

PROTECTING THE DEBTOR THROUGH REHABILITATION (RAD AL-I‘TIBĀR) UNDER THE SAUDI BANKRUPTCY LAW (AN ANALYTICAL STUDY)

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ABSTRACT: Undoubtedly, protecting the insolvent debtor is of significant importance in economic life, as it helps prevent commercial enterprises from collapsing. For this reason, legislation has been enacted to allow the preparation of rescue plans as soon as early signs of economic difficulty appear. The Saudi Bankruptcy Law sets forth the procedures governing creditors and debtors and prescribes practical mechanisms that clearly safeguard the debtor's rights, attaching multiple effects that attest to the seriousness of this protection. Among these mechanisms is protecting the debtor by rehabilitating his status once bankruptcy procedures against him have concluded. This study seeks to shed light on that mechanism.

Keywords: protection; debtor; rehabilitation; bankruptcy

INTRODUCTION:

Modern legal systems have delineated pathways to save commercial enterprises from collapse and bankruptcy by establishing frameworks that permit the preparation of debtor-rescue plans as soon as early signs of economic difficulty appear - whether in commercial undertakings or for individual merchants.

The Kingdom of Saudi Arabia has paid close attention to commercial laws and market stability, including methods for protecting the rights of creditors and debtors and administering those rights so that each party receives its due without prejudicing the other. Among these methods is protecting the debtor through post-bankruptcy rehabilitation.

This broader regulatory orientation aligns with sectoral evidence in Saudi Arabia, whose regulations “focus on safeguarding life, property and the environment” through preventive and control strategies (Alasmari & Zurib, 2025). ARCC Journals

This study aims to present this mechanism and demonstrate its protective effect. We have entitled it: Protecting the Debtor through Rehabilitation under the Saudi Bankruptcy Law (An Analytical Study).

Significance of the Study:

1. Discussing a debtor-protection mechanism that rehabilitates the debtor upon the conclusion of bankruptcy procedures - so as to preserve dignity and humanity - is a rights-protecting tool.
2. This mechanism belongs to matters of public policy; it may not be violated, nor may agreements be made to contravene it under any circumstances.

Research Objectives:

1. To foreground this mechanism, present it to relevant stakeholders, and then clarify its role in safeguarding the insolvent debtor's rights.
2. To set out the effects of this mechanism in protecting rights; presenting those effects to stakeholders indicates the seriousness of the protection afforded.

Research Problem:

Bankruptcy systems and statutes primarily aim to protect the creditor, which at times leads to neglect of the debtor's rights. The Saudi Bankruptcy Law sought to remedy this by delineating practical mechanisms to protect the debtor, including rehabilitating the debtor once bankruptcy procedures against him have concluded.

Notwithstanding its importance, this mechanism is not expressly articulated in the text of the Law, nor has it been consolidated within a single framework that surfaces and clarifies it; nor has it previously been subjected to study

and analysis.

Previous Studies:

Based on the sources consulted, we did not find an independent study devoted specifically to this mechanism.

RESEARCH METHODOLOGY

This study adopts an inductive reading of the provisions of the Saudi Bankruptcy Law and related regulations, together with an analytical method to infer rules pertinent to this mechanism from the relevant legal texts.

Scope of the Study

The study comprises a preliminary section, two chapters, and a conclusion, as follows

Preliminary: **Defining the Terms in the Research Title (four demands)**

Demand One: Definition of Protection in Saudi Law:

No technical statutory definition of protection was found in Saudi law; the term is used by jurists, and its meaning varies with the right protected (civil, criminal, moral, etc.). Cornu's Dictionary of Legal Terms defines protection as "a precaution based on safeguarding a person or property against risks, and ensuring their security and safety through legal or material means." (Cornu, 1418 AH). For purposes of the Bankruptcy Law, protection may be expressed as: preventing creditors or others from unlawfully infringing the debtor's rights or assets pursuant to the provisions and procedures of the Bankruptcy Law. (Saudi Bankruptcy Law, 1439).

Demand Two: Definition of Debtor in Saudi Law:

In legal doctrine, a debtor is "one who must perform the obligation or pay compensation". (Badawi, 1424).

