

# ***Pro Bono Practices and Opportunities in the United Arab Emirates***

***Excerpt from: A Survey of Pro Bono Practices and  
Opportunities in Selected Jurisdictions***

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The provision of US-style *pro bono* legal services is not common in the United Arab Emirates. The government, however, provides certain legal assistance to individuals. This chapter discusses the legal profession, the provision of free legal services and *pro bono* opportunities for foreign law firms in the United Arab Emirates.

## I. *Legal Services and the Legal Profession in the United Arab Emirates*

### A. The Legal Profession

The United Arab Emirates is a federation of seven largely self-governed Emirates.<sup>1</sup> It has a dual system of civil courts and *Shari'a* courts.<sup>2</sup> The civil courts hear civil and criminal cases and, other than in Dubai and Ras al-Khaimah, are part of a three-tier federal court system that culminates in the Federal Supreme Court.<sup>3</sup> The Emirates of Dubai and Ras al-Khaimah administer their own trial- and appellate-level civil court systems.<sup>4</sup> The *Shari'a* courts, which apply Islamic law, generally hear family law cases and certain criminal cases and are administered by each Emirate.<sup>5</sup>

The legal profession in the United Arab Emirates is governed by Federal Law No. 23 of 1991, which generally limits the practice of law before the federal courts to citizens of the United Arab Emirates with certain legal qualifications.<sup>6</sup> In order to appear before the federal courts, lawyers must be licensed by the Ministry of Justice, and in order to appear before courts in Dubai and Ras al-Khaimah (including *Shari'a* courts), lawyers must be licensed as advocates by the local ruler's court.<sup>7</sup>

Although foreign lawyers generally are not permitted to act as advocates before courts in the United Arab Emirates, foreign law firms are permitted to operate in the United Arab Emirates as legal consultancies.<sup>8</sup> In order to operate as legal consultancies, foreign law firms must be licensed by each Emirate in which they operate an office.

There are also a number of free zones in the United Arab Emirates from which international law firms may operate an office. The most relevant for law firms is the Dubai International Financial Centre (the "DIFC"), a financial free zone within the Emirate of Dubai.<sup>9</sup> The DIFC is a separate legal jurisdiction with its own body of law, including a companies law and

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<sup>1</sup> FED. RESEARCH DIV., LIBRARY OF CONGRESS, COUNTRY PROFILE: UNITED ARAB EMIRATES (UAE) 19 (2007), available at: <http://lcweb2.loc.gov/frd/cs/profiles/UAE.pdf>. The seven Emirates are: Abu Dhabi, Dubai, Sharjah, Ajman, Umm al-Quwain, Ras al-Khaima and Fujairah.

<sup>2</sup> *Id.* at 21; Essam Tamimi, *Litigation in the United Arab Emirates*, 20 INT'L LEGAL PRAC. 134, 135 (1995).

<sup>3</sup> FED. RESEARCH DIV., LIBRARY OF CONGRESS, COUNTRY PROFILE: UNITED ARAB EMIRATES (UAE) 21 (2007), available at: <http://lcweb2.loc.gov/frd/cs/profiles/UAE.pdf>; Tamimi, *supra* note 2, at 134, 138.

<sup>4</sup> Tamimi, *supra* note 2, at 134, 138.

<sup>5</sup> FED. RESEARCH DIV., LIBRARY OF CONGRESS, COUNTRY PROFILE: UNITED ARAB EMIRATES (UAE) 21 (2007), available at: <http://lcweb2.loc.gov/frd/cs/profiles/UAE.pdf>; Tamimi, *supra* note 2, at 135.

<sup>6</sup> Programme on Governance in the Arab Region, United Nations Dev. Programme, UAE Judiciary, <http://www.pogar.org/countries/judiciary.asp?cid=21>.

<sup>7</sup> Gulf-law.com, United Arab Emirates Judicial System, [http://www.gulf-law.com/uae\\_judicial.html](http://www.gulf-law.com/uae_judicial.html); Tamimi, *supra* note 2, at 136.

<sup>8</sup> Gulf-law.com, United Arab Emirates Judicial System, [http://www.gulf-law.com/uae\\_judicial.html](http://www.gulf-law.com/uae_judicial.html).

<sup>9</sup> Dubai International Financial Centre, About Us, <http://www.difc.ae/>.

employment law, as well as its own court system, the DIFC Courts.<sup>10</sup> The DIFC operates a sophisticated regulatory regime overseen by the Dubai Financial Services Authority (the “DFSA”).<sup>11</sup> Any law firm that operates in or from the DIFC must be licensed by the ruler’s court in Dubai and as an ancillary services provider by the DFSA.<sup>12</sup> Unlike in the United Arab Emirates generally, foreign law firms are permitted to advise clients before the DIFC Courts, *provided* that they are appropriately registered with the DIFC Courts.

