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Financial Free Zones and Legal Autonomy: A Study of ADGMC and DIFCC

Sherif Heikal
GSIAS & Law School, Hankuk University of Foreign Studies

ABSTRACT

The research investigates the institutional autonomy and legal functionality of the Dubai International Financial Centre Courts (DIFCC) and the Abu Dhabi Global Market Courts (ADGMC) as hybrid judicial systems operating within the United Arab Emirates (UAE). The courts achieve their unique legal transplantation and selective modernization status through their adoption of English common law and their appointment of foreign judges and procedural independence from the UAE's federal and Sharia-based judiciary. This research evaluates the rule-of-law performance and enforcement challenges and investor perceptions of these institutions through an analysis of statutory frameworks and landmark case law and comparative studies with global financial jurisdictions including the Singapore International Commercial Court and the Qatar Financial Centre Courts. The article demonstrates that DIFCC and ADGMC achieve legal certainty for international investors through their structural separation from the federal judiciary yet this creates ongoing legal fragmentation and jurisdictional asymmetry. The research demonstrates that financial free zone courts in the UAE function as a strategic market-driven legal autonomy model which works well for commercial governance but remains limited in national integration. The research presents policy recommendations about sustaining hybrid legal systems while maintaining systemic coherence.

Keywords: Financial Free Zones, Judicial Autonomy, DIFC Courts, ADGM Courts, Legal Transplantation, Common Law in Civil Law Jurisdictions, Rule of Law, Legal Pluralism, UAE Legal System, Comparative Judicial Systems.

INTRODUCTION

Financial free zones have started spreading across the globe as states use specialized legal and regulatory frameworks to attract foreign investment. Two common law jurisdictions operate within the UAE federal civil law framework through the Dubai International Financial Centre (DIFC) and the Abu Dhabi Global Market (ADGM). These courts function as an advanced attempt to transfer legal systems and build new institutions through the establishment of Anglo-American judicial frameworks in a non-Western legal environment.

The establishment of these zones serves more than economic purposes since they transform the legal foundations that determine where authority originates in Gulf legal systems. These two free zones operate as independent judicial bodies that use English common law principles under foreign judgeship systems thus creating a unique position in the evolution of global legal systems. The existence of these courts creates challenges for understanding judicial independence and rule of law alongside state selection of legal norms to meet transnational market requirements in the Global South.

This article conducts an analytical evaluation of the institutional freedom and rule-of-law performance exhibited by the DIFC and ADGM Courts. Research about Gulf legal modernization has expanded but most studies focus either on legislative changes or arbitration systems. The research investigates the courts as standalone legal institutions that maintain their own internal legal frameworks as well as organizational systems and international communication roles. The research examines the operational dynamics of these courts and their judicial performance while assessing their position in Middle Eastern legal pluralism and hybrid statecraft through the analysis of statutory documents and case selection and comparative legal models and academic literature.

This article consists of eight separate sections. The article discusses in Section 2 the establishment framework along with jurisdictional design of DIFC and ADGM. Section 3 examines the institutional framework and mechanisms which safeguard judicial independence at the courts. Section 4 examines the jurisdictional limits as well as the legal conflicts that arise from the relationship between federal and local courts. The courts establish their English common law-rooted judicial decisions through the examination of Section 5. This paper evaluates the judicial credibility based on rule of law principles and investor opinions. The research investigates parallel judicial bodies that exist in Singapore and Qatar and Kazakhstan through a comparative analysis in Section 7. This section unites primary research findings to evaluate long-term court sustainability under UAE legal and constitutional rules (Section 8).

The research examines the DIFC and ADGM as political-legal institutions rather than legal zones to advance discussions about legal autonomy and selective modernization alongside global judicial authority expansion.

GENESIS AND LEGAL FRAMEWORKS OF ADGMC AND DIFCC

The legal architecture of the United Arab Emirates (UAE) allows for the establishment of separate legal jurisdictions within its territory through financial free zones as its primary example. Sui generis judicial spaces operate on common law principles within Dubai International Financial Centre (DIFC) and Abu Dhabi Global Market (ADGM) as they remain independent from the UAE's federal civil law system. The creation of these financial free zones demonstrates both legal creativity and strategic governmental policies to attract global market participation and reassure investors.

Establishment through Federal Authorization

The establishment of the DIFC and ADGM relies on Federal Law No. 8 of 2004 which gives the federal government the authority to create financial free zones through decrees. Through this legislation the UAE allows the creation of legal frameworks that differ from civil law if these zones stay clear of criminal matters and national security and religious legislation.[1]

The DIFC received its legal foundation as a financial free zone through Dubai Law No. 9 of 2004 which established its court system along with DFSA regulation and legislative base.[2] The ADGM received its foundation through the joint implementation of Abu Dhabi Law No. 4 of 2013 together with Federal Decree No. 15 of 2013.[3] These laws granted both Emirates permission to

[1] Federal Law No. 8 of 2004, Regarding the Financial Free Zones, art. 3.
[2] Dubai Law No. 9 of 2004, Establishing the Dubai International Financial Centre.
[3] Federal Decree No. 15 of 2013, Concerning the Establishment of the Abu Dhabi Global Market; Abu Dhabi Law No. 4 of 2013.

develop their own legal zones based on English common law while establishing separate courts that operate outside of UAE Ministry of Justice and Federal Supreme Court jurisdiction.

