnant, as the text states: "Alimony is not obligatory for the irrevocable waiting period unless she is pregnant, in which case she is entitled to maintenance until she gives birth."³⁵ In principle, the husband does not provide support during the irrevocable waiting period, except in the case of pregnancy.

Also, the text reads: "There is no alimony for the waiting period from death unless she is pregnant, so she must receive alimony from the pregnancy's money, until she gives birth to her child. The alimony becomes the duties of the heirs. Because if the deceased had an inheritance, then the maintenance of the pregnancy would be from the child's share of the inheritance, and if the child does not have an inheritance, then the heirs of the deceased are not required to spend on the woman's pregnancy, as is the case after childbirth."³⁶

³³ Fundamentals of jurisprudence that the jurist cannot afford to be ignorant of, Ayyad bin Nami bin Awad Al-Sulami, the publisher: Dar Al-Tadmuriyyah, Riyadh, first edition. 2005, p 80

³⁴ Paragraph No. (1 From Article No. (44), of the Personal Status Law, issued by Royal Decree No. (M / 73), dated 6/8/1443 AH. (March 9, 2022)

³⁵ Paragraph No. (1) of Article No. (45) of the Personal Status Law.

³⁶ Al-Majmoo' Sharh al-Muhadhdhab, Abu Zakariya Muhyi al-Din ibn Sharaf al-Nawawi (Deceased in: 676), publisher: House of Thought, P.18 , p. 285 The clarified in the explanation of AlKharqi, by Abd al-

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However, the time of payment of alimony was not specified, especially since the fetus owns the money if it was born alive. The legal texts provide that: Support is given at the time of pregnancy, so it is mentioned in the text of the law itself, as the text stipulates: “The right of the fetus is preserved from the legacy of his inheritor, the greater of the two shares for a male or female, or more, based on an approved medical report that specifies the number of fetuses, and the rest of the heirs are given the lesser of the two shares.”³⁷ That is why it was stated at the beginning of the article “Preserved”. Therefore, it is necessary to indicate the time of paying alimony to the pregnant woman during the waiting period from the fetus’s money, if it has money, as well as how to calculate the alimony. Further, it necessary for the pregnant woman to have a judicial ruling that calculate such alimony? As the fetus does not exist, there must be a court ruling indicating the amount of alimony.

The issue of the obligation of alimony on the waiting period after the husband’s death if she is pregnant is deducted from the money of the fetus, until she gives birth to her baby, that baby, even if it has an incomplete receptive legal capacity, i.e.: That rights are established for it, not against it, we see that obligations are established against it as well. If we say obligations on the fetus, then it is correct; because the duty of paying alimony is from the baby’s money, whether it was earned from the inheritance or a will³⁸. The law put this obligation on the fetus, and these are among the issues mentioned by the scholars of Islamic

Rahman bin Omar bin Abi al-Qasim bin Ali bin Othman al-Basri Nouruddin, (Deceased in: 624), investigated by: Abdul Malik bin Abdullah bin Dahish, publisher: Dar Khedr, Beirut, first edition, 1421 AH, P.2 , p. 0919

³⁷ Article No. (240), of the Personal Status Law.

³⁸ Paragraph No. (1) of Article No. (180) of the Personal Status Law.

jurisprudence³⁹, which the Saudi regulator relied on the correct view from.

From the foregoing, the personality begins from the beginning of conception, otherwise how can the fetus have rights, and abide by some obligations from its money, so it becomes clear that the incomplete receptive legal capacity is proven to the fetus as an exception only. Because in principle there is no obligations on the fetus money, but as an exception, alimony is obligatory for a pregnant woman from the fetus's money, and this capacity at a minimum can be recognized to the extent necessary for the proportion of rights the fetus has, on the condition that the fetus is born alive⁴⁰.

The third requirement: The inception of complete receptive legal capacity:

The complete receptive legal capacity means a person's eligibility to establish rights for him or her and incur obligations against him or her. That's to say: To be fit to enjoy rights and assume duties, and when considering the issue of eligibility, the principle is that it should be complete. Because it is related to the personality, so if the eligibility for full obligation is absent, then the personality is absent.⁴¹ Thus, capacity is established for the natural person since his or her birth, and depriving persons of the receptive legal capacity for obligation requires depriving them of personality in

³⁹ Al Moghni, Abu Muhammad Muwaffaq al-Din Abdullah bin Ahmad bin Muhammad bin Qudama al-Jamili al-Maqdisi, then al-Dimashqi al-Hanbali, better known as Ibn Qudamah al-Maqdisi (Deceased in 620), publisher: Cairo Library, 1968, P8, p. 234.

