



Environmental and bioethical rights of future generations under Saudi laws

Mansour Alslamah¹

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Abstract

At the Future Summit held in September 2024, the Declaration on Future Generations <https://www.un.org/en/summit-of-the-future/declaration-on-future-generations>. was issued, which represents one of the most important serious human rights developments from the international community to balance current and future generations, and achieve equitable development. In light of this important international recognition of the rights of future generations, this paper discusses the extent to which Saudi laws recognize future generations and protect their environmental and biological rights via four sections, the constitutional position on future generations, the justifications on which this is based, the obligations and duties in local laws, and the judicial situation. The Basic Law does not include clear assurances regarding the legal status of future generations. Instead, it includes sufficient provisions related to the protection of the environment, the protection of human rights, and just development, and justifications, including justice and equality. The Basic Law also allows for the state's positive interactions regarding its international obligations in this area. Regarding the justifications, the ethical justifications on which the Saudi regulator relies in protecting environmental and bioethical rights are relatively similar to international justifications, such as the principles of justice and equality. As for the obligations and duties, there has been a positive improvement in the responsibility taken by the Legislative authority for future generations, but not comprehensive or balanced. Additionally, there is a dispersion in the judicial authorities concerned with environmental rights. Moreover, based on the principle of imminent danger, Saudi laws allow for the filing of a lawsuit with the private right to claim compensation after the damage has occurred. However, the right to claim does not extend to future generations due to the problem of their standing. In other words, the legal position protects the environmental and bioethical dimension regardless of future generations.

Keywords Declaration on future generations · Environmental justice · Sustainability · Climate change

This research is part of my dissertation at the University of Leicester (2023), the topic of which was (Environmental and Bioethical Rights of Future Generations in Saudi Arabia: A Comparison of National and International Law).

Extended author information available on the last page of the article

1 Introduction

Increasing regard for environmental and bioethical rights as human rights reflects the civil development of human societies. This view of human rights accelerated markedly after the moral shock of World War II, which confronted humanity with its failure to protect humans from one another. Human rights, including environmental and bioethical rights, are key societal developments, and they reflect, directly and indirectly, the level of moral responsibility owed to future generations, including through appropriate laws that guarantee their protection from the unfair behaviour of current generations. During some technological and civilisational booms, uncontrolled human behaviour has confirmed that a society's moral matrix can fall victim to the human instinct for wanton consumption. One obvious example is the long-term damage of fossil fuels to the environment and to living creatures; another is epidemics arising from genetic modification. Because humans are, by nature, evolving beings, we have also created technologies to confront this critical situation and laws that protect environmental and bioethical rights, which, in turn, will achieve justice for future generations. In this context, this research sets out to examine the legal status of the rights of future generations, and considers the efficiency of existing legal protections for environmental and bioethical rights in the Kingdom of Saudi Arabia.

There is an objective convergence between the terms 'rights of future generations' and 'environmental and bioethical rights' and sometimes they get confused; it can be said that some environmental and bioethical rights represent legal guarantees to achieve justice in respect of future generations. This objective overlap does not represent an epistemological embarrassment, but rather helps in the development of this type of right; therefore, this research will focus on the rights of future generations and the deployment of environmental and bioethical rights as protectors of future generations in the Kingdom of Saudi Arabia. In addition, the paper focuses on the legal aspects of this topic and is not concerned with civil practices or executive initiatives that could contribute. I begin with an analysis of the constitutional status of future generations and their rights and will then discuss the legal consideration for future generations and whether they have legal status under local law¹. The rights of future generations under various local laws will be considered and judicial practices in this area, when such practices exist, will be examined. In this research, local practices that have undermined or ended the rights of future generations are not addressed, although I do mention some as examples and for clarification.

2 Research methodology

In Kingdom of Saudi Arabia, the legislative authority is embodied in The Shura Council and Council of Ministers². The Shura Council is responsible for preparing and reviewing laws while The Council of Ministers is responsible for issuing them. Later, laws are deposited

¹ The reason for this arrangement is that the constitutional position must first be revealed, as there is no point in discussing local laws if the constitutional position adopts a negative stance towards future generations and their rights.

² In other words, the Shura Council shares with the Council of Ministers the regulatory authority of the State, which is concerned with setting forth laws and regulations that achieve the public interest, in accordance with the provisions of Article Sixty-seven of the Basic Law of Governance. <https://www.shura.gov.sa/wps/wcm/connect/shuraen/internet/faq>.

and published by The Bureau of Experts of The Council of Ministers³. After the law is issued, the executive authority and its various agencies may issue some policies, regulations and orders that do not create new provisions, but rather clarify, in one way or another, some issues related to the implementation of the issued law, whereas the government, in turn, publishes all of them by The National Center for Archives & Records⁴. This paper focuses primarily on laws issued by the legislative authority, as they are the hierarchical source from which policies, regulations, and executive initiatives emanate. They also reflect the state's methodological position and are not easily changed. I conducted a search of the Basic Law, considering it akin to a constitution, noting any term or text that could refer to the rights of future generations, such as sustainability, the environment, and human rights. I did the same with all laws issued on related topics such as the environment, energy, and health, which can be systematically accessed through the relevant ministries. For example, the environment has a dedicated ministry called the Ministry of Environment, Water, and Agriculture. Then, I analysed the contents of the legal texts to determine the extent to which they recognized, even indirectly, the rights of future generations, and how they represented that recognition, whether verbally through the use of synonymous terms, or practically through a set of special provisions. I attempted to support my conclusions by citing the text, or by pointing to the policies or regulations that follow the law. Regarding the cases, I tracked down the relevant lawsuit forms, as the lawsuit forms in the Kingdom of Saudi Arabia are classified and organized in a way that allows for tracking the rights related to the subject. I also tracked down the penalties stipulated by the laws regarding crimes or violations related to the subject. Finally, it's important to note that the Saudi government is taking an active environmental approach, including numerous initiatives, but I didn't pay attention to them because my research only examines laws.

