Rule of Law in the U.A.E.: The Peaceful Path to Nation-Building in Abu Dhabi and the U.A.E. through Global Best Practices

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I. Introduction  

The United Arab Emirates (U.A.E.) emerged from the British colonial era1 to forge a modern nation in 1971 with an economy built on the burgeoning oil industry. Over the course of forty years, the emergence of Abu Dhabi and the U.A.E. as regional and global economic powers was based, in part, on the strategic vision of the first President of the U.A.E. and Ruler of Abu Dhabi, H.H. Sheikh Khalifa bin Zayed Al Nahyan, in establishing a framework of government suited to the needs and culture of the U.A.E. and Abu Dhabi, and, in part, on economic planning and development initiatives.2 A firm commitment to rule of law was established through early adoption of global business best practices as the framework for transformation into a stable and prosperous nation. To better understand the significance of the U.A.E.’s efforts to peacefully develop into a modern

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nation by adopting and adapting international business best practices, it is helpful to understand its colonial past.

II. Overview of U.A.E. Federal Structure

Before the U.A.E. formed as a federation of semi-autonomous emirates on December 2, 1971, it was under British colonial rule as Trucial Oman for 151 years. Trucial Oman was a colonial administrative entity resulting from a series of treaties, beginning in 1820 with a peace treaty signed at the conclusion of British naval and military engagements against the Qasimi Confederation, ostensibly ending the slave trade and piracy while securing vital sea routes to India and access to the lucrative pearl trade. It was governed from India until 1947, then directly administered through a Political Resident, who administered justice in and over the external affairs of Trucial Oman as head of the Trucial States Council until 1965, when leadership was turned over to its constituent sheikhdoms.

A. Formation of the U.A.E.

In 1968, faced with mounting domestic economic pressures and the spiraling cost of maintaining British interests against the rising tide of nationalist movements throughout Africa and the Muslim world, the British government announced its intention to withdraw from the U.A.E. in 1971. It was very important to Sheikh Zayed that the U.A.E.'s federal law and governmental institutions have an Emirati character while maintaining continuity with existing commercial and legal structures and preventing economic and political volatility (including potential land grabs by neighboring nations such as Iran and Saudi Arabia), which would disrupt

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3. Abu Dhabi, Dubai, Sharjah, Ajman, Umm Al Quwain, Fujairah and Ras Al Khaimah have sovereignty over their own territories and territorial waters in all matters which are not reserved to the UAE federal government under the UAE constitution. Constitution Dec. 2, 1971, art. 3 (U.A.E.).
6. Id. at 137–145.
7. India won its independence in 1947. A Political Agent (based initially in Sharjah and then Dubai) and a Political Officer (based in Abu Dhabi, later raised to the level of Political Agent in 1961), reported to the Political Resident (based initially in Bushire and then Bahrain). Id. at 137.
vital trade with the United Kingdom before it could diversify its international trade. To do so without creating or falling prey to instability and unrest, Sheikh Zayed believed that the emirates of Abu Dhabi, Dubai, Sharjah, Ajman, Umm Al Quwain, Fujairah, Ras Al Khaimah, Bahrain, and Qatar would need to overcome historic rivalries and band together under a federal constitutional framework to survive. In addition, eighteen years before the U.A.E. was formed, after his first visits in 1953 to the United Kingdom, the United States, France, and other nations, Sheikh Zayed became “convinced of the urgent need in his own emirate for reforms that could facilitate the growth and development of his country so as to bridge the vast gap that separated it from the outside world.”

B. THE U.A.E. CONSTITUTION

On the heels of the British government’s announcement of its pending withdrawal, Sheikh Zayed looked for a jurist who understood the legacy British colonial legal system as well as the importance of local political and cultural identities to form a solid basis for a new Arab nation. Given his long-standing belief that the gap between the emirates and the international community need to be bridged, it was no surprise that Sheikh Zayed selected Judge Adi Nasib Al Bitar to craft the U.A.E. Constitution. The importance of having a well-qualified, culturally-attuned Arab jurist who was trusted by the British government, Dubai’s British ex-patriot community, and Emirati rulers involved early in the process of shaping the U.A.E.’s legal framework, cannot be over-emphasized as a fundamental best practice in peaceful nation-building.

At a time when the British authorities were targeted by Jewish nationalist violence, Judge Al Bitar was an eminent Palestinian jurist who trained at the Jerusalem Law Classes, which was conceived as a legal bulwark against the Zionism-inspired curricula of the Tel Aviv School of Law and Economics at a time when the British authorities were targeted by Jewish nationalist violence. Having worked as an attorney and a judge in British courts in Palestine and Sudan, and having seen the instability, violence, and civil

13. Id.
unrest that both Jewish and Arab nationalist movements respectively engendered in Palestine and Sudan, Judge Al Bitar likely understood the importance of devising a legal framework which would affect non-violent union of emirates with distinct tribal, cultural, and economic differences while preserving their unique characters, independence, and territories from predations of neighboring states. It is also likely that the turmoil, internecine warfare, and instability, which followed in the wake of retrenchment by colonial powers in Southeast Asia, Africa, and the Muslim world constituted practical lessons in the dangers of disunity, over-rapid change, and use of military force versus the benefits of seeking consensus, gradually escalating change, and using economic power for the public welfare.

