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# **Family Law in Saudi Arabia**

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## Introduction

This essay will investigate Family law in Saudi Arabia and looks to identify what family stands for in Saudi Arabia, how the family is seen from a legal point of view as well as from a Saudi point of view. It will look to explore the differences in U.K. family law and Saudi Arabia family law and the importance of family to Saudi society. It will discuss the importance of the contract in marriage as well as the effects of the dissolution of marriage (divorce) and the social and legal effects of the breakdown of marriage in Saudi Arabia. Children will also be a point of discussion in this essay and the responsibilities and obligations family law attaches to children born in marriage. This essay will also briefly discuss the effects of child crime and how this may affect the immediate and extended family.

### **What is family law?**

Many people have the stereotypical image of what the ideal family is, and perceive it as consisting of a father, a mother and children. Society views the image of two parents and children as the ideal family and many legal systems around the world base their laws of family on this image. The relationship between the family and the legal system is seen as important because if the family have an issue which cannot be solved from within the family, it is the law of the country they turn to. Society must also watch and be aware of the events that happen in the family law courts as this will give them guidance in their own family matters. Some people believe family law is based on parents and their dependent children who are living in the same house.

Family law can be described as a group of people related by blood, marriage or adoption.

Only can people who are blood relatives or those who are associated by marriage can be included in the description of the extended family. However family law must be able to distinguish the fact that there is a relationship between each one. Law does not restrict the definition of family life to those who are married or to those who are related by blood. Family law is usually seen as the law governing the relationships between children and parents, and between adults in close emotional relationships. The legal system has significant influence on family relationships in Saudi Arabia. Families can be the scenes of some of the greatest joy, as well as some of the greatest sadness's that life can bring.

In Saudi Arabia, family law is an examination of the contract of marriage, guardianship and the rights of spouses along with the issue of the dissolution of marriage and its effects. The issue of the legal effects of a missing spouse is also a important point in Saudi family Law.

Also, Saudi family Law concentrates on the rights of children and alimony. When there is a birth of a child within a marriage, both mother and father have a legal and moral obligation to the child as well as both parents having the right to care for the child. The Legal system in Saudi Arabia specifies that parents should be responsible and should be aware of these legal and moral duties to have right over their children. Human rights have also been linked to this subject and it is important both in the U.K. and in Saudi Arabia for the parents of the child to be acknowledged correctly. With

the introduction of D.N.A. testing, the matter of establishing the true identity of the parents is easier to carry out and identify who the parent of a child are and identify those who genetically produce the child. It is generally the man who wishes to prove that he is the father of child both in the U.K. and in Saudi Arabia.

However, when single woman or married woman is acting without her husband's consent and pregnancy occurs, the child is regarded legally as only having one parent, the mother. It is not a child absent but it means that in Saudi Law, there are some children that can be deemed fatherless. The fact is that it is possible in Saudi Arabia for a child to have just a mother, it is impossible a child have just father.

The function of family law in Saudi Arabia is to apply Shari'a Law in order to give the family recognition of their status, a definition to follow and to point out the rights and obligations of the family, whether it is the parents of the immediate or extended family. In Saudi Arabia, family law does not have its own characteristics as all family law will come from the regulations found in Shari'a law and the Quoran. The protection of the family unit also comes from observance of Sunni Laws and therefore is rarely disputed or debated and these laws are strictly followed in Saudi Arabia.

On a much more practical level, it is more clear when finding out who the parents of a child through looking at the family relationships. An example of this can be seen through the financial support and legal obligations that can be imposed or enforced against those deemed by law to be related. If a group of people perform certain functions then the law can term them as a family. The legal system would not regard

only the recognized responsibilities and the formal responsibilities that can be seen from the set up of the family, but they will be more concerned with the informal activities, how the family works together and what roles each member of the family take. It focuses on what they are and what they do rather than describing the functions of a family what the father should do and what he should have done. Also, this is true when considering the relationship between the mother and the child. It means the Law seeks out the true nature of the relationships between husband, wife and their children.

### **Responsibility within the family**

When describing what of parental responsibility is, we must agree that it is the role of a parent or guardian is to provide protection and love and care to the child. A father and a mother should take responsibility their children. This means that when looking at children's rights, the parents should provide a home for child and have contact with the child. Children, in general, do not choose their religion, their names or their parents. However, in Saudi Arabia, children cannot be convicted of committing a crime while they are below 13 years of age, so it is the parent's responsibility to control them until this age as it is the parents who are held responsible if the child commits a crime.

It would be wrong to think that the parent has lost control or responsibility of the child. In both Saudi Arabia and the U.K. the parent will still be responsible for the

child's actions. Although a parent cannot surrender parental responsibility it is possible to delegate it. This may mean delegating parental control to the government's social system or it could also mean delegating parental powers to extended family, which could mean the child is looked after, housed, educated and fed by Uncles, Grandfathers and Cousins within the extended families who take over the role of parental guidance and responsibilities in the absence of the legitimate parents. Of course, this practice is also legally available in the U.K., although less likely to occur.

When family relationships come to an end, the law may be required to deal with two different issues, a change the legal status of the family and the legal consequences of the termination of the relationship. In the U.K., divorce means a complete split of the family, with the courts dictating who receives custody of the children, whether this be full or partial custody, and whether the level of contact that each parent will have with the child. The parents are allowed to remarry and assets of the family are split between them, most financial decisions and legally based on who has the most custody of the child, as the family house and all other assets and divided up which may be seen as the consequences of divorce. In Saudi Arabia, the situation is much more complex. As marriages are usually tribal based, and extended families marry each other, a split in the legal status of the family becomes unclear. The legal consequences of terminating a relationship can have a widespread effect on the tribe and financially both parents are still responsible for any children from the marriage. However, custody of the child is strictly legislated. A child must stay with its mother until the age of 10, at which point the father of the child has the right if he so desires, to take the child into his own custody, even more so if the child is a boy. This, along

with the right for the mother to refuse the father contact to the child if she wills it, makes divorce something that is used as a last solution only. Many other legal and social consequences are evident in Saudi Arabia when it comes to divorced families which is why it is

## **Conclusion**

In summary it has been shown that there are clear differences between U.K. and Saudi Arabian family law the main one being that Saudi Arabia is led specifically by Shari'a Law and the U.K. on Case Law and previous decisions, as well as taking into account changes in society.

Saudi Arabia, as a dictatorship led society cannot debate family law. It is strict and does not consider individual circumstances. The United Kingdom however, is seen as a democracy, and has a legal system which is based on history of the country. In the U.K. laws can be changed and the law can be seen as a source of reference and remedy, a system which can adapt to each individual case.

However, it is clear that both in both countries, the ultimate aim is to protect and promote the family unit.

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