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METHODS OF CHALLENGING CRIMINAL JUDGMENTS IN SAUDI LAW

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ABSTRACT

The right to challenge judgments is one of the guarantees that ensures the effectiveness of the right of defense, as it aims to address the errors and defects that may affect a criminal judgment, thereby achieving justice, which inherently relies on the soundness of such judgments. A criminal judgment may contain an erroneous conviction, which prevents the accused from enjoying the right to a fair trial, as the court may have substituted conviction for the fundamental presumption of innocence. The trial may have been conducted without the court observing the safeguards prescribed by law for the accused; for instance, it may not have heard his motions, may not have examined his substantive defenses, or, more generally, may not have afforded him an adequate opportunity to present his defense. In such circumstances, the importance of granting the accused the right to appeal becomes evident. This right is considered one of the fundamental principles governing criminal procedure, and international human rights conventions regard it as an essential component of the right of defense – an approach similarly adopted in the Kingdom of Saudi Arabia. All comparative criminal procedure laws have taken care to identify and regulate ordinary methods of challenge – namely opposition (mu'āraḍah) and appeal – as well as extraordinary methods of challenge, namely cassation and retrial, whether in terms of grounds, the court's authority, or enforcement of the judgment. Regarding the grounds: ordinary methods of challenge are not restricted to specific statutory grounds; unlike extraordinary methods of challenge whose grounds are expressly defined by law. Accordingly, this study seeks to shed light on all methods of challenging judgments under the Saudi Criminal Procedure Law, in comparison with selected Arab criminal procedure laws, in order to benefit from their strengths, avoid their shortcomings, and ultimately contribute to the development of the Saudi legal framework from a procedural and doctrinal perspective. This Research Was Founded by the General Directorate of Scientific Research & Innovation, Dar Al Uloom University, Through the Scientific Publishing Founding Program.

KEYWORDS: Challenge; Review; Appeal; Opposition; Contestation; Cassation; Criminal Judgment.

1. INTRODUCTION

What is of special concern is the right to appeal judgments, as this is the primary way of checking the assurance of a fair trial to the accused in general, and is closely associated with the right to defense in specific. This relationship can be seen in the legal remedies fixed to appeal and the outcomes of each remedy since there are many remedies and by combining all remedies, the outcome will be to serve justice. Appeal against a judgment implies that the judgment is reviewed once it is passed¹. The appeals are normally made at a superior court. But when it comes to a ruling being appealed, it is to the same court that made the ruling to appeal. The rationale of appealing against a ruling is to rectify mistakes since judges are humans and are not fallible.

Undoubtedly the decision made by the criminal court ought to be the outcome of a trial procedure flanked by guarantees and ought to be the embodiment of truth. But so long as the person who is making the ruling is also a human, he/she can make a mistake in the ruling, either because he/she will be basing their conviction on incongruent facts, or because they are attempting to judge a legal text that is not applicable to them because of their interpretation of that text². The consequence, though in a narrower sense, of this will be, that the criminal judge will fall, not always intentionally, into either of the two following: error in his judgment of the facts, or error in his judgment of the law applied to the facts³.

Indeed, the injustice and bitterness of one side of a lawsuit who loses the case by the decision of the judge or the tribunal is natural. We find then that comparative criminal procedure laws put this possibility into consideration, they provide everyone who feels aggrieved at a ruling with the right to appeal against it, so that the first ruling can be corrected by overruling, amending or upholding it, and in that way reassure any person who feels aggrieved at a ruling, that the decision after the first ruling will be set aside, rewritten or reaffirmed.

This court will therefore have to rectify this mistake by a superior court. Moreover, appealing against judgments allows the defendant to exercise his right to litigation on two levels, therefore the court is not alone in deciding his fate, and thus his state of peace of mind is enhanced, and his

confidence in the ultimate judgment is reinforced when such is declared.

It is notable that the difference between ordinary and extraordinary appeal methods which are frequently called as, on one hand, opposition, and on the other hand, appeal or cassation and review is based on the grounds, the power of the court or enforcement of the decision⁴. Grounds in grounds, the grounds of ordinary appeal are not given, but rather they are not confined to any grounds given by the law unlike extraordinary appeals whose grounds are given by the law. Regarding the court authority, ordinary appeals simply bring the case to the court in which the case is heard, the court that treats the case as though a court of first instance whereas, in the case of an extraordinary appeal, the court can only treat the case on the basis of the grounds of appeal provided by the law.

Concerning the enforcement of the contested judgment, the ordinary appeals, in principle, will block the enforcement of the judgment, and cassation appeals will not block the enforcement of the contested judgment.

It must be observed, here, that there are general conditions of appealing against criminal judgments, whether ordinary or extraordinary, and these are as follows:

First: it is only possible to file an appeal against judicial decisions, but there are rare instances when decisions and orders can be appealed. It therefore follows that one cannot appeal against a decision to adjourn or reserve a case to judgment, to recuse oneself in case of a case or to remove another individual in a courtroom due to disruptive conduct during a court hearing.

Second: an appeal should be made by some party to the case which has an interest in the appeal that is, his or her purpose in appealing is to reverse or revise in whole or part the decision or ruling made against his/her interests⁵.

It should be noted here that the right of appeal has been acknowledged and controlled in modern legislation and this is reflected in its legislation, however techniques of appealing against judgments vary across legal systems and differ in their names, the methods include opposition, appeal, review, cassation and reconsideration. Most of the current laws against criminal procedures, such as the Saudi

¹ Alaa Muhammad Al-Sawy, *The Right of the Accused to a Fair Trial*, Dar Al-Nahda Al-Arabiya, 2001, p. 749.

Mubarak Abdul Aziz Al-Nuwaibet, *Explanation of the General Principles of the Kuwaiti Criminal Procedure and Trials Law*, 1998, p. 631.

² Abdul Wahid Al-Alami, *Explanation of the New Law Relating to Criminal Procedure*, op. cit., 2015, p. 72.

³ Mubarak Abdul Aziz Al-Nuwaibet, *Explanation of the General Principles of the Kuwaiti Criminal Procedure and Trials Law*, 1998, p. 631.

⁴ Ahmed Fathi Sorour, *The Mediator in Criminal Procedure Law (A Comparative Study)*, Dar Al-Nahda Al-Arabiya, 2014, p. 7.

⁵ Anwar Ghali Al-Dahabi, *Criminal Procedures in Egyptian Legislation*, Gharib Library, 1990, p. 792.

Criminal Procedure Law, the Egyptian Criminal Procedure Law and criminal procedure laws of the Gulf states have adopted these approaches. On the contrary, Morocco has five appeals or methods of appeal as developed in the Criminal Procedure Law, which are (objection, appeal, cassation, review, and revision). The two initial approaches to appeal (objection and appeal) are known as ordinary methods of appeal and the remaining approaches (cassation, reconsideration, and review) are known as extraordinary or exceptional methods.

All the above approaches to challenging judgments irrespective of their category or label, strive to rectify any legal or process mistakes that might have blemished the criminal verdict handed down.

In this regard, the legal framework of various countries emulates their legal and judicial evolution with the legal systems of various countries establishing a strict appeal system as opposed to those of flexible nature in which litigants have more than one way to appeal a judgment. By this research, we revisit the means of appealing criminal judgments under the Saudi law and some of the comparable laws, be it in terms of grounds, or in terms of authority of the court, or the enforcement of the judgment, by subdividing this research into three parts:

The former part is concerned with the nature and circumstances of criminal judgments, which is broken down into two conditions. The former need is concerned with the nature of criminal judgment, and the latter need is concerned with the circumstance of criminal judgment.