Combined with the practical experience of crafting Dubai’s constitution, Judge Al Bitar’s understanding of the complex tribal, cultural, and regional relationships, rivalries, and differences led him to devise the 1971 interim constitution as a form of legal compromise. This pragmatic solution allowed each of the emirates time to adjust to the idea of a federation, to accede or secede, to retain their individual cultural and political identities while forging a new national identity, to participate in all federal institutions, and to benefit from the influx of capital and federally-funded social welfare and infrastructure programs. Conceived as a temporary, renewable, five-year\textsuperscript{16} constitution for a nine-state federation,\textsuperscript{17} only six emirates formed the U.A.E. in 1971 as Bahrain and Qatar elected not to join, and as Ras al Khaimah delayed accession and adoption of the U.A.E. Constitution until February 10, 1972.\textsuperscript{18}

In 1996, the Federal National Council (FNC) and the Federal Supreme Council (FSC) amended the 1971 constitution to make it permanent.\textsuperscript{19} The primary reason adoption of the permanent constitution was delayed until 1996\textsuperscript{20} was that Dubai was reluctant to agree to consolidation of its armed forces into the U.A.E.’s armed forces and to subject its court system to federal jurisdiction; however, with the guarantee that its court system and laws would remain independent from federal Supreme Court jurisdiction, and facing mounting economic pressures resulting from near exhaustion of its oil reserves, Dubai agreed to the constitution becoming permanent.\textsuperscript{21}

Since 1971, the U.A.E. Constitution has been amended only a few times: in 1972 when Ras Al Khaimah acceded and the FSC was authorized to set the number of seats on the FNC each new member emirate would be allocated,\textsuperscript{22} in five-year increments extending the 1971 constitution

\textsuperscript{16} Country Profile, \textit{supra} note 11, at 3.
\textsuperscript{17} KAZIM, \textit{supra} note 5, at 321.
\textsuperscript{18} Fed. Supreme Council Res. No. 2 of 1972; see also \textit{supra} note 4.
\textsuperscript{19} Fed. Supreme Council Res. regarding the Const. amend. 1 of 1996.
\textsuperscript{22} \textit{DECLARATION OF CONST. AMEND NO. (1) Feb. 10, 1972} (U.A.E.).
Rule of Law in the UAE

Beginning in 1976 until 1996 when it became permanent and established Abu Dhabi as its capital, and in 2004 when the U.A.E. federal government assumed sole responsibility for enacting laws pertaining to:

- Work relation and social securities, real estate ownership and expropriation for public interest; handover of criminals; banking; insurance of all kinds; protection of fauna & flora; major legislations related to Penal Code, Civil & Commercial Transactions Code, Companies Law, Code of Procedures before the civil and penal courts; protection of moral, technical and industrial property rights; copyrights, printings and publication rights; import of weapons and ammunitions unless the same was for the use of the Armed Forces or Security Forces of any Emirate - other aviation affairs which are not within the Federation executive competencies; determination of territorial waters and organization of navigation overseas; organization and method of establishing financial free zones and scope of excluding the same from the implementation of the Federal Legislations provisions.

In 2011, the World Justice Project (WJP) Rule of Law index ranked the U.A.E. thirteenth and the United States twentieth in its survey of sixty-six countries based on “limited government powers, absence of corruption, order and security, fundamental rights, open government, regulatory enforcement, access to civil justice and effective criminal justice.” The legal underpinning for the WJP’s assessment is the U.A.E. constitutional guarantees of certain rights and freedoms, many of which are similar to those conferred by the U.S. Constitution. It is also a reflection of the U.A.E.’s federal government incorporating the best practice of giving “top priority to the rule of law and justice” as well as adapting global legal and judicial standards to meet the present and future needs of Emiratis and a majority ex-patriot population. An example of an adaptation consistent with Emirati business and cultural practices is the fundamental principle of equal treatment before the law of all U.A.E. citizens without regard to “race, nationality, religious belief or social status.” The U.A.E.’s constitutional guarantee of personal liberty is similar to the Fourth and Eighth Amendments to the U.S. Constitution in that “[n]o person may be arrested, searched, detained or imprisoned except in accordance with the provisions of law . . . [or] subjected to torture or to degrading treatment.”

The U.A.E. Constitution also incorporates the right of someone accused of a

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26. Id.
28. U.S. Const. amend. IV, VIII.
crime to be “presumed innocent until proven guilty in a legal fair trial,”30 the right to counsel, and the provision of counsel, as well as banning “[p]hysical and moral abuse”31 of the accused. Other freedoms guaranteed under the U.A.E. Constitution include free speech,32 the right to privacy,33 free exercise of religion,34 and freedom of association.35 Similar to the Thirteenth Amendment of the U.S. Constitution,36 Article Thirty-Four of the U.A.E. Constitution guarantees that “[n]o person may be subjected to force[d] labour except in exceptional circumstances provided by the law and in return for compensation. No person may be enslaved.” The U.S. Constitution’s Fourth Amendment37 warrant requirement is similar to Article Thirty-Six of the U.A.E. Constitution’s provision that “[h]abitations shall be inviolable . . . [a]nd may not be entered without the permission of their inhabitants except in accordance with the provisions of the law and in the circumstances laid down therein.”

