Current Developments

One Year of Civil Family Law in the United Arab Emirates: A Preliminary Assessment

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Abstract

This article provides a preliminary commentary on the new civil family law regime introduced in the emirate of Abu Dhabi in November 2021 which, since February 2023, applies nationwide through the adoption of a federal statute on civil personal status. Abu Dhabi’s Law No. 14 of 2021, its accompanying Procedural Regulations, and the more recent Federal Law No. 41 of 2022 have introduced legal concepts, such as civil marriage, no-fault divorce, and joint custody, as well as potentially adoption, which have previously been non-existent for both the local and the large foreign population in the United Arab Emirates. The new statutes thereby stand in sharp contrast to the family law system to which the local Muslim population is still subject. This article assesses the new provisions against the background of the federal Muslim family law regime, established patterns of family law jurisprudence in the country, and early case law in the newly established Civil Family Court in Abu Dhabi.
Keywords

civil family law – international family law – law reform – personal status law – United Arab Emirates

1 Introduction

In early November 2021, Abu Dhabi, the largest of seven emirates that form the United Arab Emirates, passed a new family law. Law No. 14 of 2021 carried forward a series of legal reforms of both domestic and international family law introduced since August 2019 and signalled a departure from previously established patterns of regulating family law matters of the country’s large expatriate population.\(^1\) Originally, the new law was intended to complement the Federal Code of Personal Status of 2005 and apply only to non-Muslim foreigners. Shortly after its entry into force, however, the law was amended considerably, and in February 2022, procedural regulations were introduced that further expand the law’s scope of application.\(^2\) In its current form, Law No. 14 of 2021 stands out in regional comparison not only because of its substantive rules, but also because of whom it applies to. Specifically, the law has introduced legal concepts novel for Muslim jurisdictions, such as civil marriage, no-fault divorce, and joint custody. It applies to non-Muslim citizens and all residents — regardless of individual religious affiliation — who are citizens of countries with family law regimes that are not based on Islamic law, thereby also applying to many Muslim foreigners.

Roughly a year later, in early October 2022, a federal civil family law was introduced too.\(^3\) The law, which entered into force on February 1, 2023, is clearly modelled after Abu Dhabi’s statutes, yet it also contains a few significant modifications. It applies to non-Muslim citizens and foreigners only and thus does not adopt the broad scope of application that Abu Dhabi’s local legislation has established. Law No. 41 of 2022 does not supersede Abu Dhabi’s legislation. Instead, it has introduced a civil family law regime in the remaining six emirates, including Dubai.

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\(^2\) Resolution of the Chairman of the Judicial Department No. 8 of 2022 concerning Civil Marriage and Divorce Procedures in the Emirate of Abu Dhabi, Official Gazette No. 8 of 31 August 2022 (henceforth: Procedural Regulations).

\(^3\) Federal Decree Law No. 41 of 2022 on Civil Personal Status, Official Gazette No. 737 of 10 October 2022 (henceforth: Law No. 41 of 2022).
This commentary aims to introduce the new legal framework that the two civil family laws establish and will discuss their broader implications for family law in the United Arab Emirates. Before taking a closer look at the statutes, the article will briefly summarize how the United Arab Emirates have thus far approached multinational challenges to family law and highlight important features of the country’s international family law regime.

2 Family Law in a Multinational Society

The history of the United Arab Emirates is also the history of a deeply heterogeneous and pluralistic society. Since the country’s independence in 1971, the United Arab Emirates have been characterized by large-scale labour migration of both low-skilled and high-skilled workers and, as a result, by its highly diverse, multinational population. In a country of around 10 million inhabitants, only a little over one million are national citizens. This demographic makeup has been a challenge for both national and international family law, as around 70% of cases filed with the domestic family courts have an international element. Moreover, even before the country was founded in 1971, the legal treatment of such pluralism was the subject of legal policy debates. In fact, the extraterritorial jurisdiction exercised by Great Britain in the seven emirates that later formed the United Arab Emirates can be seen as the starting point of the country’s international family law regime. The debates surrounding British jurisdiction in what was commonly referred to as ‘Trucial States’ indicate the sensitivity of the subject and the potential for conflict when establishing legal categories of belonging and distinction.

British extraterritorial jurisdiction in the Trucial States was based on the Trucial States Order in Council of 1946 and originally extended to all foreigners living in the emirates, regardless of ethnicity, nationality, or religion, thereby also including all those Arab Muslims who did not hold a passport of one of the seven independent emirates. While local rulers did not per se oppose the idea of the British exercising jurisdiction over certain groups of residents, they viewed such an arrangement as a question of religious affiliation extending to jurisdiction. Hence, they did not object to the Christian power assuming jurisdiction over fellow Christians, yet they did oppose British extraterritorial

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jurisdiction over Muslim foreigners, particularly Arab Muslims.\textsuperscript{5} By singling out Arab Muslim as particularly contentious, local rulers to a certain extent ‘ethnicized’ Muslim religious affiliation and thereby deviated from Islamic jurisprudence which has traditionally regarded the entire Muslim community as subject to one set of laws, and those of other faiths to other laws, with little to no considerations of other factors or markers of identity.

