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## The Impact of Islamic and Social Traditions on Women's Work Rules in the Balance of International Standards

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### ABSTRACT

*The regulations governing women's work in some Islamic countries, such as the Gulf Cooperation Council (GCC) countries, were influenced by Islam and social traditions. For instance, a Muslim female worker whose husband passed away was granted a mourning leave, while a non-Muslim female worker was denied this leave. Additionally, social customs influenced the regulations, prohibiting women from working at night while allowing men to do so. Despite previous studies on women's work, none have examined the influence of Islam and social customs, nor the extent to which it aligns with human rights and international labour standards, creating a research gap that the study aims to fill. The subject was studied using analytical and comparative methods, in which the texts of the laws were analysed and compared with international labour standards and human rights. The article concluded that labour laws include discrimination against women based on religion at times and based on gender at other times. Therefore, the article recommends the necessity of reviewing and amending women's work regulations to achieve the principle of equality.*

**Keywords:**

*Discrimination against women, discrimination based on gender, discrimination based on religion, women's mourning leave, women's night work.*

### Introduction

The principle of equality requires that all individuals be equal in rights and duties, including equality in employment opportunities, fair wages, and access to leave, without discrimination based on gender, religion, or any other consideration. This is one of the fundamental principles enshrined in national constitutions and international charters. Article 23 of the Universal Declaration of Human Rights emphasizes equality among workers, stating that work is a right for every human being and that they have the right to equal pay for equal work, without discrimination in any of their rights.

The article examines the extent of adherence to the principle of equality in labor laws across the GCC countries, and the prohibition of discrimination against workers based on gender, religion, creed, color, race, or any other consideration unrelated to qualifications and competence.

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Because this is the principle stipulated in Article 93 of the Qatari Labor Law (Qatari Labor Law, 2004), Article 3 of the Saudi Labor Law (Saudi Labor Law, 2005), Article 26 of the Kuwaiti Labor Law (Kuwaiti Labor Law, 2010), Article 29 of the Bahraini Labor Law (Bahraini Labor Law, 2012), Article 4 of the Emirati Labor Law (UAE Labor Law, 2021), and Article 23 of the Omani Labor Law (Omani Labor Law, 2023), this is what the Supreme Courts in GCC countries confirmed, ruling that the principle of equality among workers is one of the fundamental principles upon which labor law is based, in accordance with the principle of equality. Therefore, there must be equal treatment among workers if they perform the same work under the same conditions, with equal competence and qualifications (Supreme Court of Muscat, 2015). Moreover, Article 32 of the Omani Labor Law, which was in force before the conclusion of the employment contract, prohibited the advertisement or classification of jobs based on gender, religion, belief, or color. As a result, discrimination based on gender or religion, restricting women's work, or terminating an employment contract for reasons related to these factors or other discriminatory grounds is considered arbitrary dismissal, obligating the employer to compensate the employee (Dawood, 2018).

Islam also establishes the principle of equality among all people, not just workers, regardless of gender, religion, color, origin, or anything else, because all people, from the Islamic perspective, are equal in their origin of creation, which is Adam and Eve, from whom men and women were created (Quran, 4:1). Therefore, no person has superiority over another except through good deeds (Ibn Hanbal, 2001). As a result, Islamic jurisprudence sees that any thot or law that calls for or justifies discrimination among people based on gender, religion, or any other basis is a violation of the principle of equality firmly established in the texts of the Quran and Sunnah (Al-Ghazali, 2005). Equality is one of the greatest principles for which the prophets were sent, and it was one of the most significant issues faced by the Prophet Muhammad, who called for the abolition of all forms of discrimination based on origin, gender, or tribalism. However, equality in Islam does not mean denying the preference of some people over others based on competence and personal skills. These matters, in the view of Islam, are fields for competition among all people, and the best among them advance based on distinction, not discrimination (Hasan & Abdul Rab, 2021). Therefore, it is not permissible in Islam for a group of people to enjoy special rights that distinguish them from others without a justification for this distinction (Awad, 2025).

