

COURTS ECHO

Quarterly, Legal, Judicial

the Family Ownership Regulation Law in the Emirate of Dubai

System of legislation aimed at social cohesion between family members

Who owns Artificial Intelligence?

The degree of kinship between spouses

Pursuant to Law No. (8) of 2018 regarding Government of Dubai Management of Human Resources



Conditions for issuing a writ of debt:

Between the expediting of litigation and preserving the rights of litigants

Applications of Fundamentalist Rules on National and Reserve Service Law

Through the amendment of Article (11) of the
Law Regulating the Interim Real Property
Register in the Emirate of Dubai



In the government of the UAE



Our brothers and sisters ... the people of the Emirates

In 2021, we will have completed 15 years in the leadership of the UAE government ... During this period, we have realized the vision of my brother, the President of the State, may God Protect him ... We have also exerted our efforts to serve the people of the Union.

**His Highness
Sheikh Mohammed
bin Rashid Al Maktoum**
UAE Vice President, Prime Minister
and Ruler of Dubai

And the Caravan Goes on...



H.E. Taresh Eid Al Mansouri
General Director, Dubai Courts

Thus the “Echo of the Courts” caravan goes on carrying legal knowledge by the writers, who have spared no effort in penning down knowledge and ideas that were refined by experiences and sowed by science. This knowledge has turned into trees, whose fruits and branches has become accessible to every fresh mind thirsty for knowledge, and aspiring to learn from all that is useful and meaningful in the field of thought and law.

Thus the “Echo of the Courts” releases its second issue, hosting the most beautiful, the highest, and the most prestigious of ideas, and pours it into the river of human thought, making it an oasis in the Emirates that quenches the thirst of all lovers of legal sciences.

The first issue was the initiatory product of our grand master writers, who have shared their thoughts and knowledge and proved that the Arab mind, in general, and the Emirati, in particular, is still awash with wonders, and its clouds are still laden with all that’s beautiful and elegant. Their writings have been rich, graceful, and elegant; well-rooted yet renewed, as to appeal to newcomers and the more established in consuming the products of thought and the legal sciences. The articles published by the writers in the “Echo of the Courts” have been an echo of all that is new, influential, and exciting in the field. They have provided diverse pieces with a fresh, novel outlook into meaningful and interesting legal thought that is ever-flowing.

The second issue has also been diverse and has covered many topics within the legal humanitarian framework. As expected and awaited, the new issue has followed on the footsteps of the first, and included articles that address many aspects of the legal worlds. This issue is guaranteed to become a solid future reference of legal humanitarian law, which is an accumulated effort and a steadfast construction that will one day be an intellectual legacy and an inexhaustible resource.

We hope that our readers will also contribute to the journal, and be more than silent readers. We hereby encourage our distinguished readers to go beyond, and invite them to join the convoy’s march and enter the world of the “Echo of the Courts” with their contributions, writings, and creative ideas. Since at the end of the day, the journal is for you and by you, and you are welcome to share with it your feedback and comments.

In conclusion, I thank you, the master writings of the “Echo of the Courts,” and urge you to continue sharing your wonderful contributions. We are in dire need of your enlightened thinking that is establishing a generation of writers, thinkers, and legal jurists who are strongly making their way into the arena of legal and human thought with every letter you share with them. Thanks are also due to the technical and administrative team that stands behind the success of the “Echo of the Courts” and supports its steady march towards becoming a bright and proud addition to the human legal thought in the United Arab Emirates – may Allah preserve it as a beacon of hope and a guide to all good men.

To Begin with



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A quarterly journal specialising in the publication of the courts management-related judicial, legal and administrative topics, with the objective of enhancing the exchange of knowledge in the judicial and court administration domain, and issued for the purposes of:



Vision:
We seek to be the first choice of the elite.

- Objectives:**
- Enhancing the dissemination of knowledge in the judicial and court administration field;
 - Attracting specialists in judicial, legal and administrative matters that are related to the management and services of the courts;
 - Following up and commenting on the trends and judicial rulings, both locally and internationally;
 - Cementing the relationship between theory and jurisprudence and the practical reality and judicial application.

Sponsor



INDEX

12 **Review of the Family Ownership Regulation Law in the Emirate of Dubai**

17 **The Effect of Legal Phrases on Recipients**



18 **Applications of Fundamentalist Rules on National and Reserve Service Law**

22 **The degree of kinship between spouses Pursuant to Law No. (8) of 2018 regarding Government of Dubai Management of Human Resources**

Focus on Law No. (19) of 2020

28 **Through the amendment of Article (11) of the Law Regulating the Interim Real Property Register in the Emirate of Dubai**

34 **Conditions for issuing a writ of debt: Between the expediting of litigation and preserving the rights of litigants**

H.E. Judge Mohammed Mubarak Obaid Alsabousi
40 **21 Years of Excellence in Judicial Work**

50 **Judicial Deputation System A milestone in the smart transformation journey**



Edition File
54 **Who owns Artificial Intelligence?**

60 **Al-Salfah.. A special judiciary sourced from customs**

The articles, studies and opinions are a reflection of the point of views of their authors and do not necessarily express the opinion of the Magazine and its administrators.



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Mohammed bin Rashid issues a law to regulate expert work before the judicial authorities in Dubai

His Highness Sheikh Mohammed bin Rashid Al Maktoum, Vice President and Prime Minister, May Allah protect him, in his capacity as Ruler of the Emirate of Dubai, has issued Law No. 13 of 2020 regarding the regulation of expert work before the judicial authorities in the Emirate of Dubai. The issued law aims to organize said works and supply the judicial authorities with legally and technically qualified experts. Such support is expected to contribute to the accuracy of judicial decisions and orders, the achievement of prompt justice, the strengthening of the role of experts in achieving justice, and increase efficiency of practitioners of expert work to speed up litigation procedures, in addition to building and enabling national expertise to practice expert work.

The law defines an expertise and expert work, and requires the schedule in the Dubai courts for registering experts, the form and content of which shall be determined by a decision from the Director of Dubai Courts. Furthermore, the law specifies that only natural persons and houses of expertise can be listed in this table, and stipulates the formation of a committee in Dubai

courts, entitled "Experts Affairs Committee." The committee's work system, meeting-holding mechanism, and decision-making method shall be determined according to a decision issued by the President of the Judicial Council.

In accordance with this law within its administrative organizational structure, an organizational unit concerned with experts' affairs will be established in Dubai Courts, to undertake a range of related tasks.

The law has also specified the obligations and duties of the experts assigned by the judicial authority during the conduct of expert work, as well as the duties of the parties to the dispute before the competent court. The law has permitted the rejection of the expert's opinion in accordance with the rules and terms stipulated in Federal Law No. 10 of 1992 regarding evidence in civil and commercial transactions, and also included a technical evaluation mechanism of experts.

With regard to implementation, the law stipulated that the Director of Dubai Courts shall issue the decisions necessary to implement the provisions of this law and publish it in the Official Gazette.

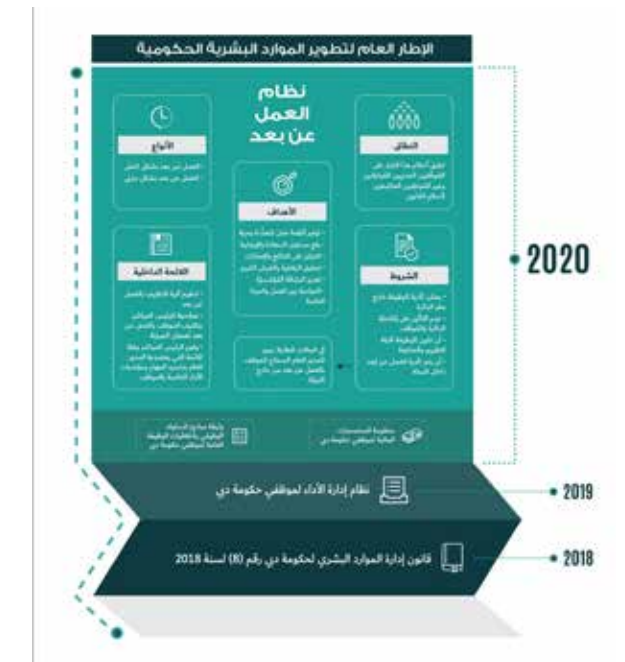


Hamdan bin Mohammed approves the remote work system in the Dubai government

His Highness Sheikh Hamdan bin Mohammed bin Rashid Al Maktoum, Crown Prince of Dubai and Chairman of the Executive Council, confirmed that upgrading the capabilities of the government work system in Dubai is one of the priorities of the next phase.

"Remote work is one of the solutions that have proven successful in ensuring business continuity during the pandemic period," his Highness said, "it guarantees the flexibility of the employee's ability to perform their duties and helps them be innovative and creative. We are entering a stage that requires new tools and a new way of thinking in government work, during which we will rely on employee productivity and its positive impact on the work environment, while taking into account employee needs."

The decision to upgrade coincided with the approval of the remote work system in the Dubai government by His Highness, Crown Prince of Dubai and Chairman of the Executive Council. This system is in line with the requirements of future jobs, in which the employee performs their duties



To improve the government work system in Dubai, enhance institutional agility, and ensure business continuity



Maktoum bin Mohammed

issues a decision to form the Experts Affairs Committee in Dubai Courts

Within the framework of the directives of His Highness Sheikh Mohammed bin Rashid Al Maktoum, Vice President and Prime Minister of the UAE and Ruler of Dubai, may God protect him, to support the judicial authorities with qualified legal and technical experts, His Highness Sheikh Maktoum bin Mohammed bin Rashid Al Maktoum, Deputy Ruler of Dubai and Chairman of the Judicial Council, issued Decision No. (2) for 2021 to form an "Expert Affairs Committee" in Dubai Courts tasked with the regulation of expert work before the judicial authorities in the Emirate of Dubai.

According to the decision, the Experts Affairs Committee in Dubai Courts consists of: Judge Khaled Obaid Al Mansouri, Chairman of the Committee, Judge Khaled Mubarak Kensham, Vice President, and the following members: Judge Saud Salem Al Jabri, Judge Ahmed Fathi Garma, Mohammed Abdullah Al Muhammad, and Hashem Salem Al Qiwani, and Jasim Abdul Rahman Mohammed, in addition to an expert from the Table of Experts to be selected as a member of the committee by the Director

General of Dubai Courts.

His Excellency Tarish Eid Al Mansoori, Director General of Dubai Courts, confirmed that the decision aims to achieve prompt justice. It comes as part of the continuous efforts to upgrade the system of experts that speeds up litigation procedures, especially in specialized and technical cases. The decision also helps increase the efficiency of experts, empower national expertise, enhance the role of experts in achieving justice, in addition to build and enable national expertise to practice their skills.

On his part, His Excellency Judge Khaled Obaid Al Mansoori, Chairman of the "Committee of Experts Affairs" in Dubai Courts, confirmed that the decision comes in line with the efforts made by the wise leadership towards building a safe society and a fair judiciary, expressing his appreciation for the great confidence that His Highness, the President of the Judicial Council, put him by choosing him as the head of the committee, affirming that the committee will make all possible efforts to uphold this responsibility and achieve its objectives.



Director General of Dubai Courts inaugurates the service center in «Al Yilayis»

His Excellency Tarish Eid Al Mansoori, Director General of Dubai Courts, inaugurated the Dubai Courts Service Center, Al Yilayis Branch, in an endeavor by Dubai Courts to support the trends aimed at reducing the number of customers and providing services in various regions of the Emirate of Dubai. The center was established in line with the directives of His Highness Sheikh Mohammed bin Rashid Al Maktoum, Vice President of the State - the Prime Minister and Ruler of Dubai - may Allah protect him, to provide the best services to the public, increase their satisfaction, and facilitate their affairs.

While inspecting the departments of the services center, which include personal status documents and notary

services, His Excellency said that the expansion of the network of Dubai Courts service centers falls within the framework of the continuous keenness to facilitate customers' transactions, and enable service seekers quickly access legal and judicial services in their areas of residence.

Al-Mansoori added that the new branch comes as a continuation of the success of the service centers in saving the time and effort of service seekers. He further explained that the notary services in the Al-Yilayis branch are provided in the morning and evening shifts. The service center in Al Yilayis also provided with a number of documenters of the Personal Status Services Department, in addition to attestation officer.



Dubai Courts offer «marriage» services remotely or in the presence of the marriage official

Dubai Courts announced the marriage ceremony procedures mechanism in Dubai during the implementation of the precautionary measures taken by the state to combat the Coronavirus. It is now possible to use remote communication techniques, i.e. the legal marriage officers will use remote communication in marriage ceremonies with parties attending in one physical or electronic gathering, or in the presence of the marriage official at the site of marriage – while adhering to the precautionary procedures and measures

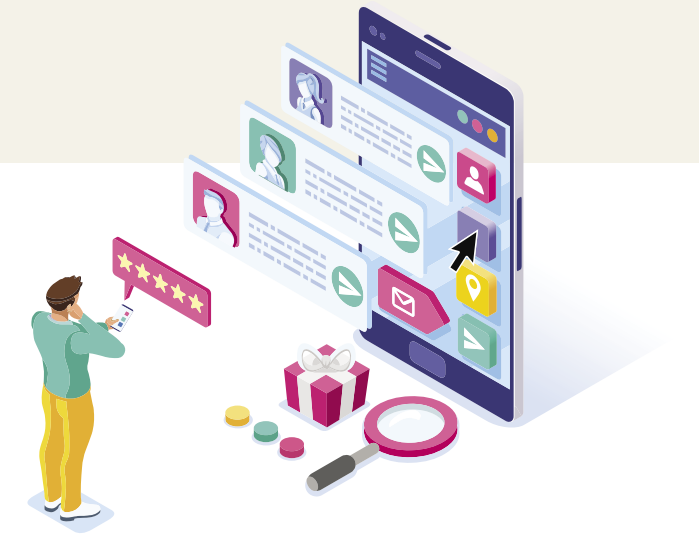
Mohammed Al-Obaidly, Executive Director of the Cases Management Section, said spouses can now choose to conduct their marriage either by remote communication techniques with parties attending in one physical or electronic gathering, or in the presence of the legal marriage officer at the location of the marriage under the precautionary measures. In addition, spouses are given the option to conduct the marriage at the Dubai Courts Service Center "Wafi Mall Branch".

«Wayyak» to provide accessible judicial services for all

Dubai Courts have received 108,907 requests through «Wayyak» service since its launch in February last year. This novel service has contributed to raising the efficiency of work and the quality of decision enforcement within the specified timeframes, while ensuring the accuracy of the requests and information submitted. By doing this, «Wayyak» have been adding to the efforts to translate the message of Dubai courts: Achieving accurate and prompt justice and provide accessible judicial services to all.

Shams Al-Din Al-Badawi, Head of the Litigants Guidance Department in Dubai Courts, indicated that «Wayyak» service contains 8 subsidiary services:

1. Follow-up using the electronic registration request number for (previous) cases;
2. Follow-up case number;
3. Follow-up smart application number;



4. Request to link cases to the user name;
 5. Requests to Court Heads Affairs Department;
 6. Address Inquiry and Investigation Division service,
 7. To whom it May Concern for cases clearance certifications
 8. Follow-up requests for seizure, sale, and disbursement.
- «Wayyak service was designed based on the needs of customers.» Al-Badawi added, «It's been proven that we need a unified electronic channel to follow up on the enforcement of decisions, comment on requests, and communicate with various administrative units with ease. This service is available to all subscribers of Dubai Courts' electronic and smart services on the Dubai Courts website during official working days.»



«Suhail» service receives 9700 inquiries this year as part of Dubai courts' endeavors to raise customer happiness levels.

Since the beginning of this year, the Dubai Courts Contact Center has received 9,700 inquiries through «Suhail-WhatsApp» service, which is designed to respond to customer inquiries related to the procedures of Dubai courts. This endeavor aims to raise customer happiness rate and achieve the goal «leading world-class courts.» The Director of the Customer Happiness Department at Dubai Courts, Abdullah Al-Rayes, indicated that Suhail service via WhatsApp (04/3347777) uses both Arabic and English, targeting the customers of Dubai courts during official working days. It responds to inquiries about services and procedures, and aims to improve customer happiness, and raise the level of communication services provided to customers. Suhail service was introduced to develop distinguished and innovative government services and adopted best practices to ensure the happiness of customers through providing dedicated employees to receive and respond all inquiries on WhatsApp. The department prioritizes customer happiness by developing customer experience, facilitating customer access to the services of the department, and enhancing customer satisfaction.

