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JUDICIAL PRINCIPLES AS A GROUND FOR REVIEW PETITION: AN ANALYTICAL STUDY OF UAE LEGISLATION

Zainab Abdelkarim¹, Saleh Luhaybi², Munira Salem³

yousifzainab50@gmail.com

¹ *Case Manager – Sharjah Judicial Department (Courts)*

² *College of Law, University of Sharjah.*

³ *College of Law, University of Sharjah.*

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Corresponding author: S. Sowmya
(Email)

Abstract

This study examines the nature and application of judicial principles within the UAE legal framework, with particular focus on their role as grounds for review petitions against final judgments. Judicial principles represent fundamental pillars of the legal system, embodying the evolutionary outcomes of judicial thought and the stability of court decisions. This research analyzes the definition, characteristics, and legal implications of judicial principles, distinguishing them from judicial precedents in common law systems. The study explores how judicial principles serve to unify legal interpretation, ensure consistency in judicial decisions, and maintain the integrity of the justice system. Through examination of UAE legislation, particularly Article 190 of the Civil Procedure Code, this research investigates the procedural mechanisms and legal effects of review petitions based on violations of established judicial principles. The findings reveal that judicial principles play a crucial role in legal stability and judicial uniformity across UAE's five judicial authorities.

Keywords: Review petition, Supreme courts, Federal Supreme Court, judgment, decision, judicial principle

1. INTRODUCTION

The judicial principle is considered one of the most important fundamental pillars for forming the legal system. It represents the ladder of developmental results of judicial thought that courts have reached through their judicial rulings and the extent of their stability.

The judicial principle plays an important role in establishing concepts of justice and equality before the judiciary, and it seeks to unify the legal interpretation of rules and legal texts. In this chapter, we will present the nature of the judicial principle by examining the definition of the judicial principle in light of what jurisprudence has established, the acquisition of authority by the principle in practical application, and distinguishing the judicial principle from judicial precedents.

2 CHAPTER ONE: THE NATURE OF JUDICIAL PRINCIPLES

2.1. First Requirement: Definition of Judicial Principles

It is necessary to begin by defining the judicial principle and clarifying its definition according to what jurisprudence has mentioned. What are the reasons that led to the emergence of the judicial principle in judicial rulings? When is authority established for the judicial principle, and are there binding conditions for establishing the concept of the judicial principle in judicial rulings?

The principle is defined linguistically as: the beginning of something or its constituent material, like the nucleus being the principle of the palm tree, or from which it is composed, like letters being the principle of speech. The plural is principles.

The principles of science, art, morality, constitution, or law are its basic rules upon which it is based and from which it does not deviate. The principle of the case is its origin (Al-Maany Dictionary, 2025).

Therefore, the principle linguistically comes as synonymous with the word rule or foundation, which we see as suitable for adoption as a legal term.

Judicial principles have been defined as: "General judicial rules, whether substantive or procedural, that are established by the competent authority and are observed during the consideration of cases and in the stage of issuing judgments and decisions. This concept is limited to

what is issued only by the authority specified by law as competent to issue such decisions and general judicial principles, namely the Supreme Court, excluding lower courts" (Al-Mutairi, 2017, pp. 220-285).

Others have defined judicial principles as: "The principles adopted by the Supreme Court judiciary in connection with appeals presented to it, with the aim of interpreting legal rules judicially in a manner that helps lower courts properly understand the intent of the legal legislator" (Abd Al-Maghith, 2023, p. 202).

The researcher believes that the second definition was comprehensive in meaning and defined the purpose of establishing the judicial principle in judicial rulings from supreme courts. The court resorts to issuing a judicial principle in its ruling when it adapts legal rules to the legal issue before it, but these legal rules were not comprehensive in solving the legal issue and contained deficiency or ambiguity that needs interpretation.

There are questions regarding what the UAE legislator adopted when using the term 'principles' and the term 'rules' in its legal articles. Did the UAE legislator consider the terms principle and rule as having the same meaning?

The UAE legislator mentioned the term judicial principles in Article 190 of the Civil Procedure Code, and in the Law on Organizing Judicial Relations between Federal and Local Authorities, it also mentioned judicial principles through Article 18 (Federal Law No. 10 of 2019, Articles 14-15).