2.1 Environmental and bioethical rights of future generations from the perspective of the Saudi constitution and laws

Rights originate in the constitution, meaning that one way to determine the extent to which a right is recognised and the identity of the right holder in law is to consider the constitution. No Saudi constitutional text explicitly recognises the legal personality of future generations and other regional laws do not, in general, explicitly affirm recognition of the claims of future generations. There are, however, a number of linguistic synonyms or terms that perform a similar role and examples of these are detailed below. By contrast, as of 2021, of the 193-member states of the UN,⁵ 41% (81 out of 196) have constitutions that explicitly refer to future generations as of 2021⁶. This global trend began in the early 1990s, relatively late in terms of environmental justice,⁷ and the Basic Law of Governance – which has equivalent

³ <https://www.boe.gov.sa/en/Pages/default.aspx>.

⁴ <https://ncar.gov.sa/rules-regulations>.

⁵ Palestine, Kosovo and Taiwan bring the total to 196 countries.

⁶ For example, Constitution of Germany, Article 20a, references future generations within an article protecting the environment. In addition, Article 112 of the Norwegian constitution states that “Every person has a right to an environment that is conducive to health and to natural surroundings whose productivity and diversity are preserved. Natural resources should be made use of on the basis of comprehensive long-term considerations whereby this right will be safeguarded for future generations as well.”

⁷ Renan Araújo and Leonie Koessler, ‘The Rise of the Constitutional Protection of Future Generations’, (Verfassungsblog, 12 August (Araújo et al. 2022)) <<https://verfassungsblog.de/the-rise-of-the-constitution>

legal status to the constitution – was promulgated in Saudi Arabia in 1992. There is, therefore, scope for its updating and further development.

The Basic Law recognises and affirms some rights that could provide the basis to protect the rights of future generations. However, this does not necessarily mean that the rights of future generations enjoy sufficient constitutional protection, because, objectively, rights of future generations are not limited to environmental obligations. Rather, an explicit constitutional legal text is required, on the basis of which their legal personality and the rights arising therefrom are addressed.

Article 26 of the Basic Law of Governance states, ‘The state protects human rights, in accordance with Islamic law’.⁸ In Article 32, the Basic Law of Governance affirms, ‘The state shall work to preserve, protect and develop the environment and prevent pollution of it’.⁹ This is undoubtedly an explicit recognition of environmental justice as a way to protect environmental rights, whatever the moral justification. As a result, failure to stipulate the legal status of future generations in the Basic Law does not mean that the government is able to evade local and international obligations towards those generations and to protecting their environmental and bioethical rights; the Basic Law provides sufficient legal grounds for these rights and their expansion.

The Basic Law also emphasises the concept of equitable development. The Basic Law of Governance provides: ‘Economic and social development shall be achieved, according to a fair scientific plan’.¹⁰ Just development, as a concept and as a practice, cannot be reduced to a geographical or abstract physical context. The concept of development has evolved to become indistinguishable from the condition of sustainability and a part of international customary law that is difficult to ignore. Thus, the concept of fair development in the Basic Law could include temporal justice so as to protect the rights of succeeding generations.

The term ‘fair development’ can also be used as a linguistic reconciliation of the concepts of sustainability and justice since the linguistic significance of sustainability may not reflect the legal significance intended by the Legislative authority. This can be deduced from other legal texts in which the Legislative authority used various linguistic alternatives to the concept of sustainability and justice between generations, for example, the statement at the beginning of legislation relating to the water law is that it aims to ‘preserve, develop, protect, and ensure the sustainability of water resources’.¹¹ The Legislative authority here used the concept of sustainability of water resources, while in the National Water Strategy, a linguistically-different expression was used to refer to future generations. The fourth goal of the strategy reads, ‘Preserving water resources and improving their use while preserving the local environment for the benefit of Saudi society now and in the future’.¹²

[al-protection-of-future-generations/%3E](#) accessed 29 May 2023. See also KRISTIAN SKAGEN EKELI, ‘Green Constitutionalism: The Constitutional Protection of Future Generations’, *Ratio juris* 20.3 (2007) <http://doi.org/10.1111/j.1467-9337.2007.00366.x>, accessed 13 October 2024.

⁸ Basic Law of Governance (1992), <https://laws.boe.gov.sa/BoeLaws/Laws/LawDetails/16b97fcb-4833-4f66-8531-a9a700f161b6/1>.

⁹ *ibid.*

¹⁰ Basic Law of Governance (1992), art 22.

¹¹ <https://laws.boe.gov.sa/BoeLaws/Laws/LawDetails/57261279-94b7-4ddc-8ad2-abf100d246be/1>.

¹² KSA, National Water Strategy <https://www.mewa.gov.sa/ar/Ministry/Agencies/TheWaterAgency/Topics/Pages/Strategy.aspx>.

It is clear that in the above provisions the Legislative authority means to refer to future generations of Saudi society. The concept of fair development in the Basic Law and legislation relating to the water strategy and the water system requires the government to preserve water resources for the benefit of future Saudi society; this is a linguistic expression synonymous with the concept of sustainable development. The concept of 'equitable development' in the Basic Law also clearly includes environmental and bioethical justice as a right of future generations: the government, at the level of executive performance through policies and practices, adopts the concept of sustainability and some of the applications of environmental and bioethical justice, and understands these to fall within its responsibilities. In addition, the government has responded to relevant international agreements, such as agreements related to nuclear energy by adopting national policy. For example, its international obligations resulted in the adoption of a national policy for radioactive waste management with the following provision: 'C. Ensure that anticipated effects on the health of future generations are not greater than currently acceptable. D. Ensure that additional burdens are not imposed on future generations'.¹³

The provisions of the policy are derived from relevant international instruments and agreements,¹⁴ and, although this reflects the impact of international law on Saudi legislation, the provisions also show that the Basic Law and local laws can be used to achieve environmental and bioethical justice for future generations.