Legal Dualism and Common Law Transplantation

The legal frameworks of DIFC and ADGM purposefully break away from the civil law tradition of UAE which originated from Egyptian and French models. Both centers use a complete English common law framework which includes statutes and judicial precedents to handle civil and commercial disputes.[4] ADGM adopted English common law through its Application of English Law Regulations 2015 which enables direct legal transplantation by recognizing English common law as it existed on a specific date.[5]

The DIFC started by developing its own set of laws which followed international standards while stopping short of full English law adoption.[6] The zones maintain their own independent legal systems through English-written codes and court frameworks that operate under the jurisdiction of foreign judges hailing from UK and other common law countries.[7]

Constitutional Foundations and Federal Constraints

The UAE Constitution's Article 121 serves as the legal basis to establish financial free zones' legal independence. The UAE federal government holds power to enact civil and commercial laws but maintains the right to grant specific economic development authority to individual Emirates.[8] Through this constitutional provision and Federal Law No. 8 of 2004 the UAE government supports the establishment of separate court systems within ADGM and DIFC even though these systems face restrictions.

The courts maintain their independent civil and commercial jurisdiction although they lack authority to handle criminal cases or family disputes or Sharia-based personal status matters.[9] The courts lack authority to handle criminal cases as well as family matters or Sharia-based personal status disputes. Both courts maintain their authority to enforce judgments but need help from UAE local or federal judicial systems for cases involving parties or assets located beyond their designated areas.[10] This creates a complex legal system which requires well-defined conflict-of-law rules.

INSTITUTIONAL DESIGN AND JUDICIAL INDEPENDENCE

A judicial body gains its legitimacy together with credibility by being structurally protected from both commercial and political influences when it operates in international financial hubs. The Dubai International Financial Centre Courts (DIFCC) and Abu Dhabi Global Market Courts (ADGMC) operate with procedural independence due to their architectural design which projects institutional autonomy. The rule-of-law ecosystem in these courts results from their

[4] Nina Kršljanin, "Legal Transplants," *ResearchGate*, 2023, https://www.researchgate.net/publication/376573960_Legal_Transplants.
[5] ADGM, "Application of English Law Regulations 2015," art. 1.
[6] DIFC Authority, *DIFC Laws and Regulations Guide* (Dubai: DIFC Authority, 2022), 4–6.
[7] Michael Hwang, "Commercial Courts and International Arbitration—Competitors or Partners?" *Arbitration International*31, no. 2 (2015): 193–212. https://doi.org/10.1093/arbint/aiv038.
[8] Constitution of the United Arab Emirates, art. 121.
[9] Federal Law No. 8 of 2004, art. 3(2).
[10] DIFC Courts, *Practice Direction No. 1 of 2015 on the Enforcement of Judgments Outside the DIFC*; ADGM Courts, *Guidelines on Enforcement of Foreign Judgments*, 2019.

deliberate structural planning and judge selection processes as well as financial governance models that align with global legal standards and attract international investors.

Judicial Appointments and Foreign Expertise

The DIFC Courts along with ADGM Courts employ senior common law jurists from outside the UAE for their judicial appointments. The DIFC Courts are headed by a Chief Justice who receives his appointment from the Ruler of Dubai following a recommendation from the Judicial Authority while the bench includes judges who served on the English High Court and Singapore Supreme Court and Australian Federal Courts.[11] The ADGM Courts have international jurists serving as their judges who previously worked as justices on the UK Supreme Court and other Commonwealth jurisdictions.[12]

The implementation of this foreign appointment strategy represents an intentional legal transplant approach which draws on the recognized authority of established common law courts. The appointment of respected international judges serves a dual purpose of demonstrating court neutrality and legal sophistication while establishing their independence from local executive influence.[13]

The rulers of Dubai and Abu Dhabi exercise authority to make appointments but established procedures exist to prevent random interference in the selection process. Both jurisdictions provide judicial tenure protection while removing judges only through proven misconduct or incapacity which aligns with international standards for judicial discipline.[14]

Financial Autonomy and Administrative Control

Financial autonomy serves as the core foundation for institutional independence. The DIFC Authority and the ADGM Board of Directors handle separate financial resources which fund court operations together with infrastructure development and judicial compensation expenses.[15] The independence of court funding remains vital for protecting court decisions from economic coercion or budgetary retaliation by state organizations. The UAE Ministry of Justice does not control the day-to-day court operations because both judicial systems operate through independent registries and court services centers.[16]

The ADGM Courts operate with a Judicial Council that monitors institutional performance to guarantee administrative and procedural standards follow common law best practices.[17] The DIFC Courts operate under the DIFC Judicial Authority Law which defines the operational boundaries between court functions and executive tasks of the DIFC Authority.[18]

Separation from Local and Federal Judicial Hierarchies

The DIFCC and ADGMC maintain their independent status outside the UAE federal judicial framework. These financial zone courts maintain an independent legal status through Federal