In Dubai Law No. 13 of 2016 regarding the Judicial Authority for the Emirate of Dubai, both terms (rules and principles) were used in Article 22, which states: 'The Technical Office shall specialize in: 1- Extracting legal principles and judicial rules established by the Court of Cassation in its issued judgments...' (Al-Sarhan, 2022, p. 13).

In Abu Dhabi Judiciary Law No. 23 of 2006, it was sufficient to use the term 'principle' coupled with the term legal (Article 10 bis).

Jurisprudence has dealt primarily with the distinction between legal principles and judicial principles. A principle is described as a 'legal principle' if the judgment was based on a written legal text (i.e., a legislative text), whether the court applied it as is, completed a deficiency in it, or merely interpreted it in its ruling. In contrast, if the judgment was issued without relying on a written legal text, what is extracted from such a judgment

is a judicial principle, not a legal one (Al-Sarhan, 2022, p. 15).

A judicial principle can only be derived from a final judicial judgment issued by a supreme court when it contains a general abstract rule suitable for application to similar cases, rather than being merely a passing legal reasoning in a specific incident.

Some jurists have defined it after attributing the characteristic of rule to the judicial principle as: "Judicial rules established by the judge aimed primarily at covering the absence of texts." There are those who call the judicial principle 'judicial jurisprudence' and define it as: "A set of judicial solutions that judges have become accustomed to issuing regarding similar legal matters" (Sahib, 2024, pp. 2945-2951).

According to this approach, the judicial principle is only established if the court establishes through its ruling a stable rule that it follows in subsequent rulings, so that it is relied upon as an interpretive source in applying legal texts. In this sense, rulings that are limited to treating an individual incident without establishing a general rule do not rise to the level of a judicial principle.

Based on what has been mentioned, judicial principles are considered a set of rules that remain within the scope of law, as they derive their application from practical reality more than from the legislative text itself. They are not limited to rigid legal texts but are rooted in concepts of justice and fairness, gaining their strength from repeated application and stability over time.

The researcher's opinion differs from what was mentioned, as the judicial principle acquires its legal value and authority as soon as it is mentioned by one of the supreme courts in its judicial ruling. It does not need frequency, nor does it need to be mentioned several times in judicial rulings to establish the concept of a judicial principle (Personal interview with Dr. Ali Turki, November 17, 2025).

The judicial principle gained greater authority when the United Arab Emirates established the Judicial Principles Unification Authority, making the authority contribute to unifying judicial principles issued by supreme courts for the stability of judicial principles and ease of resort by judges when they need to research them to issue their judicial rulings.

As an application of agreement on the judicial principle, in substantive dispute No. 14 of 2022

regarding check execution, the plaintiff filed a request to stop the execution of the execution judge's decision No. 645 of 2022 pending the resolution of the dispute. The case involved checks returned unpaid due to account closure.

Regarding the issue of checks returned unpaid, the conflict in the matter of placing the execution formula on checks returned unpaid was resolved by the Federal and Local Judicial Principles Unification Authority. Dubai Court of Cassation held that a check returned unpaid would not be considered an execution formula unless it was returned due to 'insufficient funds' and not for any other reason (Federal Decree-Law No. 50 of 2022 on Commercial Transactions, Article 667).

This conflicted with Abu Dhabi Court of Cassation's direction, which considered 'account closure' as a reason for check return and applied Article 667 to it, considering it a right for the holder to request forced execution as an execution document.

After reviewing both approaches, the Authority decided by majority in Request No. 1 of 2023 to 'depart from the principle established by Dubai Court of Cassation and adopt the principle concluded by Abu Dhabi Court of Cassation in Appeal No. 460 of 2023 Commercial, that the phrase "account closure" means the impossibility of cashing the check, and therefore it equals the phrases "insufficient funds or lack thereof" in result.'

2.2. Second Requirement: Distinguishing Judicial Principles from Judicial Precedents

Determining the concept of the judicial principle and clarifying its definition is a fundamental step for understanding its legal nature and distinguishing it from other individual judicial reasoning. It is not sufficient for a judgment to be issued by a supreme court to be considered a judicial principle unless it contains a general rule characterized by stability and suitable for application to similar facts.