## B. Government-Provided Legal Assistance

The government provides free legal representation to defendants in certain criminal cases in the United Arab Emirates. Under the Criminal Procedures Code, a defendant has the right to be represented by a government-provided lawyer in any case that involves a possible punishment of death or life imprisonment, regardless of financial need.<sup>13</sup> The government also has discretion to provide lawyers for indigent defendants in certain other felony cases.<sup>14</sup> We understand that when a defendant is entitled to a government-provided lawyer, the court appoints a private lawyer to represent the defendant, the court assesses the lawyer’s fees at the end of the case, and the government pays the lawyer.<sup>15</sup> Accepting such an appointment is optional for the lawyer, and the fee paid to the lawyer is less than the fee that a lawyer would normally charge for such representation.

As the United Arab Emirates has a large number of migrant workers, the government also provides certain forms of legal assistance to foreign employees with labor grievances. The Ministry of Labor distributes information to foreign workers in several languages, explaining their rights under the labor law and how they can individually or collectively pursue labor disputes.<sup>16</sup> Workers can file labor-related complaints with the Ministry of Labour, which provides mediation services for labor disputes.<sup>17</sup> We understand that parties are not required, and generally are not allowed, to be represented by lawyers in such mediations and that no fees apply in such mediations. Either party to the mediation can have the dispute referred from mediation to a court, and such court cases are not subject to court fees.<sup>18</sup> Domestic employees are not covered by the

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<sup>10</sup> SUZANNE ABDALLAH & AMMAR HAIK, AL TAMIMI & COMPANY, UNITED ARAB EMIRATES: QUESTION OF JURISDICTION DIFC VS. DUBAI (2010), *available at*: <http://www.mondaq.com/article.asp?articleid=107548>.

<sup>11</sup> *Id.*

<sup>12</sup> DUBAI FINANCIAL SERVICES AUTHORITY, APPLYING FOR DFSA REGISTRATION, *available at*: <http://www.dfsa.ae/Documents/Applying%20for%20Registration.pdf>.

<sup>13</sup> Penal Procedure Law, Federal Law No. 35 of 1992; *see also* BUREAU OF DEMOCRACY, HUMAN RIGHTS, AND LABOR, U.S. DEP’T OF STATE, 2009 HUMAN RIGHTS REPORT: UNITED ARAB EMIRATES (2010), *available at*: <http://www.state.gov/g/drl/rls/hrrpt/2009/nea/136082.htm>.

<sup>14</sup> *Id.*

<sup>15</sup> *See* Federal Law No. 23 of 1991, art. 24.

<sup>16</sup> BUREAU OF DEMOCRACY, HUMAN RIGHTS, AND LABOR, U.S. DEP’T OF STATE, UNITED ARAB EMIRATES; COUNTRY REPORTS ON HUMAN RIGHTS PRACTICES - 2006 (2007), *available at*: <http://www.state.gov/g/drl/rls/hrrpt/2006/78865.htm>.

<sup>17</sup> *Id.*; U.N. Human Rights Council, Report of the Working Group on the Universal Periodic Review; United Arab Emirates, para. 59, U.N. Doc A/HRC/10/75 (Jan. 12, 2009).

<sup>18</sup> *Id.*; BUREAU OF DEMOCRACY, HUMAN RIGHTS, AND LABOR, U.S. DEP’T OF STATE, UNITED ARAB EMIRATES; COUNTRY REPORTS ON HUMAN RIGHTS PRACTICES - 2006 (2007), *available at*: <http://www.state.gov/g/drl/rls/hrrpt/2006/78865.htm>.

labor law, but may file employment-related complaints with the Ministry of Interior as an alternative to resorting to litigation.<sup>19</sup>

The current economic downturn and resultant increase in civil litigation has led a number of legal practitioners in the United Arab Emirates to suggest that authorities should also establish a scheme to offer *pro bono* legal services to indigent clients in civil cases.<sup>20</sup>

In the DIFC free zone, the DIFC Courts recently established a *pro bono* program, the first of its kind in the Middle East, in October of 2009.<sup>21</sup> The *pro bono* program allows individuals who cannot afford a lawyer the ability to seek free advice from lawyers registered with the DIFC Courts.<sup>22</sup> The services offered as part of the *pro bono* program range from basic advice to full case management and representation in litigation proceedings.<sup>23</sup> The services are accessible to eligible individuals approved by the DIFC Courts' Registry office.<sup>24</sup> We understand that, to date, seven law firms have registered to provide voluntary services under this program, and five *pro bono* litigant applications have been filed at the DIFC Courts.<sup>25</sup>

### C. Privately Provided Legal Assistance

Private lawyers and law firms in the United Arab Emirates do not generally engage in *pro bono* legal work on a regular basis. There are also very few non-governmental organizations ("NGOs") in the United Arab Emirates that provide free legal services to individuals or that focus on providing legal aid to disadvantaged groups.