Review of the Family Ownership Regulation Law in the Emirate of Dubai



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Complementing the system of local legislation in the Emirate of Dubai, and within the framework of the tireless efforts of the wise leadership to create legislation aimed at preserving social cohesion and minimizing disputes between family members regarding financial assets commonly owned by them, His Highness Sheikh Mohammed bin Rashid Al Maktoum, Vice President and Prime Minister and Ruler of Dubai, issued on the twenty-third of Dhu al-Hijjah, 1441 AH, 8-13-2020 AD, Law No. 9 of 2020 regarding the regulation of family ownership in the Emirate of Dubai.



This law came into effect on its date of publication in the Official Gazette, vol no. 483 on the twenty-ninth of Dhu al-Hijjah, 1441 AH, 08/19-2020. The law includes 72 articles that aim to develop a comprehensive and clear legal framework to regulate family ownership in the Emirate. It permits family members to conclude a family ownership contract in relation to their common financial assets to enable them to manage, organize, and govern it according to their terms, and then facilitate its smooth transmission to successive generations in order to maintain the continuity of the family ownership and develop the capacity of young leaders from successive generations to manage family ownership. Furthermore, it enables them to benefit from the experience of their parents and grandparents, and eventually enhance the role they play in achieving economic and social growth in the emirate, maintain social cohesion, and avoid provoking conflicts among family members. The subject law leads to the reunification of family members in strong and solid partnerships, entities, and economic blocs that can compete in all economic activities. It also motivates them to serve the community, especially in the fields of education, health, and culture.

Establishing Family Ownership

The law required the establishment of family ownership by a contract called the family ownership contract (1) It is an agreement documented between spouses or relatives by blood or lineage up to the fourth degree to manage their common money (2). The family ownership contract comes into effect as of the date set by the partners (3). It must not violate the public order and be documented with the notary public to be valid (4). The parties to the agreement are members of the family, namely the husband and relatives by blood and lineage up to the fourth degree (5). They are united by a single business or a common interest, and the partners determine the share of each partner (6). The funds subject to the family ownership contract are owned by them or they have the right dis-

position. The law has expanded in terms of the elements of family ownership to include movable and immovable money; shares and stakes in commercial companies; civil companies; the assets of individual enterprises; copyrights; neighboring rights; industrial property rights for patents, drawings, industrial designs, trademarks, and other rights that are subject to the family ownership contract. However, the law excluded public joint-stock companies from the scope of its provisions.

Whenever the previous conditions are fulfilled, the contract acquires authority whether in confronting the partners or their private or public, or other successors (7). This contract shall not be amended except with the approval of at least 75% of the partners, unless the partners specify a higher percentage. The law allows the partners to determine the contract period, provided that the period does not exceed (15) fifteen years for the first period or any renewed periods.

Director of the Family Property – Characteristics, powers, and conditions of dismissal

In order for the purpose of this law to be achieved, the partners who own two thirds of the shares may appoint a manager to manage the family property. The manager may be a one or more legal or natural person(s), provided that their number is odd, and can be one of the partners or a third party. It is possible to appoint a council or committee of family members to supervise the manager, provided that the family ownership contract specifies the tasks and powers of the manager (8). The manager assumes direct management of the family ownership, represents it before others, and distributes profits to the partners. The manager has to take care to preserve the family's ownership and must submit periodic reports to the partners on the management status and the financial condition of the joint ownership. The manager must not dispose of the ownership except within the limits of the law and the family ownership contract.



The law regulating family ownership in the Emirate of Dubai includes 27 articles, which aim to establish a comprehensive and clear legal framework for regulating family ownership in the emirate.



The law leads to the reunification of family members in strong and robust economic partnerships, entities, and blocs that can compete in all economic activities and motivate them to serve the community.



The manager is also not allowed to borrow in his personal name with the guarantees of the family ownership, and is not entitled to own or manage, directly or indirectly, either for himself or for the account of others, any economic activity that competes with the economic activity that is the subject of the family ownership contract, except with the approval of the partners who own a minimum of (75%) of the family ownership. Based on that, the manager is responsible for compensating any damage to the family property or any of the partners or third parties in case of any violations to the family ownership contract or the terms of appointment, or in cases the manager breached their obligations or committed negligence or any mistakes that is not compatible with their commitment. The manager can be dismissed in the cases specified in the family ownership contract, and following the same method by which they were appointed, i.e. if the manager

was appointed by an explicit provision in the family ownership contract, they may not be dismissed without the consent of at least 75% of the partners, considering that the dismissal is an amendment to the contract. However, the manager cannot be allowed to vote on the dismissal if he was one of the partners.

Expiration of the Family Ownership Contract

According to the law, the family ownership contract may expire in a number of cases: on its expiration date, the partners declare that they do not wish to renew the contract, or the partners who own at least 51% of the family ownership agree to terminate the contract before its term expires, unless the family ownership contract stipulates another percentage. The contract can also end in the event of the loss, disappearance, or shortage of funds that are the subject of family ownership at a rate

that makes the continuation of the family ownership impossible, or when a court ruling is issued to terminate the family ownership contract, or in any another case stipulated in the family ownership contract.

Dispute Settlement

To ensure confidentiality, privacy, and prompt adjudication of all disputes that arise from the family ownership contract, the law has restricted the jurisdiction of dispute settlement to the special judicial committee formed by a decision of the ruler with experienced and competent person in the legal, financial, and family business fields. The committee shall be exclusively competent in family disputes and the committee formation decision determines the method used to select committee members, and define the committee's terms of reference, authority of rulings, enforcement methodology.

“The law excluded public joint-stock companies from the scope of its provisions.”

* Margins

(1) Thus, one of the characteristics of the family ownership contract is that it is a named contract, since the law assigned it a specific name and directly organized its provisions.

(2) In Article II, the law defined the contract as an agreement concluded between family members who are united by business or interest, under which the family ownership is organized as a common property between members. It also specifies the ownership management method. I believe that this definition is flawed and not exhaustive, as it contains the words “agreement” and “family” without restricting them by making the agreement in writing or notarized. Furthermore, the definition didn't restrict the degree of kinship to the fourth level even though this condition has been explicitly stipulated law. Additionally, the terms “ownership regulation” and “property management” were both used although regulation is one of the functions of management. On top of that, the law required that the family members are brought together by business or interest, which is a useless addition in view of the goals and objectives of

the law referred to in Article III, which indicated that the aim of the law is to maintain the continuity of family ownership and develop the ability of young leaders from successive generations. This law was introduced to enable young leaders to benefit from the experience of their parents and grandfathers, enhance the role they play in achieving economic and social growth in the emirate, preserve social cohesion, and unite family members in strong and solid economic partnerships. Therefore, it would have been better to leave the definition to jurisprudence and the judiciary pursuant to the general principles established in drafting legislation.

(3) The law permits the partners to agree on suspending the family ownership contract at the death of one of the partners. In this case, the heirs of the deceased partner may take the partner's place to the extent of the partner's share in the family ownership contract. The heirs shall have the right to choose between remaining as partners or disposing of the share that devolved to them by inheritance from the family property, provided that the disposition takes into account the provisions of Paragraph (b) of Article (8) of the law, which allows the partner to ask permission from the Committee for Settlement of Family Property Disputes to remove the partner's share

of the family ownership after six months of notifying the rest of the partners in writing – in case the partners did not agree on the period of the family ownership contract. However, if the period is specified, Article 13 of the law must be observed, which does not allow any partner to request the division of the family ownership as long as the contract is valid, and if any of the partners wishes to dispose of their share in Family ownership, the partner in question must present the matter before the other partners, unless the disposition is a waiver of the partner's share to their spouse, first-degree relative, or to any partner – unless the family ownership contract stipulates otherwise.

No partner or heir shall be allowed to dispose of their share to other than the original partners or to arrange a right in rem against the ownership without the consent of the partners who own at least 51% of the family ownership. In case none of the partners showed interest in owning the share of the partner who wishes to dispose of their share in the family ownership or in case they did not agree on the partner's disposition of their share, then the committee may allow the partner to dispose of their share to others, if the act is in accordance with the legislation in force in the emirate and the committee

finds a strong justification for such act, provided that this behavior does not affect the perpetuation of the family ownership.

It is worth noting that if a third party purchased the share of one of the partners for any reason other than the foregoing, any of the partners are entitled, and within sixty days from the date of their knowledge of this purchase, to acquire this share at the price agreed upon with the third party, or at the price determined by the committee in case of disagreement. However, if the partners remained silent and did not seek to own that share within sixty days, the third party does not become a partner in the family ownership except with the approval of the partners who own at least 51% of the family ownership, unless the family ownership contract provides another percentage. Otherwise, the committee may decide to remove this share from the family ownership after it has been sorted, compensate the third party, or enable the third party to purchase the share in accordance with the provisions of the legislation in force in the Emirate. Also, according to Article (15) of the law, in case one of the partners is declared bankrupt or insolvent, the rest of the partners, each according to their share in the family ownership, are entitled to acquire the share of the partner share that

“The manager of the family property may be one or more legal or natural persons, provided that their number is odd.”

“The law restricted the amendment of the family ownership contract to the consent of a minimum (75%) of the partners, unless the partners agree on a higher percentage.”

Call for Researchers

Until the government agencies in the emirate undertake the necessary procedures to put this law into practice, prepare their commercial and real estate records, ownership regulation documents, and ongoing disposals consistent with family ownership regulations prescribed by the law, form the Judicial

Committee with its terms of reference, this has been a quick review of the law in order to identify the legal regulation of the family ownership contract. I think it is worthy of contemplation, and is an invitation for researchers and scholars in the master's and doctoral levels to explore the depths of this law and address it in some detail, analysis and comparison.

* Margins

may enter the bankruptcy at the price agreed upon with the bankruptcy trustee, or according to what the committee determines in case of disagreement. In case the partners did not request the ownership of the share of the partner that entered into bankruptcy, the committee may decide to remove, sort, or compensate this share from the family ownership, and to enable the bankruptcy trustee to acquire in accordance with the provisions of the legislation in force in the Emirate.

(4) The law requires the ratification of the family ownership contract with the notary public, in accordance with the rules and procedures stipulated in Law No. (4) of 2013 regarding the notary public in the Emirate of Dubai. Article 26 of the Law requires that the document is produced in writing in order to become a formal contract, which, in addition to the consent of its parties, requires a specific written form documented with the notary public. It is worth noting that the role of writing here is to convene and not to prove.

(5) According to Article 12 of the law, if one of the partners passes away, the partner's heirs who wish to continue with the family ownership contract shall take possession of the partner's share in the family ownership. Their desire to continue with the family ownership is considered an acceptance of the family ownership contract, provided that the general rules stipulated in the legislation in force are applied regarding the partner's share in the family ownership in case the partner lost, lacked eligibility, under custody, or any event or matter that would prevent them from accessing or obtaining their share.

(6) Therefore, the family ownership contract must determine the share of each partner, and in case of disagreement between the partners over determining the share of one of the partners, then the share of the subject partner shall be determined according to his share in the inheritance, or according to the evaluation of the share if his participation in the family ownership is due to a reason other than inheritance.

If parts of the assets of the family ownership are made up of shares or stakes in companies, the accession of any person to the family ownership contract is considered an acceptance of the provisions of the articles of association of said companies.

(7) The provisions of the family ownership contract are interpreted in accordance with the common intention of the partners, as well as the goals and objectives for which the establishment of the family ownership was intended. The interpretation shall be done in a manner that ensures its proper management, continuity, and development of the ownership, and the smooth transfer of family ownership from one generation to another. If the family ownership contract includes a condition or provision that is contrary to the provisions of the law or legislation in force in the emirate, or public order, and General morals, the family ownership contract remains valid and the contradictory condition or provision is annulled.

(8) In case more than one manager, and the family ownership contract or the appointment stipulates that they undertake the management work together, the managers' decisions should be taken in unanimous agreement, unless the partners decide otherwise. However, a manager is allowed to act alone in order to prevent serious losses in the family ownership or take advantage of a major profit to the partners. However, if the family ownership contract or the appointment decision does not instruct managers to undertake the management work together, each one of the manager may initiate any management work, and their decision is considered valid if the majority of managers do not object to it before its completion. In cases of disagreement, the matter shall be presented to the Board of Directors or the partners, as the case may be, for a final decision. However, in case each manager has a specific competence, then no manager shall be accountable to the partners or third parties except within the limits of the activities that fall within their scope of competence.

Paper & a Pin

The Effect of Legal Phrases on Recipients

Language often affects our relationships and leaves its clear impact on our minds and souls. This includes the words and phrases we use and choose in our daily life. The origin, composition, and formation of language in individuals are naturally subject to a wide range of social, educational, cultural, and other factors.

We are not here to analyze these factors and study their causes, since this quite an expansive topic, not to mention that it is a field of research that needs in-depth studies. There is no doubt that many studies and research have been authored to analyze and understand this important sociological topic. However, we are currently interested in studying a case to illustrate how this social issue affects our daily relationships with its important and sensitive psychological dimensions.

Two phrases

In better represent the case to the reader, let's consider this phrase that people often use when a person commits a legal violation as a result of ignorance of the law governing the practice for which the violation was committed. The person would say "I didn't know", and many serious, and sometimes joking, voices responding by saying: "The law does not protect fools." This phrase and its equivalents, although are more common in informal legal circles than formal legal milieu, has become part of the linguistic formulations entrenched in the linguistic dictionary of Arabic-speakers. This phrase carries a great deal of negative charges and repercussions, especially if directed at a person who has violated the law because of ignorance. On the other hand, there is another phrase that carries the same meaning: "Ignorance of the law does not exempt the person from responsibility." Despite sounding somewhat similar to the

first phrase, this expression does not bear any undesirable negativity if directed at the perpetrator of the violation. If we look closely at the two expressions and the meaning that they convey, we will find that they are in agreement in terms of the result, but they differ in terms of the method and wording used. The first phrase may influence the violator take a negative stance on the law and entrench misconceptions about the importance of understanding, observing, and adhering to the law. However, the second expression is phrased in a way that leaves a good effect on the recipient's mind, and pushes them to strive to understand the laws and regulations, and to be more eager to know their rights and duties, thus making them a good, law-abiding citizen.

In Our Daily Lives

What I have presented is only an example among thousands of different examples of linguistic formulas that we use consciously or unconsciously in our daily life and at all levels. These expressions affect those around us even, so choosing the right word or phrase is very important and has repercussions that we may not fully understand its dimensions and effect on the lives of people, and how it can shape their behaviors and influence their wellbeing, negatively or positively. Therefore, let us be more careful while choosing our phrases and words. Finally, it is only fitting to conclude our presentation with the noble verse of the Quran: "And not equal are the good deed and the bad. Repel [evil] by that [deed] which is better; and thereupon the one whom between you and him is enmity [will become] as though he was a devoted friend."*

* Surah Fussilat, verse (34).



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The law restricted jurisdiction to all disputes arising from the family ownership contract to the Special Judicial Committee, which is formed by a decision from the ruler directly.

Applications of Fundamentalist Rules on National and Reserve Service Law

The fundamentalist rules contribute to removing the confusion that may be attached to phrases in general, and clarify the intentions behind them so the words can be understood precisely and beyond doubt. In this article, we will review and clarify some of these rules that can be applied on the National and Reserve Service Law.



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Rule 1: The terms “compulsory” and “obligatory” and their derivatives are evidence of obligation:

Article (2) of the law: "National service shall be compulsory for every male citizen."

National service is required of males, because the word (compulsory) denotes obligation, therefore the defaulter deserves punishment.

Article (23): "Whoever is summoned must join the service of the agency for which they were recruited or for which they were appointed by the bodies referred to in Article (6)..."

Those who have been summoned must join the reserve service, otherwise they deserve to be punished.

Rule 2: If the command came in the form of a statement, it indicates obligation:

Article (20): "Those referred to in Article (19) of this law shall fill out the form prepared for joining the reserve service, and update its data continuously..." This text is in the form of a statement, but it is statement with a command or an order, and the order indicates obligation and necessity, and those who fail to comply deserve punishment.

Rule 3: Terms used for generalization "all - every":

"National service shall be compulsory for every male citizen." This indicates that national service is imposed on every male citizen, and no one is exempt from this service except for whom the law stipulates an exception.

Rule 4: Names with definite articles (the) and the connected pronoun indicate generalization:

Article (15): "National service for the citizens who have not been accepted into service with the bodies mentioned in Article (6) of this law shall be postponed to subsequent years..." The use of (the) in "citizens" is indicative in general, "Who" is a connected pronoun, which includes all citizens who fit the aforementioned description.

Rule 5: Mandatory requirements are not waived by the actions of a few:

Article (2): "National service shall be compulsory for every male citizen," so national service is not forfeited by the commitment of some. In the case of ten brothers, all of the 10 brothers are required to do national service. The service of any of them is not waived, if a number of them served previously.