The judicial principle differs from judicial precedent in terms of nature and effect. The Anglo-Saxon system adopted the principle of binding judicial precedents, meaning courts are obligated to follow what has been established by the judiciary in issuing judgments in similar matters (Sahib, 2024, pp. 2943-2951).

Judicial precedents have been defined as: 'A resolved case or court opinion considered as an

example or reference for a similar case thereafter, arising from a similar legal matter and attempting to decide cases based on established principles in previous cases' (Al-Dughaitar, 2007, p. 178).

Others have defined judicial precedents as: 'Unwritten systematic rules that the judiciary deduces from the spirit of systems and principles of justice and custom when there are no systematic or customary rules governing the existing dispute, which is called jurisprudence, and these are called judicial precedents and are not binding, called judicial principles, and must be issued by the highest judicial authority' (Al-Dughaitar, 2007, p. 178).

This system is based on the idea that when a judge considers a dispute similar to what was previously decided by a higher court or a court of the same level, the judge is obligated to follow the judgment previously issued and considered the same dispute in terms of facts or legal qualification.

However, the position of legal legislation in Arab countries, including the judicial system in the United Arab Emirates, differs. They do not oblige the judge with judicial precedent in the sense intended by the Anglo-Saxon system, but rather make it a reference for the judge that allows him to be guided by it and review it to form his conviction without being binding in the absolute sense intended by the Anglo-Saxon system.

Judicial precedents are divided into two main sections: (1) Judicial precedents issued by the Court of Appeal and the Supreme Court, and (2) Judicial precedents issued by the court of first instance (Hamid, 2025, p. 209).

We can determine the differences between judicial principles and judicial precedents as follows:

1. The Supreme Court issues judicial principles to unify court jurisprudence regarding an issue not regulated by text or to unify interpretation of a text that courts have differed in interpreting, while judicial precedents are merely previous judgments adopted by the judge as a guide for deciding subsequent cases.
2. The essence of the difference between the Latin and Anglo-Saxon systems in implementing court judgments is that judicial precedents have binding status from both legal and practical aspects, unlike judicial principles.
3. The judicial principle is considered a supplementary source in Latin systems, while judicial precedents are an official source of law

in the Anglo-Saxon system.

4. It is not required for a judgment considered a judicial precedent to be repeated or recurred by courts to be binding, unlike the judicial principle (Sahib, 2024, pp. 2945-2951).
5. Judicial principles are controls for specific jurisprudence in a specific dispute between litigation parties, while judicial precedents are judgments issued by a competent court in similar cases (Hamid, 2025, p. 210).

Regarding difference number (1), the researcher does not agree with the idea of creating judicial principles to unify court jurisprudence, as there are judicial principles that arose in judicial rulings without any conflict or difference between courts regarding the judicial principle.

The researcher believes that the UAE and Arab countries' direction was successful when they moved away from adopting the Anglo-Saxon system, because it is based on an approach of obliging the judge with judicial precedents as a primary source, while the Latin system allows the judge to exercise his wide powers and authority in issuing his judgment on the case before him.

Among the justifications for working with judicial precedents in the Anglo-Saxon judicial system are: (1) Economy in judicial effort and time, (2) Appreciation of judicial experience, and (3) Contributing to stabilizing judicial expectations (Al-Dughaitar, 2007, p. 181).

3. CHAPTER TWO: VIOLATION OF JUDICIAL PRINCIPLES AS A GROUND FOR REVIEW PETITION

Violation of judicial principles is considered one of the review petition cases mentioned by the UAE legislator through Article 190 of the Civil Procedure Code, which shows us the importance of judicial principles in stabilizing judicial rulings, and their violation has a significant impact. Therefore, the UAE legislator made the violation of judicial principles a ground for review petition.

3.1. First Requirement: The Concept of Violation of Judicial Principles

We previously clarified in Chapter One the definition of judicial principles. Due to the need to avoid lengthy repetition in our study, we will move in this requirement to studying the case of violation of judicial principles as one of the cases of review petition raised by the UAE legislator through Article 190.

Article 190, Paragraph (1) states: 'The court may review the decision issued by it in the advisory chamber or its final judgment, either on its own initiative or upon request from the party against whom the decision or judgment was issued in any of the following cases: ... c. If the decision or judgment was issued in violation of any judicial principles established by the authority or combined chambers of the court as appropriate, without presenting it to them, or issued in violation of principles established by the court or issued by the Judicial Principles Unification Authority between federal and local judicial authorities' (Federal Decree-Law No. 42 of 2023).