The Saudi Bankruptcy Law defines the debtor as "a person in whose liability a debt is established," and defines debt as "a financial obligation fixed in the debtor's liability". (Saudi Bankruptcy Law, 1439).

Demand Three: Definition of Bankruptcy in Saudi Law:

The Law defines a bankrupt as a debtor whose debts have absorbed all of his assets. (Saudi Bankruptcy Law, 1439).

Demand Four: Definition of Rehabilitation (Rad al-I'tibār) in Saudi Law:

Rehabilitation has been defined as "the cessation of the forfeiture of rights arising from personal bankruptcy or from a prohibition on managing a commercial establishment or managing on behalf of others, applicable to a debtor in a liquidation, judicial composition, or to a company manager subject to such procedures". (general doctrinal definition).

It also appears in Saudi law as: "a decision issued by the competent authority - after the statutory conditions are met - deleting from the records the judgment rendered against the applicant for rehabilitation, and enabling the applicant to enjoy the rights vested in a law-abiding citizen". (Ministry of Interior, 1993).

In light of the Bankruptcy Law, rehabilitation of the debtor may be formulated as: "the legal restoration of the debtor-after termination of the bankruptcy procedure taken against him-to the status he held prior to the initiation of any bankruptcy procedure".

Chapter One: Identifying the Procedures that Affect the Debtor's Status in Saudi Law:

A review of the various bankruptcy procedures set out in the Law shows that the most impactful on the debtor - depriving him of certain rights - are: liquidation for ordinary debtors, liquidation for small debtors, and administrative liquidation. In these procedures, the debtor's hand is stayed (i.e., he is fully divested of authority over business operations), and the trustee or the Bankruptcy Commission takes his place; the debtor thus becomes akin to a person lacking capacity. By contrast, in preventive settlement (for ordinary and small debtors) and financial restructuring (for ordinary and small debtors), the debtor does not require rehabilitation because his hand is not fully stayed—he continues to conduct business normally.

The legislator nevertheless safeguarded the debtor's rights even where his hand is stayed, by imposing numerous obligations on the trustee and on the Bankruptcy Commission to ensure the fairness of the relevant procedures. For example, the trustee's work in liquidation is monitored: the trustee must provide the court with a periodic report at least every three months on the progress of liquidation. (Saudi Bankruptcy Law, 1439).

Chapter Two: Rules on Rehabilitating the Insolvent Debtor under Saudi Law:

Given the legislator's solicitude for the debtor's rights, one effect is rehabilitation.

We clarify this effect in liquidation and administrative liquidation as follows:

First: Liquidation (ordinary debtor)

The Law obliges the trustee to apply to the court for a judgment terminating liquidation upon completion of the procedure—i.e., after: (1) completing the sale of the bankruptcy estate's assets; (2) the conclusion of lawsuits to which the debtor is a party; and (3) the final distribution to creditors together with final accounts and reports attached to the termination request. (Saudi Bankruptcy Law, 1439 AH).

If the court terminates the procedure, consequences depend on whether the debtor is a juridical person or a natural

person:

- Juridical person: termination results in dissolution of the entity, whether termination occurs upon completing liquidation or earlier due to insufficiency of assets to cover investigative costs. The trustee's termination request for a juridical debtor must include a request for dissolution, and the court must order dissolution where the debtor is a juridical person. As a result, all claims against the juridical person end upon dissolution; it no longer has capacity to bear obligations. (Saudi Bankruptcy Law, 1439 AH).
- Natural person: after the termination judgment, the trustee must deposit the judgment in the Bankruptcy Register and strike the debtor's entry from the Commercial Register. Two effects follow:
 - (a) The debtor's name is removed from the Bankruptcy Register 30 days after the date of the termination judgment, enabling him to resume commercial or professional activities for profit. This means the debtor's commercial status is rehabilitated automatically upon termination - without the need to apply separately for rehabilitation as previously required.
 - (b) The debtor remains liable for claims not yet discharged; his liability does not expire upon removal of his name from the Register except by special or general release from the creditors. If no release is obtained, the debtor remains insolvent with respect to the remaining creditor rights for 24 months from the termination of liquidation; during this period, those creditors may not apply to open any bankruptcy procedure. (Saudi Bankruptcy Law, 1439).

