



The UAE Judicial System

The judicial system in the United Arab Emirates (UAE) consists of two separate entities: the Federal Judiciary, as the highest judicial authority in the UAE, and the local courts at Emirate level on the other. According to the Constitution of the UAE (1971), each Emirate is entitled to its own court system if it so chooses, or to participate in the Federal Judiciary. However, only the Emirates of Dubai and Ras al Khaimah maintain their own independent judicial systems, whilst the remaining Emirates are part of the federal judicial structure. It is important to note, however, that there are issues that always fall under federal jurisdiction, such as all cases related to 'National Security.'

The differences between the two court systems are as follows:

- On the federal level, the court structure consists of a hierarchy of three instances, starting with the Court of First Instance, followed by the Court of Appeal and finally the Supreme Court.
- The local courts in Dubai and Ras Al Khaimah are organised in a similar fashion: firstly, the Court of First Instance, then the Court of Appeal and, as the court of last resort on the local level, the Court of Cassation.





In both the federal and the local systems the Courts of First Instance are divided into civil, criminal and sharia courts according to the area of law concerned. The Sharia Courts are for cases amongst Muslim people and deal with issues such as divorce and child custody as well as criminal cases such as child abuse, rape and extramarital relations. Punishments such as stoning and flogging are still permitted under Sharia law. In fact, the main base of UAE law across all courts is Sharia law, and where legislative provisions do not cover a specific issue, Emirati jurisprudence dictates that the court make a decision in accordance with the juristic provisions provided for in the Quran and the Hadith.

After judgment has been delivered, the parties have the right to appeal to the Civil Court of Appeal on factual and/or legal grounds within 30 days of the date of judgment. The Court of Cassation then acts as “an appellate court with respect to the decisions of lower courts”, whilst also supervising these lower courts to ensure that they are “interpreting the law correctly.” All decisions of the Court of Cassation are final and are not subject to appeal.

At the federal level, the highest judicial instance belongs to the Supreme Court, which consists of “a President and a number of Judges, not exceeding five in all, who shall be appointed by decree, issued by the President of the Union after approval by the Supreme Council”, in accordance with Article 96 of the constitution.





This court covers matters of national interest deemed unbecoming a local court structure. Such matters include:

- *miscellaneous dispute between member Emirates; law constitutionality and constitution interpretation; interrogation of Ministers and senior officials of the Union; and, as previously mentioned, matters of national security as determined by the government - this includes anything ranging from legitimate terror threats to critiquing the regime via Twitter.*

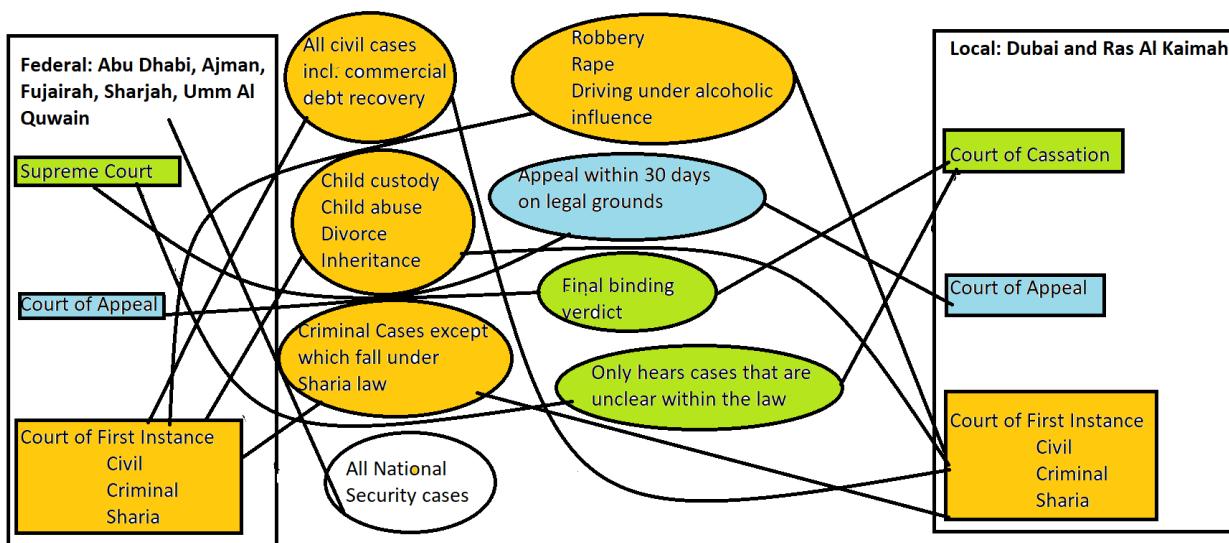
The complexity of the judicial system in the UAE lies not only in the differing structures of federal and local courts, and of the parallel courts of civil, criminal and Sharia law, but also in how the law is applied. In practice, the system is neither independent nor impartial but rather serves the will of the monarchy. Indeed, as stipulated under Article 94 of the Constitution, “justice is the basis of authority.” Statements such as this exacerbate ambiguity and leave applications of the rule of law to the discretion of a biased judiciary and, by proxy, the monarchy.

This absence of impartiality can be seen most clearly in the unlawful trial of the “UAE 94” in which a group of academics and political reformers, who called for an independent judiciary and a fully elected Federal National Council with full legislative powers in the wake of the Arab Spring, were tried on charges of “establishing and managing an organization with the aim of committing crimes that harm State security, opposing the Constitution and the basic principles of the UAE ruling system and having links and affiliations to organizations with foreign agendas.”



Though Article 7 of the Arab Charter on Human Rights, to which the UAE is a state party, states that “[t]he accused shall be presumed innocent until proved guilty at a lawful trial”, the fate of the “UAE 94” was decided before any evidence was given; evidence which, in fact, was not given but obtained through torture and, also, not privy to the defence (whilst the prosecutor claimed that this group’s manifesto was written down on paper, he failed to provide these documents, claiming they were destroyed). On 2 July 2013, brought to court blindfolded, showing ‘obvious signs of torture, mistreatment and malnutrition’, sixty-nine of the accused were convicted, without a right to appeal, for exercising their rights to freedom of expression, association and assembly, all of which are recognized and supposedly protected by the UAE Constitution. They are yet to see justice.

Graphic: The Court System in the UAE





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