It is worth noting that the UAE legislator clarified in the introduction of the aforementioned legal text that the mentioned cases for the permissibility of submitting a review petition, whether for a decision issued by the court in the advisory chamber or a final judgment issued by the court, meaning that the legislator did not differentiate between decisions issued from the advisory chamber or final judgments issued by the court.

Supreme courts in the UAE adopt a recognized approach of establishing judicial principles regarding appeals that are registered, which often play a role in raising legal issues that need the opinion of supreme courts, then lower courts are committed to them morally and not legally (Abd Al-Maghith, 2023, p. 202).

The UAE has five judicial authorities: (1) Federal judiciary, including Um Al Quwain Court, Ajman Court, Fujairah Court, (2) Abu Dhabi judiciary, (3) Dubai judiciary, (4) Sharjah judiciary, and (5) Ras Al Khaimah judiciary.

The UAE legislator clarified the permissibility of submitting a review petition for a final judgment in case of violating judicial principles. If a judgment is issued by the Court of Appeal in violation of judicial principles, the opponent should appeal the judgment before the Supreme Court for error in applying the law. However, if the judgment is final and has exhausted appeal methods, the affected opponent may submit a review petition for the final judgment for violating judicial principles.

When we mention violation of judicial principles, we must clarify the authority or body concerned with issuing judicial principles, which the legislator mentioned in Article 191: (1) Advisory Authority of the Federal Supreme Court, (2) Combined Chambers of the Federal Supreme

Court, (3) The Court, and (4) Judicial Principles Unification Authority between federal and local judicial authorities.

The Advisory Authority of the Federal Supreme Court is a judicial advisory body established within the structure of the Federal Supreme Court, specialized in providing legal opinion on matters presented to it and interpreting legal texts or judicial principles upon request, without its opinion having binding judicial status.

Combined Chambers of the Federal Supreme Court are a special judicial formation convened from the meeting of several chambers of the Federal Supreme Court, specialized in considering fundamental matters that require departure from an established judicial principle or establishing a new principle to achieve unification of judicial jurisprudence.

It is worth noting that establishing judicial principles differs from one judiciary to another in the country. In federal judiciary, judicial principles are established through a specialized authority established in the Federal Supreme Court, consisting of the court's president or his representative in addition to the membership of the four most senior judges (Federal Decree-Law No. 33 of 2022, Article 39).

In Abu Dhabi judiciary, judicial principles are established through two authorities, each formed in the Court of Cassation, one for criminal matters and the other for civil, commercial, personal status, and other matters, each with nine judges (Abu Dhabi Law No. 23 of 2006, Article 10 bis). In Dubai judiciary, judicial principles are established by the General Authority, headed by the court's president or the most senior judge, with membership of at least eight judges.

In Ras Al Khaimah judiciary, judicial principles are established by the combined chambers of the Court of Cassation. The legislator did well when he established the case of violation of judicial principles from any court source. The researcher agrees with the UAE legislation approach in not limiting the violation of judicial principles to a specific court, as it preserved the role of judicial authorities that the legislation authorized to establish judicial principles.

3.2. Second Requirement: Procedures for Review Petition for Violation of Judicial Principles and Its Legal Effect

3.2.1. First Section: Procedures for Submitting Review Petition

It is understood from Article 190 of the Civil Procedure Code, particularly paragraphs (2), (3), and (4), that the method of submitting a review petition for decisions or judgments issued by supreme courts has been surrounded by precise procedural controls that suit the exceptional nature of this petition.

The review petition is submitted by the party against whom the decision or judgment was issued to the Case Management Office of the competent court, whether the Federal Supreme Court, Court of Cassation, or Court of Cassation as appropriate. The petition must be signed by a lawyer authorized to plead before the competent court.

The legislator required that a financial guarantee of twenty thousand dirhams be attached to the review petition. This guarantee is a procedural condition for accepting the petition. If the petition is accepted, the guarantee amount must be returned to the applicant. If the petition is rejected, the guarantee amount is forfeited.

If the review is initiated by the court itself, the matter is referred by the court's president with a report from the Technical Office to the authority competent to consider the review petition.