⁴⁰ Such a case is what was stipulated in legal persons, where the text stated that "the company acquires a legal personality after its registration in the commercial register .However, during the incorporation period, the company has a legal personality to the extent necessary for its incorporation, provided that the incorporation process is completed" Paragraph No. (1) of Article No. (9), of the Companies Law.

⁴¹ The General Theory of Obligations, Mohamed El-Zein, P.1 , p. 87

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the first place.⁴² This capacity is proven for every human being born alive.

If the personality expresses the ability to acquire rights and assume obligations, without limitation or enumeration, accordingly it is sufficient for its availability to have the eligibility".⁴³.

Eligibility and liability are differentiated by stating that the liability is considered a legal vessel, or rather: A virtual place for rights and duties, while capacity means: The power to bear rights and duties, and to have them in the person's liability. They are a legal and discretionary matter whose existence is assessed in a living person, in order for it to be valid for proving rights and duties ⁴⁴.

Therefore, it is clear that the full receptive legal capacity requires that a person be born alive. Because before being born alive, the rules of the world do not apply to him or her before birth, except for inheritance and wills, on the condition that it was born alive.

The Second Topic: Liability for actions:

First requirement: Definition of Liability for Actions:

Performance capacity is defined as "a person's ability to exercise the right."⁴⁵ His actions hold legal enforceability.⁴⁶ Thus, liability for actions is based on discrimination. Because the discerning person is able to understand the discourse, perform some actions,

⁴² Introduction to law (theory of right), Dr. Mohammadi Farida, p. 75

⁴³ Introduction to law (theory of right), Dr. Nabil Ibrahim Saad, p. 162

⁴⁴ The contract in jurisprudence and order, Dr. Abd al-Rahman bin Muhammad al-Zeer, p. 101.

⁴⁵ Al Wassit, Abd al-Razzaq al-Sanhouri, P 1 , p. 227

⁴⁶ Facilitating Liberation, Muhammad Amin bin Mahmud al-Bukhari, known as Amir Badshah al-Hanafi (Deceased in: 972), Publisher Mustafa Al-Babi Al-Halabi, Egypt 1932, and its manifestation is: Scientific Books House, Beirut 1983, and Dar Al-Fikr, Beirut 1996, P. 2, p. 274

and the liability for actions continues with the person as long as he or she is alive.⁴⁷ Therefore, the eligibility for performance is based on the extent of the person's eligibility.

from volitional abilities to direct legal actions, and that the word capacity denotes the ability to perform, and after legal disposition it refers to the direction of the will to bring about a certain legal effect.⁴⁸ It becomes clear that the liability for actions is determined in terms of voluntary acts, rather than abstract legal facts, as they are material acts on which the law entails a certain legal effect.⁴⁹

From the foregoing, it is clear that the receptive legal capacity is not the same as liability for actions. Because receptive legal capacity is assigned to a living person, from birth to death. It is incomplete during pregnancy, while the liability for actions exists with the ability of discrimination, and the age of discrimination is mostly seven years.⁵⁰ Likewise, the liability for actions is connected to the will, and the capacity for obligation has nothing to do with the will.

The Saudi juvenile law stipulates: "A person who has not completed (seven) years of age at the time of committing the punishable act shall not be held criminally liable."⁵¹ It is apparent that the Saudi regulator has adopted that principle that a person who has not completed seven years of age is not considered

⁴⁷ The Right in Islamic Jurisprudence, Prof. Dr. Muhammad Jabr Al-Alfi, publisher: Dar al-Tahbeer, Saudi Fiqh Society. 2018, p. 130.

⁴⁸ Principles of Law, Dr. Abd al-Fadhil Muhammad Ahmad 183-184, p. 169

⁴⁹ Introduction to law (theory of right), Dr. Nabil Ibrahim Saad, p. 168

⁵⁰ Tayseer Al-Tahrir, Muhammad Amin bin Mahmoud Al-Bukhari, vol. 4, p. 153, the singer of the needy to know the words of the curriculum, Shams Al-Din, Muhammad bin Ahmed Al-Khatib Al-Sherbiny Al-Shafi'i (Deceased in: 977), Publisher: Scientific Books House, 1994, P. 2, p. 393. Al-Mughni, Ibn Qudama, P.7, p. 353.

⁵¹ Article No. (2) of the Saudi Juvenile Law, issued by Royal Decree No. (M/113), dated 19/11/1439 .

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discerning, and that the requirement for his or her actions to be considered legally liable is becoming of seven years of age.