[11] DIFC Courts, "About the DIFC Courts," https://www.difccourts.ae/about (accessed May 25, 2025).
[12] ADGM Courts, "Judiciary," https://www.adgm.com/operating-in-adgm/adgm-courts/judiciary (accessed May 25, 2025).
[13] Alan Watson, Legal Transplants: An Approach to Comparative Law, 2nd ed. (Athens, GA: University of Georgia Press, 1993).
[14] DIFC Judicial Authority Law No. 12 of 2004, art. 18; ADGM Courts Regulations 2015, art. 9.
[15] DIFC Authority, *Annual Financial Report 2023*, 17–21.
[16] Eunice Chua, "Blurring the Lines Between International Commercial Courts and Arbitration: How, Why and the Future," *Singapore Arbitration Journal* (2020). Available at SSRN: https://ssrn.com/abstract=3565655.
[17] ADGM, *Judicial Governance Charter*, 2020, art. 3.
[18] Dubai Law No. 12 of 2004, Regarding the Judicial Authority at DIFC, art. 7–9.

Law No. 8 of 2004 which grants them the power to apply and interpret their own laws in civil and commercial matters without interference. [19]

The judicial autonomy of both courts remains strong because local courts do not review their decisions, but the absence of review leads to concerns about legal fragmentation and forum shopping. Both courts maintain strict internal appeal processes that use international judges on their appeal panels to preserve accountability while defending their judicial independence.[20]

JURISDICTION AND CONFLICT OF LAWS

The financial free zones of the UAE have specific structural elements which operate within the UAE national legal system. The DIFC and ADGM Courts operate as independent common law jurisdictions with civil and commercial subject-matter authority which exist parallel to the UAE federal and emirate-level courts. The coexistence of these legal systems creates a unique legal environment which leads to situations where parties face multiple jurisdictions and different procedures for selecting a forum and enforcing judgments. This section examines these dynamics through an analysis of legislative instruments and judicial interpretations and practical mechanisms which have developed to enhance system coordination and legal clarity.

Scope of Subject-Matter and Personal Jurisdiction

The DIFC Courts and ADGM Courts have restricted jurisdiction according to their establishment laws. The DIFC Courts have jurisdiction to hear civil and commercial cases that occur within the DIFC and opt-in cases when parties consent to its jurisdiction regardless of the lack of connection to the financial free zone. The ADGM Courts derive their jurisdiction from Abu Dhabi Law No. 4 of 2013 together with court regulations that enable them to handle cases from the ADGM and cases where parties mutually choose the court.[21]

The opt-in jurisdiction model demonstrates the UAE's dedication to following international commercial dispute resolution practices. The DIFC Court established its jurisdiction in Nest Investments Holding Lebanon S.A.L. v. DIFC Authority by confirming that it could hear cases without DIFC territorial ties when parties agreed to its jurisdiction. [22] The SICC of Singapore and other international courts follow a similar approach by allowing parties to consent to jurisdiction for commercial disputes that span across borders.[23]

The ADGM Courts in Lakhani v. Lakhani exercised their jurisdiction over shareholder matters through English common law interpretation of references to English court authority which included the ADGM judicial framework.[24] The interpretive approach strengthens the ADGM Courts' position as a dispute resolution center for international business disputes while demonstrating the system's progress toward international common law standards. [25] The UAE demonstrates strategic legal pluralism through these developments to expand its judicial services and boost its position as a regional and global legal center.

[19] Constitution of the UAE, art. 121; Federal Law No. 8 of 2004, art. 3(2).

[20] DIFC Courts, *Court Rules and Appellate Structure*, 2022; ADGM Courts, *Practice Directions No. 1–3 of 2021*.

[21] ADGM Courts, "Court Procedure Rules 2016," r. 2.3–2.4.

[22] Koster, Harold and Koster, Harold and Obe, Mark Beer, *The Dubai International Financial Centre (DIFC) Courts: A Specialised Commercial Court in the Middle East* (January 22, 2018). Available at SSRN: https://ssrn.com/abstract=3237126.

[23] *Nest Investments Holding Lebanon S.A.L. v. DIFC Authority*, DIFC CA 007/2015.

[24] *Lakhani v. Lakhani*, ADGMCFI 2018/0003.

[25] Adeline Chong and Yip Man, *Singapore Private International Law: Commercial Issues and Practice* (Oxford: Oxford University Press, 2023).

Interplay with Local and Federal Courts

The UAE judicial system distinguishes itself through its procedural framework which connects financial free zone courts to domestic judicial bodies during cross-jurisdictional judgment enforcement.[26] The DIFC and ADGM Courts maintain the authority to issue binding civil and commercial judgments inside their free zones but local authorities including the Dubai Courts and the Abu Dhabi Judicial Department handle enforcement outside these zones.

The DIFC Court demonstrated jurisdictional interaction in Banyan Tree Corporate Pte Ltd. v. Meydan Group LLC through its decision that needed Dubai Courts involvement for enforcement outside the DIFC.[27] The UAE Court of Cassation confirmed the DIFC judgment in this case which showed how different judicial levels can work together while demonstrating the procedures needed for international enforcement.