Rule 6: If the order is declared with an immediate tone, then it indicates immediacy, and if it expressed indolence, then it indicates indolence by agreement:

Article (23): "The person summoned shall join the service of the



Concept of contradiction: "It is when the word denotes the opposite of the non-mentioned provision".

agency for which they were recruited, or for which they were appointed by the bodies referred to in Article (6) of this law, according to the circumstances prevalent upon the issuance of the summon order." This indicates that the person is obligated to comply immediately after the order is issued, otherwise they deserve to be punished.

Article (14): "National service is postponed in times of peace for students studying at educational institutions in the country or their equivalent abroad until they obtain the qualification for which the national service was postponed" (then the law proceeded to explain the conditions for such a case). This text does not require immediate action from those who meet the conditions; therefore, the text indicates indolence.

Rule 7: It is necessary to rule by the first order, as a new order is not warranted under the Hanafi and Hanbali school of thought:

This rule means that if a person is ordered to do something at a specific time, but the time expires and the person in question failed to comply, the order is not waived. Rather, the person must comply with the order, and deserves the punishment, e.g. Those who are ordered to fast Ramadan but failed to do so (despite being able to fast), must make up for the missed days of fasting even if they deserve the punishment. In this case, a new order is not needed to prompt the act of making up, that is, the person does not need to be told: "make up for the missed days of fasting," because the original order is still binding.

In **Article (9):** "Every male citizen who reach the age of 18 years and is under the age of 30 year on the date this law came into effect must submit to the authorities concerned with the national service determined by the General Command within thirty days from the date of notification to determine their conscription status."

If a citizen does not perform the required task within thirty days, this matter is not forfeited. Rather, they must comply even if they will be punished as a result of non-compliance.

Rule 8: Concept of contradiction

Contradiction: "It is when the word denotes the opposite of the non-mentioned provision" as in the Holy Quran "And if they should be pregnant, then spend on them until they give birth" Surat Al-Talq (6). In this Aya (verse),

what is explicitly mentioned "Alimony is obligatory for a pregnant divorced woman", and the implicit meaning is that "a non-pregnant woman is not included in this provision". The part of the verse "And if they should be pregnant, then spend on them". Means "if she is not pregnant, then she will not be entitled to alimony".

Article (2): " Military service is imposed on every male citizen".

Concept of contradiction: "a citizen" "as this means military service is not imposed on non-citizens. And the word "Male"; means that Females are not required to attend military service.

Article (3): "Anyone who is recruited into the military service must be 18 years old. 3.He must be medically fit."

The concept of contradiction "he/she would not attend military service if he/she did not reach the age of eighteen years". The same applies to "he/she is medically unfit".

Rule (9): If the adjective is mentioned after vocabularies or sentences separated by Conjuncts in using "و" (and) "ف" "(then) and "ثم" (after that), and the like; it refers to everyone, unless there is an evidence that it refers to one of them, as agreed by the majority of scholars:

Article (6): "Military service is performed in ... 4- Bodies and institutions of the military system"

The adjective here is "of the military system" refers to the bodies and institutions, and not to institutions only. That is, bodies of the military system, and institutions of a military system, but not bodies even if they do not have a military system, because adjective is mentioned after vocabularies or sentences separated by Conjuncts (Bodies and institutions).

Rule 10: if general and specific meanings contradict, then they are combined in specification.

Article (2): " Military service is imposed on every male citizen".

This legal text is general; because "every" is a general expression, except if it is specified by other legal texts, as stated in Article (3): "He must have reached eighteen years of age and not be more than thirty years old," "he must be medically fit".

If he is not medically fit, or he has exceeded thirty years from the date on which the law came into effect, then military service is not imposed on him, and this is "speci-

fication of general within a concept".

In Article (13): "The only son of his father or his mother is totally exempted from military service... the son who provides support to his father or to his mother is temporarily exempted from national service".

The other articles mentioned in the law specify the second article; because the second article is general, while the other articles are specific, as specific meaning is stronger than the general one in contradiction, so it is applied, so whoever meets the qualities mentioned in the other articles, he/she is not obliged to military service, and he/she is excluded from service according to the text of the law.

Rule (11): Unrestricted meaning shall be understood by restricted meaning upon the union of provision and the reason:

Article (3): "Anyone who is recruited into military service must be eighteen years old and not more than thirty years old."

This legal text is unrestricted "absolute", and it may be understood that "anyone exceeds thirty years old is not obligated to be recruited into military service at all, but Article (9) of the law restricted this absolute text.

Article (9): "Every male citizen who is eighteen years old but does not exceed thirty years old on the date this law came into effect must apply to the authorities concerned with military service".

This legal text restricted the absolute meaning included in the first text, indicating that a person who is over thirty years old from the date on which the law came into force is not included in the compulsory military service, but if he is over thirty years old after the date on which the law came into force, then he is not exempted from service, rather, he should attend it.

By combining the two legal texts, the meaning is understood through the absolute text. If a person takes from the first text" not to be obligated to attend military service" because he exceeded thirty years of age depending on the text of the law, he is told that this text has been explained by another legal text. The provision here in the two legal texts is united, which is (not obliged to attend military service), and the reason is united, which is (exceeding thirty years of age), so unrestricted meaning shall be understood by restricted meaning upon the union of provision and the reason.

The degree of kinship between spouses

Pursuant to Law No. (8) of 2018 regarding Government of Dubai Management of Human Resources



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Kinship can be defined as the family relationship between two people. Kinship is an important issue in various legislations, due to its legal effect and practical applications of many provisions, as the importance of knowing the degrees of kinship is related to the correct application of the provisions of the legislations when they stipulate a specific rule related to the degree of kinship.



Therefore, the Federal Law No. (5) of 1985 on Civil Transactions and its amendments regulated this issue, as it stipulated in Article No. (76) that: "1. The family of a person is composed of his spouse and relatives.2. Relatives are all those of common ancestry". Accordingly, various legislations have stipulated provisions related to kinship, including Law No. (8) of 2018 regarding the Human Resources Management of Dubai Government.

Kinds of kinship

The kinship is established either by a legal fact such as birth, where it is called kinship, or it may arise due to a legal act, which is the marriage contract, so it is called Marriage kinship.

Family relationship (lineage)

It is called Consanguinity, and it is the kinship between any two people or more who are united by one ancestor, and thus it is the kinship that binds between individuals because of Consanguinity, as Article No. (77) of the Civil Transaction Law states that" 1. Direct kinship is the relation between ascendants and descendants.2. Indirect kinship is the relation between persons of common ancestry, without being an ascendant or descendant of the other, regardless of the degree of consanguinity".

Consequently, Family relationship in turn is divided into two types: direct kinship, which is the kinship that brings the individual together with his ascendants and descendants, as ascendants are father, grandfather / mother and grandmother..etc, and the descendants are the offspring of a person including his sons, daughters and grandchildren, while indirect kinship is what brings together individuals as a result of their bond with a common ancestry, so a person has no direct bond with his brother directly, rather the father is the common ancestor between them, so the kinship between them is called indirect kinship.

Marriage kinship

Article No. (79) of the Civil Transactions Law regulates the concept of Marriage kinship, stating that" A relative of one of the spouses is considered of the same degree of kinship in relation to the other spouse". Therefore, it is the kinship that arises from the marriage contract, so the degree of kinship of the husband with his relatives arises through Family relationship (lineage) is the

same as the degree of kinship with his wife through marriage. For example, the degree of kinship between a married person and his father is a first-degree Family relationship (lineage), and therefore, the same degree is applied to his father's kinship with respect to his wife, so the husband's father is a first-degree relative of his son's wife but by marriage, unless the wife is with a family relationship (lineage) to the husband's father by a common ancestry, such as her husband's father is her uncle at the same time, then father's kinship to his son's wife is of first degree by marriage, and by Family relationship (lineage) it is the third degree.

Calculation the degrees of kinship

It is very important to know how to determine the degrees of kinship, in order to be able to properly apply the provisions contained in the relationship in the various legislations. The method is simple in the matter of determining the degrees of kinship as long as we know what is the relationship of each individual to the other. The legislator has explained the method for determining the degree of kinship in Article No. (78) of the Civil Transactions Law, which states that:" In calculating the degree of direct kinship, each descendant is a degree upward to the ascendant not counting the latter. In calculating the degree of indirect kinship, degrees are counted upwards from the descendant to the common ancestor and then downwards from this latter to the other descendant, each descendant, excluding the common ancestor, is counted a degree".

Ascendants' kinship

Here the degree depends on the sequence of each person in this ancestry; the person, his father and his mother, then his grandparents and grandmothers and so on upwards, so the degree is according to the sequence. The father is a relative of the son without the presence of any intermediary in this sequence, and this sequence is not interrupted by anyone else, so father is a first -degree relative to his son.

The same applies to the mother, so her kinship with her son is not mediated by any other person, so she is a first -degree relative to her son, while the grandfather has no direct kinship with his grandson except through an intermediary, as there is another person between them, represented by the father or the mother, so the kinship of the grandfather, whether paternal or maternal

|| Kinship is established either by a legal fact such as birth, so it is called Family relationship (lineage), or it may arise due to a legal act, which is the marriage contract, so it is called Marriage kinship.

|| Family relationship (lineage) known as Consanguinity, which is the kinship between any two people or more who are united by one ancestor, and thus, it is the kinship that binds between individuals because of Consanguinity.



|| The degree of kinship of the husband with his relatives by lineage is the same as the degree of kinship with his wife by marriage.

grandfather, is a second-degree kinship, because in this case we go upward in the sequence to the father and he is of the first degree, then after the father comes the grandfather and the grandmother, both of whom are of the second degree, then after that the father's grandfather and the father's grandmother are of the third degree, and so is the same on the mother's side. Accordingly, Ascendants kinship can be arranged as follows: the father and mother are of the first degree, the paternal and maternal grandfather and grandmother are of the second degree, the father's and mother's grandfather and grandmother are of the third degree, the grandfather's and grandmother's grandfather and grandmother are of the fourth degree.

Descendants' kinship

Here the same method is applied in calculating the degree of Ascendants, but in reverse, where the descendants start from the son and the daughter and downward after that, as we find that there is no interruption in the sequence between the person and his son or daughter so they are (son or daughter) a first degree relatives to their father, while the grandson's or the granddaughter's sequence is interrupted by the presence of the son or the daughter, so the grandson and the granddaughter are a second-degree relatives, followed by the son's and daughter's grandsons and granddaughters as a third-degree relatives. Accordingly, the descendants' kinship can be arranged as follows: the son and the daughter as first-degree relatives, the grandson and

the granddaughter as second-degree relatives, the son's and daughter's grandsons and granddaughters as third-degree relatives, while the grandsons' and granddaughters' grandsons and granddaughters as fourth-degree relatives.

Indirect kinship

It is the second type of kinship, and it arises between people who are united by a common ancestry, but they are not united by a single sequence, such as the relationship between a person and his uncle, so what unites them is a common ancestry represented by the grandfather or the grandmother or both. Therefore, when calculating the degree of kinship, we go upward to the common ancestry, and then downward to the person whose degree of kinship is to be calculated. For example, if the person whose kinship is to be calculated was the son of maternal aunt, then the common ancestry here is either the maternal grandfather, the maternal grandmother or both, then we go upward to the mother who is of the first degree kinship, then to the ancestry that brings her together with her sister (the grandfather or the grandmother or both) which it is of the second degree, then going downward to a maternal aunt who is of the third degree kinship, then to the son of a maternal aunt, who is of the fourth degree kinship, and the same way is applied to the cousins, paternal aunts and maternal uncles.

Relationship of spouses

The relationship between the husband and the wife is

a marriage relationship, and the marital relationship does not result in the emergence of a degree of kinship between them, so there is no degree of kinship between the two spouses, rather a marriage kinship is established between the relatives of both husband and wife, but they may be united by the Family relationship (lineage), which is a relationship that has no relation to marital bond, for example when the wife is the husband's cousin, so here, there is an indirect lineage that is united by a common ancestry represented by the grandfather or the grandmother or both, as appropriate. Therefore, we find some legislations that did not stipulate that husband is considered as one of the relatives in the special provisions, which calls for resorting to methods of interpretation to find the correct meaning of the text.

Application to Dubai Government's Human Resources Management Law

Article No. (13) of Dubai Government's Human Resources Management Law No. 27 of 2006 and its amendments stipulated that: "All government employees must avoid, while carrying out their duties, any conflict of interest between their private activities and government interests and operations. They shall not place themselves in any position where allegations of conflict of interest could be made. In specific, they should not: 1. involve themselves in any official process or decision that would directly or indirectly influence the success of a contractor, supplier, or any other business venture owned by them or their relatives to the 4th degree of family relationship".

It is noted that this text does not deal with husbands, and therefore it is understood that the husband is not included in this prohibition. The text here is valid, but methods of interpretation must be followed to properly understand the provision included in the text. Accordingly, as long as the text is valid, and the interpretation is based on the meaning of the concept of the text through the application of deduction a fortiori, which means that the provision of the text is proven on a matter that the legislator did not mention because the reason for the matter not mentioned is more available than its availability in the provision of the text. The inability to participate in any procedure that may affect the success of any supplier with whom the employee has a kinship up to the fourth degree is

to prevent the employee from falling into favoritism while dealing with one of his relatives.

The issue here is hypothetical, because a man is presumed of a good faith, but the legislator desires to avoid any doubt that may arise regarding this procedure as a result of the existence of a kinship up to the fourth degree, such as a cousin, for example, thus, the legislator intends to this prohibition.

As long as the purpose of the legislator was the same, and the kinship here is absolute, as it includes the relationship of lineage and the relationship of marriage, and therefore, the cousin of the employee's spouse is a relative of the employee of the fourth degree by marriage, given that he/she is a relative of the husband of the fourth degree by lineage, so it is a matter of priority that this prohibition applies to the employee's spouse because the reason is available in him/her more than his cousin, as he/she is more closely related to the employee.

Therefore, the legislator has intended through the new Law No. (8) of 2018 regarding the human resources management of Dubai government, which replaced the previous law to remedy this and to remove any ambiguity in the interpretation of the article, as Article No. (36) states that "While performing his duties, an Employee must avoid any conflict of interest... (2) participate in any decision or process that may be of benefit to him, his spouse, or any of his relatives up to the fourth degree", and this is in line with the same idea that spouses have no kinship.

Is it permissible to appoint a husband?

We also find that the previous law stipulated in Article No. (58) that: "Departments must not employ relatives (up to the second degree of family relationship)...", and here the text also did not address spouses, and therefore it is understood from the text that a spouse is not covered by this prohibition, but we find that the reason beyond inability to appoint relatives is to prevent the employee from falling into favoritism when dealing with one of his relatives, especially if the relationship is supervisory between a superior and a subordinate. As long as the purpose of the legislator was the same and it was not permissible to appoint relatives up to the second degree in the same organizational unit, and as kinship here is "absolute", it includes the lineage and the relationship of marriage, and therefore, the brother of the employee's spouse is considered as

|| Indirect kinship is a family kinship, and it is between people who are united by a common ancestor, but not united by a single sequence.

The marital relationship does not result in the emergence of a degree of kinship between spouses, so there is no degree of kinship between them, but rather a marriage relationship between the relatives of each spouse arises.

The legislator intended to find out the differences in Dubai Government's Human Resources Management Law No. 27 of 2006 and its amendments, with regard to the concept of spousal kinship through amendment represented by Law No. (8) of 2018 regarding the human resources management of Dubai government, which replaced the previous law.

a relative of the employee of the second degree by marriage, considering that the spouse's brother is of second degree kinship as , and therefore, it is not permissible to appoint him/her in the same organizational unit in which the employee works, and therefore ,it is more appropriate that this prohibition applies to the employee's spouse because he/she has more reasons to be included by this provision than his/her brother, so the legislator proceeded through the new law to remedy that, as it is explicitly stated in Article No. (26) states that: "Spouses, or relatives up to the second degree, may not hold posts that are directly connected, report directly to one another, or work within the same organizational unit" as we find that the legislator here has differentiated between spouses and relatives, on the grounds that the spouses are not bound by a degree of kinship, and thus, the confusion is removed in the interpretation of the article in previous law.

Spouses and Compassionate/ Idda Leave

Another example is what was stated in Article No. (128) of the previous law, which stipulated that: "1. Employees shall be entitled to a paid compassionate leave of 5 working days in cases of death of a first-degree relative, and 3 working days in cases of death of a second-degree relative". Then the article has been amended in the new law through Article No. (85), which states: "a. An Employee will be granted compassionate leave of five (5) working days with Aggregate Salary in case of death of any of his first-degree or second-degree relatives.

b. A male Employee will be granted compassionate leave of ten (10) working days with Aggregate Salary in case of death of his wife. A non-Muslim female Employee will also be granted compassionate leave of ten (10) working days with Aggregate Salary in case of death of her husband".