All NGOs in the United Arab Emirates are required to register with the Ministry of Social Affairs and are subject to a number of regulations.<sup>26</sup> Despite this requirement, several unregistered NGOs operate in the United Arab Emirates without interference from the government.<sup>27</sup> The first human rights NGO in the United Arab Emirates, the Emirates Human Rights Association, was licensed by the government in 2006.<sup>28</sup> The association is headed by a

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<sup>19</sup> *Id.*

<sup>20</sup> *Call to extend free legal aid to civil cases*, EMIRATES BUSINESS 24/7, Aug. 9, 2009, available at: [http://www.uaeinteract.com/docs/Call\\_to\\_extend\\_free\\_legal\\_aid\\_to\\_civil\\_cases/37151.htm](http://www.uaeinteract.com/docs/Call_to_extend_free_legal_aid_to_civil_cases/37151.htm).

<sup>21</sup> Press Release, DIFC Courts first *pro bono* case to be represented by Clyde and Co. (Nov. 9, 2009), available at: [www.ameinfo.com/215288.html](http://www.ameinfo.com/215288.html).

<sup>22</sup> *Id.*

<sup>23</sup> *Id.*

<sup>24</sup> *Id.*

<sup>25</sup> *Id.*

<sup>26</sup> BUREAU OF DEMOCRACY, HUMAN RIGHTS, AND LABOR, U.S. DEP'T OF STATE, 2009 HUMAN RIGHTS REPORT: UNITED ARAB EMIRATES (2010), available at: <http://www.state.gov/g/drl/rls/hrrpt/2009/nea/136082.htm>.

<sup>27</sup> *Id.* As of 2009, there were approximately 100 registered domestic NGOs in the United Arab Emirates, and it was estimated that there were more than 20 unregistered local NGOs in operation. *Id.*

<sup>28</sup> BUREAU OF DEMOCRACY, HUMAN RIGHTS, AND LABOR, U.S. DEP'T OF STATE, UNITED ARAB EMIRATES; COUNTRY REPORTS ON HUMAN RIGHTS PRACTICES - 2005 (2006), available at: <http://www.state.gov/g/drl/rls/hrrpt/2005/61701.htm>; Programme on Governance in the Arab Region, United Nations Dev. Programme, Human Rights in UAE, <http://www.pogar.org/countries/humanrights.asp?cid=21>.

government prosecutor and focuses on human rights issues and complaints, including those relating to labourers', stateless persons' and prisoners' rights.<sup>29</sup>

## **II. *Pro Bono Opportunities in the United Arab Emirates***

Several factors make it difficult for foreign law firms to provide *pro bono* legal services in the United Arab Emirates. The ability of foreign lawyers to represent disadvantaged individuals is limited by the fact that, in general, only citizens of the United Arab Emirates may represent litigants before courts in the United Arab Emirates. In addition, many of the foreign lawyers in the United Arab Emirates do not speak Arabic, which makes it difficult for them to assist disadvantaged individuals who only speak Arabic or local organizations that conduct most of their work in Arabic. Foreign law firms in the United Arab Emirates have, therefore, focused the bulk of their charitable efforts on non-legal charitable work, such as fundraising for local charities, rather than on engaging in *pro bono* legal work.

Notwithstanding these issues, foreign law firms have provided certain *pro bono* legal consultancy services to local charities in the United Arab Emirates. Generally, these services have consisted of advising such charities on issues involving foreign laws. For instance, a foreign law firm has advised a regional NGO on its microfinance program and other general corporate and finance matters, and other foreign law firms have helped local charities negotiate cooperation agreements with partner organizations in other countries. According to a foreign law firm that has approached local charities offering to provide *pro bono* legal services to them, local charities have welcomed its offers of assistance, indicating that there may be additional opportunities for foreign law firms to engage in this type of *pro bono* work in the United Arab Emirates.

In addition, a number of foreign law firms in the United Arab Emirates provide *pro bono* legal services from their offices in the United Arab Emirates to NGOs outside of the region.

## **III. *Conclusion***

The practice of providing *pro bono* legal services is not well established in the United Arab Emirates, where local private lawyers and law firms do not regularly engage in *pro bono* legal work and a number of legal and institutional obstacles exist that prevent foreign law firms from engaging in *pro bono* legal advocacy. Nonetheless, foreign law firms have provided *pro bono* legal consultancy services to nonprofit organizations in the United Arab Emirates, particularly on matters involving foreign laws, and there may be further opportunity to expand this work.

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<sup>29</sup> BUREAU OF DEMOCRACY, HUMAN RIGHTS, AND LABOR, U.S. DEP'T OF STATE, 2009 HUMAN RIGHTS REPORT: UNITED ARAB EMIRATES (2010), available at: <http://www.state.gov/g/drl/rls/hrrpt/2009/nea/136082.htm>.