It is clear, then, that equality among all workers is an undisputed issue in labor laws in the GCC countries, as it is considered a natural human right. However, this equality should not transform into legal regulation and practical application into a form of discrimination and injustice against women (Al-Barwari & Zebari, 2021; Khalaf, 2023). Islam achieves justice for women relative to men, not merely equality, because equality entails complete similarity in all rights and duties, whereas justice entails giving each person their right according to their nature. Justice is broader than equality. This justice sometimes requires positive discrimination in favor of women, in accordance with their nature, such as by granting them full-paid maternity leave or by considering them during the breastfeeding period. How can there be equality in these matters between her and a man? (Khayat & Abdulsattar, 2024).

The principle of equality and non-discrimination based on religion or gender aligns with international labor standards set by the International Labor Organization, especially the CEDAW Convention, which Article 11 emphasizes by obliging world countries to take all necessary measures to eliminate all forms of discrimination against women, provide them with the same job opportunities, guaranty their freedom to choose the type of work or profession, ensure their equality with men in obtaining fair wages, and prevent discrimination against them for any reason, while providing decent work for them (CEDAW, 1979). Decent work for women contributes to the well-being of their families, advances the national economy, and supports the country's pursuit of sustainable development (Awali, 2022).

It was hoped that labor laws in the GCC countries would not discriminate between working women based on religion or belief, grant certain rights to Muslim women without extending them to followers of other religions or beliefs, or discriminate between workers based

on gender, and deprive women of certain rights allowed to men, influenced by social customs such as prohibiting women from working at night.

Accordingly, the article's central problem is to answer the following question: Have labor laws in GCC countries truly adhered to the principles of equality and non-discrimination against women? Or do these laws include discrimination and thus violate international labor standards and human rights that mandate equality regardless of religion or gender? How is the granting of certain rights to Muslim women, which are not granted to others of different religions or beliefs, such as a mourning leave due to the husband's death, considered a religious leave, justified? Did labor laws in the GCC countries adhere to the principle of equality when they prohibited women from working at night? Or is it considered discrimination against women based on social customs?

### **Methodology**

This topic was studied in the Gulf Cooperation Council (GCC) countries as a model of states whose laws have been influenced by Islam and social customs, using the analytical and comparative methods. The labour law texts were analysed and purposively interpreted in a critical manner. The opinions of legal scholars on this subject were presented, along with the stance of Islamic scholars. All these opinions were discussed to reach the correct viewpoint that does not contradict Islam while achieving equality and non-discrimination based on religion or gender. This was done by comparing human rights principles and international labour standards to determine the extent to which the legal framework for women's work in GCC countries aligns with international standards regarding certain rights granted to Muslim working women, as compared with other working women of different religions or beliefs, in addition to labour regulations that prohibit women from working at night, influenced by inherited social traditions.

### **Discrimination Against Non-Muslim Women Due to Religion in the Mourning Leave**

#### **Mourning Period in Islam**

The mourning period for a woman whose husband has passed away in Islam refers to the duration during which the woman waits to confirm the purity of her womb, to grieve for her husband, and to worship in accordance with Islamic rules (Ibn Abidin, 2003). The mourning period is obligatory for a Muslim woman whose husband has passed away, as well as for a non-Muslim woman married to a Muslim (Al-Juhani, 2024). The mourning period in Islam for a woman whose husband has passed away is precisely defined and specified in Islam, which is one hundred thirty days from the date of the husband's death. This is because the Quran states that the mourning period for a woman whose husband dies is four months and ten days (Quran, 2:234). This period begins from the day of the husband's death (Al-Harby, 2016).

The wisdom behind the mourning period for a woman whose husband has passed away in Islam is attributed to several reasons: This period, in ancient times before scientific advancements, was the only means to determine if a woman was free from pregnancy after her husband's death, preventing the mixing of lineages, which Islam seeks to avoid in society. It also preserves the child's rights by establishing his lineage to his biological father. Additionally, the mourning period serves to honor the deceased husband, respect his memory, and consider his family's feelings. It also protects the woman's dignity and reputation, preventing people from speaking ill of her if she hastily remarried after her husband's death (Al-Daghistani, 1994; Al-Qashiri, 2022).

What confirms that the wisdom behind the mourning period for a woman whose husband has died is not limited to proving the purity of her womb to prevent the mixing of lineage is that this period is obligatory for a Muslim woman whether she is young and can conceive or elderly and has reached menopause and cannot conceive, and whether the husband had consummated the marriage with her or not. If the wisdom behind the mourning was to prove the woman is not pregnant, this could be established immediately upon the husband's death using modern medical

methods, and there would be no need for the mourning period of one hundred and thirty days for all women, regardless of their circumstances (Al-Suwaei, 2023; Al-Rais A. , 2023).