C. CONTEMPORARY STRUCTURE

As presently constituted, the principal components of the U.A.E.’s federal government are the FSC, the President and Vice-President of the Union, the Federal Council of Ministers (FCM), the FNC, and the Federal Supreme Court (Supreme Court). Reflecting the rapid expansion of business, finance, and construction in the U.A.E., its federal government expanded from a handful of ministries essential to its initial existence and the welfare of Emirati nationals (e.g., Finance and Industry, Defense, Internal Affairs, Information, Education, Justice, Health, Foreign Affairs, Planning, Labor and Social Affairs, Agriculture, and Electricity and Water) to include ministries of Transportation, Islamic Affairs,38 Trade and Economy, Petroleum and Mineral Resources, Housing and Public Works, and Higher Education.39 By 1996, areas previously within the purview of each emirate (i.e., justice, police, armed forces, health, education, information, and culture as well as national anthems, postage, currencies, military uniforms, flags, passports, and citizenship) were consolidated under the federal government.40

30. Id. at art. 28.
31. Id.
32. Id. at arts. 30–31.
33. Id. at art. 31.
34. Id. at art. 32.
36. U.S. CONST. amend. XIII.
37. U.S. CONST. amend. IV.
39. KAZIM, supra note 5, at 332.
40. Id. at 332-333.
The U.A.E. federal government "allows substantial informal citizen participation and consensus-building," driven in part by its rapid growth and business-oriented government structure, the cultural practice of seeking consensus, and the openness of Emirati society. In 2006, the U.A.E. began "at the federal and local levels, to reform the political system in the U.A.E. in order to make it more responsive to the needs of the country's population and to ensure that it is better equipped to cope with the challenges of development," while "[s]imilar programmes . . . [were] launched at the local level in the individual emirates." This process accelerated in 2011 when "the government altered rules for the September 2011 election process . . . [to] allow more citizens to participate in the voting." In addition to these reforms, U.A.E. citizens can "express their concerns directly to the leadership through consultative mechanisms, such as the open majlis (councils) held by many U.A.E. leaders."

1. **Role of the Federal Supreme Council**

As established under the U.A.E. Constitution, the FSC is the self-regulating body to which the Council of Ministers reports and has constitutional authority for formulating general U.A.E. policies and approving federal legislation. In addition to being charged with "consideration of all matters which leads to the achievement of the goals of the Union and the common interest of the member emirates[,]" it is specifically charged with:

> endorsing the various federal laws prior to their issuance including laws of the annual general budget of the federation and the closing accounts; sanctioning the decrees on matters that by virtue of the provisions of the constitution are subject to the ratification and approval of the [FSC] . . . prior to issuance of such decrees by the president of the council; ratification of treaties and international agreements . . . by decree; approving the appointment of the prime minister of the federation, accepting his resignation, and requesting him to resign upon the suggestion of the President of the Federation; approving the appointment of the president and the judges of the Supreme Federal Court, accepting their resignations, and dismissing them in the cases specified by the constitution . . . by decrees; supreme control over the

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43. Id.
44. Katzman, supra note 41, at 2.
45. Id. at 3.
affairs of the federation in general; and any other relevant responsibilities stipulated in the constitution or in the federal laws.\textsuperscript{49}

The rulers of each emirate are the members of the FSC, while the rulers of Abu Dhabi and Dubai respectively have held and been re-elected to the positions of President and Vice President of the U.A.E. every five years since 1971.\textsuperscript{50} For substantive FSC resolutions to be binding on all seven emirates, according to the FSC's by-laws, there must be consensus among five of the seven emirates (two of which must be Abu Dhabi and Dubai).\textsuperscript{51} The consensual nature of FSC resolutions and the utilization of consensus-building to peacefully resolve issues while balancing the interests of the emirates from which a majority of the funding for federal social welfare enterprises and government institutions is derived, and recognizing the needs and interests of all of the emirates, is characteristic of the way in which Emirati culture and tradition infuse the U.A.E.'s non-violent approach to nation-building and are embedded in the U.A.E. Constitution.

2. Role of the Federal Council of Ministers

As the U.A.E.'s constitutional executive authority,\textsuperscript{52} the FCM, headed by a Prime Minister, is responsible for developing all federal legislation and its membership is comprised of the Ministers of Foreign Affairs; Interior; Defense; Finance, Economy, and Industry; Justice; Education; Public Health; Public Works and Agriculture; Communications, Post, Telegraph and Telephones; Labor and Social Affairs; Information; and Planning.\textsuperscript{53} The FCM can also bypass the FNC if it "determines that there is a need to enact legislation during a period in which the FNC is not in session . . . despite the fact that the U.A.E.'s legislative process requires proposed legislation to pass from the FCM to the FNC."\textsuperscript{54} While the U.A.E.'s President has sole authority in choosing the Prime Minister (typically the Vice President and ruler of Dubai), it is typically done in consultation with the FSC.\textsuperscript{55} Although the Prime Minister selects members of the Cabinet, the slate of Cabinet members is subject to presidential review and ratification.\textsuperscript{56}

The requirement that Ministers "be chosen from among citizens of the Union known for their competence and experience"\textsuperscript{57} is significant, not only as an example of the way in which business best practices are widely accepted and incorporated into Emirati government structure and practices, but also as it reflects a commitment to use neutral, professional merit factors rather