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2. METHODOLOGICAL FRAMEWORK

The methodological framework of this research will be divided into the following sections:

2.1. First: Research Problem

Many people do not have sufficient knowledge of litigation procedures, especially with regard to appealing criminal judgments, particularly criminal judgments upheld on appeal. Furthermore, the methods and procedures for appealing criminal judgments differ from those that prevailed before the recent Saudi Criminal Procedure Law was issued⁶. There is also a lack of comparative studies on this

subject and a desire to clarify the definition of criminal judgments, whether initial, issued or upheld by the Court of Appeal, and to explain how the Saudi legislature deals with the issue of appealing criminal judgments, comparing this with Arab criminal procedure laws, especially since the legislative authority has introduced in the new Saudi procedural law a means of appealing judicial rulings (by cassation), which is considered an extraordinary means of cassation, before the Supreme Court. All of this contributes to the achievement of justice and the attainment of rights.

2.2. Second: Research Objectives

The objectives of this research can be summarized in the following points:

1. To explain the nature of appeals against criminal judgments in Saudi criminal procedure law and comparative criminal procedure laws.
2. To clarify the grounds for appealing against criminal judgments in Saudi criminal procedure law and criminal procedure laws in some Arab countries, and to explain the consequences of appealing against criminal judgments.
3. Identifying the differences between the procedures for appealing a criminal judgment in Saudi criminal procedure law and criminal procedure laws in comparative laws.
4. Determining the procedures that must be followed to appeal a criminal judgment in Saudi Arabia and in comparative countries, in order to benefit from these differences.

2.3. Third: Research Questions

The study of appeals against criminal judgments and their penal procedures in Saudi law raises a key question: What are the criteria and procedures for appealing against criminal judgments before the Saudi criminal courts and their counterparts in comparative countries? To achieve the objectives of the study, the following questions arise:

1. What is an appeal against a criminal judgment?
2. What are the grounds for appealing a criminal judgment, and what are its types and conditions?
3. What procedures must be followed to appeal a criminal judgment in Saudi law and comparative laws?
4. What are the consequences of appealing a criminal judgment in Saudi law and

⁶ Issued by Royal Decree No. (M/2) dated 22/1/1435 AH

comparative laws?

2.4. Fourth: Significance of the Research

The importance of the research topic lies in reviewing the legal aspects addressed in the study in the field of appealing a criminal judgment in Saudi criminal courts and comparative countries, and comparing this in this study. It is well known that the judiciary in criminal judgments achieves the principle of justice and guarantees the rights of the convicted person, as it requires re-examining the case from a legal and legitimate perspective and reviewing the ruling, in the hope of correcting errors and issuing a flawless judgment. The regulation of appeals against criminal judgments contributes to increasing the effectiveness and quality of the judiciary and achieves self-monitoring that requires judges of the courts of appeal to pay greater attention to examining the case and issuing correct judgments. It is worth noting here that this study clarifies the rulings and procedures stipulated in the Criminal Procedure Law of the Kingdom of Saudi Arabia and in some comparative criminal laws.

2.5. Fifth: Research Methodology

This research relies on a legal analytical approach supported by comparative aspects, highlighting all methods and procedures for appealing criminal judgments in the Saudi Criminal Procedure Law issued in 1435 AH, then comparing them with methods and procedures for appealing criminal judgments in comparative laws, analysing their contents and identifying the differences between them.

2.6. Sixth: Previous Studies

Al-Yahya (1424) agrees with the research in its treatment of appeals against criminal judgments in Saudi law, but the current research differs in that it deals with appeals against criminal judgments under the old Saudi judicial law, issued by Royal Decree No. (M/46) dated 14/7/1395 AH. where the methods of appealing criminal judgments were (discrimination and reconsideration) issued by the Sharia courts. Our current research deals with appeals against criminal judgments, in accordance with the new Saudi Criminal Procedure Law issued by Royal Decree No. (M/2) dated 22/1/1435 AH, and the Judiciary Law issued by Royal Decree No. (M/78) dated 19/9/1428 AH. Many aspects of the judiciary and the Criminal Procedure Law have been introduced, with cassation being approved as a new method of appeal, as it did not exist in

the law at the time the researcher wrote his study.

Al-Rashoud, (1424) AH Conducted a study that agrees with the researcher's study in terms of terminology and its treatment of appeals against criminal rulings. The current study differs in terms of the new aspects of the Judiciary Law and the Criminal Procedure Law, issued by Royal Decree No. (M/2) dated 22/1/1435 AH. The current study also clarified the competent authority for appealing a criminal ruling issued by the Court of Appeal, which is the Supreme Court, as it was introduced in the new law and did not exist at the time the researcher wrote his study, because the competent authority for appeals against rulings, whether to overturn or review them, was the Court of Cassation at that time.

Al-Sudais (1407) AH conducted a study that related to this study in terms of the similarity in the general terminology of the subject, but it differs from it in terms of the new aspects of the Judiciary Law and the Criminal Procedure Law, as it was written before the current law was issued.

According to Al-Shahri (1434), the researcher's thesis deals with the subject of appealing judicial rulings in the Sharia court system, and its relevance to the current study is that it agrees with it in its treatment of methods of appeal, but differs from it in that our current research deals with appeals against criminal rulings, while the researcher's study deals with the subject of appeals against civil rulings.

3. RESEARCH STRUCTURE

Introduction:

First section: Types and conditions of criminal judgments.

First requirement: Types of criminal judgments

Second requirement: Conditions of criminal judgments

Second section: Types of extraordinary methods of appealing criminal judgments in Saudi law and comparative laws.

First requirement: Opposition in Saudi law and comparative laws.

Second section: Appeal and review in Saudi law and comparative laws.

Third section: Types of ordinary appeals against criminal judgments in Saudi law and comparative laws.

First section: Cassation in Saudi law and comparative laws.

Second section: Review in Saudi law and comparative laws.

Conclusion.

Results and recommendations.

List of references.

SECTION ONE

TYPES AND CONDITIONS OF CRIMINAL JUDGMENTS

It is well known that when a criminal case leaves the court system, a criminal judgment has usually been issued in its subject matter⁷. A criminal judgment is one of the procedures of this criminal case, as it is its natural conclusion⁸. Commentators on criminal law have divided judgments into those issued in the presence of the defendant (the accused) and those issued in their absence⁹. In terms of subject matter, criminal judgments are divided into final criminal judgments, which are decisive on the subject matter, and non-final criminal judgments, which are not decisive on the subject matter. All of this is done in order to arrive at an unambiguous and clear truth and, consequently, to deliver a fair judgment that achieves stability in society.

To clarify this, we will discuss in this section the types of criminal judgments and the conditions for criminal judgments by dividing this section into two parts. The first part will discuss the types of criminal judgments, while the second part will highlight the conditions for criminal judgments.

Second Requirement

Types of Criminal Judgments

Criminal judgments are divided into several categories: non-final criminal judgments, which are known as non-definitive criminal judgments; preliminary judgments; final criminal judgments; definitive criminal judgments that terminate litigation; non-definitive criminal judgments that do not terminate litigation; preliminary criminal judgments; and final criminal judgments. We will discuss each type of these judgments in some detail as follows.

A non-final criminal ruling in a case is a criminal ruling that does not settle the dispute and does not remove the subject matter of the case from the court's

jurisdiction. Its role is therefore limited to resolving issues that obstruct the progress of the case before a decision is made on the subject matter. This ruling is either a preliminary ruling or a preparatory ruling on subsidiary issues¹⁰.

A preparatory ruling is one that orders a final investigative measure to be taken with the aim of establishing the truth without directly leading to a decision on the case. It therefore does not express the court's opinion on the subject matter of the dispute, such as a ruling to join the case to another, to proceed to inspection, or to join a subsidiary issue to the main issue in order to decide on them together¹¹.