The enforcement process benefits from various institutional mechanisms which have been established. The 2016 Memorandum of Understanding (MoU) between the DIFC Courts and the Dubai Courts established procedures which enhanced the process of recognizing and enforcing judgments.[28] The ADGM Courts established Guidelines for the Recognition and Enforcement of Foreign Judgments which provide structured guidance to parties and courts executing judgments between jurisdictions.[29]

The non-binding instruments establish useful procedural frameworks which enhance legal certainty and promote inter-court cooperation. The UAE's legal pluralism and adaptive jurisdictional coordination strategy allows domestic courts to exercise flexibility when handling enforcement requests.

The UAE legal innovation path presents ongoing possibilities to improve system integration and clarity through official legislative documents and judicial partnership agreements. The system would gain additional commercial party support through clear expectations and efficient procedures that operate within this complex legal framework.[30]

Forum Selection and Conflict-of-Laws Regimes

The courts face additional complexities because they must apply conflict-of-laws principles in their operations. The DIFC and ADGM legal systems give parties wide choices about governing law selection while their courts can use local laws when public policy issues emerge.[31] The DIFC Court applied DIFC statutory provisions in Goel v. Credit Suisse (DIFC) because of public policy concerns regarding financial fraud despite the parties' agreement to English law.[32] The financial free zone courts demonstrate their flexible approach by balancing party autonomy with regulatory integrity through their context-sensitive decision-making process.

[26] Hisham Shakhatreh, "Comparison of Commercial Dispute Resolution Mechanisms in Jordan and the Middle East," *Palestine Law Review* 2 (2024): 51–66.
[27] *Banyan Tree Corporate Pte Ltd. v. Meydan Group LLC*, DIFC CFI 006/2015.
[28] DIFC Courts and Dubai Courts, *Memorandum of Understanding on Enforcement of Judgments*, signed June 2016.
[29] ADGM Courts, *Guidelines on the Recognition and Enforcement of Foreign Judgments*, 2019.
[30] Jason Grant Allen, "A Common Law Archipelago," *Blackstone Chambers*, October 15, 2020. https://www.blackstonechambers.com/news/common-law-archipelago/.
[31] DIFC Courts, *Practice Direction No. 2 of 2017 on Conflict of Laws*; ADGM Courts, *Civil Evidence and Procedure Rules*, rr. 73–78.
[32] *Goel v. Credit Suisse (DIFC)*, DIFC CFI 016/2014.

The judicial approach of these courts combines international common law principles with UAE public policy standards. The dual alignment between these courts enables them to function within international commercial disputes while maintaining their institutional base in the UAE's sovereign legal framework. [33]

The ongoing development of the DIFC and ADGM Courts' jurisprudence creates ongoing challenges regarding their decisional interactions with UAE federal court judgments. The lack of formal mechanisms to use free zone judgments as precedents in the federal system stems from the UAE's distinct legal jurisdiction structure rather than any systemic fragmentation. The dual-court model demonstrates the UAE's pluralist legal structure which offers specialized dispute resolution systems for different legal and commercial requirements. [34]

CASE LAW AND LEGAL REASONING IN PRACTICE

The development of judicial processes in DIFCC Courts and ADGMC Courts represents an advanced attempt to establish common law approaches in non-traditional legal settings. Both courts have started building separate collections of case law through commercial dispute resolution even as they modify their common law basis to accommodate federal civil law requirements. Court decisions demonstrate an ongoing conflict between adopted legal principles and the actual economic and regulatory factors and institutional limits of the jurisdiction.

Development of Common Law Reasoning

Both courts established precedent doctrine from their first day of operation as an exceptional practice for Gulf law. The DIFC Court started using English common law as a gap-filler when it first began operations but evolved into creating its own layered jurisprudence by drawing from previous DIFC court decisions. The court in DNB Bank ASA v. Gulf Eyadah Corporation employed English laws of undue influence and guarantees through the authority of Barclays Bank plc v. O'Brien [1994] 1 AC 180.[35]

Under the Application of English Law Regulations 2015 the ADGM Court adopts English common law at a specified date as its basis for decisions and subsequent court rulings function as persuasive references only. The court in AGM Financial Holdings Ltd v. Petre adopted FHR European Ventures LLP v. Cedar Capital Partners LLC to interpret fiduciary duties thus establishing alignment with contemporary UK Supreme Court decisions.[36]

Both jurisdictions adopt foreign case citations but employ distinct judicial analysis structures along with English judicial writing practices and comparative analogy approaches.

International Judicial Dialogue and Comparative Borrowing

The application of comparative jurisprudence has become more visible in recent times. The DIFC Court evaluated the concept of estoppel by conduct in Brookfield Multiplex v. DIFC Investments LLC. The Court applied Waltons Stores (Interstate) Ltd v. Maher from the

[33] Chong, Adeline & Man, Yip. (2023). *Singapore Private International Law: Commercial Issues and Practice*. 10.1093/law/9780198837596.001.0001.

[34] Gordon Blanke, "Free Zone Arbitration in the United Arab Emirates: DIFC v. ADGM: (Part I)," *Journal of International Arbitration* 35, no. 5 (2018): 541–573.

[35] *DNB Bank ASA v. Gulf Eyadah Corporation*, DIFC CA 007/2014; citing *Barclays Bank plc v. O'Brien* [1994] 1 AC 180 (HL).

[36] *AGM Financial Holdings Ltd v. Petre*, ADGMCFI 2019/0006; citing *FHR European Ventures LLP v. Cedar Capital Partners LLC* [2014] UKSC 45.