The fact that the Basic Law does not include clear assurances regarding the legal status of future generations or their rights indicates that the environmental and bioethical rights of future Saudis were not a present and central issue for Legislative authority when writing the Basic Law. This constitutional void is understandable given that the Basic Law of Governance of 1992 is Saudi Arabia's first written constitution and was adopted when the issue of environmental justice was just beginning to emerge in constitutional law. Despite this, the Basic Law includes sufficient provisions related to the protection of the environment, the protection of human rights, and just development, and justifications, including justice and equality, that establish environmental and bioethical rights for future generations. The Basic Law also allows for the state's positive interactions regarding its international obligations in this area. Nevertheless, to endorse and commit future generations rights better, I think that the Kingdom of Saudi Arabia - at institutional level need to add clear terminology of 'future generations rights' in its Basic Law which deemed a constitution.

2.2 Philosophical and ethical justifications in Saudi legislation

Comprehending the philosophical and moral justification grounding particular legal rights is based is extremely important to understanding how that right arises and how it may be

¹³ <https://www.energy.gov.sa/ar/FutureEnergy/atomic/Documents/%D8%A7%D9%84%D8%B3%D9%8A%D8%A7%D8%B3%D8%A9%20%D9%88%D8%B7%D9%86%D9%8A%D8%A9%20%D9%84%D8%A7%D9%95%D8%AF%D8%A7%D8%B1%D8%A9%20%D8%A7%D9%84%D9%86%D9%81%D8%A7%D9%8A%D8%AA%20%D8%A7%D9%84%D9%85%D8%B4%D8%B9%D8%A9%20%D9%85%D8%B9%20%D8%A7%D9%84%D8%AA%D8%B9%D8%AF%D9%8A%D9%84%D8%A7%D8%AA%202.pdf>

¹⁴ Examples include The Convention on Nuclear Safety (1994), which is the first legal instrument to address the safety of spent fuel and radioactive waste management on a global scale; the Convention on the Physical Protection of Nuclear Material (1979) and its 2005 Amendment; and UN SC Res 1540 UN Doc S/RES/1540, UN SC Res 1373 UN Doc S/RES/1373; UN Res1977 UN Doc S/RES/1977 UN Doc S/RES/1977 (relevant to strengthening nuclear security and national efforts and capabilities related to nuclear security).

applied¹⁵. It is not possible to be certain of the justifications underpinning the adoption, protection and defence of environmental and bioethical rights and the rights of future generations in the Basic Law and local laws due to the absence of explicit texts that justify the recognition and protection of those rights.¹⁶ Because the Basic Law affirms that Islamic law is the main source of law,¹⁷ the principles of trust and honesty are potential justifications for these environmental and related rights. Trust and honesty is relevant in the sense that human beings are dependent on the natural resources and assets of the planet, of which they are not owners but trustees who can benefit from them as much as needed.¹⁸ To simplify this concept, it is similar to being a guest on your friend's farm, where you can benefit from all the resources and assets on the farm for free, even though you do not own anything on it. At the same time, you are entrusted with its assets and have no right to destroy them under the pretext of having comprehensive permission from the owner. From this perspective, human existence on Earth is a morally conditioned residence;¹⁹ the use of the planet's assets and natural resources must be conditioned on need and conducted in a way that does not harm the planet and its assets.

The justifications contained in international agreements and instruments approved by the Kingdom are relatively acceptable justifications within the scope of those agreements, since the Kingdom's approval is an acknowledgement of their validity. At the same time, practical agreement on principles related to environmental or bioethical rights does not indicate agreement about the moral basis of those principles. Despite extensive consultations with various religious denominations about the UDBHR, UNESCO did not submit a religious basis for the principles.²⁰ This may be because religious moral foundations are often controversial in a way that limits the practical value of the agreed principles and would reduce the universal weight of the international declaration.²¹

The principle of fairness offers a clearer justification for the Legislative authority, as Article 22 of The Basic Law states the following: 'Economic and social development is achieved, according to a fair scientific plan'. While the principle of justice may be very broad and flexible, it is sufficient as a minimum to devise practical applications of environmental and bioethical rights to protect future generations. Some Muslim jurists believe that rights gain their legitimacy from their compatibility with the principle of justice, and not by

¹⁵ See K Baslar, *The Concept of Common Heritage of Mankind in International Law* (Brill 1998) 279; B H Weston, 'The Theoretical Foundations of Intergenerational Ecological Justice: An Overview' (2012) 34 HRQ 256; R Martin-Nagle, 'Fossil Aquifers: A Common Heritage of Mankind' (Martin-Nagle 2011) J Energy & Env'tl L 39; See European Forum of Judges for the Environment, 'Principal Considerations of the Declaration on Environmental Responsibility'.

¹⁶ For example, See Art 14, 26, 32 of the Basic Law of Governance (1992).

¹⁷ *ibid.*, art 1.

¹⁸ Mawil Izzi Dien, *The Environmental Dimensions of Islam* (The Luttenvorth Press), 119.

¹⁹ Ronald H Miller, 'Caring for Future Generations: Jewish, Christian, and Islamic Perspectives' (2000) 95 Relig Educ 351.

²⁰ C Gallagher, 'A Christian Consideration of Human Vulnerability in Healthcare and Research' in Alberto Garcia, Gonzalo Miranda and Joseph Tham (eds), *Religious Perspectives on Human Vulnerability in Bioethics* (Springer, Gallagher and Gallagher 2014), 3,12. See also AL Rheeder, 'Protecting the Health of Future Generations as a Global Bioethical Principle: A Broad Protestant Perspective' J Relig Health (2021) 60, 1046.

²¹ Have H ten and M. Jean, 'Introduction' in H. ten Have & M. Jean (Eds.), *UNESCO Universal Declaration on Bioethics and Human Rights: Background, Principles and Application* (UNESCO, Have and Jean 2009).

being based on a religious text²². Equality may be an acceptable justification for the Legislative authority because the Basic Law establishes the principle of equality as a tool of good governance. Article 8 states that ‘Governance in the Kingdom of Saudi Arabia is based on justice, consultation, and equality, in accordance with Islamic law’.

It is clear then that the ethical justifications on which the Saudi regulator relies in protecting environmental and bioethical rights are relatively similar to international justifications, such as the principles of justice and equality²³; the concept of trust seems to have an uncommon religious aspect.