A preliminary ruling is a ruling that reveals the court's opinion on the subject matter of the case and immediately precedes the decision on the case, ordering measures to be taken in preparation for this ruling, such as ruling to allow the defendant to prove a reason for permissibility or an impediment to punishment, or to prove a subsidiary issue on which his innocence depends, such as proving a marriage contract in a crime of adultery¹². Therefore, the implementation of the preliminary ruling differs from that of the preparatory ruling, but the preliminary ruling must be implemented because it expresses the opinion of the court and is relevant to the rights of the parties, whereas the preparatory ruling is not binding on the court because it does not reflect the opinion of the court and is not relevant to the interests of any of the parties¹³. The preliminary ruling is also consistent with the preparatory ruling in that they both aim to establish the truth, but the latter differs from it in that it expresses the court's position in the case¹⁴. Thus, the concept of a ruling issued before the final decision on the subject matter is defined as: any ruling issued on a formal objection or an objection to the admissibility of the claim, or a claim relating to the conduct or form of the proceedings or the proof of the claim¹⁵.

Whereas we find that the final ruling in the case is the ruling that decides on the subject matter of the criminal case, convicting or acquitting the defendant,

⁷ Saad, Ibrahim Najib: Private Judicial Law, Al-Maaref Publishing House, Alexandria, Part Two, p. 193.

⁸ Sharif, Muhammad Al-Sayyid: A Concise Explanation of the Saudi Criminal Procedure System, First Edition, 1437 AH, Arab World Library, p. 352.

⁹ It is well-known that criminal judgments in the Saudi system are only issued in the presence of the defendant, and the Saudi legislator has not permitted judgments in absentia, in accordance with what is stipulated in Article 140 of the Criminal Procedure System.

¹⁰ Ramadan, Omar Al-Saeed: Principles of Criminal Procedure Law, 2nd ed., 1984, Cairo University Press and University Bookshop, pp. 144-145.

¹¹ Salama, Mamoun Muhammad Salama: Criminal Procedures, Vol. 2, p. 254.

¹² Sharif, Muhammad Al-Sayed: A Concise Explanation of the Saudi Criminal Procedure System, 1st ed., 1437 AH, Arab World Library, pp. 355-356.

¹³ Al-Labban, Osama Sayed: Criminal Procedures in the Kingdom of Saudi Arabia, 1st ed., 1435 AH, Al-Rushd Publishers Library, Riyadh, p. 369.

¹⁴ Sorour, Ahmed Fathi: The Intermediate Guide to Criminal Procedure Law, p. 807.

¹⁵ Al-Shawarbi, Abdul Hamid: Civil and Criminal Rulings in Light of Jurisprudence and the Judiciary, p. 11.

thereby ending the criminal proceedings¹⁶. Article 179 of Chapter VIII of the Code of Criminal Procedure stipulates the basis on which the court shall base its ruling and what the judge may not rule on. It states: 'The court shall base its ruling on the evidence presented to it during the hearing of the case...' Article 180 of the same law specifies that the claims of the private prosecutor or the defendant must be decided in every ruling issued in a criminal case, and sets out the rules governing this. The article states the following: 'Every judgment issued in a criminal case must rule on the requests of the private prosecutor or the defendant, unless the court considers that ruling on these requests requires a special investigation that would delay the ruling on the criminal case; in that case, the court shall rule on the case and postpone ruling on those requests until its proceedings are completed.' Article 183 of the same law refers to the court's authority to rule on the parties' requests relating to seized items, stating the following: 'The court issuing a ruling on the matter must rule on the parties' requests relating to seized items and may refer the dispute concerning them to a competent court if it deems it necessary. The court may issue a ruling on the disposal of the seized items during the proceedings.'

These decisive rulings in criminal cases issued or ratified by the Court of Appeal clarify who is entitled to appeal the ruling by way of a cassation request before the Supreme Court and the place of this appeal in the requests of the convicted person or the private prosecutor or in the requests of the public prosecutor against the accused. in accordance with Article 189, which states that "the convicted person, the public prosecutor and the private prosecutor may appeal to the Supreme Court against judgments and decisions upheld by the courts of appeal, provided that the grounds for appeal are as follows:

1. Violation of the provisions of Islamic law and the laws issued by the ruler that do not conflict with it.
2. The judgment was issued by a court that was not properly constituted in accordance with the provisions of the law.
3. The judgment was issued by a court or division that did not have jurisdiction.
4. There is an error in the characterization of the incident, or it is described incorrectly.

Criminal Judgments Can Also Be Divided into Final Criminal Judgments and Non-Final Criminal Judgments According to the Following Classification:

Final criminal judgment: A judgment that resolves the dispute in its entirety, in part, or in a matter arising from it. If this judgment relates to the subject matter of the case, it is considered final, and the judgment is final when it addresses the subject matter of the case, whether in whole or in part. Examples of such judgments include: Rulings rejecting the defence of invalidity of the statement of claim and ruling on the validity of the documentary evidence presented in support of the claim¹⁷.

Non-final criminal rulings: These are rulings issued during the course of the proceedings that do not finally settle the case, such as the appointment of a guardian in a possession case or the appointment of an expert. These rulings are considered non-final rulings, but rather rulings that address the organisation of the proceedings¹⁸.

From the above, it is clear that the criterion for distinguishing between final and non-final criminal judgments is the subject matter of the criminal case. Final judgments are those that are issued or are final on the subject matter, but judgments issued before a final decision on the subject matter are not necessarily final. For example, with regard to judgments issued on jurisdiction and lack of jurisdiction, these criminal judgments, despite being issued before a decision on the subject matter, are considered non-final judgments, as if a decision had been made on the subject matter. Therefore, the criterion for a final judgment is a judgment that ends the dispute at this level before the competent court¹⁹.

Criminal Judgments Can Also Be Divided in Terms of Their Appealability into Preliminary Criminal Judgments and Final Criminal Judgments, According to the Following Classification

First instance criminal judgment: a judgment that is subject to appeal, for which the appeal period has been extended²⁰, and which is only subject to appeal if it was issued by a criminal court and the system permits its appeal²¹. Or it refers to a ruling that is

¹⁶ . Al-Labban, Osama Sayed: Criminal Procedures in the Kingdom of Saudi Arabia, previous source, p. 368.

¹⁷ Al-Shahri, Ahmed Hamdan: Objections to Judgments in Civil Transactions, Master's Thesis, Islamic University of Madinah, Faculty of Sharia, Department of Law, 1434 AH, pp. 46-47.

¹⁸ Ibid

¹⁹ Sarour, Ahmed Fathi: The Mediator in Criminal Procedure Law, p. 807.

²⁰ Fahmy, Wagdy Ragheb: Principles of Civil Justice, 2001, p. 691.

²¹ Al-Labban, Osama Sayed: Criminal Procedures in the Kingdom of Saudi Arabia, op. cit., p. 367.

subject to appeal because it was issued by a court of first instance and has not become final under the provisions of the system.

A final ruling is a ruling that cannot be appealed. This type of ruling includes rulings issued by courts of first instance that have become final after the period for appeal has expired, and rulings by courts of second instance, i.e. rulings by the Court of Appeal, which can be appealed by cassation²².

It is clear from the above that a final criminal judgment is a judgment that cannot be appealed under any circumstances²³. On this basis, the Saudi legislator realised that a person against whom such a judgment has been issued should not be left without other recourse if he claims that the judgment violates the relevant legal or Sharia rules, whether this violation is substantive or procedural, which is an exceptional route, as it is only permissible after exhausting the appeal and review routes. The purpose of this appeal against the criminal ruling by requesting its annulment is to verify the correctness of the court's application of the law, both substantively and procedurally, to the facts of the case. Considering the request to overturn the criminal ruling, it is necessary to ensure the correct application of legal and regulatory rules and to standardise their interpretation in all cases and in relation to all those subject to its judicial authority, which requires the existence of a single judicial body with jurisdiction over this matter²⁴, so as to avoid multiple interpretations and differing interpretations²⁵.