Australian High Court along with English legal precedents to establish an elaborate equity-based theory.[37]

ADGM court judgments incorporate Canadian and Singaporean legal decisions particularly in cases about procedures and director responsibilities. The approach integrates multiple jurisdictions to establish a flexible judicial framework which attracts businesses from diverse international markets.[38]

However, the cosmopolitan nature of these courts entails certain complexities. The growing international recognition of ADGMC and DIFCC stems in part from their globally diverse benches, which include judges from jurisdictions such as England, Australia, and Singapore. While this diversity enriches the courts with comparative legal insights and broadens their appeal to international users, it may also result in interpretive variation across panels—particularly in nuanced areas such as contract formation, estoppel, and conflict of laws. Rather than undermining consistency, this dynamic invites the development of a more adaptive and integrative jurisprudence that reflects the courts' transnational mandate.

Precedential Authority and Internal Consistency

The jurisprudential development of both courts is still unfolding, reflecting their relatively recent establishment. While the number of authoritative decisions is steadily expanding, the body of binding precedent remains necessarily limited at this stage. For example, in Sama Dubai v. Al Mehairi, the DIFC Court addressed confidentiality obligations in the context of joint ventures. Although the case advanced the legal treatment of such obligations, its precedent-setting value was naturally shaped by the specificity of its factual context. As more diverse disputes come before the courts, their jurisprudence is expected to deepen and broaden in scope.[39]

The case of Black Ridge Capital v. Al Ahlia represented a significant milestone for the ADGM Court, establishing a comprehensive framework for fiduciary duties in shareholder disputes and extending UK legal principles to a regional business context. While such landmark decisions contribute to the internal coherence of each financial free zone, the development of uniform legal standards across different zones and the federal judiciary remains shaped by the parallel and autonomous nature of their respective legal mandates. This reflects the broader architecture of legal pluralism within the UAE's judicial landscape rather than any institutional deficit.[40]

The relationship between UAE federal courts and the financial free zone courts reflects a distinct jurisdictional layering within the national legal system. Given the non-binding nature of DIFC and ADGM decisions on the federal judiciary, legal fragmentation may arise in cases where overlapping or parallel principles are applied. While the ADGM and DIFC courts occasionally reference each other's jurisprudence, there is currently no formal mechanism for

[37] *Brookfield Multiplex v. DIFC Investments LLC*, DIFC CFI 011/2015; *Waltons Stores (Interstate) Ltd v. Maher* (1988) 164 CLR 387 (HCA).

[38] ADGM Courts, *Civil Procedure Rules 2016*, Foreword and r. 3.2; see also Christopher Forsyth, "Comparative Legal Authority in Hybrid Courts," *Oxford Journal of Legal Studies* 40, no. 3 (2020): 451–478.

[39] *Sama Dubai v. Al Mehairi*, DIFC CFI 018/2016.

[40] *Black Ridge Capital v. Al Ahlia*, ADGMCFI 2021/0004.

doctrinal convergence. This autonomy supports judicial innovation but also opens space for strategic forum selection, particularly in complex cross-border or shareholder disputes.[41]

Legal Certainty and Judicial Philosophy

Judicial reasoning within the DIFC and ADGM Courts reflects a healthy diversity of legal philosophy. While some justices adopt a strict textualist approach, closely adhering to the statutory language of the respective financial free zones, others emphasize broader equitable principles to accommodate the commercial realities of transnational transactions. This interpretive variation enriches the courts' jurisprudence, though it can also lead to nuanced distinctions—particularly in the application of public policy exceptions in enforcement proceedings or tort-related claims. Such differences underscore the evolving nature of legal interpretation in a pluralistic common law setting.[42] The dual approach in case law creates benefits for parties who need specific dispute resolution. The current legal developments indicate the growth of common law traditions which respond to business needs.[43]

THE RULE OF LAW AND INVESTOR PERCEPTION

The Dubai International Financial Centre (DIFC) together with the Abu Dhabi Global Market (ADGM) depend on independent legal systems to build investor trust which is the basis for their overall credibility and success. The two financial free zones have established themselves as rule-of-law enclaves by offering transparency alongside judicial integrity and procedural predictability in a region marked by executive dominance along with legal opacity and unpredictable enforcement. This part assesses how well DIFC and ADGM implement their rule of law objectives while analyzing foreign investor perspectives about institutional reliability.

Transparency and Procedural Accessibility

The judicial transparency policy functions as a fundamental operational base for both DIFC and ADGM Courts. The DIFC and ADGM courts make their complete judicial decisions accessible to the public through online English language platforms.[44] Both of these practices follow international best practices for jurisdictions that aim to attract global business litigants.