However, these justifications are not sufficiently clear in Saudi laws. Indeed, some may believe that there are other justifications that are inconsistent with those in international law, based on the fact that Saudi Arabia adopts an Islamic approach. Therefore, I believe that Saudi domestic laws should more explicitly emphasize the justifications on which they rely for protecting the rights of future generations, thus enabling positive interaction with international action. It goes without saying that the presence of an appropriate number of moral commonalities underlying the aforementioned rights is sufficient as a response to international obligations and to positively interact with the international environmental movement.

2.3 Environmental and bioethical rights for future generations under local law

A careful reading of the reports issued by the Saudi government to assess its progress toward achieving the SDGs shows that the Kingdom’s progress is not always reflected in legislation. Rather, the goals are often reflected in executive initiatives intended to achieve a response process in the field of sustainable development. For example, the government’s report on progress toward meeting SDG 14 (‘life below water’) included the following:

The Kingdom of Saudi Arabia continues its support for international and regional trends to protect the environment of the seas and oceans and reduce the sources of marine pollution, as it seeks to improve the marine environment due to its importance in development and enhancing food security, and the Kingdom adopts strategies and policies that limit tampering or complacency in the marine system, through the adoption of the national strategy to preserve the biological diversity of the Kingdom in 2005, which aims to ensure the preservation and development of biological diversity, and includes plans to paper the current situation of biological diversity, the threats it faces, and ways to preserve and develop it.

(1) Launching the Fisheries Research Center. (2) Establishing the Faculty of Marine Sciences at King Abdulaziz University. (3) Establishing the Saudi Aquaculture Society. (4) Establishment of the Fisheries Research Center at King Faisal University. (5)

²² Siraj Sait and Hilary Lim, *Land Law and Islam: Property and Human Rights in the Muslim World* (UN-HABITAT, (Sait and Lim 2006)) 30–36.

²³ See V Barral, ‘Sustainable Development in International Law: Nature and Operation of an Evolutive Legal Norm’ (Barral 2012) 23 EJIL 377; LM Collins, ‘Revisiting the Doctrine of Intergenerational Equity in Global Environmental Governance’ (2007) 30 Dalhousie LJ 120.

Establishing the Red Sea Research Center at King Abdullah University of Science and Technology.²⁴

Under SDG 12 – responsible production and consumption – the Kingdom contented itself with referring to the following initiatives:

Establishment of the Saudi Company for Recycling Paper and Waste. Launching the integrated waste management initiative in Jubail Industrial City. Issuance of the comprehensive strategy for waste management in Riyadh. Develop municipal waste management systems. Preservation of Grace initiative in cooperation with the Etaam Charitable Association digital transformation initiative.²⁵

These two examples reflect the government's progress in achieving the SDGs, but they also show that local laws are not among the tools used to achieve these. This means that there is, in one sense, a legal vacuum resulting from a lack of awareness of the importance of laws as a tool for sustainable development. The second possibility is that the government's reports relating to the SDGs did not adequately present the legal and human rights performance but only reviewed implementation initiatives. In either case, questions linger regarding the level of attention in local laws to the environmental and bioethical rights of future generations. For example, it is important to consider the monitoring and discussion of environmental and bioethical rights established by local laws in Saudi Arabia and the legal protections adopted by the Legislative authority. In the field of agriculture, Article 2 of the Agriculture Law 2021 states,

the law aims to regulate the affairs of the agricultural sector, manage it, protect it, develop it, and sustain it, and contribute to achieving food security and rural and social development,

Sustainability is clearly a goal of the Saudi government in the agricultural field, according to its domestic law. However, there are few practical efforts to meet this goal specifically outlined in the Agriculture Law. The clearest procedures prescribed in the law are

that the minister undertakes – upon the occurrence of any crisis, emergency, disaster or imminent danger related to the agricultural sector that may lead to harm to the sector, human beings or public health – to take the necessary measures and measures to prevent aggravation any of that, in coordination with the relevant authorities.²⁶

In addition to the incentives and preventive measures for organic farming, there are important executive initiatives; for example, the establishment of the National Center for Research and Development of Sustainable Agriculture cannot be ignored. However, despite its impor-

²⁴ https://www.my.gov.sa/wps/portal/snp/content/SDGPortal/tut/p/z1/04_Sj9CPYkssy0xPLMnMz0vMAfJj_o8zi_QxdTWMTQz93YMt3AwCzXyMg1wMAw0NLA31w1EVGJgYARW4uDj6mYYehmGmelHEaPfK8DCxNDRwNdf39jUySDQ2dfc3zE4zNDAwJQ4_QY4gKMBYf1RqEqw-ACsAJ8TwQrwuKEgNzQ0wiDTEwDhE5e_/#header2_3.

²⁵ *ibid.*

²⁶ Agriculture Law (2021), art 8.

tance, it does not reflect human rights concerns and cannot be considered as progress in the law. Nevertheless, an advanced level of protection and concern for environmental rights is evident in the recent comprehensive legislation – the 2020 Environmental Law. The law is arguably the most important legal shift in ensuring environmental justice and protecting the rights of future generations.

The Environmental Law 2020 repealed a number of similar older laws, either because of their inefficiency or because they dealt with a single aspect of the environment, for example, the Saudi Wildlife Authority law, the law for hunting wild animals and birds, the law for trading in endangered wild organisms and their products, the general environmental law, the pastures and forests law, and the law for protected areas for wildlife. These repeals reveal an important role of the Environmental Law, to focus the legal reference and thereby indirectly contribute to an enhanced presence of environmental justice in legal processes.