Second Requirement

Conditions for a Criminal Judgment

The following conditions must be met for a criminal judgment to be valid: the judgment must be issued after deliberation, it must be pronounced in open court, the minutes of the judgment must be drawn up and signed, and the judgment must contain the required information. We will explain all of this in detail below:

First: Issuance of a Criminal Judgment After

Deliberation

Deliberation refers to the exchange of views among the judges of the court on the facts and circumstances of the case in order to reach the correct opinion on the application of the law in preparation for issuing the judgment. After the trial proceedings and pleadings are concluded, the court issues its decision to close the pleadings and begin deliberations²⁶.

The validity of the principle of deliberation entails the following:

1. Deliberation Must Be Confidential

This principle aims to ensure the greatest possible freedom for the judge to express his opinion and independence and to provide a calm and appropriate atmosphere so that he can issue his judgment in accordance with the law. If deliberation were public, the judge might be influenced by public opinion or pressure from the authorities²⁷.

2. Deliberation Shall Be Limited to the Judges Who Attended the Hearing

Thus, the public prosecutor, the court clerk, any of the lawyers or litigants, or any other person, even if not a party to the dispute, may not attend the deliberation²⁸.

3. The Legally Required Number of Judges Who Heard the Hearing Must Be Present

The principle is that judgments are issued by a majority vote of the members of the chamber, including its president, and the required number of judges must be present at the hearings as a matter of course. Judgments are issued by unanimous or majority vote, and the dissenting judge must explain his dissent and the reasons for it in the case record, and the majority must explain its point of view by responding to the dissenting judge's explanations in the case record²⁹.

Second: Pronouncing the Criminal Judgment

The pronouncement of the verdict is the final step in the court's investigation, as a criminal verdict is

²² Abu Al-Wafa, Ahmed: *The Theory of Judgments in Civil Procedure Law*, op. cit., p. 370.

²³ Abu Al-Basal, Abdel Nasser Moussa: *The Theory of Judicial Rulings*, First Edition, 1420 AH, Dar Al-Nafais, p. 498.

²⁴ This is the Supreme Court, which will be defined later.

²⁵ Sharif, Muhammad al-Sayyid: *A Concise Explanation of the Saudi Criminal Procedure System*, previous reference, p. 365. Shanaq, Zaki Muhammad: *A Concise Explanation of the Saudi Criminal Procedure System*, Al-Shuqairi Library, 1441 AH, Riyadh, p. 439.

²⁶ Al-Lubban, Osama Sayyid: *Criminal Procedures in the Kingdom of Saudi Arabia*, previous source, p. 367.

²⁷ Abdul Rahman, Muhammad Saeed: *Judicial Rulings*, Cairo, Dar Al-Nahda Al-Arabiya, 2001, First Edition, p. 144.

²⁸ Al-Najjar, Imad Abdul Hamid: *Public Prosecution, Criminal Trial and its Applications in Saudi Arabia*, Riyadh, Institute of Public Administration, General Directorate of Research, p. 352.

²⁹ Al-Labban, Osama Sayed, *The aforementioned source*, p. 371.

only issued when it is pronounced, i.e. read aloud by the presiding judge or his representative³⁰ Therefore, the system stipulates two conditions for the validity of the pronouncement of the verdict³¹:

1. The Pronouncement of the Verdict must be Public

2. The judges who participated in the deliberations must be present at the pronouncement of the verdict

This is stipulated in Article (181) of the Saudi Criminal Procedure Law, which states: 'The verdict shall be read out - after being signed by the person who issued it - in a public session, even if the case was heard in closed sessions, in the presence of the parties to the case. The judges who participated in issuing the verdict must be present, unless one of them is prevented from attending.' The judgment shall be invalid if it lacks a ruling or if its ruling is contradictory such that its parts do not fit together³². It must be pronounced in open court, otherwise the judgment is invalid, as stipulated in Article (182) of the Saudi Criminal Procedure Law, which states: The judgment shall be read in open court, even if the case was heard in closed sessions, in the presence of the parties to the case³³.

Third: Drafting and Signing the Criminal Judgment

In order for the judicial ruling to have legal effect and be considered valid, it must be issued by the person authorised to issue it, and it must also be dated and signed by the person who issued it. It is not sufficient for the judgment to be pronounced in open court and for a draft containing its reasons and operative part to be filed and signed by the judge or judges who participated in the judgment, because an unwritten judgment is null and void, given the importance of writing as a fundamental pillar of the existence of the judgment. The written judgment cannot be replaced by any other document, such as a copy of the draft, the minutes of the hearing, or a certificate from the court that issued it. Therefore, it was necessary to prepare an original copy of the

judgment, which was drafted by the court clerk under the supervision of the presiding judge. It included the reasons and operative part of the draft judgment and was signed by the presiding judge and the court clerk³⁴.

Article (181/2) of the Saudi Criminal Procedure Law stipulates that the judgment issued by the court must be dated and signed by the judges who participated in the judgment, stating: "The court shall issue a document containing the name of the court that issued the judgment and the date of its issuance... It shall then be signed and stamped by the judge or judges who participated in the ruling."

The date on the ruling document is essential, as omitting it would render the ruling invalid. The date is extremely important, as it indicates when the ruling was issued, which in turn determines the period for appealing it and the legitimacy of the official document. For example, if a judge is dismissed, the rulings issued before his dismissal are considered valid and the rest are invalid, and this can only be known by knowing the date of issuance of the ruling³⁵.

Fourth: The criminal ruling must include the required information:

The following is a list of the information that must be included in the judicial ruling:

1. The name of the court that issued the ruling.
2. The date and place of the ruling.
3. The name of the clerk.
4. The names of the parties.
5. Their representatives.
6. The names of the witnesses.
7. The reasons for the ruling, its text, and its legal basis.
8. The crime that is the subject of the lawsuit.
9. A summary of the requests or defences presented by the parties.
10. The factual evidence and legal and regulatory arguments on which it is based.
11. A summary of the lawsuit.
12. The case number.
13. Date of case number³⁶.

A document lacking this information is invalid, and because it appears at the beginning of the ruling, it is commonly referred to as the preamble³⁷.

³⁰ Bahns, Yasser Hussein: The Concise Explanation of the New Saudi Criminal Procedure System, First Edition, 1438 AH, Center for Arab Studies, p. 300.

³¹ Fahmy, Wagdy Ragheb: Judicial Practice in the Code of Civil Procedure, Al-Maaref Establishment, Alexandria, 1974, p. 687.

³² See Articles (163) and (164) of the Code of Civil Procedure issued by Royal Decree No. M/1 dated 22/1/1435 AH

³³ Abdul Rahman, Muhammad Saeed, The aforementioned source, pp. 180-181.

³⁴ Al-Najjar, Imad Abdul-Hamid: Public Prosecution and Criminal Trial and Their Applications in Saudi Arabia, Riyadh, Institute of Public Administration, General Directorate of Research, p. 352.

³⁵ Paragraph (2) of Article (181) of the Saudi Criminal Procedure Law issued by Royal Decree No. M/2, dated 22/1/1435 AH.

³⁶ Al-Najjar, Imad Abdul-Hamid, *ibid.*, p. 397.

The second paragraph of Article (181/2) of the Saudi Criminal Procedure Law stipulates that the ruling must include the information mentioned above, stating: "The court shall issue a document containing the name of the court that issued the ruling, the date of its issuance, the names of the judges, the names of the parties, their representatives, the names of the witnesses, the crime that is the subject of the case, a summary of the requests or defences presented by the parties, and the evidence and arguments on which they are based, a summary of the case, the case number, the date of the case, the reasons for the judgment, its text, and its legal basis. The document shall then be signed and sealed by the judge or judges who participated in the judgment."

SECTION II

TYPES OF ORDINARY APPEALS AGAINST CRIMINAL JUDGMENTS IN SAUDI LAW AND COMPARATIVE LAWS

In this section, we will discuss the types of ordinary appeals against criminal judgments in Saudi law and comparative laws, dividing it into two requirements. The first requirement concerns opposition in Saudi law and comparative laws, while the second requirement concerns appeals and reviews in Saudi law and comparative laws, as explained below.