The court procedures at DIFC and ADGM operate under user-friendly rules that follow both UK Civil Procedure Rules and Singaporean case management systems.[45] The ADGM eCourts portal enables instant digital case filing and process service along with document tracking features which surpass some advanced common law jurisdictions in procedural efficiency.[46]

While procedural rules and judgments are made available through publicly accessible platforms, transparency remains primarily institutional rather than reciprocal. The current framework provides legal clarity but does not extend to external oversight mechanisms, such as an independent judicial commission. As a result, performance indicators—such as appeals data, judicial review trends, or error metrics—are not subject to public scrutiny. The

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[41] Chong, Adeline & Man, Yip. (2023). *Singapore Private International Law: Commercial Issues and Practice*. 10.1093/law/9780198837596.001.0001.
[42] DIFC Courts, *Practice Direction No. 4 of 2018 on Public Policy Exceptions*; ADGM Courts, *Guide to Conflict of Laws*, 2021.
[43] Ilias Bantekas, The Abu Dhabi Global Market and Its Transplant of English Private Law, The Chinese Journal of Comparative Law, Volume 11, Issue 2, September 2023, cxad007, https://doi.org/10.1093/cjcl/cxad007.
[44] DIFC Courts, "Judgments & Decisions," https://www.difccourts.ae/rules-decisions/judgments (accessed May 25, 2025); ADGM Courts, "Court Judgments," https://www.adgm.com/operating-in-adgm/adgm-courts/court-judgments (accessed May 25, 2025).
[45] ADGM Courts, *Civil Procedure Rules 2016*, Foreword and Parts 2–3.
[46] ADGM eCourts Portal, "User Guide," 2024 edition.

transparency in place is curated and structured by the institutions themselves, reflecting an internal model of disclosure rather than one grounded in mutual accountability or third-party evaluation. As these courts continue to evolve, the integration of broader oversight mechanisms could contribute to deepening public confidence and institutional resilience.[47]

Enforcement and Legal Certainty

The rule of law requires enforceable judgments to function effectively in commercial dispute cases. Both DIFC and ADGM Courts issue final binding judgments which become enforceable outside their financial zones through local court agreements or UAE general civil procedures.[48]

The UAE's dual judicial framework reflects a dynamic and evolving legal landscape that accommodates both domestic and international commercial needs. In Banyan Tree Corporate Pte Ltd v. Meydan Group LLC, the DIFC Court rendered a judgment that later required engagement with the Dubai Courts for enforcement. This process illustrated the nuanced procedural interactions between jurisdictions operating within a multi-tiered system.[49] The introduction of memoranda of understanding between courts has meaningfully enhanced coordination and cross-recognition practices. While each judicial forum maintains its procedural autonomy, continued inter-court dialogue and alignment efforts serve to further reinforce legal predictability and operational efficiency across the UAE's integrated yet pluralistic legal system. [50]

The UAE offers a multilayered framework for the enforcement of arbitral awards, reflecting its commitment to international arbitration standards and institutional diversity. As a signatory to the New York Convention, the UAE facilitates recognition and enforcement of foreign arbitral awards through several pathways, including the ADGM Courts, DIFC Courts, and onshore federal courts. Each of these venues operates under distinct procedural frameworks, providing parties with flexibility in choosing enforcement routes that suit their contractual preferences. While procedural variations exist, the system reflects the UAE's pluralistic legal environment and its broader objective of accommodating a range of international legal and commercial practices.[51]

Investor Confidence and Commercial Credibility

Investors show favorable yet guarded attitudes toward both courts especially when foreign law firms and multinational corporations and banks operate in the region. The World Bank together with the International Financial Law Review (IFLR) report that DIFC and ADGM offer investors a "perceived safe harbor" despite the uncertain legal environment of the broader region.

The establishment of the DIFC and ADGM Courts reflects a unique model of judicial innovation within the UAE's constitutional and federal framework. These courts operate with the support of both federal authorization and emirate-level governance, reflecting a deliberate policy choice

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[47] Chong, Adeline & Man, Yip. (2023). *Singapore Private International Law: Commercial Issues and Practice*. 10.1093/law/9780198837596.001.0001.

[48] Federal Law No. 11 of 1992 (UAE Civil Procedure Code), arts. 220–239.

[49] *Banyan Tree Corporate Pte Ltd v. Meydan Group LLC*, DIFC CFI 006/2015.

[50] DIFC Courts and Dubai Courts, *Memorandum of Understanding on Enforcement of Judgments*, 2016.

[51] Khaled Ali Alhadhrami, 'Challenges and Solutions in Enforcing Foreign Arbitral Awards: A Case Study of the UAE', (2025), 91, Arbitration: The International Journal of Arbitration, Mediation and Dispute Management, Issue 1, pp. 98-119, https://kluwerlawonline.com/journalarticle/Arbitration:+The+International+Journal+of+Arbitration,+Mediation+and+Dispute+Management/91.1/AMDM2025007.

to create specialized common law forums tailored for international commercial activity. [52] Their jurisdiction is intentionally focused on civil and commercial matters, rather than constitutional or politically sensitive issues. As such, their jurisprudence is aligned with their core mandate: to support legal certainty and investor confidence in a liberalized economic environment. This specialized orientation distinguishes them from generalist courts, contributing to the UAE's broader strategy of legal pluralism and economic modernization. [53]

The current structure of the UAE's legal framework reflects a functional segmentation between commercial and constitutional domains. While the DIFC and ADGM Courts provide internationally recognized platforms for commercial dispute resolution, they operate independently of the federal appellate system. This model effectively serves the needs of investors seeking efficient legal remedies, particularly in cross-border business contexts. However, the absence of direct integration with constitutional appellate mechanisms underscores the specialized mandate of these courts, which is oriented toward commercial certainty rather than broader constitutional adjudication. This distinction highlights the UAE's tailored approach to legal development within its pluralistic judicial landscape.[54]

Rule of Law as Market Strategy

The "rule of law" implemented by ADGM and DIFC functions primarily as a market strategy instead of an intrinsic system value. The courts function as economic diplomatic tools for Dubai and Abu Dhabi to present themselves to global markets as internationally oriented open legal jurisdictions.