\textsuperscript{49} Supreme Council of the Union, supra note 47.
\textsuperscript{50} KAZIM, supra note 5, at 329.
\textsuperscript{51} Supreme Council of the Union, supra note 47.
\textsuperscript{52} CONSTITUTION Dec. 2, 1971, IV, ch. 3 art. 60 (U.A.E.).
\textsuperscript{53} Id. art. 58; see also KAZIM, supra note 5, at 329.
\textsuperscript{54} KAZIM, supra note 5, at 331.
\textsuperscript{55} Political System, supra note 42.
\textsuperscript{56} Id.
\textsuperscript{57} CONSTITUTION Dec. 2, 1971, IV, ch. III, art. 56.
than tribal, familial, or geographical considerations to develop a professional cadre of government executives and to avoid the practice of stacking the deck with friends and relatives from the home emirates of the President and the Prime Minister. By professionalizing the corps of ministers at the outset, while ensuring the Prime Minister would be from Dubai, the U.A.E. Constitution struck a balance, which recognized the importance of creating opportunities for talented citizens from all emirates as well as the importance of Dubai to the U.A.E.’s economic success.

Another best practice drawn from business corporate governance standards, which was incorporated in the U.A.E. Constitution, relates to financial conflicts of interest and insider trading. While in office, the members of the FCM:

[M]ay not practice any professional, commercial or financial occupation or enter into any commercial transactions with the Government of the Union or the Governments of the Emirates or combine with their office the membership of the board of directors of any financial or commercial company” and “may not combine with their office more than one official post in any of the Emirates and shall relinquish all other local official posts. fifth

Ministers are constitutionally required to totally renounce personal benefits and must not exploit their official posts to serve their personal benefit or the benefits of people related to them personally. By comparison, members of the U.S. Congress were not barred from taking advantage of insider information gained by virtue of their offices until the passage of the Stop Trading on Congressional Knowledge Act of 2012.

3. Role of the Federal National Council

The FNC is not a legislative body; however, it can “raise certain public issues, discuss the national budget, and monitor how monies are spent.” Prior to 2006, the forty-member FNC was comprised of political appointees selected by the rulers of each emirate according to a constitutional scheme of apportionment. As part of the political reforms instituted in 2006 by the U.A.E. President to make the U.A.E. “more responsive to the needs of the country’s population and to ensure that it is better equipped to cope with the challenges of development[,]” each emirate established local councils “convened by the rulers of each emirate, numbering 100 persons per FNC

58. Id. at art. 62.
59. Id. at art. 63.
61. KAZIM, supra note 5, at 330.
62. CONSTITUTION Dec. 2, 1971, IV, ch. IV, art. 68.
63. Political System, supra note 42.
seat. So, for example, the Abu Dhabi electoral council would be $100 \times 8 = 800$ electors, and the total U.A.E.-wide electorate would be 4,000 persons. However, the Election Commission approved a slightly larger 6,595-person electorate, or about 160 persons per FNC seat.\textsuperscript{64}

The business best practice of diversity is something built into the U.A.E. Constitution, which guarantees equal treatment of all U.A.E. citizens, male and female, before the law without respect to "race, nationality, religious belief or social status[,]" employment,\textsuperscript{66} public office,\textsuperscript{67} and claiming of titles and access to education.\textsuperscript{68} Emirati women play an important role in business and government, as reflected by the fact that 1,162 of the Election Commission electors were women in 2006.\textsuperscript{69} In addition, sixty-five of the 452 candidates for the twenty FNC seats were sought by female candidates, 40 percent of the elected seats were filled by women (Abu Dhabi elected one female candidate and seven others were appointed,) and women comprised 20 percent of the FNC's total membership.\textsuperscript{70} To put this in context of the U.S. Senate, the U.S. Senate did not reach the landmark level of 20 percent of its members being female until after the 2012 election cycle of the 113th Congress.\textsuperscript{71} On March 8, 2011, as evidence of its commitment to increasing enfranchisement and a more representative government, the U.A.E. government announced that it would triple the size of the electorate.\textsuperscript{72}

4. **Role of the Federal Supreme Court**

Based in Abu Dhabi, the U.A.E.'s Supreme Court was established by Federal Law No. (10) of 1973.\textsuperscript{73} It is comprised of a President and up to five judges nominated by the FSC with the approval of the U.A.E.'s President, all of whom are appointed for life (barring resignation or removal for age, illness, incompetence, or other reasons).\textsuperscript{74} Its members are sworn to "render justice without fear or favor and . . ." to "be loyal to the Constitution and the laws of the Union."\textsuperscript{75} The U.A.E. Supreme Court is the final court of appeals for all cases heard in the courts of first instance and the court of appeals, and its decisions are "final and binding upon all."\textsuperscript{76} When drafting

\textsuperscript{64.} Katzman, supra note 41, at 4.
\textsuperscript{66.} Id. at art. 34.
\textsuperscript{67.} Id. at art. 35.
\textsuperscript{69.} Katzman, supra note 41, at 4.
\textsuperscript{70.} Id. at 4.
\textsuperscript{72.} Katzman, supra note 41, at 4.
\textsuperscript{74.} Kazim, supra note 5, at 331.
\textsuperscript{76.} Id. at art. 101.
the U.A.E. Constitution, Judge Al Bitar included the international judicial best practices he incorporated in devising Dubai's constitution, legal system, and judiciary. As a result, the U.A.E. Supreme Court is independent, and the justices are not "subject to any authority but the law and their own conscience."77 Apart from the independence of the Supreme Court, the U.A.E. has on-going legal and judicial best practice initiatives, including international training exchange programs with countries such as Jordan.78