The First Requirement

Appeals Against Criminal Judgments in Saudi Law and Comparative Laws

Definition of appeal: An appeal is an objection to a criminal judgment rendered in absentia, resulting in the case being re-presented before the court that issued the contested judgment.

Opposition is one of the ordinary methods of appeal approved by the legislator for the purpose of reviewing judgments in absentia. This procedure aims to enable the absent opponent to present their defense before the judicial authority that issued the judgment in absentia. In this case, the judgment is rendered in the presence of the absent defendant, based on his statements and in accordance with the facts of the criminal case³⁸

An objection by way of opposition is an objection to a criminal judgment rendered in absentia, which results in the case being re-heard before the same court that issued the judgment. The purpose of appealing against a judgment in absentia is to enable

the defendant to present his defence against the charges brought against him, which enables the court to hear an important party to the case and to have the opportunity to correct its judgment in light of the defendant's defence, if necessary. The purpose of allowing the court to rule on a defendant who is absent from his trial is to prevent the defendant from using his absence as a means of obstructing the proceedings. However, this should not be at the expense of the defendant's right to defend himself against the charges brought against him, which is one of the most important guarantees of the fairness and validity of criminal judgments.

Because the Kingdom of Saudi Arabia does not allow the sentencing of absent defendants except in exceptional cases, namely in special criminal cases or in cases of terrorism and its financing, Saudi criminal procedure law does not provide for opposition as a means of challenging judgments.

However, Article (9) of the Law on Combating Terrorism and its Financing provides for an exception to this rule, stipulating that the court may issue a judgment in absentia against a defendant accused of committing one of the crimes specified in this law, if he has been duly notified through the means of notification or one of the official media outlets. The convicted person has the right to appeal the ruling. However, the Law on Terrorism and its Financing does not address the rules governing the mechanism for appealing a ruling in absentia by way of opposition; therefore, reference must be made here to the articles of the Saudi Law of Sharia Proceedings, which permits the issuance of a ruling in absentia against the defendant.

Article (60) of the Saudi Sharia Court Procedure Law stipulates that a person convicted in absentia has the right to appeal the judgment to the court that issued it within the time limits specified in this law, from the date of notification of the judgment to him or his representative. The appeal must be filed within 30 days of the date of notification of the judgment, including in cases where the judgment is rendered in absentia.

While Egyptian law stipulates in Articles 398 to 401 of the Code of Criminal Procedure that appeals are also accepted in judgments issued in absentia in misdemeanours and violations, by the accused or the person responsible for civil rights, provided that the judgment is not announced to him personally. It is not accepted from the plaintiff of civil rights, as stated in Article 399 of the same Egyptian law, and must be submitted within ten days of the

³⁸ Ali Barkabia, Reda Kharfi, Ordinary Methods of Appeal in Criminal Matters, University of Qasid Merbah Ouargla, 2020, p. 3.

pronouncement of the judgment or from the date of knowledge thereof. The appeal shall result in a retrial of the case, and the appellant shall not be punished with a more severe penalty. If the appellant does not attend the hearing, the appeal shall be deemed null and void, and a procedural fine not exceeding one hundred pounds may be imposed in cases of misdemeanours and not exceeding ten pounds in cases of offences.

Meanwhile, Article 229 of the UAE Criminal Procedure Law stipulates that: 'A defendant against whom a judgment has been issued in absentia may appeal it within seven days of the date of its announcement or of becoming aware of it.' The appeal shall result in the suspension of the execution of the judgment and the re-examination of the case. The objection also entails the re-examination of the case in relation to the objector before the court that issued the judgment in absentia, and the objector shall not be harmed by his objection. If the objector does not attend the first hearing set for the consideration of the objection, the objection shall be deemed null and void, and the objector shall not be allowed to object to the judgment issued in his absence.

Article 264 of the Qatari Code of Criminal Procedure stipulates that: "An appeal may be lodged against judgments rendered in absentia in cases of misdemeanours and offences within seven days of the date on which the judgment was announced to the convicted person, in addition to the time limit for travel. If the judgment is not announced to the convicted person, the time limit for appeal shall commence from the date on which he becomes aware of the announcement. This period shall commence in judgments issued in absentia for felonies from the date of the convicted person's arrest, unless the judgment has been notified to him/her before that date. For convicted persons who have fled the country, the period shall commence from the date of notification at their last known place of residence. If the period for appeal expires without the convicted person appealing, an appeal against the judgment shall only be accepted in cases where this is permitted. Article 265 of the Qatari Code of Criminal Procedure stipulates that: 'In cases where the judgment is considered to have been rendered in the presence of the convicted person, no objection to it shall be accepted unless the convicted person proves that there was an excuse preventing him from attending, which he was unable to present before the judgment, and his appeal was not admissible.'

In the Kuwaiti Code of Criminal Procedure and Trials, the Kuwaiti legislature granted the convicted person in absentia in misdemeanours and felonies the right to appeal through Article 187, which stipulates that the convicted person in absentia in misdemeanours and felonies may appeal before the court that issued the judgment in absentia.

The above texts reveal a great similarity between criminal procedure laws with regard to the first method of appealing criminal judgments, which is opposition.

Second Requirement

Appeal and Review of Criminal Judgments in Saudi Law and Comparative Laws

Definition of appeal: It is the means or method specified in the legal system that the convicted person resorts to in order to request a review of the judgments issued by the courts of first instance. The purpose of the appeal is to review these judgments or overturn them if there are legal or judicial errors that require amendment or annulment.

Through an appeal, the case is reviewed in its entirety, including all its elements and facts, before a court of higher jurisdiction than the court that issued the ruling, in order to verify the validity of the ruling by reviewing the case at two levels (the court of first instance and the court of appeal)³⁹.

The Saudi Criminal Procedure Law, like other comparative criminal procedure laws, considers appeal to be one of the normal means of appeal, through which the convicted person has the right to object to the initial criminal judgment issued against him within a certain period. Article 192 of the Saudi Criminal Procedure Law stipulates the following regarding appeal and review: The convicted person, the public prosecutor and the private prosecutor may request an appeal or review of judgments issued by courts of first instance within the period prescribed by law, and the court issuing the judgment shall inform them of this right upon pronouncing the judgment. The Supreme Judicial Council shall determine the judgments that are sufficient for review by the Court of Appeal. Article 197 of the Saudi Criminal Procedure Law also states that when considering an appeal or review, the court may decide to uphold, amend, or overturn the judgment in whole or in part.

The Qatari Code of Criminal Procedure also considers appeals to be one of the normal means of challenging criminal judgments. Article 272 of the Qatari Code of Criminal Procedure states that: "Both

³⁹Mahmoud Hosni, Explanation of the Criminal Procedure Code, op. cit., p. 786.

the Public Prosecution and the convicted person may appeal against judgments issued by misdemeanour courts and criminal courts. Appeals against misdemeanour court judgments shall be heard by one of the divisions of the Court of First Instance in an appellate capacity. Appeals against judgments of the criminal court shall be heard by the Court of Appeal. An appeal against a judgment shall not suspend its execution, unless the court that issued it decides otherwise in accordance with the conditions it specifies." Article 273 of the Qatari Code of Criminal Procedure states that the Public Prosecution shall submit the judgment issued in the presence of the defendant with the death penalty to the Court of Appeal, together with a memorandum of its opinion on the judgment, within thirty days of the date of its issuance, and its execution shall be suspended until the appeal is decided. The clerk of the criminal court that issued the judgment shall send the case file to the clerk of the Court of Appeal within three days of the date of filing the reasons for the sentence⁴⁰. Article 274 of the same Qatari law allows for the appeal of sentences issued for crimes that are inextricably linked, even if the appeal is only admissible for some of these crimes.