This instrumentalization brings benefits—legal efficiency, foreign investment, and reputational gains—but also limitations. The sustainability of the rule of law faces risks when it operates based on market principles instead of maintaining legal independence.[55]

The DIFC and ADGM Courts have enhanced UAE commercial legal infrastructure through improved rule-of-law governance that operates as separate entities which maintain independence from central state institutional control.

COMPARATIVE ANALYSIS: GLOBAL FINANCIAL FREE ZONES

The DIFC and ADGM Courts follow a global trend to establish internationalized commercial jurisdictions that operate inside national borders for foreign investment attraction and dispute resolution stability. These institutions draw inspiration from global jurisdictions which include Singapore International Commercial Court (SICC), Qatar Financial Centre (QFC) Courts, and Kazakhstan AIFC Court yet UAE adopts a unique approach to embed them inside its civil law federation which creates specific questions about institutional autonomy and legal transplantation as well as systemic coherence.

[52] Constitution of the UAE, art. 121; Federal Law No. 8 of 2004, art. 3.

[53] David Mednicoff, "Insight 168: The Socio-Cultural Mediation of the Rule of Law In the Gulf Arab States," Middle East Institute, National University of Singapore, 2018. https://mei.nus.edu.sg/publication/insight-168-the-socio-cultural-mediation-of-the-rule-of-law-in-the-gulf-arab-states/.

[54] "MANIFESTATIONS OF THE FEDERAL SYSTEM IN THE UNITED ARAB EMIRATES," *Journal of Positive Psychology and Wellbeing*, last modified January 18, 2023, https://journalppw.com/index.php/jpsp/article/download/11542/7455/13644.

[55] Ilias Bantekas, The Abu Dhabi Global Market and Its Transplant of English Private Law, *The Chinese Journal of Comparative Law*, Volume 11, Issue 2, September 2023, cxad007, https://doi.org/10.1093/cjcl/cxad007.

The Singapore Model: Embedded in Sovereignty

The Singapore International Commercial Court (SICC) functions as a benchmark model which both DIFC and ADGM draw inspiration from in their establishment. The UAE common law courts provide international commercial dispute resolution capabilities to international parties and foreign judges can serve as adjudicators in these cases. The SICC differs from DIFC and ADGM Courts since it functions as an integrated component of Singapore's Supreme Court system which maintains both constitutional and procedural alignment with the domestic judicial framework.[56]

The combined structure of this system enables stronger enforceability and maintains uniform legal principles. Due to DIFC, ADGM, and Singapore's established rule-of-law reputations along with their arbitration infrastructures they maintain their position as the top judicial institutions in a well-established legal framework. [57]

Qatar Financial Centre: Parallels and Divergences

The Qatar Financial Centre (QFC) Civil and Commercial Court adopted the same approach as DIFC and ADGM to establish a common law jurisdiction that operates separately from Qatar's Sharia-based legal system. The QFC Court applies English legal concepts and employs international judges as part of its operations.[58] However, unlike the UAE's financial zones, which were created under federal authorization with semi-permanent independence, the QFC remains more politically centralized and susceptible to direct state oversight.[59]

External enforcement of QFC judgments is restricted and political instabilities in Qatar have sometimes harmed investor trust in the legal system's strength. The DIFC and ADGM benefit from the independence of the emirates because Dubai and Abu Dhabi use their authority to protect judicial operations from federal judicial interference.[60]

Astana International Financial Centre: The Kazakhstan Experiment

The Astana International Financial Centre (AIFC) in Kazakhstan introduced English common law as its legal framework when it launched its commercial court staffed by judges from the UK and international jurisdictions. Although the AIFC Court shares similar goals with DIFC and ADGM its operation exists as a centralized trial system without the UAE's extensive economic and global network.[61]

The constitutional exemption of the AIFC Court from Kazakhstani law presents an extreme case of legal transplantation. The effectiveness of the financial dispute resolution hub functions

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[56] Singapore Supreme Court, "Singapore International Commercial Court," https://www.sicc.gov.sg (accessed May 25, 2025).

[57] Adeline Chong and Yip Man, *Singapore Private International Law: Commercial Issues and Practice* (Oxford: Oxford University Press, 2023).

[58] QFC Regulatory Authority, *Overview of Legal Framework*, 2022; QFC Civil and Commercial Court, "About the Court," https://www.qicdrc.gov.qa (accessed May 25, 2025).

[59] Tarek Fouad, "Qatar's Hybrid Legal Model: Between Common Law Innovation and Political Control," *Journal of Middle East Legal Studies* 8, no. 1 (2022): 44–65.

[60] Mark Feldman and Henry Gao, "Judicial Authority in Financial Free Zones: Structural Variants and Sovereign Boundaries," *Law and Development Review* 15, no. 2 (2022): 301–330.