Here, too, the previous text did not deal with spouses, but when reading the texts, they must be read together, until the purpose of the legislator becomes clear to us, as we find that the legislator in Article No. 129 of the previous law stipulated that: "1. Muslim female employees will be granted Iddah leave of 4 months and 10 days in the event of her husband's death". Accordingly, when interpreting Article No. (128), although the husband is not mentioned, compassionate leave here is given to every employee whose relative died by

lineage and marriage up to the second degree, as well as in the event that his wife dies, as he was granted compassionate leave for five working days because he had more available reasons for the death of his wife than it what is available compared to the death of his wife's father who is employee's first-degree relative by marriage. Accordingly, with the text contained in Article 129, the wife has excluded from the interpretation of Article 128, in contrast to the previous texts for which the legislator did not devote a special text to her, and this is what the legislator emphasized in the new law by stipulating it in Article (85) through granting the employee a compassionate leave in the event of the death of his wife, in a clear, explicit and manner independent from the cases of death of relatives, and then confirming the Idda Leave for the wife in Article No. (86) of the new law.

Spouses and Leave to Accompany Relatives for Medical Treatment

Article No. (132) of the previous law also stipulated that:" a. The Director General or his authorized representative may grant an Employee up to three (3) months special leave with Total Salary to accompany a first or second degree relative for overseas". Then the legislator added in paragraph (b) of the same article by stating that:" the Director General or his authorized representative may grant the Employee special leave with Total Salary for up to two (2) months to accompany his spouse or any of his first-degree relatives". Consequently, paragraph (b) came in general to include all those not mentioned in paragraph (a) of the same article, although paragraph (c) of the same article stipulated that" the Director General or his authorized representative may grant the Employee special leave with Total Salary for up to two (2) months to accompany his spouse or any of his first-degree relatives who receives medical treatment in the State". Then the text was amended pursuant to Law No. (14) of 2010 as follows" a. The Director General or his authorised representative may grant an Employee up to three (3) months special leave with Total Salary to accompany a first or second degree relative for overseas medical treatment where such treatment is not available in the State. Such leave shall be granted based on a report issued by an officially accredited medical authority. If necessary, the Director General or his authorised representative may extend the leave



for an additional three (3) months with Basic Salary. b. Based on a report issued by an officially accredited medical authority, the Director General or his authorised representative may grant the Employee special leave with Total Salary for up to two (2) months to accompany his spouse or any of his first-degree relatives who receives medical treatment in the State. If necessary, the Director General or his authorised representative may extend the leave with Basic Salary".

Here we find that the legislator, through the previous text and its amendment, has explicitly stipulated the term "employee's spouse" in Paragraph (b) while did not stipulate that in Paragraph (a), which may also suggest from the general reading that the provision of Paragraph (a) will not applies to the employee's spouse, because if the legislator was aiming to do so, he would not explicitly stipulate a distinction between the employee's spouse and his relatives through Paragraph (b). However, following previous statement regarding interpretation by way of deduction a fortiori, the provision of Paragraph (a) applies to an employee's spouse and his/her second-degree relatives by marriage and lineage.

If the legislator aims, based on the text mentioned in Paragraph (a), to apply to the employee's relatives up to the second degree by marriage relation, such as the spouse's brother as a second-degree relative of the employee by marriage, then it is more appropriate for

the same provision to apply to the employee's spouse, because the reasons available in this case are more available than those of the spouse's brother, and this is supported by the amendment in the new law, where Article No. (89) states that:" a. The Director General may grant an Employee up to three (3) months' leave with Aggregate Salary to accompany his spouse, or relative up to the second degree, for medical treatment outside of the UAE where such treatment is not available in the UAE. In special cases, this leave may be granted to accompany a third-degree blood relative. Where necessary, the Director General may extend such leave with Basic Salary. In any event, this leave will be granted or extended based on a medical report issued by an officially accredited medical entity.

b. A Director General may grant an Employee up to two (2) months' leave with Aggregate Salary to accompany his spouse, or relative up to the second degree, who receives medical treatment in the UAE. Where necessary, the Director General may extend such leave with Basic Salary. In any event, this leave will be granted or extended based on a medical report issued by an officially accredited medical entity". So, the relationship between husband and wife is governed by the marital bond, so there is no degree of kinship between them, unless it is a Family relationship (lineage) and it is outside the framework of the marital relationship, then it exists whether or not the marital bond exists.

The relationship between husband and wife is governed by the marital bond, so there is no degree of kinship between them, unless it is a family kinship and it is outside the framework of the marital relationship, then it exists whether or not the marital bond exists.

Focus on Law No. (19) of 2020

Through the amendment of Article (11) of the Law Regulating the Interim Real Property Register in the Emirate of Dubai



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In continuation of the local efforts in the Emirate of Dubai and within the framework of creating a system of legal legislations that seek to protect the rights of individuals and their money, His Highness Sheikh Mohammed bin Rashid Al Maktoum, Vice President, Prime Minister and Ruler of Dubai, issued Law No. 19 of 2020 amending some provisions of Law No. 13 of 2008 regulating the Interim Real Property Register in the Emirate of Dubai. The new law came into effect since it was published in the Official Gazette of the Government of Dubai in Issue 495, dated 28 Rabi 'al-Thani 1442 AH, corresponding to 12/13/2020 AD.

The new law included the amendment of Article (11), and the amendment dealt with three matters, which are as follows:

First: merging Clause (d-4) of Paragraph (a) with Paragraph (b).

Clause (d - 4) of Paragraph (a) states that: "If the property developer did not start the project for any reason beyond his control and without negligence or omission, he may terminate the contract on his own will and deduct not more than (30%) of the value of the sums paid to him by the buyer, and refunding any surplus to the buyer within (60) sixty days from the date of termination of the contract".

While Paragraph (b) stipulated that: "In the event that the real property project is canceled by a reasoned decision by the institution, the property developer must refund the amounts which were received from the buyers, in accordance with the procedures and provisions stipulated in Law No. (8) of 2007".

According to the amendment, the new text of Paragraph (b) became: "In the event that the property developer does not start working on the real property project for

any reason beyond his control and without negligence or omission, or in the event of canceling the real property project by a reasoned and final decision of the Regulatory, the property developer must refund all amounts which were received from the buyers, according to the procedures and provisions stipulated in Law No. (8) of 2007".

The law preserves the buyer's rights

According to the amendment, it becomes clear that the real property developer who did not start working on the project - for a reason beyond his control and without negligence or omission - is no longer entitled to cancel the contract by his own will and deduct up to (30%) of the value of the amounts paid to him by the buyers, but he must refund all the amounts received in accordance with the procedures and provisions stipulated in Law No. (8) of 2007, as is the case for the real property developer whose project was canceled by a decision from property Development Regulatory. Commenting on this amendment, we say the legislator has done a pretty good job as he restricted the powers of the developer,

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The amendment came to prevent the real property developer from keeping a percentage of the amounts paid to him.

“ The real property developer must refund all the amounts received from the buyers in the event that work on the real property project has not started for any reason beyond his control or in the event that the project is canceled by a justified and final decision from the Real Property Development Regulatory.



because - on the one hand - if the developer did not start work for reasons beyond his control, this is a justification for not assuming contractual liability for that, but it is not considered as a justification for allowing him to revoke the contract voluntarily and retains a percentage of the sums paid to him, noting that if the developer is excused for not starting the work, then the buyer is excused - also - if he does not pay the sums owed on him.

On the other hand, the failure of the real property developer to start working on the project for a reason beyond his control means that his commitment to implementing the project has become impossible, and therefore, the contract concluded between him and the buyer is terminated by the force of law, and therefore there is no room for giving the developer the right to terminate on his own will.

Therefore, we see that merging Clause (d - 4) of Paragraph (a) into the provisions of Paragraph (b) is logical as the cases in which the Real Property Development Regulatory

may cancel the property project either are cases that represent a serious breach by the developer of his obligations, as if the developer was unable to implement the project due to gross negligence⁽¹⁾, the Real Property Development Regulatory proved that the developer was not serious in implementing the project⁽²⁾, or the developer committed one of the crimes stipulated in Article (16) of Law No. (8) of 2007 regarding real property development guarantee accounts in the Emirate of Dubai⁽³⁾, or they represent reasons beyond his control, as if the land was totally subject to planning or re-planning projects implemented by the competent authorities in the Emirate⁽⁴⁾.

Accurate legal characterization

The legal characterization of the provisions of Paragraph (b) of Article (11) is that if the cancellation of the project is for reasons beyond the developer's control, the contract is terminated by the power of the law. If the project is canceled for reasons related to the developer, then the contract is not terminat-



“ The contract concluded between the real property developer and the buyer shall be terminated by force of law in the event of canceling the project, and there is no room for giving the developer the right to terminate the contract by his will.

ed by the power of the law, but in view of the impossibility of implementation, the developer's obligation turns into paying compensation. Whether the legal characterization is the breach of the contract or the impossibility of the developer to implement his commitment due to his mistake, it is no longer possible or acceptable for the developer to terminate the contract by his own will if the buyer breaches the implementation of his obligations.

Also, adding a new condition to the decision to cancel the property project, which results in obligating the real property developer to refund all amounts paid from the buyers, and this condition is that this decision must be final as well as being a reason. The legislator has done a pretty good job by adding this condition, as it is unreasonable to oblige the developer to refund all amounts he received from buyers based on a preliminary revocable decision to cancel the project.

Second: Adding Paragraph (e) to Article (11)

Paragraph (e) stipulates that: “All procedures,

decisions and actions that took place before enacting this law are considered valid, enforceable and not subject to any appeal, including the termination of sales contracts that were concluded from the effective date of Law No. 13 of 2008 , provided that they were carried out in accordance with the rules and procedures stipulated in the legislation in effect at the time of being carried out, with the exception of annulment decisions that were canceled by a final ruling by the competent courts before this law became in force.

Commenting on this paragraph, we see that the mere application of the principle of non-retroactivity of the law, all the, decisions and actions that took place prior to enacting this law are valid, enforceable and not subject to appeal as long as they were carried out in accordance with the rules and procedures stipulated in the legislation in force at the time of being carried out.

Legal inquires

We do inquire about the meaning of the

“ The new law does not apply to annulment decisions that were made before its enforcement, as long as they were carried out in accordance with the rules and procedures stipulated in the legislation in force at the time of their adoption.



“**The real property project can only be canceled by a final decision and not a preliminary decision that may be subject to cancellation.**”

exception at the end of Paragraph (e) which was added, that is, we inquire about what the legislator intended by the phrase: (with the exception of annulment decisions that were canceled by a final ruling by the competent courts before this law became in force). I believe - from my point of view - that this exception is unjustified, that is, there is no justification for mentioning it in the text, if we assume that the legislator did not mention this exception in the text, does this mean that the new law applies to annulment decisions that have been canceled by a ruling made by the competent courts⁽⁵⁾ before this law became in force? Of course, it does not. Therefore, there is no need to mention this exception, even more so we see that the new law does not apply even

to annulment decisions that were canceled by virtue of a final ruling in implementation of the principle of non-retroactivity of the law stipulated in this paragraph, as the annulment decisions that were correctly made in accordance with the legislation in force at the time of their adoption are valid and may not be canceled.

As well, the annulment decisions that were made incorrectly in accordance with these legislations are invalid and must be canceled if the buyer so requests. Accordingly, the new law does not apply to annulment decisions that were made before its enforcement, whether they were valid or invalid in accordance with the legislation in force at the time they were taken, a lawsuit was filed to cancel them or not, a ruling was issued in the annulment case or not yet, and whether the ruling was issued in this is final or not.

Third: Amendment of Paragraph (f)

Paragraph (f) stipulates that: “The procedures and rules stipulated in this article do not prevent the buyer from resorting to court or arbitration in the event that the property developer abuses using the powers conferred upon him under this article.” This paragraph has been amended as follows: “The procedures and rules stipulated in this article do not prevent the buyer from resorting to court or arbitration”.

The amendment to this paragraph is to delete the following phrase from the original text "(in the event that the property developer abuses using the powers conferred upon him under this article)".

Commenting on this amendment, we say that the legislator has done a pretty good job for two reasons:

First, the presence of this phrase in the text is not necessary, because what it provides is merely an application of general rules, as all rights are subject to the rule of impermissibility of abuse, and the right of the developer is not excluded from this rule.

Second, the legislator has permitted the buyer under this phrase to resort to court or arbitration when the developer is abusing his right. It may be understood from this that the legislator does not allow the buyer to resort to the courts or arbitration when the developer exceeds the limits of his right, although exceeding the limits of his right is more dangerous than arbitrariness, so exceeding the limits of the right is deviating from the legally established limits of the right, and thus, the right vanishes upon deviation from limits established for it⁽⁶⁾, while the abuse of the right is merely misuse of the right without deviating from the limits established for it.

Recourse to the judiciary is constitutionally guaranteed to all

The legislator could have annulled clause (f) completely; because what is mentioned in it is a mere application of general rules, so the right to resort to the judiciary is constitutionally guaranteed to all, as Article 41 of the Constitution of the United Arab Emirates states that: “Any person has the right to file a complaint with a competent authority, including a judicial entity, against the violation of the rights and freedoms stated in this part "noting that the right to resort to the judiciary is one of the rights related to public order, and therefore, it may not be waived⁽⁷⁾.”

Towards further amendments ... additional insights

After we have finished commenting on the amendments to the new law, we would like to point out that some of what was mentioned in Article (11) still needs to be amended, for example: “Allowing the property developer to terminate the property sale contract by his own will when the buyer breaches his contractual obligations”, while this Article did not stipulate that the breach by the buyer must be a significant breach⁽⁷⁾ and the buyer must be notified of the termination⁽⁸⁾, that is, the developer must inform the buyer of his decision to terminate the contract. In addition⁽⁹⁾, we believe that the standard adopted in determining the upper limit of the developer’s right to deduct from the amounts paid to him by the buyer needs to be reviewed.



*** Margins**

- (1) The Interim Real Property Register in the Emirate of Dubai.
- (2) See Article (3/23) of the same executive regulations.
- (3) See Article (2/23) of the same executive regulations.
- (4) See Article (23/5) of the same executive regulations.
- (5) That is, it was revoked by virtue of a judgment that cannot be challenged by any of the ordinary or extraordinary methods of appeal (Dr. Ahmed Abu Al-Wafa, The Theory of Rulings in the Law of Procedures, Al-Ma'arif Institute in Alexandria, 6th edition: 1989, p. 371).
- (6) In this regard, it was mentioned in the explanatory memorandum of the UAE Civil Transactions Law (p. 481) that in order for a person to keep his own right: (he must abide by the limits prescribed for him by law upon its issuance, and if he exceeds such limits, this should be considered as an abuse and a consequent harm to which he should be held accountable) See also: Dr. Ali Hadi Al-Obaidi, Non-Voluntary Sources of Obligation According to the Civil Transactions Law and the Rulings of the UAE Judiciary, Brighter Horizons Publishers, Sharjah, 1st edition: 2020, page 64 et seq.
- (7) See: Dr. Ahmed El-Sayed Sawy, El-waseet in Explaining the Law of Civil and Commercial Pleadings, Technical Corporation for Printing and Publishing, Cairo, 2003, p. 42.
- (8) It should be noted that Article (17) of the Real Property Regulation Law in the Emirate of Abu Dhabi No. (3) of 2015 has stated that this condition must be met. This is what the French legislator has provided for as well (see Articles: 1224 and 1226 of the French Civil Code).
- (9) This condition was stipulated by Article (1226) of the French Civil Code.



Conditions for issuing a writ of debt: Between the expediting of litigation and preserving the rights of litigants

Pursuant to Article 62 of the Regulatory of Civil Procedure Law No. 57 of 2018, as amended by Resolution No. 33 of 2020



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The procedural rules occupy utmost importance in legal thought and in judicial work in particular, as they are responsible for determining the means by which the judiciary communicates with disputes and the way it is to investigate the right and then approve it. The right to resort to the judiciary is a natural consequence of the right to a fair trial, which cannot be subject to unnecessary and highly complex procedural restrictions in order to have flexibility in litigation to access prompt justice. The legislator should not be isolated from the development of society, its features, and the phenomena created in it, where the legal rule is a reflection of the society's life.