SECTION III

TYPES OF EXTRAORDINARY APPEALS AGAINST CRIMINAL JUDGMENTS IN SAUDI LAW AND COMPARATIVE LAWS

In this section, we will discuss types of extraordinary appeals against criminal judgments in Saudi law and comparative laws, dividing it into two sections. The first section will discuss the reversal of criminal judgments in Saudi law and comparative laws, while the second section will discuss the review of criminal judgments in Saudi law and comparative laws, as explained below.

The First Requirement

Reversal of criminal judgments in Saudi law and comparative laws

Definition of reversal: The annulment of a judgment issued by a court of first instance or an appellate court based on a legal error⁴¹.

An appeal for reversal is an extraordinary remedy that transfers a criminal ruling to a court higher than the court of first instance and the court of appeal, with the aim of reversing it for violating the

provisions of Sharia or the law. Because it is an extraordinary remedy for appealing rulings, it may only be resorted to after all ordinary remedies (opposition, appeal and review).

Appealing a ruling by requesting cassation does not aim to present the entire dispute to the competent judicial authority, as the case is assumed to have been presented to two courts (first instance and appeal) before reaching it, but rather aims to ensure that the ruling complies with Sharia and the law, while acknowledging the validity of the facts on which the court of first instance based its ruling. The role of the court competent to consider the appeal is to ensure the correct application of Sharia and legal rules and to standardise their interpretation in all cases and in relation to all those subject to its jurisdiction. This requires a single judicial authority to perform this role so that there is no proliferation of interpretations and differences in interpretation.

Cassation is one of the methods of appealing against judgments introduced by the Saudi Judiciary Law in 1428 AH and regulated by the current Saudi Criminal Procedure Law issued in 1435 AH, as it did not exist under the previous judicial system.

Article 198 of the Saudi Criminal Procedure Law stipulates the procedures for appealing judgments by requesting cassation, stating: The convicted person, the public prosecutor and the private prosecutor may appeal to the Supreme Court against judgments and decisions issued or upheld by the courts of appeal, provided that the appeal is based on the following grounds:

1. Violation of the provisions of Islamic law and the laws issued by the ruler that do not conflict with it.
2. The ruling was issued by a court that was not properly constituted in accordance with the provisions of the law.
3. The ruling was issued by a court or division that did not have jurisdiction.
4. The facts of the case have been misrepresented or described incorrectly.

The appeal must be filed within thirty days. If the appellant does not file the appeal within this period, their right to appeal is forfeited, even if the law does not specify the start date for appealing the ruling⁴².

The objection to the appeal shall be filed before the Saudi judiciary by submitting a memorandum of objection to the court of appeal that issued or upheld the judgment. The memorandum must include the

⁴⁰ Shaker bin Ali bin Abdul Rahman Al-Shahri, Principles of Appeal by Way of Appeal, Al-Adl, Vol. 16, No. 61, 2013, p. 199.

⁴¹ See Article (192) of the Saudi Criminal Procedure Code.

⁴² Yousef bin Abdullah bin Mohammed Al-Khudair, Appeals by Cassation in Criminal Judgments in Islamic Jurisprudence and the Criminal Procedure Code: A Comparative Study, Journal of Sharia Research and Studies, Vol. 3, No. 21, 2014, p. 11.

names and addresses of the parties, a statement of the judgment being challenged⁴³, its number and date, the grounds for the objection, the objector's requests, his signature, and the date of filing of the memorandum of objection⁴⁴. It should be noted that it is not permissible to raise before the Supreme Court any grounds not included in the memorandum of objection, unless the reason relates to public order, in which case the court shall take it up on its own initiative. After receiving the memorandum of objection, the Court of Appeal shall register it on the day of its filing in the relevant register and shall submit it, together with a copy of the case file and all documents, to the Supreme Court within a period not exceeding three days from the date of expiry of the period for objection⁴⁵. The competent chamber of the Supreme Court shall first examine the appeal for cassation from a formal point of view to ensure that it meets the requirements stipulated in the law and that it has been issued by the person entitled to request cassation. It shall then decide whether to accept or reject the appeal on formal grounds. If the appeal is rejected on formal grounds, it shall issue a separate decision to that effect.

If the competent chamber accepts the appeal in form, it shall decide on the subject matter of the appeal by unanimous or majority vote based on the documents in the file, without addressing the facts of the case⁴⁶.

If the court is not convinced by the grounds on which the appeal is based, it shall uphold the judgment; otherwise, it shall overturn the judgment in whole or in part, as the case may be, stating the grounds, and shall refer the case back to the court that issued the judgment for a new ruling without considering it. If there is no competent chamber in the court other than the one that considered it, the case shall be referred to the nearest competent court in the region, without prejudice to the decision of the Supreme Judicial Council in this regard⁴⁷.

If the ruling is overturned for the second time and the division hearing the appeal considers that the case is ready for a ruling, it shall rule on the case⁴⁸.

As for rulings issued by the Court of Appeal or upheld by it involving death, stoning, amputation,

retribution in kind or lesser penalties, whether or not they are appealed for overturning, the following rules shall apply:

The competent chamber of the Supreme Court shall consider the appeal for cassation regardless of whether it meets the formal requirements, and the ruling shall be automatically referred to the Supreme Court for review, even if none of the parties has appealed against it, and it shall only become final if the competent chamber upholds it⁴⁹. If the competent chamber of the Supreme Court does not uphold the judgment, it shall overturn it and refer the case back to the court of first instance for a new ruling without reviewing it. If a new ruling is issued in the case and it is then referred to the Supreme Court, it shall be reviewed by the same chamber that previously reviewed it⁵⁰.

The UAE Code of Criminal Procedure refers to the appeal against criminal judgments by way of cassation as an extraordinary means of appeal in Chapter III, Articles 244 to 256, which states that "Both the Public Prosecution and the convicted person responsible for civil rights and the claimant and the insured party may appeal by way of cassation against final judgments issued by the Court of Appeal in criminal or misdemeanor" cases in the following circumstances:

1. If the contested judgment is based on a violation of the law or an error in its application or interpretation.
2. If there is a nullity in the judgment or in the proceedings affecting the judgment.
3. If the court ruled on the civil claim in excess of the opponent's request.
4. If the contested judgment is devoid of reasons or if they are insufficient or vague.
5. If two contradictory judgments were issued in the same case.

The appellant may prove by any means that the procedures were neglected or violated, if they are not mentioned in the minutes of the hearing or in the contested judgment. If one of them mentions that they were followed, it is not permissible to prove that they were not followed except by way of an appeal on the grounds of forgery.

⁴³ See Article (199) of the Saudi Criminal Procedure Code.

⁴⁴ See Article 200/1 and Article 203 of the Saudi Criminal Procedure Law.

⁴⁵ See Article 200/2 of the Saudi Criminal Procedure Law.

⁴⁶ See Article 201 of the Saudi Criminal Procedure Law.

⁴⁷ See Article 202 of the Saudi Criminal Procedure Law.

⁴⁸ See Article 202 of the Saudi Criminal Procedure Law.

⁴⁹ See Articles (10), (199), and (210) of the Saudi Criminal Procedure Law, and Article (146) of the Implementing Regulations of the Saudi Criminal Procedure Law.

⁵⁰ See Article (11) of the Saudi Criminal Procedure Law, and Article (147) of the Implementing Regulations of the Saudi Criminal Procedure Law.

Emirati law states that the appeal shall be made by means of a report setting out the grounds for the appeal, which shall be filed with the case management office of the court to which the appeal is lodged within thirty (30) days of the date of the ruling, unless the ruling is considered to have been issued in the presence of the parties, in which case the period shall run from the date of its announcement, and the appeal shall be recorded in the register prepared for that purpose. If the appeal is filed by the Public Prosecution, its grounds must be signed by at least the Chief Prosecutor, and if it is filed by another party, its grounds must be signed by a lawyer admitted to the court.