As enumerated in the U.A.E. Constitution, the Supreme Court has jurisdiction over disputes between the emirates, disputes between one or more emirates and the U.A.E. government, the constitutionality of federal and local laws, legislation and regulations, constitutional interpretation, and jurisdictional issues between—and among—federal and local judges.79 It also has jurisdiction to investigate misconduct by ministers and senior federal officials, and to try offences against the Federation "such as crimes relat[ed] to internal or external security, forgery of the official records or seals of any of the Union authorities and counterfeiting of currency."80 But Dubai and Ras al Khaimah each retain separate independent court systems which are not subject to U.A.E. Federal Supreme Court jurisdiction.81

III. U.A.E. Goals Driving Transformation

The U.A.E. aspires to be not just a model for regional development, but "one of the best countries in the world by 2021."82 The U.A.E. has emerged as the regional center of innovation as a result of its “open business environment, fast-paced development, media savvy, and assertive global ambitions.”83 Quite simply, the U.A.E. wants to “become one of the best governments in providing quality services, nurturing creative minds, building national talent, innovating solutions and adopting international best practices [and for the U.A.E.'s] . . . government practices to be a benchmark that other countries adopt and emulate.”84 Serving as a model for the U.A.E. federal government’s subsequent modernization and restructuring initiative, Abu Dhabi undertook a government-wide review in 2005 and began a "restructuring program with the aim of boosting efficiency

77. Id. at art. 94.
80. Id.
and enhancing Government productivity to ensure improvement in how the Government serves the needs of its people and visitors.\footnote{The General Secretariat of the Executive Council, \textit{Restructuring Government}, \textit{Pol'y Agenda 2007-2008 The Emirate of Abu Dhabi}, at 67.}

Like a well-run international company, Abu Dhabi utilized due diligence processes to identify and establish key goals for transforming their government from a service provider to a regulator.\footnote{Id.} It focused on developing laws and policies which would ensure sustained economic growth, including the promotion of lower-level decision-making, streamlining government processes, elimination of agency overlap, and improvement of government-wide coordination in order to:

\begin{itemize}
  \item \textbf{[i]}ntroduce efficiency and reduce the cost of service provision;
  \item \textbf{[r]}educe the level of hidden unemployment and improve the performance of Government overall;
  \item \textbf{[i]}ncrease the rate of Emiratization, in the public and private sectors;
  \item \textbf{o}utsource non-core services to the private sector and increase private sector involvement in service-delivery;
  \item \textbf{[i]}ncrease the efficient use of technology as a key enabler in all Departments and Government entities;
  \item \textbf{[d]}evelop effective performance measurement and evaluation systems in all Government Departments and entities.
\end{itemize}

In response to the Abu Dhabi Policy Agenda 2007/2008 heralding "the beginning of a new era for [its] Government and public sector, in terms of accountability and transparency,"\footnote{Id. at 4.} Abu Dhabi established goals for ensuring a safe and "secure society and a dynamic open economy."\footnote{Id. at 9.} The goals of:

\begin{itemize}
  \item \textbf{[p]}remium education, healthcare and infrastructure assets;
  \item \textbf{a} large empowered private sector;
  \item \textbf{t}he creation of a sustainable knowledge based economy;
  \item \textbf{n} optimal transparent regulatory environment;
  \item \textbf{c}omplete international and domestic security;
  \item \textbf{a} continuation of strong and diverse international relationships;
  \item \textbf{Emirate resource optimization};
  \item \textbf{[a]} significant and ongoing contribution to the federation of the United Arab Emirates\footnote{Id.}
\end{itemize}

act as a roadmap for the future of Abu Dhabi and the U.A.E. They are also goals that other governments can adapt, emulate, and strive to achieve.

\section{A. Abu Dhabi Economic Vision 2030}

Given the U.A.E.'s forty-year history of developing governmental and economic infrastructure plans to achieve its economic goals, it is no surprise that the Chairman of the Executive Council and Crown Prince of Abu
Dhabi, H.H. Sheikh Mohamed bin Zayed Al Nahyan, tasked the General Secretariat of the Executive Council, the Abu Dhabi Council for Economic Development and the Department of Planning and Economy in 2006 to develop "a long-term roadmap for economic progress . . . aligning all policies and plans" to transform the Emirate's economy as articulated in the Abu Dhabi Policy Agenda 2007/2008.91 The result was a development of the Abu Dhabi Economic Vision 2030 (the 2030 Plan), with its stated goal of building "a sustainable and diversified, high value economy by 2030."92 As part of the 2030 Plan, Abu Dhabi conducted an in-depth analysis of economic diversification, focusing on economies that were able to successfully stimulate robust non-oil sector growth.93 The countries which the U.A.E. government sees as having successful economic diversification models for emulation and adaptation to further its own economic transformation include Norway, Singapore, New Zealand, and Ireland.94 All four countries were used as models for the adaptation and benchmarking against the 2030 Plan.95 New Zealand is the model for developing small to medium-sized businesses; Ireland is the model for developing a diversified knowledge-based economy and attracting foreign investment; Singapore is the model for economic development and diversification of finance and commerce; and Norway is the model for diversifying its economy away from dependence on oil.96