Second: Liquidation for Small Debtors

Within twelve months from opening liquidation for small debtors, the trustee must apply to the court to terminate the procedure upon: (1) completing asset sales and concluding lawsuits; and (2) making the final distribution and attaching final accounts and reports. The same effects apply as in ordinary liquidation: dissolution for juridical debtors, and removal from the Bankruptcy Register for natural persons - thereby achieving rehabilitation. (Saudi Bankruptcy Law, 1439).

Third: Administrative Liquidation

The Law authorizes the Bankruptcy Commission to issue a decision terminating administrative liquidation after completing asset sales and concluding lawsuits to which the debtor is a party—within twelve months from opening. Unlike other bankruptcy procedures, which are terminated by court judgment, administrative liquidation is terminated by Commission decision—apparently because the debtor's financial condition has deteriorated to the point that assets are insufficient to cover the costs of liquidation (ordinary or for small debtors).

The same two effects follow: dissolution for juridical debtors and removal of the natural person's name from the Bankruptcy Register—thus rehabilitating the debtor. (Saudi Bankruptcy Law, 1439).

Conclusion of Chapter Two. The Saudi Bankruptcy Law is keen to protect the debtor's rights; among the effects of this protection is rehabilitating the debtor upon completion of liquidation, liquidation for small debtors, and administrative liquidation—without requiring a separate application or a judgment for rehabilitation; rather, the right arises by virtue of the termination ruling/decision. (Saudi Bankruptcy Law, 1439).

CONCLUSION:

Findings:

1. This class of protective mechanisms safeguards the debtor's rights after the completion of liquidation and administrative liquidation.
2. The foregoing shows the Saudi legislator's keenness to protect the debtor by rehabilitating his status after the completion of liquidation procedures.

Recommendations:

We recommend publicly announcing the debtor's rehabilitation upon conclusion of the specified procedures in order to preserve the debtor's commercial reputation. (See generally: Saudi Bankruptcy Law, 1439).

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REFERENCES:

- Badawi, A. Z. (1424). *Ma'jam al-muṣṭalahāt al-qānūniyya* [Dictionary of legal terms] (2nd ed.). Cairo, Egypt: Dār al-Kitāb al-Miṣrī.
- Cornu, G. (1418). *Ma'jam al-muṣṭalahāt al-qānūniyya* [Dictionary of legal terms] (M. al-Qāḍī, Trans.; 1st ed.). Beirut, Lebanon: Al-Mu'assasa al-Jāmi'iyya li-al-Dirāsāt wa-al-Nashr wa-al-Tawzī'.
- Kingdom of Saudi Arabia. (1439). Bankruptcy Law (Royal Decree No. M/50, 28/5/1439).
- Ministry of Interior, General Directorate of Rights (Saudi Arabia). (1993). *Murshid al-ijrā'āt al-jinā'iyya* [Guide to criminal procedures]. Riyadh, Saudi Arabia: Ministry of Interior.
- Qarman, 'A. S. (1441). *Al-awraq al-tijāriyya wa-ijrā'āt al-iflās tibqan li-l-anzima al-qānūniyya al-munaffidha li-Ru'yat al-Mamlaka 2030* [Commercial papers and bankruptcy procedures under the legal systems implementing Saudi Vision 2030] (2nd ed.). Riyadh, Saudi Arabia: Dār al-Ijāda. Kingdom of Saudi Arabia. (1350). Commercial Court Law (Royal Decree No. 32, 15/1/1350).

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- Alasmari, M. A. M., & Zurib, M. A. G. (2025). Activating the Purposes of Islamic Sharia through the Regulations of the National Center for the Prevention and Control of Plant Pests and Animal Diseases in the Kingdom of Saudi Arabia: A Review. *Indian Journal of Animal Research*, 59(9), 1450-1457.
 - <https://doi.org/10.18805/IJAR.BF-1856>.