The Environmental Law 2020 was distinguished for keeping pace with international progress in the field of environmental constitutionality. This can be seen in Article 1, which clarified the meanings of the terms included in the law, including ‘environmental principles’, which it defined as ‘principles recognized in international organizations and agreements related to the environment aiming to protect the environment’. This seems to be consistent with the view that the international system has developed from one based on a set of organising principles, such as state sovereignty and consensus, to being an international legal system that recognises constitutional principles and value.²⁷

In addition, the Environmental Law included local principles for achieving preventive environmental justice, for example:

1. It is not permissible to own forests, pastures, national, wild and geological parks, in any manner of disposal that transfers ownership. 2. It is not permissible to infringe – whether by extension or creation – on forest lands, grasslands, national parks, wilderness and geological parks.²⁸

It should be emphasised that creating local principles is very important. It ensures compatibility between the cultural context of society and the law and the requirements of practice. The Environmental Law (2020) has had an increasingly positive impact through its creation of comprehensive standards and rules aimed at improving the government’s developmental performance. It emphasises that the government needs to balance three elements: security, environment and development.²⁹ It also calls for environmental considerations to be included in urban planning.³⁰ This in itself is sufficient for the government to amend its policies in such a way that development is reconciled, albeit narrowly, with the protection of the environment.

²⁷ ‘An evolution from an international order based on some organizing principles, such as state sovereignty and consensualism, to an international legal order which acknowledges and has creatively appropriated principles and values of constitutionalism’; A Peters, ‘Global Constitutionalism’ in M Gibbons (ed), *The Encyclopedia of Political Thought* (John Wiley and Sons, (2015)) 1484–1487.

²⁸ <https://laws.boe.gov.sa/BoeLaws/Laws/LawDetails/63831ff6-63d9-4212-8b54-abf800e146bd/1>, Environmental Law (2020), art 12.

²⁹ Environmental Law (2020), Preamble, para 3.

³⁰ *ibid.*, arts 45 and 47.

This level of local legal protection of the environment reflects the latest response to international legal texts that encourage the international community to reconsider its relationship with the environment. For example: ‘[t]he principles set forth in the [World Charter for Nature] shall be reflected in the law and practice of each State, as well as at the international level’.³¹

The second dimension of the Environmental Law (2020) is that the provisions by which it aims to protect the various environmental spheres are mandatory:

- It is forbidden to dump, drain or inject wastewater or any of the liquid components treated in underground wells or any environmental medium.³²
- Cutting down trees ... is prohibited.³³
- Leaving waste ...³⁴
- It is prohibited to do anything that may harm the marine and coastal environment and its living and non-living components. ...³⁵

The third dimension of Environmental Law is the guarantees through which it seeks to ensure environmental compliance. The law introduces a supervisory authority – the environmental police – who have three roles, one of which is security monitoring to achieve environmental compliance. The law also authorises severe penalties for environmental violations, including imprisonment of up to 10 years and a fine of up to 30 million Saudi riyals.³⁶ This is in addition to the monitoring and statistical centres and standard bodies, such as the National Center for Environmental Compliance Monitoring, established to monitor environmental protection standards in various environmental spheres.

The fourth dimension of the 2020 Environmental Law is environmental damage. The law allows compensation for environmental damage within the framework of civil liability.³⁷ This is an important legal advance and will be detailed in the next section.

The Environmental Law 2020 has prompted a remarkable developmental shift in Saudi Arabia. More importantly, it has brought about a legal shift: environmental rights cannot be ignored among relevant local laws. For example, the Electricity Law 2021 requires ‘Taking into account the approved measures and standards for environmental protection’.³⁸

Although the Environmental Law can be considered the reference law for environmental justice, there are other local laws that capture the need for environmental or bioethical justice towards future generations. One example is the Law of Ethics of Research on Living Creatures 2010, which ‘aims to lay down the general principles and necessary controls for dealing with living creatures, parts of them, or their genetic material in the fields of research, in the light of observed professional ethics’.³⁹ This law includes preventive justice provi-

³¹ UNGA Resolution 37/7 (28 Oct 1982); World Charter for Nature, UN Doc No A/RES/37/7, art 14.

³² Environmental Law (2020), art 11.

³³ *ibid.*, art 19.

³⁴ *ibid.*

³⁵ *ibid.*, art 21.

³⁶ Environmental Law (2020).

³⁷ *ibid.*, art 33.

³⁸ Electricity Law (2021), art 4.

³⁹ The Law of Ethics of Research on Living Creatures (2010), art 2.

sions that seem to be included within the rights of future generations, for example, ‘the use of plants in research that harms the ecological balance and distribution of vegetation cover is prohibited, and the negative use of endangered plants is also prohibited’.⁴⁰ Another example is the Fertilization, Embryo and Infertility Treatment Units Act 2004, which states, ‘It is not permissible to interfere with the sex cells or genetic genes, except to treat hereditary or genetic diseases that may affect the foetus and can be modified by genetic treatment’.⁴¹ It is true that this law is limited to the medical field, but the principle is confirmed by other laws, such as the Law of Nuclear and Radiation Control 2018, which includes the following aims:

1. Achieving the highest standards of safety, security and nuclear safeguards for activities and facilities.
2. Provide adequate protection for humans and the environment from the harmful effects of ionising radiation.
3. The Kingdom’s fulfilment of its obligations under the relevant international treaties and agreements.⁴²

This law emphasises in Article 18 that the bioethical risks associated with the disposal of radioactive waste should be taken into account. Likewise, the principle of environmental and bioethical prevention is clearly present in the Waste Management Law 2021⁴³ and the Chemical Substances Law 2006.⁴⁴ Both laws include detailed provisions to promote and consolidate the principle among consumers, investors and the government.

The Saudi government explicitly acknowledges that, for several reasons, there is little environmental justice.⁴⁵ The most important reason is concerned with the legal dimension, and this may motivate the government’s efforts at legal reform. The above review of selected provisions in local laws dealing with environmental and bioethical rights makes it clear that there has been a positive improvement in the responsibility taken by the Legislative authority for future generations and their environmental and bioethical rights. However, these laws and the provisions are not integrated. For example, there is a dispersion in the judicial authorities concerned with environmental rights. Also, in general, these laws are not comprehensive or balanced. For example, the environmental system deals firmly with the issue of vegetation cover but neglects to address the desert and groundwater, even though they are among the most important environmental elements in Saudi Arabia. The Legislative authority has made a good start in protecting the environmental and bioethical rights of

⁴⁰ *ibid.*, art 39.