About a decade and a half after the unification of the previously independent emirates and the foundation of the United Arab Emirates, the country introduced rules on international family law and thereby specifically designated the law applicable in cross-border or transnational family law cases. The Civil Code of 1985,\textsuperscript{6} in its section on conflict-of-laws, placed particular importance on nationality (not religious affiliation) as the main connecting factor in matters of personal status, with preference given to the husband’s nationality.

This situation changed again in 2005 when the United Arab Emirates, for the first time, codified their family law and enacted the Federal Code of Personal Status.\textsuperscript{7} According to Article 1, the law applied to non-Muslims only insofar as their religious community did not possess its own set of laws governing matters of personal status. Foreigners had the option to either declare domestic family and inheritance law applicable, or instead demand that the court apply the law of their home country. Prior to recent legal reforms, foreigners would either settle their personal status matters in their home country or approach the local personal status courts where, in theory, they could then choose the applicable law. In legal practice, however, most personal status cases were decided based on domestic law. Among the main reasons was the reluctance on the part of some family court judges to apply a set of rules they were not familiar with as well as the parties’ concerns that the application of their own national law would lead to their case being more costly and time-consuming.\textsuperscript{8}

This was because Emirati courts have demonstrated a strong tendency to consider the foreign law as a fact which will have to be proven by the parties.\textsuperscript{9}

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\begin{itemize}
  \item \textsuperscript{5} N.J. Brown, \textit{The Rule of Law in the Arab World: Courts in Egypt and the Gulf} (Cambridge: Cambridge University Press, 1997), 133 et seq.
  \item \textsuperscript{6} Federal Law No. 5 of 1985 governing the Civil Code, Official Gazette No. 158 of 29 December 1985, as amended by Federal Law No. 1 of 1987 and Decree-Law no. 30 of 2020 (hereafter: Civil Code).
  \item \textsuperscript{8} Hamade, \textit{supra} note 4.
  \item \textsuperscript{9} A.M. Elhawary, ‘Regulation of Conflict of Laws in the United Arab Emirates’, \textit{Arab Law Quarterly} 27 (2013): 8–9.
\end{itemize}
While domestic and international family law has traditionally been a matter of federal legislation, a few years ago, the emirate of Abu Dhabi already launched a first local initiative to offer alternative jurisdiction to its (non-Muslim) expatriate community. In late summer 2017, the emirate announced that it would allow Christian expatriates to divorce through their church. Instead of filing a divorce petition with the domestic family courts, foreigners residing in Abu Dhabi henceforth had the option of seeking mediation in their own place of worship. The proposal envisioned that once the couple, through such church-run mediation, had reached a divorce agreement that settled questions of post-divorce financials and child custody, these documents only needed to be authorized by the national courts to become enforceable. Initially, the amendment had been agreed upon only between the emirate of Abu Dhabi and local Christian leaders, but the inclusion of Hindu and Sikh religious communities was equally envisioned.

The initiative to introduce church-run mediation and dispute resolution for Christian expatriates, however, proved impractical. For example, it remained unclear what legal status such religious out-of-court agreements would have in the home countries of foreigners residing in the United Arab Emirates. This was the case especially for all those expatriates whose home countries had abolished religious family adjudication or required a court’s substantive involvement in the dissolution of a marriage. The proposed alternative jurisdiction thus failed to meet the needs of many non-Muslim expatriates and instead another legislative amendment was introduced at the federal level in 2020.

In September 2020, a federal decree-law amended the country’s international family law by introducing recourse to the lex loci celebrationis. Instead of applying the law of a husband’s nationality, as was the case before, on the federal level, questions of marriage and divorce are now governed by the law

of the country in which the marriage was performed. While, at first glance, this conflict-of-law rule signalled a departure from nationality as the main connecting factor, the amendment was in fact framed in terms of expatriates being given the option of having ‘their own’ laws, and those to which they have a stronger connection, applied.\textsuperscript{14} The new decree-law therefore also reiterated that nationality would determine the law applicable to a deceased person’s estate. The principle aim of the amendment was to offer expatriates access to a legal regime that they felt closely connected with and that met their regulatory demands best.