As for a Muslim woman going out to work and fulfilling her needs during the mourning period for her husband, Islamic scholars believe that the rule is that a woman must stay at home during the mourning period, refrain from adornment and perfume as a sign of mourning for her husband, and express sorrow and grief. She is not permitted to leave the house except for necessities such as buying her living requirements, going to work, studying, visiting relatives, and other matters of life (Al-Kassani, 1986; Zidan, 1993; Sharad & Al-Aarfi, 2022).

### The Duration of Mourning Leave for a Woman in the Gulf Labor Laws

Labor laws in the GCC countries differ in the degree to which Islam influences them regarding the duration of mourning leave for a woman whose husband has passed away. The first approach is represented by the United Arab Emirates and Qatar, where Article 32/A of the UAE Labor Law grants working women a five-day mourning leave with full pay in the event of their husband's death, without distinction between Muslim and non-Muslim working women. As for the Qatari labor law, it does not grant any mourning leave in the event of the death of one of the spouses, meaning that neither the Muslim nor the non-Muslim woman receives mourning leave in the event of her husband's death.

The second approach, represented by Saudi Arabia, Kuwait, Oman, and Bahrain, where these laws granted the Muslim working woman whose husband dies a mourning leave, for a longer duration than the period granted to the non-Muslim working woman. The Saudi Labor Law in Article 160, the Kuwaiti Labor Law in Article 77, and the Omani Labor Law in Article 84 grant a Muslim woman whose husband has passed away a mourning leave with full pay for a duration of one hundred thirty days. In contrast, the Saudi law grants a non-Muslim woman whose husband has passed away a mourning leave with full pay for fifteen days. The Kuwaiti law grants a non-Muslim woman whose husband has passed away a mourning leave with full pay for only twenty-one days. The Omani law, however, grants a non-Muslim woman whose husband has passed away a mourning leave with full pay for only fourteen days. The Bahraini Labor Law was the worst of these laws because Article 63 did not grant the non-Muslim working woman any leave in the event of her husband's death. In contrast, it granted the Muslim woman a full-paid leave for thirty days, with the right to extend it to one hundred thirty days if she had an annual leave balance. If she did not have an annual leave balance, she had the right to take unpaid leave.

The duration of mourning leave for a woman whose husband dies begins from the date of death, provided that she presents proof of her husband's death to the employer. The woman may also take this leave multiple times if her second husband, whom she married after the death of her first husband, dies, because the labor law does not limit the woman to taking this leave only once; she is entitled to it whenever the condition is met, which is her husband's death (Al-Harithi, 2017). This leave is mandated by law for women and does not require the employer's approval. The working woman cannot be deprived of it or have it postponed, as it is one of the rights granted to women by imperative rules that cannot be violated (Al-Rais & Al-Abd, 2020). Additionally, a woman whose husband has passed away is entitled to this leave whether her husband consummated the marriage or not, and whether she is young or old, having reached menopause (Al-Masarwa, 2012).

### Discussion

The labor laws of Saudi Arabia, Kuwait, Oman, and Bahrain have committed religious discrimination against working women whose husbands have died. The first three laws granted Muslim women a mourning leave of one hundred thirty days due to their husband's death, while non-Muslim women were not given the same duration, but a much shorter period compared to the mourning leave granted to Muslim women. In fact, the Bahraini labor law did not allow non-Muslim working women any mourning leave for their husband's death, not even for one day. This discriminatory behavior against non-Muslim working women contradicts the principle of equality

enshrined in the internal constitutions of these countries and in international charters, as well as the CEDAW Convention, which prohibits all forms of discrimination against women.

As for the UAE and Qatari labor laws, they adhered to the principle of equality stipulated in their internal constitutions and international charters. These laws also considered the CEDAW Convention, which prohibits all forms of discrimination against women, including discrimination against working women based on religion. These laws treated all women equally, regardless of religion. Moreover, these two laws did not differentiate between men and women; the UAE law granted both men and women the same mourning period in the event of the death of their life partner. As for the Qatari law, it treated both spouses equally and did not grant either of them a mourning leave due to the death of the other spouse. In addition, these two laws did not violate Islamic principles, as Islamic scholars allowed women to work during the mourning period for their husband's death, considering it a necessity of life. As a result, the approach to labor law in the United Arab Emirates and Qatar is commendable and does not involve religious discrimination.