B. U.A.E. GOVERNMENT STRATEGY 2011-2013

On February 28, 2010, the U.A.E. announced the basis on which it would develop its strategic and operational plans: the U.A.E. Government Strategy 2011-2013 (the "U.A.E. Strategy").97 One of the U.A.E. Strategy's seven goals is to ensure that "all Government work is conducted according to a set of guiding principles that puts citizens first and promotes an accountable,

92. Id. at 10.
93. Id. at 28-30.
lean, innovative, and forward-looking Government.\textsuperscript{98} The U.A.E.'s strategy relies on seven general principles which include "devising effective regulations and integrated policies by successful planning and enforcement . . . [as well as] transparency and accountable governance mechanisms"\textsuperscript{99} throughout the federal government. A key focus of the U.A.E. Strategy is to "[maintain continuous cooperation between federal and local authorities]"\textsuperscript{100} so that the federal government is focused on developing legislation which promotes the economic and social welfare of the nation and its citizens, while the "local governments are responsible for implementing most activities that support the development of the country."\textsuperscript{101}

Apart from streamlining governmental regulatory, policy, and decision-making roles, and processes to shape a more effective, responsive, and efficient government, the U.A.E. Strategy is also focused on enacting legislation to meet the government’s economic and social welfare goals. To do so, the U.A.E. government is implementing international best practices to overhaul and modernize its judicial system, in order to make it more transparent and professional, while:

implementing the most advanced IT programmes to improve judicial records management, amending judicial procedure texts to ensure prompt and efficient judgments, translating regulations and legislations into English, activating the role of the Institute for Judicial Training and Studies and develop partnerships with renowned international judicial institutes and focus on information technology, commercial and financial oriented training.\textsuperscript{102}

C. U.A.E. VISION 2021

On February 7, 2010, the U.A.E. Cabinet approved Vision 2021, a national charter designed to make the U.A.E. "one of the best countries in the world by 2021," which is when it celebrates its fiftieth anniversary.\textsuperscript{103} The main goals of Vision 2021 are to:

\begin{itemize}
\item [e]nsure that UAE nationals have ambition and [a] sense of responsibility, are capable of drawing the future with confidence and participate effectively in a sustainable socio-economic environment based on stability, solidarity, moderate Islamic values and national heritage[. . . ]
\item [e]nsure a strong union with a common destiny that protects Emiratis and advocates balanced development to make the UAE an effective power[. . . ]
\item [d]evelop a knowledge-based economy
\end{itemize}

\textsuperscript{99.} Id.
\textsuperscript{100.} Id.
\textsuperscript{101.} Id.
\textsuperscript{102.} Id.
\textsuperscript{103.} U.A.E. Vision 2021, supra note 83, at 7.
that will be diverse and flexible, and led by skilled Emiratis [and] ... [e]nsure prosperity for UAE nationals, who should enjoy a long life, good health, quality education and other government services.104

IV. U.A.E. Legal Reform

Legal reform in the U.A.E. is not a new concept, but rather a continuous process that began during the post-World War II colonial era, and has accelerated since independence, because the U.A.E. began to realize the economic benefits of oil production, and started to use its newfound wealth to transform the lives of its citizens and its economy. After World War II, a British political agent served as a judge over Her Britannic Majesty's Court for the Trucial States, which had jurisdiction over "British subjects, British-protected persons, and non-natives living in Trucial Oman. . . [and appeals] were made first to the Chief Court for the Arabian Gulf, and then to the Full Court for the Arabian Gulf."105 The latter court was "presided over by British judges or attorneys of at least nine years standing."106 While local nationals were subjected to the local rulers' tribunals to adjudicate civil and criminal matters in accordance with varying schools of Sharia (Islamic law) or Urf (a form of Islamic common law based on tribal custom and usage),107 civil cases involving local nationals and non-nationals subject to British jurisdiction were tried in a joint court presided over by the ruling sheikh and a British court judge in the sheikhdom which the matter arose.108 After 1960, foreign nationals who were from Arab or Muslim states which were not British Commonwealth states were made subject to the jurisdiction of local tribunals pursuant to the Trucial States Transfer Regulation.109 Beginning in 1968 when the British announced their intention to withdraw from the region, Abu Dhabi began drafting the Penal Code, Code of Criminal Procedure, and civil codes. They also began developing a police force.110 Today, federal legislation is the principal source of law as the "court system is usually inquisitorial, unbound by precedent."111

A. THE ROLE OF BUSINESS IN LEGAL REFORM

While the influence of British trade and business interests in Trucial Oman after World War II played a significant role in the development of

104. Political System, supra note 42.
105. KAZIM, supra note 5, at 213-215.
106. Id. at 215.
108. KAZIM, supra note 5, at 214-215.
109. Id. at 215.
110. Id. at 264.
111. Faizal P. Latheef, United Arab Emirates: Legal System and Practice in the U.A.E., MONDAQ (Nov. 16, 2011), http://www.mondaq.com/x/153788/Arbitration-Dispute-Resolution/Legal+System+And+Practice+In+The+UAE.
both Dubai and the U.A.E.'s legal systems, international business standards are driving modernization and legal reform in the U.A.E. today. From 1960 until he was deposed by the British in 1966, Sheikh Shakbut of Abu Dhabi modeled Abu Dhabi's health, social services, "customs, labor affairs, public works and passports . . . on that which the Sheikh of Kuwait [initiated]."