Egyptian law defines an appeal in cassation as an extraordinary means of appealing a criminal judgment⁵¹, which requires that it be presented to a single higher court for review in terms of the validity of the proceedings and the legality of the conclusions reached. The Egyptian legislature has repealed the articles relating to appeals by way of cassation from the Code of Criminal Procedure (Articles 240 to 440) and replaced them with Articles 30 to 46 of Law No. 57 of 1859 concerning cases and procedures for appeals before the Court of Cassation.

The Egyptian legislature stipulates four conditions for a criminal judgment to be appealable by cassation, which are as follows:

First: The judgment must be final. This means that an appeal by cassation – which is an extraordinary remedy – that could result in the judgment being overturned or amended is not admissible as long as there is an ordinary remedy for appealing the judgment.

Second: The ruling must be issued by the court of last resort. This condition is met when the ruling is issued by a criminal court in a felony or misdemeanour case, or by an appeals court in a misdemeanour case. This condition also applies to rulings issued in civil cases. If the judgment is not issued by the court of last resort, it cannot be appealed by cassation. An example of this is when the judgment is issued by a magistrate's court and the opposing party misses the deadline for appeal.

Third: The judgment must be issued in a felony or misdemeanour case, which means that it is not permissible to appeal by cassation in cases of violations. The criterion for classifying the incident as a felony, misdemeanour or violation is based on the description used in the original lawsuit, not the description used by the court.

Fourth: The judgment must be final, or in other

words, it must be conclusive. Accordingly, it is not permissible to appeal by cassation against preparatory or preliminary judgments or judgments issued in preliminary or temporary matters. The legislator has excluded from this rule judgment issued before the merits of the case are decided and which result in the proceedings being stayed, allowing them to be appealed independently. An example of this is a judgment dismissing an appeal on procedural grounds because it was filed after the deadline.

As for judgments rendered in absentia, the rule is that they cannot be appealed by cassation as long as an appeal by way of opposition is permissible. The reasoning behind this is that as long as there is a normal means of appealing the judgment, which may result in its annulment or amendment, this normal means must be exhausted before resorting to cassation as an extraordinary means. If this is the rule, the legislator has made an exception for judgments issued by the criminal court in the absence of the defendant charged with a felony. The legislator has allowed the public prosecutor, the civil claimant, and the person responsible for it to appeal against it by way of cassation, so that the parties are not harmed by the appeal in absentia in our case, which is suspended for an indefinite period due to the defendant's escape.

The Egyptian legislator has specified the persons who may appeal by cassation, namely:

First: The public prosecutor may appeal a criminal judgment in all cases, whether the judgment is an acquittal or a conviction, i.e. whether the appeal is against or in favour of the defendant, because the public prosecutor represents and acts on behalf of the state. Article 46 of the Law on Cases and Procedures for Appeals before the Egyptian Court of Cassation stipulates that if the judgment is issued in the presence of the defendant and carries the death penalty, the Public Prosecution must refer the case to the Court of Cassation, accompanied by a memorandum stating its opinion on the judgment, within the time limit specified for appealing to the Court of Cassation.

Second: The convicted person may appeal the judgment issued against him in civil and criminal proceedings or in one of them.

Third: The person responsible for civil rights and the claimant has the right to appeal in civil proceedings only.

Article 30, paragraph 2, of the Law on Cases and Procedures for Appeals before the Egyptian Court of

⁵¹ Article 32 of the Law on Cases and Procedures of Appeal before the Court of Cassation.

Cassation clarifies the cases of appeal by way of cassation, which we summarise as follows:

First: If the contested judgment is based on a violation of the law or on an error in its application or interpretation.

Second: If the judgment is invalid. This is the case if the elements (existence) of the judicial judgment or the conditions (validity) are absent. For example, if the ruling was issued without prior deliberation, or was preceded by an invalid deliberation (such as one in which judges who did not hear the arguments participated), or if the ruling was not pronounced publicly, or if it was not drafted and signed in its original form within thirty days of being pronounced.

Second Requirement

Review of Criminal Judgments in Saudi Law and Comparative laws

Definition of review: This is one of the extraordinary methods of appealing final judgments, and is used when a new reason or motive arises that justifies reviewing the judgment issued. The appeal for review is submitted to the court that issued the judgment, or to a higher court if it upheld the judgment. The purpose of the petition is to re-examine the judgment in the event of new reasons that were not available at the time the judgment was issued. These reasons may be related to an error in the application of the law or the emergence of new evidence that affects the outcome of the judgment⁵².

The Saudi Criminal Procedure Law refers to reconsideration as an extraordinary means of appealing criminal judgments in Article 204, which states that any of the parties to the proceedings has the right to request reconsideration of final judgments imposing penalties in the following cases:

1. If the defendant is convicted of murder and the alleged victim is found alive.
2. If a judgment is issued against a person for an incident, and then a judgment is issued against another person for the same incident, and there is a contradiction between the two judgments that implies that neither of the two convicted persons is guilty.
3. If the judgment was based on documents that were found to be forged after the judgment, or was based on testimony that was found to be false by the competent authority after the

judgment.

4. If the judgment was based on a judgment issued by one of the courts and this judgment was subsequently overturned.
5. If evidence or facts that were not known at the time of the trial came to light after the judgment, and this evidence or these facts would have resulted in the acquittal of the convicted person or a reduction in the sentence.

As for final judgments acquitting the defendant, the Saudi legislature has determined that the public interest in the stability of judgments and the protection of the principle of double jeopardy requires that such judgments not be reviewed, even if new evidence emerges proving that the defendant committed the act of which he was accused⁵³.

When submitting a request for review of a criminal judgment in Saudi Arabia, the request for review is submitted in writing to the court that issued the judgment. The request must include a statement of the judgment to be reviewed, its number and date, and the reasons for the request. The court administration records the request on the day it is filed in the relevant register.

If the judgment has been upheld by the Supreme Court or the Court of Appeal, the court that issued the judgment shall refer the request for review to the court that upheld the judgment for consideration⁵⁴, or it shall be examined by the same court if the judgment has not been upheld by the Court of Appeal. The competent court shall, as the case may be, after considering the application, prepare a decision to accept or reject the application. If it decides not to accept the application, the applicant for review may object to the decision of non-acceptance in accordance with the established procedures for objection, unless the decision is issued by the Supreme Court, in which case it shall be final. If the court decides to accept the application, the court that issued the judgment shall consider the case and shall inform the parties to the case thereof.

Acceptance of the request shall not result in a stay of execution of the judgment, unless the judgment includes a corporal punishment, such as retribution, a had punishment, or a ta'zir punishment. In other cases, the court may order a stay of execution in its decision to accept the request for reconsideration. If the request for reconsideration is rejected, no further request for reconsideration may be submitted based

⁵² Mohammed Salem Bin Hariz, Maher Hassan Ahmed Abdullah, Badr Mohammed Ali Al-Zaidi, Appeal by way of request for reconsideration of the Saudi Sharia Law of Procedures, Journal of the College of Sharia and Law. Issue 53, Part 1. 2020, p. 1010.

⁵³ See Article 186 of the Saudi Criminal Procedure Law.

⁵⁴ See Article 205 of the Saudi Criminal Procedure Law.

on the same facts on which the first request was based⁵⁵.

Judgments issued in the subject matter of the case – whether upholding the judgment, acquitting the defendant, or reducing the penalty may be challenged by an appeal or a request for cassation, unless the judgment was issued by the Supreme Court, in which case it is final⁵⁶. If the court rules on the request for review to acquit the defendant, its judgment must include moral and material compensation for the damage suffered by the defendant, if requested.

The Saudi Criminal Procedure Law does not specify a specific date for submitting a request for reconsideration, as it may be submitted by the person entitled to it at any time, even if the sentence has been served or has been dropped due to a pardon, reconciliation or the death of the convicted person⁵⁷.