The development of the Emirati society, the transition to the smart government, and the rapid turnover of investment, requires the speed of taking litigation procedures, facilitating and simplifying them, and liberating them from formal restrictions and obstacles, as the regulatory for the Civil Procedures Law and its amendments were a reflection of and pursuit of all these developments. Accordingly; The Emirati legislator - through the Regulatory of the Civil Procedures Law 11 of 1992 issued by Cabinet Resolution No. (57) of 2018 as amended by Resolution No. (33) of 2020 – has enacted several rules regarding procedural rights, in a successful attempt to develop them in pursuit of the development that occurred in society and to facilitate litigation procedures, shorten its time and speed up adjudication of cases.

Modifications to writ of debt System

Among the procedural rules introduced in the new regulations are amendments to the writ of debt System as Article 62 of Cabinet Resolution No. 57 of 2017 stipulates the regulatory of Federal Law No. 11 of 1992 regarding the Civil Procedures Law, as amended by Cabinet Resolution No. 33 of 2020 “as an exception to the general rules in filing a lawsuit in the first place, the provisions mentioned in the following articles must be followed if the creditor’s right is proved in writing - electronically or documentary – and a debt is due, and the amount of debt is known whether it is in cash or as a movable property, then the writ of debt may claim interest or compensation, or taking any of the precautionary measures. Also, the provisions mentioned in the previous paragraph must be followed if the financial claim relates to the enforcement of a commercial contract, or the right holder is a creditor of a promissory note. Initially; we do clarify that the path of the writ of debt is an exceptional from the general principle in litigation, which is the

path of litigation, as the legislator has set the general rules for filing a lawsuit through which it guarantees access to the protection of rights and not wasting them.

The legislator has excluded the writ of debt from the rules of litigation and judicial appeals, for a specific purpose that must be fulfilled in the debt the subject of the writ of debt, as the legislator’s goal and philosophy is that collecting some debts does not need both two parties to confront, because the debtor has no objection to the creditor’s claim. The basis for this is that the debt is proven in writing. This confirmation prevails the verification of the debt and removes the speculation of the debtor’s argument, and this is why the legislator considered that the claims related to these debts should not be subjected to the normal litigation procedures that require a full investigation in accordance with the principle of confrontation, and he was satisfied with conducting a partial investigation on the basis of the proof of right without a confrontation between the two parties. If the debt requires a full investigation, then it must be subject to the general basis, which is the lawsuit.

An exceptional way

Whereas, the path of writ of debt is an exceptional; therefore, it should not be expanded, and shall be dealt carefully and within narrow limits, and in accordance with the provisions and conditions set by the legislator, and the judge has a great role - through interpreting the texts of the ruling articles on the writ of debt - in preserving the philosophy of the writ of debt system and not violating it in order to protect rights and not to waste them.

With reference to the text of Article 62 of the aforementioned regulatory, we find that it has set the objective conditions for the issuance of writ of debt, which is the proof of the debt in writing, whether in an elec-

“ The legislator excluded the execution order method from the rules for filing litigation and judicial objections, for a certain purpose and philosophy that has to be fulfilled in the debt subject to the execution order.

tronic or documentary form, and then all electronic documents in which the debt is proven in writing have become giving the right to the creditor to take the path of the writ of debt, such as e-mail bearing the signature of the debtor.

The writing of the debt is intended to be proved in a paper bearing the signature of the debtor, as without the debtor's signature, the paper is considered invalid. For example, invoices held by the creditor without the debtor's signature on them are considered a debt that is not proved in writing.

On the contrary, the right assignment agreement signed with the signature and seal of the debtor is considered as a proved debt in writing. It is noticed that for companies 'declarations of debt in order for them to be subject to the writ of debt, the declarations must be issued by the legal representative of the company, so it is not considered even if it bears an explicit declaration of the debt as long as it is not from the legal representative of the company.

As for the debt, it is also shall be due, that is, not added to a term or suspended on a con-

dition, which is a future unrealized matter to occur, so if the debtor makes an undertaking to repay the debt owed by him in favor of the creditor on condition that the latter shall pay the debtor his rights, then this pledge is preconditioned suspended on a condition that may not be subject to writ of debt.

The debt is required to be a specified amount, and not subject to dispute, and that the specification of its amount is based on firm basis that the judiciary does not have authority over its estimation, and if the note is subject to dispute by the debtor, or the specification of its amount is not on a firm basis, the document then shall not be subject to a writ of debt, and the role of the judge is to review the documents, bearing in mind that he is facing an exceptional path through which rights shall be protected and may not be wasted.

Movable property of specified kind and value may be subject to writ of debt; such movable properties that may replace each other upon settlement and which are usually estimated in number, size, measure or weight.

Writ of debt may include claiming the pay-

Requesting interests, compensation or any other precautionary measures shall not prevent the use of execution orders.



The execution order method is an exceptional method that should not be expanded or taken as a base for other methods; rather, it should be applied with caution and within the limitations and conditions stipulated by the legislator.

ment of interests or compensation or taking any of the precautionary measures. According to this amendment, it became permissible for the creditor to claim the principal amount plus interests and compensation, including delay penalty and check fines if they are contractually stipulated.

Substantive conditions

As the legislator has permitted, in financial claims that are subject to the enforcement of a commercial contract, to be subject to writ of debt, but it is not sufficient for the claim to be the enforcement of a commercial contract only, but the other objective conditions of the writ of debt must be fulfilled in terms of determining its amount and, to be due, and to be proved in writing. This is what is contained in the text of Article 62 of the Civil Procedures Law amended by Resolution 33 of 2020, and interpreting the text otherwise empties the writ of debt from its content, renders it worthless, and it then resembles filing a lawsuit.

This is evidenced by that the legislator, in

the amended Article 62, stipulated that "the provisions mentioned in the previous paragraph shall be followed if the financial claim is subject to the enforcement of a commercial contract". The provisions mentioned in the previous paragraph are the substantive conditions for issuing the writ of debt. If the claims of the commercial contract are met, then it is permissible to go this way, otherwise, to refer to the general principle in litigation, which is filing a lawsuit.

Paragraph (2) of Article 62 referred to paragraph (1) regarding tracking the provisions contained therein. If the financial claim is subject to the enforcement of a commercial contract, then that referral is based on the conditions of the right that the creditor may claim through the writ of debt, which is to be proved in writing, and to be due, and of a specified amount. In case such conditions are not met, then a debt shall be claimed according to the normal litigation procedures.

In Dubai

Therefore, Dubai Court of Cassation ruled



“The conditions for the right for which the debtor may request through execution orders: to be documented electronically or in writing, and that repayment is not conditioned or added to another term.”

that “Whereas it is decided in this court’s judiciary that the rules governing litigation procedures are among the legal rules related to public order that the court decides on its own, even if none of the litigants raises it, and that if the law specifies a specific path to file a lawsuit, the plaintiff must abide by it, otherwise the case would be rendered invalid”. Article (62) of Cabinet Resolution No. (57) of 2018 stipulated the regulatory of Federal Law No. 11 of 1992 regarding the Civil Procedures Law - which came into force as of 7/2/ 2019, before filing the case, that as an exception to the general rules in filing a lawsuit, the provisions mentioned in the following articles shall be followed if the creditor’s right is proved in electronic or documentary writing ,it is due and is of specified amount ,then writ of debt path may entitle creditor to claim interest or compensation or to take any conservative action. The provisions mentioned in the previous paragraph shall be followed if the financial claim is subject to the enforcement of a commercial contract or if the right holder is a creditor of a promissory note meaning that even if the commercial contract is not required in the original to be in writing,

unless the paragraph (2) of that article precludes paragraph (1) regarding following the provisions contained therein, if the financial claim is subject to the enforcement of a commercial contract, then that referral is based on the conditions of the right that the creditor may claim through the writ of debt, which is to be proved in electronic or documentary writing, and such claim shall be due , not preconditioned nor added to a period.

If these conditions are not met in this right, the creditor shall take the writ of debt and he has to claim its right according to the regular litigation procedures, which is a matter related to public order that the court decides on its own initiative, and the litigants may not agree to the contrary.

On that basis, Respondent applied to obtain writ of debt No. 3312 of 2019 against the Appellant and requested the issuance of writ of debt to compel her to pay an amount of dirhams and the legal interest of 12%, on the basis that this is a financial claim to enforce a commercial agreement, and that that debt is proved according to two invoices issued by Respondent and the e-mail sent by Respondent to Appellant, which included her acknowledgment of receiving the invoices and approving the sums received. This is while it is evidenced by the lawsuit documents and the invoices submitted by the Respondent that they do not bear the signature of the Respondent, in addition to the fact that the lawsuit documents have been completely devoid of any e-mails sent by Respondent to Appellant bearing her signature and including her acknowledgment of the claimed debt.

Hence, the appellant did not provide documents indicating that the debt subject of the claim is proved in writing and is due to be paid, thus it lacks the conditions of claiming it through writ of debt, which would have had to resort to the normal litigation proce-

dures to claim her right.

If the appealed ruling contradicts this consideration, and decides to compel the appellant to pay the amount demanded despite that Respondent has resorted to writ of debt, then it is defective by violating the law in a manner that necessitates its revocation. Since the matter is valid for adjudication, it is necessary to judge the subject matter of (Appeal No. 1 of 2020 /Commercial) to cancel the appealed case and not to accept the request to file it in a way other than the way provided for by law.

In Abu Dhabi

In implementation of this, Abu Dhabi Court of Cassation ruled that “since this opinion is at fault, the text in Articles 62 and 1/63 of Cabinet Decision No. 57 of 2018 regarding the Regulatory of Federal Law No. 11 of 1992 regarding the Civil Procedure Law states that “as an exception to the general rules in filing a lawsuit in the first place, the provisions mentioned in the following articles must be followed if the creditor’s right is proved in writing - electronically or documentary – and a debt is due, and the amount of debt is known whether it is in cash or as a movable property, then the writ of debt may claim interest or compensation, or taking any of the precautionary measures. Also, the provisions mentioned in the previous paragraph must be followed if the financial claim relates to the enforcement of a commercial contract, or the right holder is a creditor of a promissory note. As well, the creditor must first claim the debt or to settle within a deadline of at least five days and then obtain a writ of debt from the judge of the court where the debtor’s place of residence is located.

Whereas, the appellant bank had filed its preliminary lawsuit by requesting the ruling to compel the respondent to pay him an amount of dirhams for the sale for delivery transaction and an amount dirhams for the transaction of a vehicle sale

contract with Murabahah in a total amount of..... due to that Respondent has failed to pay the dues of the appealed bank, and in implementation of two commercial contracts that in the event of the respondent failing to pay the dues of the appealed bank, the remaining installments shall be due to the bank regarding the Murabahah contract.

As the Respondent failed to perform his commercial contractual obligations according to the appellant bank account statements, and as the amount due to the appellant bank is an amount which is specified and proved in writing, and as the bank had to go through the procedures of writ of debt to claim the Respondent, but instead it has chosen to file a lawsuit , which is against the law, which requires the judiciary not to accept the case due to its violation of the law, and on that bases the appeal must be rejected).

* Margins

- (1) - Cour de cassation, civile, Chambre civile 3, 22 juin 2017, 16-13.651, Publié au bulletin.
- (2) Dubai Court of Cassation, appeal no. 825 of 2020, commercial appeal, 18/10/2020 session.
- (3) Dubai Court of Cassation, appeal no. 703 of 2020, commercial appeal, 18/10/2020 session.
- (4) Mohammed Kamal Abdulaziz, Codification of Arguments, 1995 edition, page no. 1214.
- (5) Dubai Court of Cassation, appeal no. 556 of 2020, commercial appeal, 29/7/2020 session.
- (6) Abu Dhabi Court of Cassation, appeal no. 788 of 2020, commercial appeal, 8/10/2020 session.

H.E. Judge Mohammed Mubarak Obaid Alsabousi

21 Years of Excellence in Judicial Work

He was born with the establishment of the United Arab Emirates, and witnessed through the successive stages of his life the progress of growth and prosperity that the country lived day by day, until he became a part thereof, and later led one of its key chapters, and contributed to embodying the visions of its leaders through his distinguished career in the judicial work in various specializations, particularly when he headed the Commercial Court at Dubai Courts, which represented the country itself in global competitions and managed to win. With the determination of its people, it is still promising even more and looking forward to leadership at the world level.

In your magazine Courts Echo we continue to feature prominent people in the judicial and courts sector. In the 2nd issue we interview H.E. Judge Mohammed Mubarak Obaid Alsabousi, chief of the First Instance Court, who shed lights in this invaluable discussion on key areas of his work in the Courts, as well as some personal details.

What are the key functions of your current role as chief of the First Instance Court?

The First Instance Court is the first degree of courts in Dubai. As per the Judicial Authority Law and per the decisions of HH Seikh Maktoum bin Mohammad bin Rashid Al Maktoum, Deputy Dubai Ruler and Chairman of the Judicial Council, it comprises specialized courts headed by competent judges to lead the judicial system in the emirate in line with the highest international standards,



thus cementing confidence in the judicial system and upgrading the legislative and judicial environment and structure of the UAE, enhancing its global competitiveness and international excellence. In leading the First Instance Court of various specializations, our role is to enforce applicable and new legislations, in order to ensure justice in an accurate and speedy manner of providing and facilitating accessible judicial services for all. This corresponds with the government directions at the State level to achieve the UAE Vision 2021 and the UAE Centennial 2071.

One: Judiciary and Commercial Business

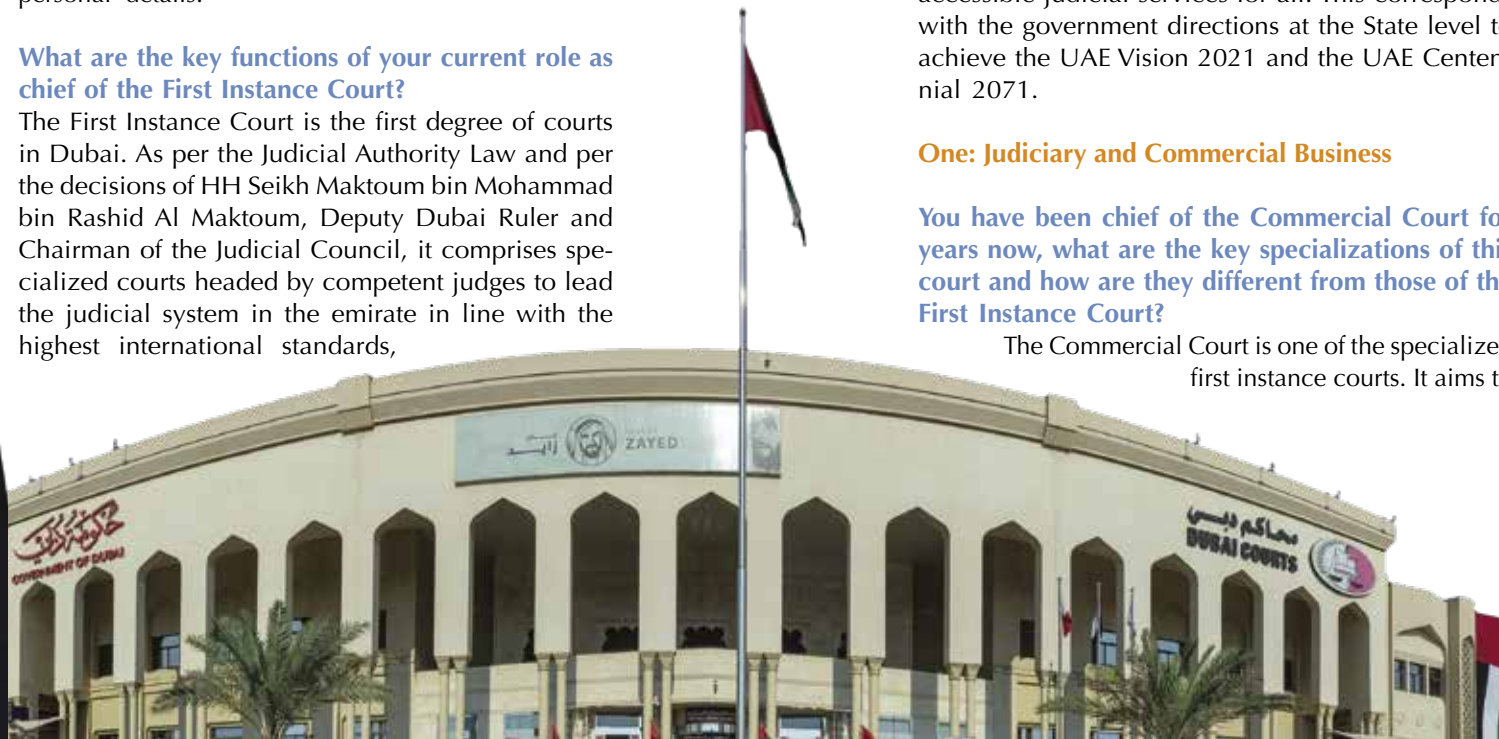
You have been chief of the Commercial Court for years now, what are the key specializations of this court and how are they different from those of the First Instance Court?