The Second Requirement: Incomplete liability for Actions (Minor Liability):

This section of the of liability of actions revolves around ability, and the incomplete ability is established by the minor's mind⁵². Some commentators of eligibility, according to the provisions of Islamic law, argue that the minor's liability for actions begins from the age of discernment until puberty.⁵³ While the jurists and commentators of the law hold that the minor's liability for actions starts from the age of discernment until before reaching the age of majority.⁵⁴ In this regard, we refer to the decision of the International Islamic Fiqh Academy⁵⁵. It points out that age of discrimination where it reads: "The age of discrimination prior to puberty is seven years, and acts of whoever

reach this age null and void". Hence, it is clear that the council considered that becoming of seven years as the beginning of the age of discerning, and then differentiated between entrusting acts of worship and other financial and criminal dispositions, as the text stated: "Since puberty is linked to the growth of the body and its reaching a certain stage in which it attains full comprehension, it is

⁵² Clarification on the revision, Obaidullah bin Masoud bin Mahmoud bin Ahmed Al-Mahboubi Al-Bukhari Al-Hanafî (Deceased in: 747), P.2, p. 138.

⁵³ The Right in Islamic Jurisprudence, Prof. Dr. Muhammad Jabr Al-Alfi, p. 130. The contract in jurisprudence and law, Dr. Abdul Rahman bin Muhammad Al-Zeer, p 102.

⁵⁴ Al Waseet, Abd al-Razzaq al-Sanhouri, Vol.1 p. 234 Introduction to the study of law, Dr. Muhammad bin Ahmed Al-Budairat, p. 304. Saudi Commercial Law, Dr. Anwar Mutawe' Mansour, Publisher: Al Mutanabi Library, 5th Ed., 2017 P. 71.

⁵⁵ Decision No. (168), (6/18), International Islamic Fiqh Academy.

considered normal puberty with signs indicating it, or puberty at full age (fifteen years) in matters of ritual duties. As for financial and criminal actions, the guardian has the right to determine who is suitable for reaching puberty, as required by the interest and according to the spatial and environmental conditions”.

Hence, it becomes clear that the matter according to the opinion of contemporary jurists regarding financial and criminal behavior. For the guardian, and when looking at the comparative law, we find that the age of majority differs from one country to another, and what concerns us in the scope of this study is the Saudi law. Looking at the Saudi juvenile law, we find that the provisions states: “A juvenile is every male or female who has completed (seven) years but has not completed (eighteen) years of age it stipulates: “If the juvenile has not completed (fifteen) years of age at the time he commits a punishable act or acts, only one or more measures are imposed on him... If the juvenile has completed (fifteen) years of age at the time he commits a punishable act or acts, then the prescribed penalties shall be applied to him, except for the prison sentence. He shall be punished by detention at home for a period not exceeding half the maximum limit of the higher penalty prescribed for that act and without being bound by the minimum limit for that penalty. But if the crime is one that is punishable by death, then he shall be punished by placing him in the home for a period not exceeding ten years.⁵⁶ Islamic Procedural Law stipulates: The financial guardianship of the minor is until he reaches the age of (eighteen), unless the court decides that custody upon him or her will continue. The guardian may apply to the court to request the continuation of the financial guardianship over those who have reached the age of (eighteen) when there is a need for that. Hence, it is clear that a minor in financial and criminal actions in accordance with Saudi regulations is someone who has not reached the age of eighteen years of age, and this is supported by what was stated in the Child Protection Law. Where the text reads:

⁵⁶ Article No. (1) the Saudi Juvenile Law

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“ Child: is any human being under the age of eighteen.⁵⁷ The executive regulations of the nationality law stipulated that: " Minor: who has not reached the age of majority” and “the age of majority is: eighteen years of age.⁵⁸ The commercial registry law states: The judicial authorities which issue the following judgments and orders shall inform the competent Commercial Register Office thereof, within thirty days of the date on which the judgment or order becomes final.unless an order issued to revoke permission to engage in business or to restrict the permission in relation to a minor or a person under interdiction”⁵⁹ A minor, according to the regulations, is someone who has not completed eighteen years of age. The Companies Law states: “It is permissible to stipulate in the company’s articles of incorporation that in the event of the death of any of the partners, the company continues with whomever of the deceased’s heirs he desires, even if they are minors or legally prohibited from practicing commercial business. In the event of its continuation, except within the limits of the share of each of them in the share of his inheritor in the capital of the company. In this case, the company must be converted, within a period not exceeding (one year) from the date of the death of their inheritor,⁶⁰ into a limited partnership company in which the minor or legally prohibited person from practicing commercial business becomes a limited partner. Otherwise, the company becomes terminated by force of the law with the expiration of that period, unless the minor - during this period - reaches the age of majority, or the reason for preventing him from practicing

⁵⁷ Article No. (15), IBID.