### **Discrimination Against Women Based on Gender by Denying Them Night Work**

Islamic scholars defined the night period astronomically as the period of darkness that follows the day, starting from sunset until dawn (Al-Qurtubi, 1985). Meanwhile, Article 22 of the Kuwaiti Labor Law defined it as "the period between ten in the evening and seven in the morning". Article 1 of the Omani Labor Law defined the night period as "the period between nine in the evening and five in the morning." As for the International Labor Organization, it defined the night period in Article 1 of Convention No. 171 as "any work performed during a period of not less than seven consecutive hours, including the period from midnight to five o'clock" with Article 2 of this convention confirming that the night work system applies to everyone regardless of gender (Night Work Convention, 1990). This means that women's night work is permissible under international labor standards, as the convention does not exempt women from night work; rather, it is inclusive and applies to all workers, regardless of gender.

#### **The Rule in Most GCC Countries: A Ban on Women Working at Night**

It is noted that the general rule in most GCC countries is the prohibition of women working at night, with a few exceptions determined by the Minister of Labor, where women may work at night due to the nature of their job, such as in the medical sector, if the woman is a doctor, nurse, or midwife. The countries that prohibit women from working at night are Qatar (Article 95 of the Qatari Labor Law), Kuwait (Article 22 of the Kuwaiti Labor Law), and the Sultanate of Oman (Article 75 of the Omani Labor Law).

Two factors have influenced this approach of rejecting women's night work. Firstly, the inherited social customs and traditions in Gulf societies that do not accept women going out at night, even for work, as this contradicts women's modesty and morals. These countries have succumbed to the dominance of these customs and traditions, prohibiting women from working at night. It is evident that these traditions influence the legislator's direction when drafting legal texts and may serve as an obstacle to women's rights (Mishali, 2023; Ata'llah, 2025). Secondly, the stance of some early Islamic jurists opposed women's work in general and at night in particular. Although the modern trend among Islamic scholars is to allow women to work because it helps their families, resulting in a better living for them and their relatives, their work is considered one of the objectives of Islamic law, which aims to alleviate hardship and facilitate people's lives without imposing restrictions on them (Al-Muqbil, 2021; Al-Rais I., 2025).

The work of women nowadays, from the perspective of contemporary Muslim scholars, is critical to the family. It is considered a necessity for some families, given the difficult economic conditions faced by many communities. This makes it difficult for the husband alone to provide for the family's living expenses. The wife's contribution is seen as an act of affection, mercy, and cooperation between the spouses (Mustafa, 2023; Sawadi, 2023). There is no harm in women working at night after security has been established and transportation means are available. We

must rid ourselves of outdated social customs that bind women with unjustifiable restrictions. Additionally, we should not consider the opinions of ancient Islamic scholars that no longer align with modern societal conditions, even if they were suitable for the distant past.

Most legal scholars have directed their criticism toward the stance supporting the prohibition of women working at night, as it entrenches discrimination between workers based on gender. The ban on women working at night results in reduced job opportunities for them, given that certain jobs operate on a night shift basis, leading to lower wages compared to those who work at night. All these factors contradict international labor standards that mandate equality in job opportunities and fair wages, especially since the health and family risks of night work are the same for all workers and do not vary by gender. Therefore, acceptance of night work should be left to each individual based on their circumstances (Al-Shobry, 2018; Al-Torah & Alwaqyan, 2023; Salamah, Dawas, & Qara'wi, 2024). Therefore, the other GCC countries, namely Saudi Arabia, the UAE, and Bahrain, have allowed women to work at night, to achieve the principle of equality and prevent gender discrimination, thus giving women the freedom to choose whether to work at night or to refuse it if they see fit according to their circumstances. This legislative trend in these countries is worthy of support.