The Commercial Court is one of the specialized first instance courts. It aims to



reinforce Dubai Courts vision of being world-leading pioneering courts through representing the UAE in the field of contract enforcement within the annual report of the World Bank on ease of doing business. Its mission is to achieve justice with accuracy and speed, and provide facilitated judicial service that is accessible by all within a system of justice, independence, transparency, innovation and teamwork. This court specializes in commercial claims, wherein litigants aim to protect legal positions, financial or in-kind rights resulting from business or commercial transactions by virtue of their nature or through practicing by way of professionalism, or those resulting from commercial actions and transactions whenever such disputed rights are not linked to labor connections, personal status, inheritance or endowment.

The Commercial Court comprises full circuits and partial circuits, according to the type of litigation. For example, commercial contract claims, banking claims, intellectual property claims, companies and enterprises claims, commercial papers claims, commercial agencies and exclusive distribution claims, maritime and air dispute claims, arbitration, bankruptcy, and final commercial claims whose value is less than AED





Childhood, youth, family and academic achievement

I was born with the beginnings of the United Arab Emirates in 1974, and my early childhood was like all other Bedouin tribes who used to travel vast distances with the help of stars and planets in search of water

and pastures for camels and livestock that represent their lifeblood.

My family settled during that period near Tawi Al-Mara in Al-Marmoom area, where the beginning of the study was at Al-Lisaili School, which witnessed the beginnings of excellence and the achievement of the first ranks, and this contributed to my distinction in the English language as I was chosen to present the English paragraph in the school radio activity, then I moved to Dubai to pursue my high school education at Badr High School. After I graduated from high school, I joined the Dubai Police Force, affiliated with the Police Academy, where I obtained in 1996 a BA in Law and a Diploma in Police Sciences.

I moved my professional career to work in the Public Prosecution in Dubai, where I joined the Judicial Institute, during which I obtained a Higher Diploma in Legal and Judicial Sciences, and I pursued my passion in languages by studying the French language at the French Institute in Dubai.

I was appointed in the judiciary in 1999, after which I qualified to join the Mohammed bin Rashid Center for Leadership Development and graduated with a Certificate of Achievement - Government Leaders category in 2010.

At the personal level, I have three sons and three daughters.

50,000, and Claims Management Office settlements. Partial commercial circuits comprise a single judge who hears commercial claims of up to AED 10 million, as well as counter-claims of whatever value. Full commercial circuits comprise three judges, headed by the most senior judge, who hear commercial cases that fall outside the jurisdiction of partial circuits and non-estimable claims, as well as counter-claims of whatever value. The Commercial Courts is undertaking the initiative of publishing judiciary rulings on the official website of Dubai Courts, as part of its commitment to apply transparency in judicial work, aiming to disseminate judicial awareness to enhance society's confidence in judicial security and support investment in the emirate.

What are the major accomplishments achieved by Dubai Courts under your chairmanship?

It is known that the Commercial Court, as part of Dubai Courts, represents the UAE in the Enforcement of Contracts category of the Global Competitiveness Report issued annually by the World Bank. It is one of the accomplishments in which we take the most pride. The Commercial Court has won many awards for being the best among Dubai Courts. The efforts of work teams at the Commercial Court, including judges, administrative workers, and partners represented by lawyers and experts have contributed to significantly improving the court's strategic indicators, and thus its star has emerged in the last period.

Achievements also include legislative amendments at

the state level, through participation in legislative committees, which proves our interest in updating and developing legislation, as it reflects a positive impact on the Commercial Court.

The Commercial Court also took the lead in implementing the digital justice platform launched by His Highness Sheikh Maktoum bin Mohammad, Deputy Ruler of Dubai and Chairman of the Judicial Council, prior to the outbreak of the Corona pandemic, thus becoming the starting point of digital transformation in all courts. Under the difficult conditions that the country witnessed like other countries and the subsequent general closure of all facilities between mid-March to mid-April of 2020 due to the repercussions of the spread of Covid-19 worldwide; the Commercial Court took upon itself the banner of initiating the transition to remote litigation, then we had two options: Either stopping and paralyzing the judicial process and postponing cases, which means disruption; or moving and confronting reality and adopting a radical shift from the paper system to the electronic system, and there is no doubt that we chose confrontation, so we did remote litigation and wrote judgments remotely, which meant a complete digital transformation. The way for the rest of the courts in Dubai was paved by this framework, and this transformation has strengthened the training that judges received, as we worked to qualify them to challenge and overcome these difficulties, which motivated them to be the first to apply these technologies in digital transformation.

One of the initiatives launched by the Dubai Courts, where Commercial Court was very effective, is the Electronic Reformer. In my previous capacity as president of the Commercial Court, I had a major role in overseeing the settlement of commercial disputes and agreements, a major category which was undertaken in full on paper before I personally took the initiative to conduct these agreements electronically in 2016 until they are now fully automated in all branches of disputes.

To express gratitude to the leaders in Dubai Courts represented by His Excellency Tarish Eid Al Mansoori, Director General of Dubai Courts, we commend the great efforts they exerted to adopt and attract modern technologies, which formed the strong motivation of the courts, and it should be noted that this endeavor began since the courts were led by the late Ahmed Ateeq

Al-Marri in 2002, where it began to keep pace with the Internet and modern technologies, by providing judges with computers to facilitate and accelerate their work. We are also proud that since 2002, customers have been able to register a case completely electronically, which accelerated the judicial process in adjudicating 178 labor cases within one month, and in sum, the leadership of Dubai Courts and all employees in the judicial and administrative sector took the lead in adopting smart technologies, which have positively affected the subsequent digital transformations by providing an appropriate environment for launching initiatives.

One of the key successes that I have personally benefited from is the initiative of the Mohammed bin Rashid Center for Leadership Development, within the initiative titled Personal Development Plan, which revolves around several frameworks to develop careers in terms of the financial, family, scientific and psychological aspects of the personality; most importantly the aspect of personality development in terms of leadership, which was the most important output that I benefited from greatly.

As for official and community contributions, I was selected among the elected list for two consecutive years 2011-2012 by the Dubai leaderships for the Personal Development for Students initiative, a program launched by His Highness Sheikh Hamdan bin Mohammed bin Rashid to qualify students and expand their insights.

What is the role of the Commercial Court in cementing growth and accelerating economic development?

Business activities in the Emirate of Dubai are based on trade, and therefore the engine of the commercial process and the first and foremost factor in its success is Commercial Law and fair judiciary, which is represented by the Commercial Court in Dubai.

The second factor that supports the pivotal role of the commercial court is the speed of adjudicating commercial cases, which encourages investors to enter the market with confidence in the fair commercial judiciary in Dubai Courts, which keeps pace with the challenges and requirements of the times.

Career milestones

My career in the judicial work was varied in various specializations, commercial, civil, real estate, labor, penal, implementation and urgent departments, which enriched my knowledge and experiences and enriched my practical skills until I played an effective role in adopting digital transformation in Dubai Courts, through the first attempts to introduce computers in the work of judges. In 2002, Dubai Courts managed to complete 178 labor lawsuits within one month by writing and printing rulings electronically, which contributed to encouraging judges and motivating them to adopt the experience.

What are the key challenges facing the First Instance Court in Dubai now or in the near future?

The key obstacle that we face is legislative development, as the penal sector lacks legislative development in general, and we hope that the legislative, legal and judicial enablers will be further exploited and promoted. Based on my experience in membership of legislative committees, I believe that legislation can be promoted by shortening the judicial rulings, and investing in decisions that terminate the litigation and one-day trials, which are among the key legislative enablers and whose use leads to speeding up the litigation process.

Today, however, we need greater legislative enablers, especially in the penal sector, as it is a little behind the civil sector with legislative enablers.

Furthermore, challenges that we encounter are how to enhance the awareness of community members about the importance of settlement and resolving disputes through mediation and consensus before resorting to litigation. We are proud that the judiciary in Dubai Courts enjoys high transparency and does not prevent any right holder from resorting to litigation

What are the reasons for your demand to generalize the initiative to publish judicial rulings at the level of State courts? What are the desired goals?

In Dubai Courts, we seek to enhance confidence in the judicial system and spread legal awareness in society, so that Dubai Courts will be an internationally distinguished leader to achieve its mission: To “achieve justice with accuracy and speed, and provide facilitated judicial service that is accessible by all” within a system of values of justice, independence, transparency, innovation and teamwork, nearly 500 thousand judicial decisions were published in detail on the Dubai Courts website, with an accessible and easy interface for site users in both Arabic and English.

This initiative aims at:

1. Enhancing the effectiveness and use of judicial processes.
2. Affirming the integrity and transparency of the judicial principles issued by the State courts.
3. Consolidating the principles of equity and social



and economic justice.

4. Raising legal and knowledge awareness among all members of society.
5. Raising the level of self-censorship in writing judicial rulings.
6. Enhancing the UAE's competitiveness in the Judicial System Confidence Index and the Rule of Law Index in relevant international reports and indicators.

Two: Leadership and competitiveness profile

In your capacity as head of the Competitiveness Team, please provide an overview of the rapid improvement process that Dubai Courts have achieved in the competition profile within a few years

The World Bank issues an annual report on the ease of doing business that includes several categories for measuring the indicators of 190 countries, the most prominent of which is the contract enforcement category, which is exclusively relevant to Dubai Courts in the UAE, and monitors both the period of litigation from the beginning of the case to its end, the cost of litigation and attorney fees, and the quality of judicial processes in terms of accuracy, service provision and automation, and the publication of judicial rulings with the possibility of being viewed by the general public

Given that Dubai Courts is the exclusive representative of the United Arab Emirates in the category of contract enforcement, we have been keen to apply the directives of His Highness Sheikh Mohammed bin Rashid Al Maktoum, UAE Vice President and Prime Minister and Ruler of Dubai, aiming to raise the level of competitiveness of our country globally, by updat-



ing laws according to the latest legal theories, and the adoption of international best practices in this sector. Likewise, we have endeavored to translate the vision of Dubai Courts of being "world-class pioneering courts", by strengthening development efforts, initiatives and projects in judicial and administrative processes and services, especially those directly related to competitiveness, Thus, the efforts of the leadership of the Dubai Courts and the Competitiveness Team focused on providing all means to properly represent the country in line with its global reputation, as diligent work began in 2014 when the UAE was ranked 121st in this category until the great achievement (to be among the top ten in the world) by achieving the 9th position globally and first in the Arab world, thanks to the benefits achieved by the state, and the improvements it made to the entire litigation process, in terms of simplifying litigation procedures, attracting judicial competencies, and automating business, whether in the registration of the case, or even in the issuance and implementation of judgments, and the speed of adjudication, which contributed to strengthening the leadership of the UAE in the annual report on the ease of doing business issued by the World Bank.

We express our confidence in the ability of Dubai Courts to compete to achieve the first positions in the world and to continue their Arab supremacy in the category of contract enforcement. It has been making accelerated efforts to develop and amend legislation, to simplify judicial procedures, enhance their quality and efficiency, achieve judicial security, and pledge to provide the best services to the public, raise their level of satisfaction and make them hap-



Major accomplishments, recognitions and rewards



- Leading the competitiveness team in Dubai Courts, representing the United Arab Emirates in the category of contract enforcement, to win first place in the Arab world for the fifth year in a row and ninth in the world for the second year in a row, according to the annual report on the ease of doing business issued by the World Bank.
- Contributing to the development of the federal and local legislative infrastructure.
- Continuing membership in the International Association of Courts Administration (IACA).
- Leading the remote litigation initiative at Dubai Courts in April 2020.
- Training and qualifying members of the judiciary to switch to digital litigation to confront the COVID-19 pandemic.
- Training and qualifying members of the judiciary to switch to writing digital rulings, November 2019.
- Adopting the Digital Justice Platform initiative at Dubai Courts, October 2019.
- Launching the Electronic Reformer initiative in January 2016.
- Presenting a pioneering initiative (publishing judicial rulings) in December 2015, approved by the Mohammed bin Rashid Smart Council, which is concerned with publishing judicial rulings on the website of Dubai Courts for more transparency and access to justice.
- Establishing the Case Management Office at the Commercial Court, and preparing and drawing its work path and procedures from June 2015.
- Winning the Dubai Courts Excellence Award - Distinguished Court Category - December 2014.
- Launching the initiative (Commercial Case Management and Email Notifications) April 2014.
- Winning the Dubai Courts Excellence Award - Distinguished Judicial Circuit - December 2013.
- Certified mentor for the Hamdan Bin Mohammed Program for Student Personal Development 2011-2012.
- Winning the Dubai Courts Excellence Award - Pioneers of Electronic Judiciary - December 2011.

py. This would enhance the UAE's position in global competitiveness, and highlight to the world what it has achieved in terms of enhancing confidence in the judicial system.

Dubai Courts is the safe place for investors and businessmen, given the distinguished and global position of Dubai in the field of investments and capital acquisition, which made it an ideal commercial city, as the Courts pay attention to improving the category of ease of doing business, by simplifying litigation procedures and reducing its cost and the time taken to complete it, and the development of alternative methods of settling disputes, in addition to automating processes, enhancing communication with customers, and making sure to

facilitate their transactions.

In planning for the 50th Anniversary, where do you see Dubai Courts in the upcoming years in the competitiveness profile? And where do you see the First Instance Court in the future?

Dubai Courts is leading the Arab region and the Middle East in the contract enforcement category, and the coming years will witness greater challenges with courts in neighboring countries, as we are working to develop other standards that contribute to maintaining our leadership and competitiveness level, examples of which are:

- Dubai Courts was the first in the region to publish dai-

ly judicial rulings on its website with a balance of nearly half a million judicial decisions issued by the courts, including judgments issued during the years from 2010 to 2021 from all degrees of first-instance litigation, appeals and cassation in civil, commercial, real estate and labor cases.

- While most of the world's courts stood powerless in the face of the Corona pandemic, Dubai Courts continued to provide its services and its performance remained close to normal before the pandemic, thanks to the readiness and proactive steps taken by the Courts to keep pace with the launch of the digital justice platform.

Instruments and indicators for preparing for the 50th

Anniversary include:

- The UAE pays special attention to developing legislation in a manner that suits the interests of individuals.
- Activating the communication channels between judges and the competent legislative bodies in the country to amend and develop legislation, which indicates that the legislation is based on the higher interest of society.
- The work teams are keeping pace with the changes and developments.
- One of the future plans is to enable judges to pursue their work outside the boundaries of time and space. It is possible that judges outside the country will participate in the judicial process since the courts have completely switched to the digital platform.



Third: First Instance Courts and response to COVID-19

How did the Dubai First Instance Court respond to the challenges caused by COVID-19, and how has the response evolved during the stages of the epidemic?

We can say with confidence that the pre-Corona judicial work method was a traditional one that was outdated; therefore, due to the electronic systems and technical infrastructure of Dubai Courts, great efforts were made to develop and upgrade them over the long years before the outbreak of the Corona pandemic. The Courts were ready to continue working remotely at 100%, and were able to overcome this crisis without stopping in providing their judicial services. The electronic systems for holding remote litigation sessions in the Courts have been ready and completed for a long time, and with a high degree of efficiency, quality and safety, as well as with regard to the readiness of the judicial and administrative bodies for this stage, which was reached a matter of time, but the Corona crisis constituted a fundamental turning point in the method of litigation, and accelerated the use of these systems to hold remote sessions in all cases, in a comprehensive and integrated manner.

After his experience, it proved that it was a wise and practical choice. It achieved speed and comprehensiveness in performance, strengthened the efficiency of the judicial system, and gained the confidence of individuals and companies and contributed to the framework of enhancing the competitiveness of the Courts globally.

Dubai Courts took the initiative to adopt the digital justice platform launched by His Highness Sheikh Maktoum bin Mohammed bin Rashid Al Maktoum, Deputy Ruler of Dubai and Chairman of the Judicial Council, as the first official digital justice platform in the Middle East at the last GITEX exhibition, as we launched the first digital justice platform at the end of last year which represented a digital revolution in litigation, and we formed a new judicial department, headed by us at that time in the Commercial Court, that operates in a hall equipped with the latest technologies to consider cases whose value exceeds AED 50 million that was used to communicate remotely with law offices and subject matter experts. Its practical test was with the spread of the Corona pandemic and the adoption of precautionary and preventive measures. The sessions and the issuance of judgments in the courts of first instance, appeal and cassation, and they operated through the unified electronic sys-

tem of Dubai Courts, which was already ready for a long time, and helped the Courts to switch to work directly remotely.