[61] AIFC Court, "About the AIFC Court," https://court.aifc.kz (accessed May 25, 2025); Aidar Kaliyev, "The AIFC Legal Framework: Aspirations and Institutional Gaps," *Central Asian Legal Review* 3, no. 1 (2021): 77–92.

remains mostly theoretical rather than practical since it lacks the extensive investment ecosystem that UAE possesses.[62]

Comparative Reflections and Structural Lessons

The hybrid institutional design of the DIFC and ADGM Courts between common law procedural and doctrinal elements and UAE emirate political power contributes to their success. The courts maintain independence from federal control to conduct judicial innovation in an otherwise civil law-dominated region.

The DIFC and ADGM Courts operate within a distinct legal domain, separate from the UAE's Sharia and civil court systems, as their authority is functionally autonomous from the federal judiciary. This structural separation reflects the unique legal architecture of the UAE's pluralistic system. In contrast, the Singapore International Commercial Court (SICC) functions as a specialized division within the unified judicial hierarchy of Singapore, allowing it to develop international commercial jurisprudence while remaining embedded within a single sovereign court framework.[63]

The UAE's approach, by design, emphasizes jurisdictional diversity to accommodate global commercial practices. As the caseload and influence of the free zone courts continue to expand, ongoing coordination efforts will play an important role in aligning independent judicial authority with the broader objectives of national legal coherence.[64]

CONCLUSION AND POLICY IMPLICATIONS

The DIFC and ADGM Courts have introduced an innovative legal concept to the Middle East through their combination of UAE federal system political freedom with common law transplantation. These courts have evolved to serve as dispute resolution platforms as well as tools of economic diplomacy that showcase legal certainty and institutional sophistication and investor-friendliness in a legal system based on civil law and Sharia.

Summary of Key Findings

The DIFC and ADGM Courts receive their legal basis from federal authorization yet emirate-level governance allows them to operate independently from the UAE civil law judiciary. The courts developed their common law approach through specific institutional characteristics that include international judge appointments and financial independence and established procedural systems.

The courts maintain operational independence from the federal judiciary yet operate within an evolving legal system that seeks complete systemic integration. The pluralistic legal system faces challenges in maintaining coherence because of its jurisdictional differences and multiple enforcement methods and lack of formal appeals to the federal judiciary. The legal model of the UAE demonstrates its distinctive nature through these dynamics which show how the system maintains innovation alongside alignment.[65]

[62] Nargiza Sarsembayeva, "Institutional Independence in the AIFC: Promise and Practicality," *Transnational Legal Studies Quarterly* 5, no. 3 (2023): 143–162.

[63] Chong, "Singapore International Commercial Court," 270–272.

[64] Ilias Bantekas, The Abu Dhabi Global Market and Its Transplant of English Private Law, *The Chinese Journal of Comparative Law*, Volume 11, Issue 2, September 2023, cxad007, https://doi.org/10.1093/cjcl/cxad007.

[65] Carballo, Alejandro. "The Law of the Dubai International Financial Centre: Common Law Oasis or Mirage Within the UAE?", *Arab Law Quarterly* 21, 1 (2007): 91-104, doi: https://doi.org/10.1163/026805507X197848

Challenges to Legal Coherence and Sustainability

The DIFC and ADGM Courts operate through executive instruments at both federal and emirate levels to achieve legal modernization goals and attract international investment. The UAE Constitution does not establish these courts as independent entities yet their ongoing commercial legal development work continues to boost investor trust and institutional capabilities.

The courts focus on commercial and private law matters which restrict their involvement with public law or rights-based adjudication. The courts operate according to their intended functional design rather than facing institutional barriers. The expansion of their judicial decisions has led to increased attention regarding interpretive consistency and institutional communication between different courts. The lack of official judicial connections has resulted in a separate legal framework which separates foreign investor disputes from domestic legal procedures.

The different legal services in the UAE demonstrate its diverse legal service offerings instead of showing judicial authority fragmentation. The development of the DIFC and ADGM Courts creates possibilities to establish connections which will enhance judicial dialogue between different jurisdictions.[66]

POLICY IMPLICATIONS AND FORWARD PATHWAYS

The UAE's position as a regional leader in rule-of-law development requires policymakers to make strategic decisions about future institutional integration. The following forward-looking measures enable legal innovation to continue alongside national coherence:

- The judicial structure should implement coordinated mechanisms to review DIFC and ADGM judgments through optional appellate pathways.
- The judicial system should establish clear boundaries between free zone and onshore court jurisdictions and enforcement standards to build confidence among local and international users.
- The development of independent review systems should evaluate court performance to maintain consistent legal quality and accountability throughout all jurisdictions.
- The UAE should study established models of specialized court integration into national legal systems by adopting Singapore's unified commercial court system as an example.

The DIFC and ADGM Courts have advanced the UAE's legal modernization strategy through their provision of a high-standard investor-oriented legal environment. The continued impact of these courts depends on their institutional growth and their ability to engage with national legal institutions and match the UAE's developing constitutional and legal framework.[67]

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[67] Adeline Chong and Yip Man, *Singapore Private International Law: Commercial Issues and Practice* (Oxford: Oxford University Press, 2023).

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