With the appointment of Sheikh Zayed as ruler of Abu Dhabi in 1966, Abu Dhabi began a series of large-scale development and modernization projects ranging from construction of roads, an airport, and port facilities to the expansion of Abu Dhabi's defense force to include adding aviation and naval capabilities and issuing decrees forming thirty-three administrative agencies in just four years. These projects were carried out by British—and other international firms—who brought their business and legal standards with them "for quality, business processes, and people management," as well as intolerance of corruption and bribery, a culture of business transparency, and a belief in the rule of law and enforcement of contracts.

Apart from the positive influence of global business and legal standards adapted and incorporated into the U.A.E. constitution, the U.A.E. systematically evaluates and adopts global business' best practices in furtherance of its strategic vision. For example, as a measure of its commitment to business' best practices of transparency and accountability, Article 62 of the Constitution was amended in 2008 to ban the prime minister, his deputies, or any other federal minister from engaging in any professional or commercial job, or any business transactions with the federal government or local governments while still in office. In addition, to implement and support adoption and institutionalization of business' best practices throughout the U.A.E., the U.A.E. federal government is expanding, developing, and implementing the necessary legal and regulatory framework.

Unsurprisingly, two prominent examples of its legal reform efforts are in the banking and financial services sectors. Specifically, the U.A.E.'s central banks:

introduced regulations in line with global best practices to prevent money laundering and adhere to strict know-your-client requirements . . . [while] corporate governance standards are rapidly evolving as public listings become more common and family businesses bring in outsiders as professional management.

In addition, the U.A.E. undertook a three-year reform initiative from 2007 to 2010 in education, health, justice, and government services “patterned on

112. KAZIM, supra note 5, at 261.
113. Id. at 263-264.
114. REHMAN, supra note 83, at 281.
116. REHMAN, supra note 83, at 281-282.
the private sector’s style, . . . [which] proved successful in many countries such as Singapore and New Zealand." In 2013, the U.A.E.:

introduced a set of legislative, judicial and executive measures and ratified a number of Arab and international anti-corruption conventions within its efforts to fight corruption . . . [including] the United Nations Convention against Transnational Organized Crime, the International Convention against Corruption and the Arab Anti-corruption Convention.118

As part of the U.A.E.’s governmental modernization and reform efforts, the U.A.E. has adopted business’ best practices such as fostering a “culture that spurs creativity, innovation, dedication and productivity.” It is also developing

[n]ew laws and administrative and financial systems and structure[s] . . . to nurture this new culture with ministries becoming productive entities competing in performance at the international level . . . in addition to adopting certain arrangements that are similar to managing board of directors in private sector companies . . . [designed to foster] institutional decision making and [which] promotes accountability . . . [as well as implementing reforms such as a merit-based promotion system] . . . underpinned by complete transparency.119

Importantly, another instance where global business is driving reform is the practice of law in the U.A.E. Prior to August 26, 2011, when Dubai required attorney licensing to “weed out the conflicts of interest, shoddy advice and inappropriate fees,”120 only law firms had to register. Since 2011, at least in Dubai, ex-patriot attorneys must “hold a valid licence with their home regulator while also being licensed individually with the Dubai Ruler’s Court.”121 While ex-patriot members of international firms “maintain membership in their home bar associations or at least have had some level of education,”122 that has not been the case for local practitioners. To address the problem and regulate practice standards, the U.A.E. Ministry of Justice implemented its first code of ethics for attorneys in 2012, and developed standards for training and qualification that allow a lawyer to provide legal

122. Mustafa, supra note 120.
services such as "pleading cases, providing legal opinions and advice and drafting contracts."²³

B. RULE OF LAW INITIATIVES

To achieve the goals of the Vision 2021, the U.A.E. has accelerated and expanded its efforts to obtain international assistance at all levels, including the rule of law. While the U.A.E. "follows the civil law system, inspired by the Roman and French legal systems and the Egyptian civil codes of law,"²⁴ there are many links to British common law, particularly in Dubai, and with respect to commercial and financial laws. For example, Dubai and the United Kingdom entered into a non-binding guidance memorandum on January 23, 2013 to:

bring clarity and confidence to the [reciprocal] relationship between [the Commercial Court of England and Wales and the Dubai International Financial Center courts because,] . . . [w]ithout a clear understanding of enforcement and judicial procedures across borders, businesses are unable to form and nurture the international trade relationships needed to fuel economic growth.²⁵

In keeping with Vision 2021 and the U.A.E. Strategy's goals of modernizing and professionalizing its legal and judicial system, the American Bar Association's (ABA) Rule of Law Initiative is actively working with the U.A.E. As part of the U.S. Department of State's Middle East Partnership Initiative,²⁶ the ABA worked with attorneys in the U.A.E. to develop continuing legal education (CLE) guidelines.²⁷ It also cooperated with the U.A.E.'s Institute for Training and Judicial Studies (ITJS), the Ministry of Justice, the Federal Institute for Training and Judicial Studies, and the government of Dubai's Legal Affairs Department (DLAD)²⁸ to provide