Four: Leisure time:

Where does H.E the Judge find himself in his leisure time

Reading has always been the last stop in my day's journey, and it is indispensable to read paper books and novels in which I find a different warmth, in addition to my passion for modern technology. Of course, I allocate time for my family and its individuals.

In addition to work, I am always keen on following social media platforms regarding courts.

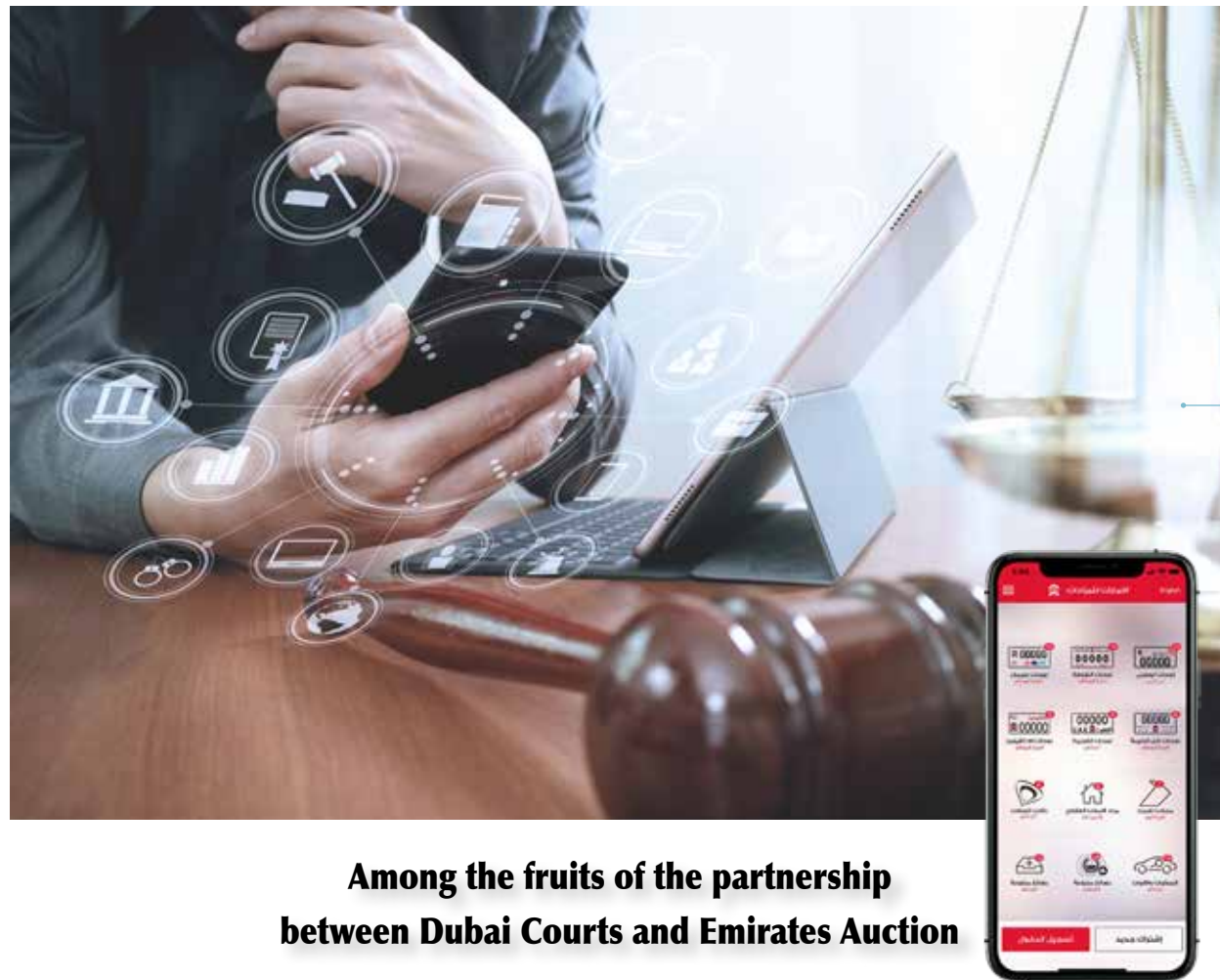
Any last words to the readers of the magazine at the end of this interview?

Courts Echo magazine is the echo of legal and judicial thought. It is distinguished for its diversity and brilliant view, making its paper a knowledge reference and a work of art. I have noticed the wide range of writers of different background, so I hope that the magazine becomes even more popular, and I thank you for its quarterly issuance, hoping that it remains a beacon of knowledge.

- Fees and material revenues do not constitute a concern for us in Dubai Courts as much as we seek reconciliation and settlement between litigants and educate individuals about the importance of achieving this.

The litigants reconciled before the attorneys arrived

One of the situations that I do not forget in my career in the judiciary was when two litigants resorted to me to adjudicate the dispute between them, in the presence of a colleague in the press sector, and as is the custom according to the official procedures, the case registration session does not begin without the presence of the attorney for each of the parties in the event of a power of attorney, and it is fortunate that both attorneys were late for attending the session for some reason. Meanwhile, I did my professional duty to persuade the two parties to agree and reconcile amicably without exaggerating the dispute to litigate legally, and this is what actually happened, so the two attorneys were surprised when they attended that the case had been resolved before it started! The next day I read an article about this incident in a newspaper under a flagrant title that attributes the credit to reconciliation to the delay of the attorneys! And here we note that the fees and material returns do not constitute a concern for us in Dubai Courts as much as we seek reconciliation and settlement between litigants and educate individuals of the importance of achieving this.



**Among the fruits of the partnership
between Dubai Courts and Emirates Auction**

Judicial Deputation System A milestone in the smart transformation journey

In recent years, electronic auctions have achieved a wide presence among a large segment of the public who prefer to participate in them due to transparency and what gives them the freedom to choose without trouble or waiting. Emirates Auction Company is the leader in managing and organizing public and electronic auctions in the Middle East.



Emirates Auction created an online marketplace through its smart platforms, the number of its followers has exceeded 1.8 million since its establishment in Dubai in 2004 as a company specialized in the auctions activity in the region, as well as its leadership in organizing and managing public and electronic auctions for the sale of vehicles, car plates, real estate, asset liquidation projects, unique mobile phone numbers, jewelry, antique and folklore products, heavy machinery, construction and manufacturing equipment.

Within a relatively short period of time, Emirates Auction succeeded in consolidating its position and achieving a series of achievements, not the least of which is the registration of 7 entries in the Guinness Book of Records, as well as its relentless pursuit to reach the highest international standards, as it obtained several international quality certificates: ISO 9001: 2008 certification for quality management systems (public and electronic auctions for the sale of car number plates and real estate from government and private assets), ISO 10002: 2004 for complaints and customer satisfaction systems, ISO 27001 certification for information security management systems, and ISO 22301 certification for business continuity management.

Keeping pace with the digital transformation journey

Abdullah Matar Al-Mannai, Chairman and Managing Director of Emirates Auction, said: "Emirates Auctions attaches special importance and attention to the sustainable development of its technological systems to be at the highest level of accuracy, safety and ease, in a way that guarantees gaining the satisfaction of its clients and constantly improving its reputation and position, indicating that the company has succeeded in achieving many local and international achievements that are well-known at the institutional level, as well as for the benefit of its strategic partners, as part of its relentless keenness to keep pace with the process of smart transformation that the country is witnessing thanks to the insightful vision of its wise leadership."

Al-Mannai pointed out that Emirates Auc-

**Emirates Auction
has registered
7 entries in the
Guinness Book of
Records.**



Al-Mannai: Emirates Auction is proud of its partnership with various state courts, which resulted in the development of the Electronic Judicial Deputation system.

tion is keen to strengthen its partnership with the government sector by harnessing the advanced capabilities of the company and applying it to the best international practices, which contributes to enhancing the resources available to the government sector by achieving speed in marketing and selling finds, lost and found, confiscations and real estate in public and electronic auctions, in accordance with clear international standards that enjoy transparency, credibility and governance, and allow the largest number of dealers and bidders to benefit from such auctions according to the company's mission of serving all segments of society.

Electronic Judicial Deputation system

Al-Mannai added that Emirates Auction is proud of its partnership with various state courts, which resulted in the development of the Electronic Judicial Deputation system, which was launched during the activities of GITEX 2017, explaining that this system made all deputations between courts appear to take place in the same court, which led to the shortening of the time and procedures that were required for the deputation process before the application of this innovative system,

in addition to its contribution to providing the best judicial services to litigants and the rest of the groups involved in the judicial work, such as lawyers and experts throughout the country. Al-Mannai pointed to the company's keenness to continue launching constructive initiatives similar to the project of the Judicial Deputation System project, which contributed to strengthening the general orientation of the UAE government in preserving the environment by reducing paper transactions to the level of zero thanks to the provision of this system in terms of financial returns through eliminating many other indirect costs, in addition to its impact on raising the levels of happiness of those dealing with government departments that have approved it.

95% of the auctions market

On smart auctions, Abdullah Matar Al-Mannai explained: Emirate Auctions is always keen on excellence and providing everything new. He added that electronic transformation and smart applications have had great benefits for the company, as through these applications auctions can operate continuously without interruption and are not affected by holidays or any work-related circumstances. Auctions operate day and night without stopping, explaining that the launch of smart auctions opened the way for the company to reach the global level and spread further, as it receives many auctions from many countries of the world such as the United States, European countries, Asia and others, and many investors participate in the auctions that are offered through smart applications and electronic programs, indicating that the company's excellence in its work has made it the top destination for auctioneers at the state level, as it has acquired 95% of the auction market in the country and the Kingdom of Bahrain, stressing that the company's strategy focuses primarily on customer satisfaction and to achieve the largest return their his favor, whether that customer is an individual, an organization or a company.



Adopting cutting-edge technologies

Al-Mannai referred to what the company has recently done in response to the preventive government measures to limit the spread of the novel Corona virus (COVID-19), as it took many measures to ensure the safety of its customers and to ensure the continuity of work in an efficient and quality manner, and among those measures is the redevelopment of its smart platforms at its website and its smart applications to accommodate the growing demand for electronic auctions under these circumstances, as well as harnessing all expertise and energies in the company to develop operations to the highest levels that ensure the happiness of customers by launching initiatives and projects that ensure the speed of completion of the sale and reduce the time, effort and costs associated with them. He added that gaining the customer's trust is one of the most important challenges that the company sought to gain by adopting the latest advanced, user-friendly technologies, which

was applied on the ground by issuing the company's application on IOS and Android platforms, in addition to providing various logistical services to all its customers, as well as the great trust the company enjoys with banks and judicial authorities in the country.

A successful experience!

Al-Mannai concluded by noting that the experience of outsourcing the private sector in developing and supporting government business in the United Arab Emirates has proven successful and still promises more, as it is moving steadily and rapidly than any other country, thanks to the economic policies adopted by the state, represented in giving the private sector wide areas for growth, movement and interaction along with its various sectors, and has made it a pivotal partner in the sustainable development process that the country is witnessing, in order to benefit from the administrative and technical competencies and the great financing capabilities of this sector.

The Judicial Deputation System project contributed to strengthening the general orientation of the UAE government in preserving the environment by reducing paper transactions to the level of zero.

The launch of smart auctions opened the way for the company to reach the global level and spread further.



EPO's decision regarding the robot
DABUS raises legal controversy over artificial intelligence

Who owns Artificial Intelligence?

Part 2



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In the first part of this article (published in the first issue of Courts Echo) we touched on the decision of the European Patent Office's Committee for Acceptance of Applications to reject an application for patenting an invention that the robot produced ⁽¹⁾ DABUS of artificial intelligence ⁽²⁾ for lacking the legal personality that entitles it to intellectual property rights and enjoying the legally established protection, and this decision came three years after the report of the European Union Legal Affairs Committee ⁽³⁾ that paved the way for the issuance of the European Circular on Civil Law Rules on Robotics on February 16, 2017 ⁽⁴⁾.

We mentioned that the decision raised, in a different and principled manner, two legal problems related to robots, specifically artificial intelligence:

- 1) Does the robot enjoy the legal personality that enables it to acquire and defend rights?
- 2) Who owns the intellectual property of the artificial intelligence produced by the robot itself?

In the first part, we discussed the EPO's response, which was quite definitive regarding the first question, while we found that it ignored the second issue and did not address it directly, which we will discuss in this second part of the article.

Artificial Intelligence ownership

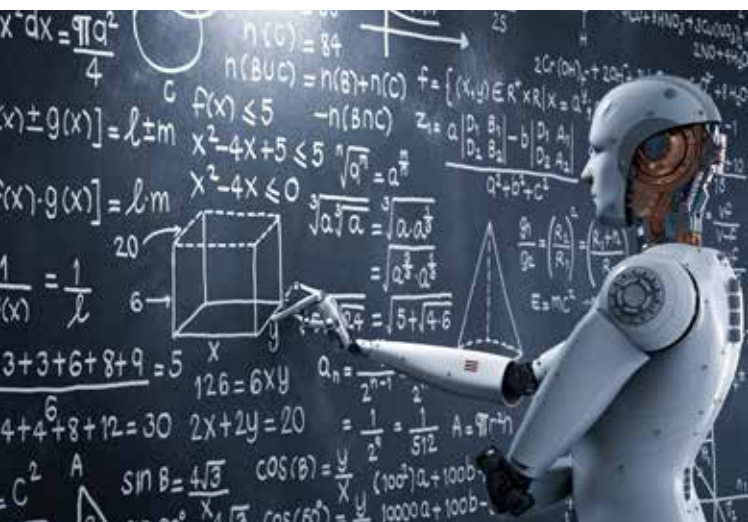
We can raise two important issues here:

One: Could artificial intelligence, as an intelligence that lacks the conscious component, be the subject of a patent?

Two: If the answer is yes, then who has the right to own artificial intelligence? Is it the owner of the machine (thing) or the owner of the smart systems?

Regarding the first issue: Artificial intelligence is an intelligence that lacks consciousness, specifically self-consciousness, meaning intent and self-awareness of its outcomes and outputs⁽⁵⁾. Artificial intelligence entails the implementation of prior programs, and therefore it is a voluntary act because it is a programmed action as a result of a prior decision and therefore is not spontaneous. But this action does not necessarily rise to the level of perception and intent, because

Artificial intelligence entails the implementation of a priori program, and therefore it is a voluntary act because it is a programmed action as a result of a prior decision and therefore is not spontaneous; but this action does not necessarily rise to the level of perception and intention.



perception and intention presuppose, along with the absent faculties of will and discernment, the faculty of conscious and insightful selection of the action and anticipation and acceptance of its results with them, so the act of perception presupposes the judgment of a specific situation, the conscious decision-making and the insight of its results upon decision-making and during implementation. Of course, this intangible element - so to speak - from the concept of perception⁽⁶⁾ is completely absent from robots, as their decisions are a choice among a set of pre-prepared options, which they cannot choose from outside or from them.

In this sense, the decision or action of the robot is a choice from an endless list of pre-existing or new options. As for robots that contain deep learning machine learning systems, it seems different because these robots are equipped with intelligence systems that can perform actions based on their previous experiences and the conditions of the environment in which they interact.

Accordingly, such robots produce new and original knowledge that did not exist before, because they are based on analyzing the accumulation of knowledge that they acquired as a result of their previous experiences⁽⁷⁾. This knowledge is not a direct result of the options in their systems, and as a result it produces a kind of intelligence that did not exist before and was not even anticipated by the intelligence system's manufacturers themselves.

Is it permissible to protect this unique type of intelligence?

This is a very important issue, especially in determining

the legal nature of artificial intelligence as new knowledge resulting from the accumulation of knowledge that has been processed according to systems, software and algorithms, and resulting in knowledge that did not exist in the past. Here, in particular, a very important issue arises:

Is it permissible to protect this unique type of intelligence when the systems that produced it may have arranged it spontaneously and in all cases are unaware of it, its outputs, and its industrial applications, for example?

The problem here is not the novelty element, because this element is present at least for robots that possess the property of self-learning and can therefore through accumulation of knowledge produce new knowledge⁽⁸⁾. Nevertheless, is it permissible to represent an invention whose subject matter is unforeseen and even unexpected knowledge and arranged spontaneously by someone who did it, even if it was according to voluntary choices, but without awareness? Or should the material existence of innovation be satisfactory, regardless of the availability of the element of perception or not?

In fact, we prefer the second solution, which is to be satisfied with the material existence of knowledge, its novelty, and its applicability to industrial application in the broad sense of course; otherwise much of the innovative knowledge will be outside the protection of the law. This solution is not strange if we adopt an objective theory to assess the existence of the invention or lack thereof, and this solution is not new either because industrial property, unlike intellectual property, is not a direct extension of the person of the creator. The latter, unlike the author, has no personal relationship - not even emotional - with the invention he created. His connection to his innovation is objective, and does not necessarily express his personality (ideas, opinions, tendencies, feelings, etc.), but rather express his desire to solve an industrial issue⁽⁹⁾.