The strange thing is that although the prohibition of women working at night contradicts international labor standards outlined in the CEDAW Convention, which prohibits all forms of discrimination against women in Article 11, some legal scholars justify this prohibition with several arguments, including: that the ban on women working at night is in line with their nature and role in the family, and therefore, from their perspective, it is a positive discrimination that protects them from night work, as night work causes women to suffer from diseases, conflicts with the human biological clock, and has adverse effects on married women, especially if they have children, in addition to the danger and lack of safety during the night (Al-Barawi, 2010; Al-Aqaila, 2012; Dawood, 2019; Al-Salaita, 2020; Mahmood & Rasheed, 2023).

The labor laws of Qatar, Kuwait, and Oman, which ban women from working night shifts, violate the constitution that guarantees equality among all members of society and prohibits gender-based discrimination. Therefore, they can be challenged as unconstitutional. Additionally, they violate Article 23 of the Universal Declaration of Human Rights, which grants every person the freedom to choose their work without discrimination based on gender. There is no doubt that the prohibition in the labor laws of these countries against women working at night is an infringement on their right to choose the work they want. It also contradicts international labor standards outlined in the CEDAW Convention on the Elimination of All Forms of Discrimination Against Women, in addition to violating ILO Convention No. 171 concerning night work. Some Gulf labor laws resort to this ban because they are influenced by social customs that regard a woman working at night as contrary to the modesty and moral integrity she should possess. They are also influenced by the opinions of some ancient Islamic scholars who expressed these views in the past, despite the existence of a modern perspective that permits women to work in general, whether at night or during the day, as this aligns with the conditions of society and the spirit of Islam, which is based on the principle of equality among people in general, whether in the right to work or other rights. A misunderstanding of Islam causes discrimination between people based on gender. Discrimination not only contradicts the principles of human rights in their modern sense but also the idea of a just God who created people equal. Therefore, whenever there are legal rules that differentiate between men and women, it is attributed to humans, not Islam, which is derived from the absolute justice of God (Čustović, 2025).

Therefore, it is commendable that labor laws in Saudi Arabia, the UAE, and Bahrain permit women to work at night, thereby advancing social equality and preventing gender-based discrimination in the workplace. Other Gulf countries should follow suit in this regard, as they are all part of a single Gulf community united by religion, customs, and traditions, influenced by social customs and traditions, despite the dominant Islamic ethos in these countries being based on fair and just relationships between men and women, without considering social customs and traditions that seem to protect women on the surface, but in reality, they contradict Islamic teachings, because equality, justice, and fairness are what Islam commands for all people, men and women.

## Conclusion

All constitutions and labor laws in the GCC countries have stipulated the principle of equality among all workers, regardless of gender, religion, or any other consideration. Islam also emphasizes something better than equality, which is justice in treatment for everyone, regardless of gender or religion. This Islamic justice does not mean mathematical equality; instead, it takes into account the circumstances of women and their social roles. However, the practical application in organizing women's labor regulations in the Arab Gulf countries has not adhered to the principle of equality, as discrimination against some working women has occurred, influenced by social customs and traditions at times, and under the pretext of religion at other times. Although Islam is based on equality and fair and just relationships among people, it is not permissible to pay attention to social traditions and customs that seem to protect women on the surface. Still, in reality, they contradict the essence of correct Islamic thought. This is because equality, justice, and fairness are what Islam commands for all people (Ali & Majeed, 2018).

Based on that, Islam does not endorse any thought or legislation that discriminates between people based on religion or gender. If violations occur in some countries, they do not stem from true Islam, but rather from a misunderstanding of the tolerant principles of Islam, which are based on the principle of equality among all people. The just God, who created all people from a single origin, does not tolerate discrimination among them; instead, superiority among them is based on competence and good deeds. It is not permissible to view the statements of some Islamic scholars as sacred divine matters; rather, they are interpretations subject to discussion, interpretation, and revision, in accordance with the correct understanding of the objectives of Islam, the interests of people, and the requirements of the era (Al-Mahfali & Avery, 2023).

Based on the above, the article recommends that legislators in Saudi Arabia, Kuwait, Oman, and Bahrain work toward achieving the principle of equality and non-discrimination among workers based on religion by amending the mourning leave duration for women whose husbands have passed away to be the same duration for all working women, regardless of religion. Legislators in Qatar, Kuwait, and Oman are also recommended to amend their stance on women's night work and to prohibit gender-based discrimination. These recommendations would align labor laws in GCC countries with international standards and human rights norms.

## Conflict of Interest

The author does not have any conflict of interest.

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