⁴¹ Fertilization, Embryo and Infertility Treatment Units Act (2004), art 8.

⁴² Law of Nuclear and Radiation Control (2018), art 2.

⁴³ Waste Management Law (2021), <https://laws.boe.gov.sa/BoeLaws/Laws/LawDetails/4d5bda56-cc0d-4b16-a025-ad9d00b281ab/1>.

⁴⁴ Chemical Substances Law (2006), <https://laws.boe.gov.sa/BoeLaws/Laws/LawDetails/64ace787-4618-4979-b4d8-a9a700f1c647/1>.

⁴⁵ Executive Summary for the National Environment Strategy 2018 <https://www.mewa.gov.sa/ar/Ministry/initiatives/SectorStrategy/Reports/%D8%A7%D9%84%D9%85%D9%84%D8%AE%D8%B5%20%D8%A7%D9%84%D8%AA%D9%86%D9%81%D9%8A%D8%B0%D9%8A%D8%A9%20%D8%A7%D8%B3%D8%AA%D8%B1%D8%A7%D8%AA%D9%8A%D8%AC%D9%8A%D8%A9%20%D8%A7%D9%84%D9%88%D8%B7%D9%86%D9%8A%D8%A9%20%D9%84%D9%84%D8%A8%D9%8A%D8%A6%D8%A9.pdf>.

future generations, but is at the beginning of the journey⁴⁶. In addition, the rights of future generations actually appear in most domestic laws as an environmental dimension rather than as an independent right related to future generations. Therefore, despite the aforementioned improvement, it is premature to say that the rights of future generations enjoy acceptable legal coverage⁴⁷.

2.4 Claiming environmental and bioethical rights for future generations

The judicial and legal practices to protect the environmental and bioethical rights of future generations in any country can be considered along two dimensions. The first is the mechanism for protecting environmental and bioethical rights before damage occurs or before infringement of any right. This can be referred to as preventive justice. The second dimension reflects the mechanism of redress from the aggressor after the damage has occurred. This can be referred to as compensatory or remedial justice.

With regard to the first dimension, the nature of judicial consideration is that, conventionally, the judiciary looks at established facts, not at assumptions or possibilities. Thus, filing a pre-emptive lawsuit to stop the damage before it occurs is uncommon; the decline in the status of the plaintiff and the damage has not yet occurred. Despite this, there are judicial practices that open new horizons, for example, by adopting the preventive principle in environmental or other cases. Potential threats and imminent dangers are considered by some courts when considering private rights claims arising from anticipated harms; in this context, the case of *Taşkin and Others v Turkey* is relevant.⁴⁸

In the Saudi case, the Sharia Procedure Law allows private plaintiffs to file a claim based on possible harm. In other words, the Saudi judiciary accepts a lawsuit as a precaution against expected harms. Article 3 of the Sharia Procedure Law stipulates

no request or payment in which the owner does not have an existing, legitimate interest will be accepted. However, the potential interest is sufficient if the purpose of the request is precautionary to ward off imminent damage, or to make sure of a right whose evidence is feared to disappear when it is disputed.⁴⁹

Under this principle, the Saudi judiciary accepts consideration of various precautionary cases; although certainty is not achieved, it gives them the character of urgency.

Action to prevent exposure to possession.

Article 209 provides:

⁴⁶ See E Brown Weiss, 'Our Rights and Obligations to Future Generations for the Environment' (1990) AJIL 201.

⁴⁷ However, the explicit texts included in some national policies - not laws - cannot be ignored. Such as: The National Water Strategy explicitly states: "for the benefit of Saudi society now and in the future". Even more clearly, The National Policy for Radioactive Waste Management explicitly states: "Part 1, 'C. Ensure that anticipated effects on the health of future generations are not greater than currently acceptable. D. Ensure that additional burdens are not imposed on future generations'". See Table 1.

⁴⁸ *Taşkin and Others v Turkey*, App No 46,117/99 (ECHR 2004).

⁴⁹ <https://laws.boe.gov.sa/BoeLaws/Laws/LawDetails/f0eae46-9f84-40ee-815e-a9a700f268b3/1>.

Every owner of an apparent right may file an urgent case with the court competent in the matter to prevent interference with his possession or to recover it, ...⁵⁰

Travel ban suit.

Article 208 provides:

Each claimant of a right against another during the hearing of the case, or immediately before its submission, may submit to the court competent in the subject-matter a summary case to prevent his opponent from traveling, ...⁵¹

In principle, the Saudi judiciary can accept consideration of a case concerning private rights potentially impacted by environmental damage, because potential danger is considered a legitimate grounds for jurisdiction of the Saudi courts. Thus, the problem related to the condition that there be actual damage for an environmental lawsuit to be accepted, disappears.

The second problem in environmental lawsuits is that the courts generally stipulate that, in order to for the suit to be accepted, the environmental damage must befall humans and must have a direct negative impact on human life; damage to the surrounding environment is not sufficient for the submission of a lawsuit. Therefore, the European Court of Human Rights, referring to the case of *Kyrtatos v Greece*, notes that Article 8(1)⁵² extends only to protection against harmful influence on the private or domestic sphere of a person and not merely the general deterioration of the environment.⁵³

In the context of the Saudi judiciary, this condition prevents the filing of a private lawsuit, but it allows the private prosecutor to submit his claim to the Public Prosecution (no lawsuit is filed except through the Public Prosecutor),⁵⁴ who then conducts the necessary investigation into the complaint. It is possible to submit a public lawsuit to the judiciary for which the supporting document is the private complaint. This means that a private complaint can be considered legitimate grounds for initiating a public environmental action. The law on legal pleadings provides an alternative way for dealing with such a lawsuit, provided 'the lawsuit is accepted by at least three citizens in everything that is in the public interest'.⁵⁵ However, this provision was repealed by the new legal pleadings law.