Review petitions are presented to a panel of five judges from the same court, provided that none of them participated in issuing the decision or judgment subject to review. This panel considers the petition in chambers and issues a reasoned decision by majority of four judges.

If the panel accepts the review petition, the appeal is referred to another chamber for fresh consideration and adjudication. If the petition is rejected, the judgment or decision subject to review becomes stable and acquires final authority, in addition to forfeiture of the guarantee amount.

The legislator restricted submitting review petitions with strict temporal and numerical restrictions. The petition may only be submitted once, and may not be submitted after the passage of one year from the date of issuing the decision from the advisory chamber or the final judgment.

3.2.2. Second Section: Legal Effects of Review Petition for Violation of Judicial Principles

After clarifying the procedures for submitting the petition and the legal mechanism followed for submitting it before the competent judicial authority, it is necessary for our study to address

the fate that this petition faces when presented to the court, by examining the effect resulting from the decision issued regarding it in cases of acceptance and rejection.

3.3. First: Case of Rejection of Review Petition

Article 190, Paragraph 3 states: 'The review petition is considered... and the guarantee amount is forfeited when the petition is rejected.'

This is the first effect when the court issues its decision rejecting the review petition: the forfeiture of the guarantee amount paid by the litigant when submitting the petition, which is twenty thousand dirhams. We agree with the UAE legislator's forfeiture of the guarantee amount in case of rejection to prevent litigants from being careless in submitting review petitions (UAE Civil Procedure Code, Article 173).

The second effect of the rejection decision is that it does not produce an effect if the appellant opens an execution file for the judgment. The execution procedures started by the execution judge are completed without any interruption, even if a review petition is presented before supreme courts. Execution procedures are not automatically stopped when the appellant submits a review petition to the court (Interview with Lawyer Mouza Al-Balushi, October 17, 2025).

The legislator did well by not requiring the execution judge to stop procedures merely by submitting a review petition before the court, because it is not possible to stop execution procedures for every litigant who submits a review petition to supreme courts, which would result in delaying the recovery of individuals' rights in courts (UAE Civil Procedure Code, Article 177).

The third effect of rejecting the review petition is the stability of the final judgment issued by supreme courts and the stability of its authority without affecting what the court stated in the judgment. Rejection means that all litigation stages and the exceptional path provided by the UAE legislator in recent years have been exhausted.

3.4. Second: Case of Acceptance of Review Petition

Article 190, Paragraph 3 states: 'The review petition is considered... and in case of accepting the petition, it is referred to another chamber for fresh consideration and adjudication, with return of the guarantee amount to the applicant.'

The UAE legislator clarified that the first effect of

accepting the review petition is that the petition is referred to another chamber for fresh consideration and adjudication. The meaning of 'another chamber' is that the authority that issued its decision accepting the petition and the authority that previously ruled in the judgment appealed before the Supreme Court do not have the right to consider the appeal anew, but the UAE legislator required referring the petition to a different chamber that did not previously consider the appeal (UAE Civil Procedure Code, Article 173, Paragraph 3).

The second effect of accepting the review petition is returning the guarantee amount, which is the amount due when submitting the petition of 20 thousand dirhams. This indicates that the legislator's purpose when requiring the guarantee amount for every review petition submitted to the court was clear in ensuring seriousness in submitting review petitions to the court.

Acceptance also follows an effect of great importance, which is stopping execution procedures. After the court issues its decision accepting the review petition, the Supreme Court issues a certificate clarifying acceptance of the review petition, in addition to issuing a certificate requiring stopping execution procedures for the judgment previously appealed if there is a conflict between the judgment issued by the Supreme Court and the review petition (Interview with Execution Judge Al-Mu'tasim, June 25, 2025).

No execution procedures are taken until the appeal is considered by the court and adjudicated anew. In this case, we can say that the effect following acceptance of the review petition has three stages:

1. Stage of acceptance of the petition before execution: This stage comes when the review petition is submitted before opening an execution file for the judgment before the execution judge.

2. Stage of acceptance of the petition during execution: This stage comes when the review petition is submitted before supreme courts while execution procedures are simultaneously proceeding.