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²³ Id.
²⁴ Latheef, supra note 111.
²⁸ The DLAD was established pursuant to Dubai Law No. (32) of 2008. It is charged with ensuring excellence in Governmental legal work and enhancing "the level of legal services . . . in line with international best practice." The Government of Dubai Legal Affairs Department, DUBALAE (Nov. 18, 2017), http://www.dubailae.gov.ae/en/Lists/GovernmentDepartments/DispForm.aspx?ID=49&category=government.
CLE opportunities for attorneys and prosecutors. Additionally, the ABA formed a CLE consortium of regional and international law firms that “include[s] judicial training institutes, bar associations and justice ministries.” By employing CLE training to improve the quality of judicial proceedings, prosecutorial and private attorney training on practical and substantive areas of law—such as anti-money laundering, asset recovery, cyber-crime, victim’s rights, preservation of evidence, corruption, asset tracking, and prosecuting financial institutions—the ABA assisted the U.A.E. in strengthening its legal and judicial system so that it can operate effectively at an international level. In Dubai, the ABA collaborated with DLAD to train government attorneys on legislative drafting and the implementation of guidelines for Dubai’s mandatory attorney licensing CLE program, as well as assisting both DLAD and ITJS with law practice management training. The result is Dubai has a robust CLPD program.

In addition to collaborating with the British and American legal and judicial communities, the United Nations Development Program has provided technical assistance and policy support for public administration development and modernization, such as providing support for institutional development projects. The U.A.E.’s drive to be the best, combined with its determination to build upon practices contributing to its status as an international business hub, and an openness to learning and adapting best practices collectively contributed to the U.A.E.’s annual high ranking on the WJP Rule of Law Index. In 2011, the WJP ranked the U.A.E. thirteenth out of sixty-six countries assessed for absence of corruption, effective criminal justice, government accountability, and judicial independence as a check on government powers. In 2016, it was ranked fifteenth for corruption globally out of 113 countries. Additionally, the U.A.E.’s practice of sanctioning government officials for misconduct, as well as its constitutional protection of civil rights, access to justice, labor rights, free speech and the exercise of religious rights, property rights, equality before

130. Supra note 127, at 23, 120.
131. Id. at 120-121.
132. Id. at 121.
the law, and right to counsel added to its ranking.136 Having laws which are “clear, stable and publicized” is another hallmark of the rule of law best practice in the U.A.E.137 In 2016, the U.A.E. was ranked thirty-third globally.138

C. Global Best Practices

Since its foundation, the U.A.E. has relied on international business norms, such as benchmarking and the use of best practices, to shape its laws and policies. One innovative example of nation-building through the use of technological best practices is at the heart of the U.A.E.’s efforts to make the government accessible to U.A.E. residents and nationals. In 2002, the United Nations Department of Economics and Social Affairs ranked the U.A.E. twenty-first in the world for “utilizing the internet and the world-wide-web for delivering government information and services to citizens.”139 In 2016, it was twenty-ninth globally for e-government development.140 As part of the U.A.E.’s government modernization and reform initiative in 2003, the U.A.E. began implementing “quality management, budgeting and accounting reforms, procurement reform, and e-government [best practices to] ... improve government cost-effectiveness and efficiency, and improve public service delivery ... [and] to facilitate, and even drive, public administration reform.”141 When it instituted electronic voting in 2006, the U.A.E. became the “first Arab country in the region to implement such an advanced system.”142 The electronic voting initiative undertaken by the U.A.E. in its 2011 FNC elections was cited as a best practice, and was employed because it was “one of the most efficient in ensuring a safe, effective and convenient election process.”143

As a tangible example of how utilization of best practices contributed to building the U.A.E. into an emerging world leader, the 2012 World


137. Id.


139. Sarrouh, supra note 134, at 15-16; see also Ronaghan, supra note 134, at 42.


141. Sarrouh, supra note 134, at 15.

142. Id.

Economic Forum ranked the U.A.E. twenty-fourth of 144 countries.\textsuperscript{144} This was in part due to its generally strong legal framework, transparency, solid business ethics, lack of corruption, governmental efficiency, strong auditing and reporting standards, and judicial independence.\textsuperscript{145} In 2017, the U.A.E. ranked seventeenth globally.\textsuperscript{146} Underscoring the U.A.E.'s firmly rooted culture of actively seeking and incorporating global best practices is its role as a founding member, and as the 2012 Vice Chair of the Global Federation of Competitiveness Councils, a nonprofit which seeks to develop "new policies in order to foster and increase productivity, prosperity and competitiveness throughout the world."\textsuperscript{147}

V. Conclusion

Abu Dhabi and the U.A.E. have benefited greatly from early adoption and adaptation of global business best practices to peacefully build the U.A.E. since its independence into a stable, prosperous, dynamic nation, and an emerging global leader. The cultural acceptance of best practices in Emirati society at every level of business and government ensures that they will continue to play a positive role in building the nation and shaping its identity through peaceful means.


\textsuperscript{145} \textit{Id.} at 357.