⁵⁸ Article No. (10) of the Commercial Register Law, issued by Royal Decree No. (M/1) dated 2/21/1416 (Corresponding with November 25, 2013.

⁵⁹ Paragraph No. (2) of Article (50) of the Companies Law

⁶⁰ The deliberation of actions is out of the scope herein; we are rather concerned with the age

commercial business is absent, and that minor or who is prohibited from practicing commercial business desires to be a joint partner.⁶¹

From the foregoing, it is clear that a person who reaches the age of eighteen years according to Saudi regulations is not fully competent, which is called a minor, and accordingly the provisions of the minors liability for actions apply to him.⁶².

The third requirement: Complete Liability for Action (Age of Majority):

The full liability for action begins after the minor's liability for actions expires, if the minor reaches eighteen years of age and he enjoys full mental faculties⁶³, i.e. not under custody.⁶⁴ The full liability for actions begins, and the status of a minor expires. Such person became fully fit to practice regular actions, so the basis for applying the full liability for action s reaching the age of majority, free from denial of capacity. The first thing that determined the age of majority in the Kingdom of Saudi Arabia is the decision of the Shura Council. It states that the age of majority is eighteen Hijri years.⁶⁵ The commercial court law states that: “Whoever is of sound mind or has reached the age of majority has the right to engage in the profession of trading of all kinds.”⁶⁶. In the application of the article, the article “and” came instead of “or”; since everyone who is of sound mind and has reached the age of majority has the right to engage in the profession of trading of all

⁶¹ Paragraph No. (2), of Article No. (50), of the Companies Law...

⁶² The objective of the study is not to study his actions in detail, but rather to determine the age.

⁶³ Introduction to the study of Saudi Laws, Dr. Muhammad Saad Al-Rahahleh - Dr. Enas Khalaf Al-Khalidi, publisher: House of Thought and Law, Mansoura, first edition. 2013, p. 298.

⁶⁴ Sources of commitment, d. Khaled El-Sayed Mohamed Abdel-Majeed Moussa, p. 76.

⁶⁵ Shura Council Resolution No. (114), dated 5/11/1374 (Corresponding with June 25, 1955).

⁶⁶ Article No. (4), of the Commercial Court Law, issued on 1350 AH.

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kinds. Several statutory articles stipulate the age of majority, as it is stated in the nationality system that “the age of majority: Eighteen years of age.⁶⁷ The juvenile law states that: “If the juvenile completes (eighteen) years of age before the end of the confinement period for which he is sentenced, he or she shall be transferred to prison to complete the remaining period, unless the court decides on its own initiative - or at the request of an interested party - otherwise.”⁶⁸.

The royal decree approving the personal status law states in item Second: "The age of majority - for the purposes of applying the Personal Status Law - is eighteen years old..."⁶⁹ The Civil Service Law stipulates: “Taking into account the provisions of other regulations, those who are appointed to jobs are required to be:... b- Completed eighteen years of age...”⁷⁰ It also stated: " It is forbidden to document the marriage contract for a person under (eighteen) years of age, and the court may authorize the marriage of someone under that age of either male or female if not an adult after verifying his or her interest in this marriage, and the regulations of this system indicate the necessary controls and procedures for that.⁷¹ The municipal councils system states: Every citizen, male or female, has the right to elect if the following conditions are met: He must have completed eighteen Hijri years at

⁶⁷ Article 1 of the executive regulations of the Saudi Arabian nationality law.

⁶⁸ Article No. (18) of the juvenile system.

⁶⁹ Royal Decree No. (M/73), dated 6/8/1443 (corresponding with January 11, 2022)...

⁷⁰ Article No. (4) of the Civil Service Law, issued by Royal Decree No. (M/49), dated 7/10/1397 (Corresponding with June 26, 1977), the article was amended by Royal Decree No. (M/95), dated 9/15/1439 (May 30, 2018).