In all cases, the matter is not far from the systems of intelligence of informational programs, for which the comparative law has granted - under certain conditions - specific protection⁽¹⁰⁾, and therefore, we do not see an obstacle, similar to the protection of neighboring rights⁽¹¹⁾, for the protection of artificial intelligence to take place because of the interest of all. (The interest of society by producing new knowledge and technologies, and the interest of individuals, including designers, industrialists, owners and users).

Between the material owner of the robot machine and the owner of smart systems

Back to the second issue (the issue of owning artificial in-

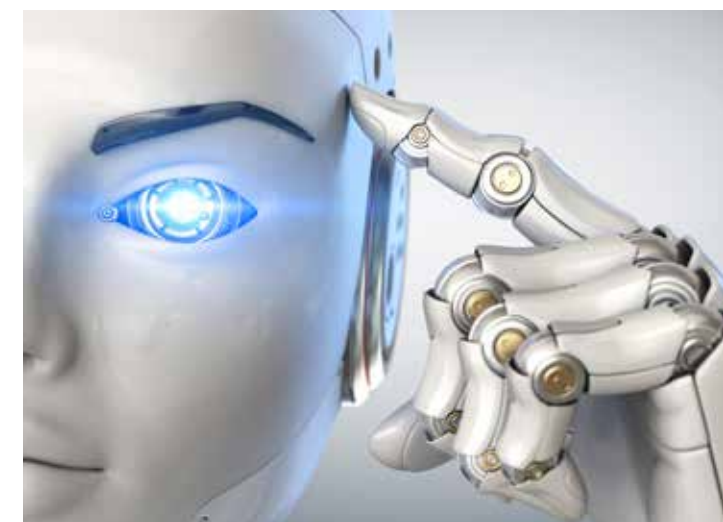
telligence outputs), a distinction must be made between the physical owner of the robot machine and the owner of the intelligence systems that activate the machine and make it a producer of knowledge that did not exist. This is what the decision apparently referred to when it affirmed that "the owner of an AI system may, in accordance with national law, own the output of that system, just as an owner of any machine may own the output of that machine. However, the question of ownership of output must be distinguished from the question of inventorship and from the rights connected therewith." (paragraph 33, page 8 of the mentioned decision).

The distinction between the owner of an object and its output is a real and certain distinction in the law of intellectual property and all the laws surrounding it (industrial property and neighboring rights). The ownership of the work is different from the ownership of the support matériel in which the work appeared publicly. The novel, for example, is owned by its author, but the book in which it was published - the support matériel - is owned by the owner of the printed copy.

Based on this, the innovation is the property of the inventor, while the user or owner of the robot enjoys the exploitation and use of the product. Hence, a distinction must be made between the robot, the machine - the support matériel - that is owned by its owner and whose user has the right to use (in the case of renting the robot, for example) and the systems that control it and whose ownership reverts to the robot designer or manufacturer, according to each case.

As a result, the owner of the support matériel (the robotic machine) is not the owner of artificial intelligence unless he proves that he has reprogrammed it or modified its design in such a way that it produces a special intelligence that is directly related to the additions and modifications he has made thereon, which requires on his part to prove the causal and direct relationship between artificial intelligence and the specific additions he made.

In the end, we see that the owner of the support matériel of the robot (the physical machine)



bears the damages resulting from his possession, management and directing thereof, so his responsibility will exist when he overloads it, for example, or program it to work more than its capacity or in conditions other than for which it was designed or not maintained, or updates its programs - whenever necessary - to cause, as a result, harm to others. In this case, the owner or user - in the case of (finance lease, for example for industrial robots and even service and household robots) - is liable for the damages caused by these robots that are in his possession and keeping and under his actual control, so as he has their benefits, he shall bear their liabilities.

The problem of proving correlation

In other cases, the case of pure artificial intelligence produced by the intelligence and control systems in the robot; we believe that it should be attached to the real owners including programmers (programmeurs) and manufacturers (fabricants), each within the limits of his competence, according to and on the degree to which the added intelligence is linked to the original design or manufacture. The issue of proving the relevance and ratio of artificial intelligence to design and / or manufacturing works arises here, especially when the intelligence is spontaneous and unpredictable. The determination of the owner

It is practically impossible to determine the software, logarithmic, or even direct system which produces artificial intelligence, because all software will interfere in one way or another in the production of this intelligence.



The emergence of artificial intelligence has forced a review of many legal concepts and will pose many unprecedented legal challenges.

of artificial intelligence becomes more difficult when we know that the manufacture and design of intelligence systems involves many parties, which makes it difficult to determine the contribution of each party and prove its direct relationship with artificial intelligence.

In addition to the issue of difficulty of proof, which can be solved in the work of expertise, we think that it may practically impossible to determine the software, logarithmic, or even direct production system of artificial intelligence, because all software will interfere in one way or another in the production of this intelligence. Of course, the contribution to artificial intelligence will vary from one system to another, and between one program and another; however, the contribution of each software and intelligent control system remains necessary and specific in producing intelligence, given that all these systems, programs and algorithms work as an integrated whole and in an automated manner, which made artificial intelligence possible.

Consequently, it becomes difficult to exclude any

one of these interfering software and systems from its eligibility for its artificial intelligence platform. Everyone contributed to the production of intelligence. It cannot be assured with certainty that artificial intelligence is due to one of them and not the other. Nor can it be excluded or minimized the contribution of any of them to the resulting AI. To solve this problem, we believe - in the absence of a legislative solution - that the contracts of the parties should include an adequate designation of areas of potential artificial intelligence, and the likelihood of each party contributing to it. However, we do not see the possibility of assigning the ownership of the artificial intelligence to a specific party, because the assignment will be the subject of a potential right that has not yet arisen in the custody of the assignor at the time of the assignment and is able, accordingly, to demand its annulment due to the absence of the material or even the defect of the error.

In the absence of what contractually permits to determine the owner of the artificial intelligence,

we consider that there must be a difference between two assumptions.

First assumption: In the event that it is proven that there is a dominant and specific contribution that produced artificial intelligence according to experience reports, we tend to consider the owner of this contribution as the one to whom the ownership of the artificial intelligence should devolve. This specific contribution (obligation caractéristique et dominante) is the original and dominant contribution that takes the rest of the contributions and makes them secondary to the creation of artificial intelligence.

Second assumption, which is the dominant assumption in our opinion: In the event that it is not possible to determine the system or software arranged for artificial intelligence, we believe that joint ownership of this intelligence must be approved by registering a collective or joint patent⁽¹²⁾ or for the benefit of the employer⁽¹³⁾, as the case may be, similar to the collective author and co-author in the field of intellectual property⁽¹⁴⁾.

In conclusion

The emergence of artificial intelligence has forced a review of many legal concepts and will pose many unprecedented legal challenges, mainly related to the adaptation of robots and ownership of intelligence. However, many critical issues remain unresolved towards protecting the safety of individuals and property, and protecting their work and personal data. This is in addition to the ontological, religious and ethical (Éthique) issues that are not open to discussion and which pose unprecedented and horrific questions, especially in the relationship of man to himself, to the other and to the machine.

* Margins

(*) Note: Certain vocabulary / phrases / sentences in French language are printed in italics. Bold font is used for headline and to assert meanings.

(1) On the Legal Concept of Robots: Please refer to the important research by Prof. Mohammed Irfan Alkhateeb, Guarantees of Rights in the Digital Age: "From the Change of Concepts to the Change of Protection". A study of the European and French legislative position and a projection on the Kuwaiti legislative position, Journal of the Kuwaiti International Law College, Special Supplement, Issue (3), Part One, May 2018, p. 292.

(2) See the decisions issued by the Application Acceptance Committee (Receiving Section / Section de dépôt) to the European Patent Protection Authority (OEB / EPO) filed by Dabus, in lawsuits numbers (Aff. 18275163.6) and (Aff. 18275174.3) dated 27/1/2020. Link: <https://ieeexplore.ieee.org/document/1385507?denied=>

(3) Committee on Legal Affairs, Report A8-0005/2017, European Parliament (2014-2019), 27/1/2017, RR/1115573 EN.docx, PE582.443v.00.

(4) Résolution du Parlement Européen du 16 février 2017, P8-TA 2017/0051 contenant les recommandations à la Commission concernant des règles de droit civil sur la robotique 2015/2013 INL ; Parlement Européen 2014-2019.

(5) See On Artificial Consciousness: Prof. Mohammed Irfan Alkhateeb, Guarantees of Rights In the Digital Age: "From the Change of Concepts to the Change of Protection". A study of the European and French legislative position and a projection on the Kuwaiti legislative position, Journal of the Kuwaiti International Law College, Special Supplement, Issue (3), Part One, May 2018, p. 292.

(6) Compare with the scholar Abdul Razzaq Al-Sanhouri - The Mediator in Explaining the New Civil Law - Volume Two (1) - The Theory of Commitment in General - Sources of Commitment, New Third Edition, Al-Halabi Publications, Beirut, Lebanon, 2000, margin 538, p. 908: On the responsibility of the non-discerning which is based on dependency rather than error because No error without perception. The scholar Al-Sanhouri differentiates, in the matter of minors, between compensation for damage and liability that does not exist with respect to the non-discerning because he does not perceive his error, and liability is established on the basis of liability (Ibid, margin 540, p. 911).

(7) It is the case of the AI of the electronic attorney; as the latter gained real independence as a result of its previous experiences with other dealers and the ability to pro-activeness and to modify its behavior on an ongoing basis. For this matter, please see Sherif

Mohammed Ghannam Mohammed, Ibid, page 50-53.

(8) Sherif Mohammed Ghannam Mohammed, Ibid, page 50 and later.

(9) Compare with Dr. Naem Mogabghab, Patents, Industrial and Commercial Property, A Study in Comparative Law, First Edition 2003, Al-Halabi Legal Publications, Lebanon 2003, p. 59-66.

(10) Some comparative laws recognize the protection of artificial intelligence generated by the computer without any human intervention, such as Article 178 of the United Kingdom Law Copyright, Designs and Patents Act, 1998, C. 48, §178) which defined this type of intelligence as being computer generated by a method that detects every human intervention; it is the same position of the New Zealand legislator (Copyright Act of 1994, § 2) and the Irish (Copyright and Related Rights Act 2000, Part I, § 2 (Act N 28/200)).

(11) The issue is somewhat similar to the layout designs of integrated circuits, which some legal systems have decided to protect. See on this issue the research of our colleague, Prof. Nouri Hamad Khater, Protection of designs for integrated circuits by the rules of intellectual property - a legal study presented to the first scientific conference of Yarmouk University of Jordan, 10-11 July 2000, Yarmouk University, Irbid, Jordan 2001 p. 502, Dr. Abdullah Abd Al-Karim Abdullah, Legal Protection of Intellectual Property Rights

on the Internet A study in the legal frameworks for protection with an explanation of the intellectual property legal system in Egyptian, Jordanian, European and American legislation and the two Internet treaties, New University Press, Alexandria, 2008, p. 66 and following.

(12) See, for example, UAE Law Article 7/2 of Federal Law No. (17) of 2002 regarding the regulation and protection of industrial property for patents and industrial designs and models: "... and if two or more persons participate in the creation of an invention, the right to the invention shall be for them and their legal successors as a partnership between them"

(13) This is what the legislations adopted; see, for example, Article 9/1 of the aforementioned UAE Federal Law. See also the next margin.

(14) On the general joint ownership of the patent, see Naem Moghaghghab, p. 148-149; Compare with Annemarie Bridy, who sees the percentage of artificial intelligence for the employer, because there is a nexus relationship between intelligence and the employer, similar to comparative projects, especially in the United Kingdom, Ireland and New Zealand, which allow protecting computer output and returning it to a normal person, *ibid.*, Paragraph 67, s. 26.

Pages from the History and Evolution of the Judiciary in the Emirate of Dubai.



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Judiciary in the Past (Part2)

Al-Salfah.. A special judiciary sourced from customs

In this issue we continue to turn pages from the history of the judiciary and its development in the Emirate of Dubai, to find that alongside the ordinary judiciary there was a system of sea cases where experts specializing in this field are called Al-Salfah. If a disagreement occurs regarding matters of the sea, whether it is at sea or on land, Al-Salfah shall be assigned to rule over it rather than the judge, because the sea has its own rulings in all its matters that are known by its experts.

Al-Salfah is one of those experts who has accurate knowledge of everything related to sea matters and its details and sits to judge between the litigants in this matter based on the mandate or appointment of the ruler, and most of the sea issues are related to diving because it was the most important profession prevailing at that time, and this is why some confusion occurred among some people who thought that Al-Salfah is the judge of diving, while the truth is that he is a judge for all matters related to the sea, such as travel, fishing, diving, collision of ships and disputes between seafarers, between them and the captains and owners of ships, divers, assistants to divers, pearl merchants and others, and other disputes and disagreements related to issues pertaining to the sea, which is a special type judiciary sourced from customs, whereas the judiciary in the country is based on Islamic Sharia.

Judge of the Sea and Judge of the Land

Al-Salfah is known as the judge of the sea and the Sharia judge is known as the judge of land. Al-Salfah often seeks the help of some experts in what resembles a panel today to determine the party at fault to reach the correct decision. After Al-Salfah issues his judgment - and more precisely his report containing his opinion - he submits it to the ruler or judge for the order to be

executed, and it is difficult to estimate the exact date of the beginning of Al-Salfah system, but it is certain that it is very old, and perhaps it is linked to the age of the profession itself in the country.

Among those whom the lawyer Muhammad Saeed Al-Nayyar heard about from Al-Salfah, Hamid bin Saeed Al-Basti, the very famous captain who used to be a reference in diving matters and its topics and was the subject of many tales of wonder. Khamis bin Ubaid Al-Hamid mentions that Hamid Al-Basti was succeeded by Juma bin Abdullah, nicknamed Al-Amlah, who was the most famous diving captain of all time, and he had a powerful word therein, and after his season ended, the diving season could not be concluded - i.e. divers return to the country - until after Al-Amlah concluded. In fact, Al-Amlah was also called Sheikh al-Bahr (Old Man of the Sea). Khamis said that if there was a disagreement in diving, the vessel on which this disagreement occurred comes next to Al-Amlah's vessel, and the litigants would descend down to Al-Amlah, and he would hear them and judge between them, and no one had a second word after the word of Al-Amlah, and likewise if the disagreement between them was at land, they would walk to his house and he would rule between them. Such rulings were not limited to the people of Dubai, but rather they came from Sharjah,

Ajman and other Emirates for this purpose. According to Khamis, his judgment would be executed without resorting to the ruler or the judge.

Al-Nayyar agrees with him regarding Jumah bin Abdullah Al-Amlah, who was a captain in the Mohammed Ubaid Al-Badour ship called (Hazaa), which was the largest diving ship at the time in Dubai, but he adds that Al-Amlah was later accompanied in this profession in Bur Dubai by Saeed bin Bakhit Taraqat Budairah, captain of a diving ship owned by Muhammad bin Dal-mouk named (Al-Band). After the death of Al-Amlah, Taraqat continued to carry out this work for a long time, and he was a contemporary of Al-Nayyar, and they took over that after 1938. After the death of Saeed Taraqat, Ahmad bin Hareb took over in the 1950s. Each Salfah of those would adjudicate at their homes or at market shops as was the case with the judiciary at the time.

Hamid Al-Basti was not the first of them, but he was one of them, and it is natural that there were others before him who could not be located, and we are still in the process of research in order to reach that.

Al-Salfah Room at Courts

When the court moved in the Nayef building in 1958, Al-Salfah Ahmed bin Hareb moved to it, and he had a room in which he practiced the profession of adjudicating the litigations related to the issues of the sea. As the lawyer Al-Nayyar mentioned, he used to seek the help of an expert with him in some issues, and his role was limited to hearing the litigants, identifying the wrongdoer, estimating value of the damages, giving his opinion and raising it to Judge Al-Saqqaf, who issues the judgment in the dispute. This is similar to the expert's report today. Ahmed bin Hareb is considered the last Salfah in Dubai as this profession ended in the mid-1960s. On the days of Judge Al-Saqqaf, Al-Salfah was called (the sea custom).

After Al-Salfah ended, all sea cases became within the jurisdiction of courts.

Origin of the name

My opinion is that the term Salfah originated from the Arabic term for "story or tale". It might be that the each litigant would tell his story before the judge, and this is where the term Salfah came from.