3. Stage of acceptance after execution: Usually this stage comes due to submitting the review petition before supreme courts after a long period, due to the allowed period for submitting review petitions (one year from the date of issuing the judgment or decision).

The negative effect of the period allowed by the

UAE legislator (one year from the date of issuing the decision or judgment) appears here, as this period allows for execution of the judgment and completion of its execution procedures, then the execution judge takes other procedures to restore the situation to what it was.

For example, if a judgment comes from one of the supreme courts that property A belongs to the appellant and not the respondent, the appellant opens an execution file, and property registration procedures are taken by the execution judge. Then the respondent submits a review petition, it is accepted, and the chamber rules in his favor for property A. Here, other procedures are taken to change the owner's name for property A from the appellant to the respondent (Interview with Execution Judge Al-Mu'tasim, June 25, 2025).

4. CONCLUSION

Through our study, we reached the importance of judicial principles through their linguistic and jurisprudential definition, and their importance emerged in helping to avoid contradiction of judgments and speed of resolution in disputes. The emergence of judicial principles in judicial rulings has become an effective tool that helps clarify the path for the judge to rule in the case and significantly reduces the phenomenon of conflicting judicial rulings.

The researcher reached several findings:

1. Judicial principles arose due to several reasons, the most important being the problem of deficiency in legal legislation.
2. The United Arab Emirates established the Judicial Principles Unification Authority in 2019 to maintain stability and consistency of judicial rulings in the country.
3. UAE legislation did not specify in the case of violation of judicial principles as a ground for review petition that the judgment or decision violating the judicial principle should be from a specific judicial authority, meaning it included all supreme courts in the country.
 - a. The researcher also reached several recommendations:
4. Unifying the use of the term 'judicial principle' without having several other similar terms in the country's legal legislation.
5. Clarifying the definition of judicial principle by tasking the Judicial Principles Unification Authority with issuing regulations that clarify concepts related to judicial principles and other

terms related to its tasks.

REFERENCES

- Abd Al-Maghith, M. M. (2023). Review of final judgments under UAE law: A comparative study. *Kuwait International Law School Journal*, 2, 202.
- Al-Dughaitar, A. S. (2007). Authority of judicial precedents. *Journal of Justice*, 9(34), 178-181.
- Al-Janahi, A. A. (2025). The system of review of decisions and final judgments in the United Arab Emirates: An analytical study. *UAE University Journal of Legal Research*, 101, 22.
- Al-Maany Dictionary. (2025). Definition of principle. Retrieved November 10, 2025, from <https://www.almaany.com/ar/dict/ar-ar/مبدأ>
- Al-Mutairi, F. K. (2017). The impact of judicial principles on criminal texts in light of the Saudi judicial system: A foundational legal study. *Journal of Sharia and Law Faculty, Al-Azhar University*, 29, 220-285.
- Al-Sarhan, B. (2022). The legal value of judicial principles issued by law courts in civil cases: An analytical study in light of recent legislative amendments of the UAE. *UAE University Journal*, 36(89), 13-15.
- Federal Decree-Law No. 33 of 2022 regarding the Federal Supreme Court, Article 39.
- Federal Decree-Law No. 42 of 2023 on Civil Procedure Code of the United Arab Emirates.
- Federal Decree-Law No. 50 of 2022 on Commercial Transactions, Article 667.
- Federal Law No. 10 of 2019 on Organizing Judicial Relations between Federal and Local Judicial Authorities, Articles 14-15.
- Hamid, S. (2025). The impact of principles and judicial precedents in achieving tolerance and moderation. *Journal of Islamic Scientific Research*, 22(70), 209-210.
- Law No. 13 of 2016 regarding the Judicial Authority for the Emirate of Dubai, Article 22.
- Law No. 23 of 2006 regarding the Department of Justice in the Emirate of Abu Dhabi, Article 10 bis.
- Personal interview with Dr. Ali Turki. (2025, November 17). University of Sharjah, College of Law.
- Personal interview with Execution Judge Al-Mu'tasim. (2025, June 25). Sharjah Court of First Instance.
- Personal interview with Lawyer Mouza Al-Balushi. (2025, October 17). Sharjah Court of Appeal.
- Sahib, Z. (2024). Reasons for the emergence of judicial principles. *Journal of Sustainable Studies*, 6(Supplement 6), 2943-2951.