⁷¹ Article No. (9) of the previous reference.

the time of elections..."⁷² The law may specify the age of more than eighteen years in some actions, and before reaching the specified age, the consent of the person specified by the law is required, including traveling outside the Kingdom of Saudi Arabia without obtaining approval, as the text provides for the following: "Children who have reached the age of (18) years up to (21) years can travel with the consent of one of the parents, or whomever the system delegates, and in the event of their death, one of the brothers who has reached the age of (21) years, according to the deed of determining the heirs, with the exception of: A- Married persons B- Those who are on scholarships to study abroad, provided they bring proof of that from the Ministry of Education. C- Employees participating in official missions abroad by virtue of a letter from their employers."⁷³

From the text, it is clear that the law may deviate from the age prescribed in many regulations related to the actions of the natural person, but it may adopt a greater age, in order to take into account an interest that the regulator sees, and from that stipulation that whoever has not reached the age of twenty-one years needs approval to travel outside the Kingdom of Saudi Arabia. The same applies to the traffic law, which adopted the age of eighteen to obtain a driver's license, except that it required an older age than that in the public driving license and driving public works vehicles. Because of the greater responsibility that entails, as the text states: To obtain a driving license, the following is required: Becoming of the age of eighteen for a private driving license and driving

⁷² Article No. (17) of the Municipal Councils Regulation, issued by Royal Decree No. (M/61), dated 4/10/1435 (Corresponding with February 10, 2014).

⁷³ Article No. (29) of the executive regulations for the Travel Documents Law issued by Ministerial Resolution No. 7/Ministerial, dated 23/9/1432 (Corresponding with August 23, 2022).

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motorized bicycles - Becoming of the age of twenty for a public driving license and driving public works vehicles⁷⁴ .

From the foregoing, it is evident that the Saudi regulator relied, in principle on eighteen years of age

to be the Age of Majority considered in civil, commercial and criminal actions.

It remains for the Civil Transactions Law to be issued, specifying the age of discrimination, the provisions for those who have not reached this age, the provisions specific to those who have reached the age of discrimination but have not reached the age of majority, and specifying the age of majority in all civil transactions, as is the case in the commercial transactions system.

Conclusions, with key findings and recommendations:

After studying the statutory provisions for the age of majority according to the Saudi laws, with a thorough and investigative research in terms of defining the eligibility provisions for a natural person in terms of definitions, divisions, and an indication of the age for each stage, with reference to the important legal provisions concerning the subject matter of this research, and with my admission of the possibility of omission, and that perfection belongs to Allah alone, Glory be to Allah, I reached several findings and recommendations, which are as follows:

Findings:

A person is defined as: A person or an entity that is eligible to acquire rights and assume obligations.

⁷⁴ Paragraph No. (1-2), of Article No. (36) of the Traffic Law issued by Royal Decree No. (M/85), dated November 7, 2007

Capacity means: The person's eligibility to acquire rights and assume obligations.

The receptive legal capacity for a natural person is: The person's eligibility to establish rights for him or her and incur obligations against him or her.

Personality starts from the conception of pregnancy.

The full eligibility of obligation requires that a person be born alive. .

It is apparent that the Saudi regulator has adopted that principle that a person who has not completed seven years of age is not considered discerning, and that the requirement for his or her actions to be considered legally liable is becoming of seven years of age.

a person who reaches the age of eighteen years according to Saudi regulations is not fully competent, which is called a minor, and accordingly the provisions of the minors liability for actions apply to him or her..

It is clear that the Saudi regulator relied on the age of eighteen years, because it is the age of majority in civil, commercial and criminal actions.

Recommendations:

- I recommend an elaboration of when the alimony starts to be payable from the fetus's money for waiting period after the death of the husband and what is the amount of this alimony, the method of calculating it, and the alimony (support) procedures.

- I recommend that provisions for pregnancy be added to the civil transactions law, in terms of issues that have been established about it, and how to prove them.

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- I recommend that in the Civil Transactions Law identifies the beginning of the personality in terms of proving the rights to it and the extent of its consideration, especially that it should be stipulated in the Commercial Transactions Law if the fetus has an inheritance and is present in an existing business, and how to manage it and dispose of it.
- I recommend that the age of discrimination be determined in the law of commercial transactions.
- I recommend that the penal system provide for some issues related to the minor before the age of discrimination, and after the age of discrimination until the age of majority, and the extent to which the guardian of a person who has not reached the age of majority should be liable for his actions.

After Allah's sustenance with what was collected, understood, and written, if it was right, then from Allah's guidance, and if it was wrong, then from myself and Satan, and I seek refuge in Allah from the accursed Satan, and I ask Allah to accept, and to make this research blessed, and being able of achieving the goal for which it was written. Finally, I'd like to remind the reader of this search, that this. is a human work, full of shortcomings, omissions, and negligence. I tried as much as possible not to be too detailed, while adding what is relevant to the research and the reader, and in conclusion, I seek acceptance, success, facilitation, and sustenance from Allah. Praise be to Allah, the Lord of the Worlds; and may His blessings and peace be upon our Prophet Muhammad and upon all his Family and Companions.

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