In the same context, the public lawsuit provides another way to achieve environmental justice and protect the rights of future generations. This path is considered the most acceptable in Saudi law, because it affords the Public Prosecution or the competent department sufficient authority to investigate environmental or bioethical violations and to file public lawsuits in response. Article 42 of the Environmental Law 2020 stipulates, 'the Public Prosecution – in accordance with its system – shall investigate the violations referred to in Article (40) of the system, and prosecute before the competent court'.⁵⁶ The public lawsuit, by its nature, aims to protect society from public danger and transgressive harms.

⁵⁰ Legal Pleadings Law (2013), art 209.

⁵¹ Legal Pleadings Law (2013), art 208.

⁵² European Convention on Human Rights.

⁵³ *Kyrtatos v. Greece*, App No 41,666/98, 40 EHRR 390 (2005); there was no violation of Article 8 resulting from the destruction of a protected wetland adjacent to the applicant's property.

⁵⁴ Legal pleadings law 2013, art 4.

⁵⁵ The old Legal Pleadings Law (2000), art 5.

⁵⁶ <https://laws.boe.gov.sa/BoeLaws/Laws/LawDetails/63831ff6-63d9-4212-8b54-abf800e146bd/1>.

In summary, then, Saudi law provides an acceptable option for individuals to file precautionary lawsuits against imminent environmental dangers. The Saudi judiciary does not reject these because it accepts the principle of prevention and precaution. The reason there have been few actual cases is the community's limited awareness of existing environmental hazards. Thus, it is common to find a private lawsuit filed in a Saudi court by an individual against a gas station or an electricity station on the basis of inconvenience rather than environmental damage. In addition, the environmental police have exclusive authority to monitor the environment, and the Public Prosecution Office has the right to initiate public action against violators of the Environmental Law. This undoubtedly reinforces the first preventive dimension.

As for the second dimension, related to the aftermath of environmental or biological damages, Saudi law recognises the right of an individual to file a private lawsuit to compensate for any damage. The Environmental Law 2020 affirms the right of the aggrieved party to file a civil suit to claim compensation.⁵⁷ Saudi law also affirms the right of an individual to file a lawsuit to enforce the private right to some biological damages before a committee with expertise in such cases. The committee is required to consider appropriate penalties and the damages claimed by private rights holders.⁵⁸ The biological damages addressed by the law are those arising from medical practices concerning sperm, embryos or genes and are relevant in the medical environment only. Biological damages arising from research behaviour in laboratories or the use of humans in scientific research and experiments are considered by a specialist committee formed under the Law of Ethics of Research on Living Creatures 2010; the law confirmed that the committee considers compensation for damages to private right holders.⁵⁹

The Waste Management Law 2021 emphasises the civil and criminal liability of waste producers and persons in charge of its management, compensation for damages, and the undoing of the damage and treatment of its effects. Article 26 stipulates:

1. The producer of waste and the service provider shall bear the civil and criminal responsibility for any damage or danger to the environment or to public health and safety,
2. ... In the event of pollution resulting from transport activities, the carrier shall be responsible for cleaning operations and restoring the normal state of the environment, in addition to being liable for the resulting damages.
3. Any person who deposits or deposits waste with another person who is not authorised to do so; He shall be jointly liable with this person for the damages and compensations resulting from this waste.

So it can be said that the Legislative authority has taken into account environmental and biological damages in general and has established reasonable judicial arrangements for these through legislation. Together, these provisions allow for the filing of a lawsuit with the private right to claim compensation after the damage has occurred. However, the right to claim does not extend to future generations due to the problem of their standing. It is true that, as noted above, Saudi law applies the principle of precaution. However, this principle cannot be applied to future generations independently of current generations. In other words, the legal

⁵⁷ Environmental Law (2020), art 33.

⁵⁸ Fertilization, Embryo and Infertility Treatment Units Act (2004), art 28.

⁵⁹ The Law of Ethics of Research on Living Creatures (2010), art 42.

position protects the environmental and bioethical dimension regardless of future generations; the evidence for this is that these laws are devoid of any reference to future generations⁶⁰. The ideal position would be if the Legislative authority affirmed the environmental and bioethical rights of present generations and read these as pertaining to 'future generations'.

3 Conclusion

This paper has reviewed the environmental and bioethical rights of future generations under Saudi law. It considered the extent to which the Saudi Basic Law (1992) recognises environmental and bioethical rights and the legal personality of future generations. Additionally, the moral justifications relied on by the Legislative authority in recognising environmental and bioethical rights were discussed and the pertinent legal texts reviewed. Then, it has surveyed a number of obligations and duties inherent in Islamic legal texts, which the Legislative authority has recognised as necessary to preserving the environmental and bioethical rights of future generations. Finally, it reviewed the judicial aspects of the subject, including the legitimacy of anticipatory claims against expected damages and claims for compensation as a result of actual damages and the extent of complementarity of roles between public and private rights in this field with the aim of achieving more comprehensive protection. With respect to Saudi law, the following conclusions can be drawn.

First, the Basic Law recognizes the rights of future generations but indirectly, because it does not use the explicit term 'future generations', although it uses alternative, reliable terms such as fair development. Nevertheless, the Basic Law's implicit emphasis on protecting future generations and their rights provides legal support, beyond the international arena, for the advancement of environmental issues within the Saudi polity. On the other hand, Saudi laws include alternative terms that cannot be ignored, and can be relied upon to consolidate the rights of future generations, such as: Sustainability, fair development, equitable development. To enhance the Basic Law's effectiveness in this, I recommend that, as an affirmation of the legitimate entitlement of all generations, the words 'present and future' be added to the Basic Law to describe citizens.

According to the structure of the legislative process in Saudi Arabia, the appropriate method for this amendment is for it to be submitted as a recommendation by the Human Rights Committee of the Shura Council. This change may not be noticeable or influential at first, but it will be a sufficiently protective text as environmental justice applications improve and the Declaration on Future Generations is implemented.