The request for review shall be submitted in a signed document to the court that issued the judgment, stating the name of the court that issued it, the number and date of the judgment, its description and reasons⁵⁸. The statement of objection must also include one of the cases provided for in Article 204 of the Saudi Criminal Procedure Law, and be dated and signed by the person concerned⁵⁹.

If the ruling is upheld by the Supreme Court or the Court of Appeal, the court that issued the ruling shall submit the request for review to the court that upheld the ruling for consideration⁶⁰.

The Egyptian Code of Criminal Procedure refers to reconsideration as an extraordinary means of appealing criminal judgments, in Article 441 of the same code, which states that: A request for reconsideration of final judgments imposing penalties in criminal and misdemeanour cases may be made in the following cases:

1. If the defendant is convicted of murder, but the alleged victim is found to be alive.
2. If a person is convicted for an incident, and then another person is convicted for the same incident, and there is a contradiction between the two verdicts such that it can be concluded that one of the convicted persons is innocent.
3. If a witness or expert is sentenced for perjury, in accordance with the provisions of Chapter VI of Book III of the Penal Code, or if a document submitted during the proceedings is

found to be forged, and the testimony, expert report or document had an impact on the judgment.

4. If the judgment is based on a judgment issued by a civil court or one of the personal status courts, that judgment shall be overturned.
5. If facts occur or emerge after the judgment, or if documents are submitted that were not known at the time of the trial, and those facts or documents prove the innocence of the convicted person.

The approach of the Egyptian legislator is the same as that of the Saudi legislator, in that they did not set a specific deadline for filing a review. Therefore, it is permissible to file a review request regardless of how much time has passed since the contested judgment was issued, and regardless of how long it took to become aware of the new fact on which the review request is based. The wisdom behind this is that the conviction of an innocent person should not be confirmed solely by the passage of time, and that the correction of a judicial error, if the innocence of the convicted person is proven, should not be prevented by the passage of time.

The UAE Criminal Procedure Law also regulates reconsideration as a means of extraordinary appeal against criminal judgments, through its articles 257 to 267, which include cases of reconsideration of final judgments, namely:

Reconsideration of final judgments imposing penalties or measures may be requested in the following cases:

1. If the defendant is convicted of murder, and then the alleged victim is found alive.
2. If a person is convicted for an incident and then another person is convicted for the same incident, and there is a contradiction between the two verdicts such that it can be concluded that one of the convicted persons is innocent.
3. If a witness or expert is sentenced for perjury, or if a document submitted during the proceedings is found to be forged, and the testimony, expert report or document had an impact on the judgment.
4. If the judgment is based on a judgment issued by a civil or personal status court and that judgment is overturned.
5. If facts occur or come to light after the

⁵⁵ See Article 205 of the Saudi Criminal Procedure Law.

⁵⁶ See Article 206 of the Saudi Criminal Procedure Law and Article 150 of the Implementing Regulations of the Saudi Criminal Procedure Law.

⁵⁷ See Article 208 of the Saudi Criminal Procedure Law.

⁵⁸ See Article (209) of the Saudi Criminal Procedure Law.

⁵⁹ See Article (207) of the Saudi Criminal Procedure Law.

⁶⁰ See Article No. (205) of the Saudi Criminal Procedure Code.

judgment, or if documents are submitted that were not known to the court at the time of the trial, and these facts or documents prove the innocence of the convicted person.

The Qatari Code of Criminal Procedure specifies the cases for review in Article 304, which states the following in order:

1. If the accused is convicted of murder, and then the alleged victim is found alive.
2. If a person is convicted for an incident, and then another person is convicted for the same incident, and there is a contradiction between the two verdicts that leads to the conclusion that one of the convicted persons is innocent.
3. If a witness or expert is sentenced for perjury in accordance with the provisions of the Penal Code, or if a document submitted during the proceedings is found to be forged, and the testimony, expert report or forged document had an impact on the verdict.
4. If the verdict is based on a verdict issued by another court and that verdict is overturned.
5. If facts occur or come to light after the judgment, or if documents are submitted that were not known to the court at the time of the trial, and these facts or documents prove the innocence of the convicted person or change the legal description of the crime to a crime with a lighter penalty than the one imposed.

4. CONCLUSION

From the above review of the ordinary and extraordinary methods of appealing criminal judgments, it is clear that there are significant similarities between Saudi criminal procedure law and comparative criminal procedure laws, with some minor differences, such as the existence of a stage or method of review in Saudi criminal procedure law, differences in some of the time limits for certain methods of appealing judgments, and the existence of some terms that do not exist in others, such as the term 'exposure' in Moroccan procedural law. These minor differences are natural and common among such laws.

In conclusion, we find that this research has led the researcher to a set of findings and recommendations, the most important of which are outlined below:

First: The findings of the Study

1. Appealing a criminal judgment issued by courts of first instance and courts of appeal and filing a request for its annulment is a right

guaranteed by Saudi criminal procedure law and comparative criminal procedure laws to the defendant, the public prosecutor and the private prosecutor before the Supreme Court.

2. Comparative criminal procedure laws agree with Saudi criminal procedure law that there is a normal route for appealing criminal judgments and another, non-normal route.
3. The route for appealing a court ruling with the intention of overturning it is an exceptional route introduced by the latest Saudi judiciary law and adopted for appealing a court ruling issued or upheld by the Court of Appeal before the Supreme Court, in order to demonstrate its flaws that violate Sharia or the law, by revoking or amending it.
4. The Saudi Criminal Procedure Law lists four grounds for appealing a criminal ruling issued by the Court of Appeal for the purpose of overturning it, namely: violation of the provisions of Islamic law and the laws issued by the ruler that do not conflict with it; the issuance of the ruling by a court that is not properly constituted in accordance with the provisions of the law; the issuance of the ruling by a court or division that does not have jurisdiction; and error in the characterisation of the incident or its incorrect description.
5. The Saudi Criminal Procedure Law is consistent with comparative criminal procedure laws in imposing formal procedures for appealing a criminal judgment.
6. The time limits for appealing criminal judgments vary among comparative criminal procedure laws, and Saudi criminal procedure law is unique in granting the longest period for appeal, which is 30 days. This period is calculated by the Saudi legislature, which grants the convicted person sufficient time to appeal the judgment issued against him.
7. The Saudi Criminal Procedure Law and comparative criminal procedure laws agree on the necessity of following procedures that regulate the course of the proceedings after the case papers have been filed to appeal the criminal judgment, which are as follows: the validity of the appeal in terms of form, and after ensuring that the formal requirements have been met, the subject of the appeal is decided. If the court is not convinced by the grounds on which the appeal is based, it upholds the ruling, at which point the ruling becomes final. If, however, it is convinced by the grounds on which the appeal is based, it

overturns the judicial ruling, either in whole or in part.

Second: Recommendations

Through this study, the researcher arrives at the following recommendations:

1. The necessity of publishing the rulings and judicial principles issued by the Supreme Court, so that they serve as a reference for the judiciary, contributing to a unified interpretation of Sharia and legal texts among them and those engaged in scientific research and advocacy.
2. Spreading judicial awareness among individuals and familiarizing them with the judicial system and its levels, and the rights guaranteed to them by law, including the right to defense and the right to appeal criminal rulings issued by courts in general, and rulings issued or upheld by the Court of Appeal in particular, when requesting their reversal before the Supreme Court, provided the appeal is well-founded.
3. Raising awareness among judges that a convicted person's request to overturn a ruling does not diminish the criminal ruling or disparage the judge who issued it; it is a right guaranteed to the people by Islamic Sharia and the laws of the land.
4. Holding conferences among those responsible for criminal procedure laws in various countries and those concerned with their application, and publishing foundational, comparative, and applied research in the field of methods of appealing criminal rulings, in order to develop judicial facilities and criminal procedure laws and achieve justice.

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