Second, the rights of future generations are still dispersed amongst Saudi laws in various localities across the Kingdom. Because the courts are not unified, the protection of these rights has been compromised. This problem also reduces the laws' positive impact on development. The problem can be mitigated by addressing these rights in a comprehensive law to be applied by a court with jurisdiction to consider environmental issues. In this regard, it is notable that the government made an important amendment to its ministerial structure, the result of which was the inclusion of the word 'environment' in the name of one of the ministries: The Ministry of Environment, Water and Agriculture. This ministry became a specialised department for environmental issues. My recommendation is that the govern-

⁶⁰ See RE Kim and K Bosselmann, 'Operationalizing Sustainable Development: Ecological Integrity as a Grundnorm of International Law' (2015) 24 RECIEL 194.

ment monitor all the rights recognised by Saudi laws and arising from the Kingdom's international obligations, reorganising them into one comprehensive law that can be applied by a competent court. In this respect, The Supreme Judicial Council has full legislative authority to establish one or more judicial body specializing in the rights of future generations. The Council has previously established central courts or committees specializing in a single topic, such as medical cases, arbitration, corruption, and the enforcement of foreign judgments.

Third, Saudi laws that concern environmental and bioethical rights for future generations need to be improved and made more comprehensive. Although there has been remarkable progress in environmental laws, they lack balance. For example, although deserts represent the majority of the Kingdom's lands and can give rise to natural hazards, such as dust storms and extreme heat that require significant mitigation through afforestation, they do not enjoy sufficient legal protection. A compulsory duty of afforestation could have been imposed in the construction of every new home, commercial and industrial project, and highway but this practice is still not supported by local laws. Therefore, afforestation works are only carried out by the government, and despite their positive efforts, they are insufficient since the law does not sufficiently promote these activities. My recommendation is to identify the ten most important environmental and bioethical hazards according to local topography rather than international concern and address these immediately; because Saudi Arabia is a desert country, it does not need laws protecting snow or bears. As the government seeks to improve its commitment to the rights of future generations by establishing the National Center for Environmental Compliance, the center is required to perform three tasks: 1- Conduct advanced surveys to determine national priorities, 2- Understand the obligations imposed by international instruments, 3- Conduct comparative studies with countries similar in their development status. I believe that these three criteria will clearly contribute to achieving an advanced response to protect future generations.

Finally, it is appropriate to seriously reconsider the representation of younger generations in the legislative and executive branches of government. Their continued absence will perpetuate a lack of certitude and urgency in recognising the environmental and bioethical rights of future generations. Including representatives of younger generations in the legislative or executive branches will centre the rights of these emerging generations in the minds of decision-makers. My recommendation is that the Saudi Shura Council, the Saudi legislative authority, establish a committee concerned with future generations and their rights or that this set of issues at least be included in the agenda of the current Human Rights Committee. Given the current practical reality, I am inclined towards the second option, as the rights of future generations can be integrated into the existing Human Rights Commission. Even if a special representative or committee on future generations is not established, the Human Rights Committee of the Shura Council is directly concerned, at legislative level, with dealing with international obligations raised by the Declaration on Future Generations or those obligations that may be alluded to in the Advisory Opinion of the International Court of Justice on Obligations in Respect to Climate Change, which the Court is expected to issue on July 23, 2025.

Appendix

See Table 1.

Table 1 Key Saudi environmental/bioethical laws and their provisions

Law	Article
The Basic Law of Governance	Art 8 'Governance in the Kingdom of Saudi Arabia is based on justice, consultation, and equality' Art 22 'Economic and social development shall be achieved, according to a fair scientific plan' Art 26 'The state protects human rights' Art 32 'The state shall work to preserve, protect and develop the environment and prevent pollution of it'
Water law 2020	Art 2, 'This law aims to: 1. preserve, develop, and protect water resources; ensure their sustainability'
The Agriculture Law 2021	Art 2, 'The law aims to regulate the affairs of the agricultural sector, manage it, protect it, develop it, and sustain it, and contribute to achieving food security and rural and social development, ...'
The Environmental Law 2020	Art 2, 'The law aims to protect, develop and sustain the environment, and adhere to environmental principles'. The law defined 'environmental principles' in Art 1 as 'principles recognized in international organizations and agreements related to the environment aiming to protect the environment'. See also, Preamble, para 3, Article 10, 11, 12, 16, 19, 21, 33, 45, 47
The Electricity Law 2021	Art 4, 'Taking into account the approved measures and standards for environmental protection'
The Law of Ethics of Research on Living Creatures 2010	Art 2, '... aims to lay down the general principles and necessary controls for dealing with living creatures, parts of them, or their genetic material in the fields of research, in the light of observed professional ethics' Art 39, 'the use of plants in research that harms the ecological balance and distribution of vegetation cover is prohibited, and the negative use of endangered plants is also prohibited'. See also art 42
The Fertilization, Embryo and Infertility Treatment Units Act 2004	Art 8, 'It is not permissible to interfere with the sex cells or genetic genes, except to treat hereditary or genetic diseases that may affect the foetus and can be modified by genetic treatment'. See also art 28
The Nuclear and Radiation Control 2018	Art 2, includes the following aims: 1 Achieving the highest standards of safety, security and nuclear safeguards for activities and facilities. 2 Provide adequate protection for humans and the environment from the harmful effects of ionising radiation. 3 The Kingdom's fulfilment of its obligations under the relevant international treaties and agreements
The Waste Management Law 2021	Art 1, 2, 7, 8, 9, 10, 19, 24
The Chemical Substances Law 2006	Art 1, '... or that contain other properties that may be hazardous to human and animal health or the environment.
The National Water Strategy	The fourth goal, 'Preserving water resources and improving their use while preserving the local environment for the benefit of Saudi society now and in the future'
The National Policy for Radioactive Waste Management	Part 1, 'C. Ensure that anticipated effects on the health of future generations are not greater than currently acceptable. D. Ensure that additional burdens are not imposed on future generations'

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Authors and Affiliations

Mansour Alslamah¹ 

✉ Mansour Alslamah
Newc7052@ox.ac.uk; msalamh@moj.gov.sa

¹ Ministry of Justice, Court of Appeal in East province, Dammam, Kingdom of Saudi Arabia