These latest reforms on the federal level followed the introduction of a long-term residency program in May 2019. The so-called ‘golden visa’ scheme grants 10-year residency in the country to certain investors, professionals, and specialized degree-holders. It was accompanied by an increased public emphasis on the country’s multinational character as home to people from diverse national, ethnic, and cultural backgrounds. On a legal policy level, this emphasis on the pluralistic nature of Emirati society ultimately culminated in the passing of a civil family law for foreigners and non-Muslims in the emirate of Abu Dhabi.

3 Law No. 14 of 2021

The history of Law No. 14 of 2021 is short, yet eventful. In its initial version the law was entitled “Law on the Personal Status of Non-Muslim Foreigners in the Emirate of Abu Dhabi” and, as the name indicates, applied only to non-Muslim members of the so-called ‘expat’ community. Since religious affiliation is still registered upon applying for a visa in the United Arab Emirates, singling out non-Muslims expats fit the country’s overall scheme of group affiliation. In addition, the introduction of a designated set of laws for non-Muslim foreigners loosely drew on established patterns of dividing family law along religious lines and leaving a greater leeway for other faith communities in regulating their personal status affairs. The fact that Law No. 14 of 2021 connected two factors, non-Muslim religious affiliation and a foreign citizenship, is noteworthy yet of limited practical relevance given that the vast majority of the country’s domestic population is Muslim.

A few weeks after Law No. 14 of 2021 was passed however, amendments were introduced that changed the name of the law to “Law on Civil Marriage and its Consequences in the Emirate of Abu Dhabi” (qānūn fi-šā’ān al-zawāq al-madanī wa āṯārhu fī imārat Abū Ṭabī).15

3.1 Scope of Application and Procedural Aspects
Article 3 of Law No. 14 of 2021 discusses the law’s scope of application, yet contains an ambiguous and contested rule that might in fact be replaced soon by a draft amendment that is currently being circulated, but not in force yet.16 Subject-matter, territorial, and personal jurisdiction are discussed in the Procedural Regulations instead. A rule on the temporal scope of its application is not yet in place but may be introduced once the latest draft amendment enters into force. The originally intended application to non-Muslim foreigners only was retracted in the first round of amendments. The law now covers all matters of personal status, including inheritance, for residents of Abu Dhabi and those individuals whose workplace is in the emirate, provided they are either a non-Muslim citizen or a foreigner holding the citizenship of a country whose family law regime is not primarily based on Islamic law.17 In cases of dual citizenship, the nationality of the passport with which residence in the United Arab Emirates was applied for will be considered.

Because of these rules on personal jurisdiction, many Muslims with the citizenship of a ‘non-Muslim’ country are no longer subject to the Federal Code of Personal Status unless they jointly request its application in the regular (Muslim) family courts of the emirate. Consequently, such individuals can conclude a civil marriage regardless of any religious differences. It also means that Muslims from non-Muslim jurisdictions must draft and register a will with the Civil Family Court if they wish to divide their assets according to Islamic quotas and not those of the new law which are not based on Islamic law, as described further below. Personal jurisdiction according to the new laws is a


16 Currently, Article 3 (1) states that the law applies to marriages that were “concluded according to this law” (wafqan li-hadha al-qanūn) which has been understood by some to mean all civil marriages and by others to only cover unions that were indeed concluded before the Abu Dhabi Civil Family Court following its establishment and the introduction of Law 14 of 2021. The latter reading seems impractical because, in this case, most expats, who have oftentimes married prior to their relocation to the United Arab Emirates, would never be covered by the civil family law regime.

17 Article 4, 5 Procedural Regulations.
novelty and signals a transition from religion to citizenship as the main connecting factor and marker of identity.

The introduction of Law No. 14 of 2021 was accompanied by the establishment of what is now called the Civil Family Court (previously: Non-Muslim Family Court). The Civil Family Court is staffed with a single judge who may be non-Muslim, and all court proceedings can be held in either Arabic and English.\(^\text{18}\) With the introduction of the Procedural Regulations, the option of family law arbitration was introduced and holds the potential to significantly alter family law procedure. Spouses may jointly agree on arbitration and may appoint single arbitrator or panel of arbitrators. The procedural details are governed by the federal arbitration law.\(^\text{19}\)

### 3.2 Marriage

Civil marriage is the cornerstone of the new family law regime and, following the amendments of Law No. 14 of 2021, has given the law its new name. This illustrates the significance of introducing a marriage regime that is not governed by religious or religiously inspired norms both in the United Arab Emirates and Arab-Muslim jurisdictions more generally. Marriage under Law No. 14 of 2021 is now performed, recorded, and recognized by a government official and without any reference to a religious set of rules. It has become attractive not only for foreign residents in the country, but also foreigners residing elsewhere, including many Muslims who now choose Abu Dhabi over previously popular wedding destinations for interfaith marriages, such as Cyprus. This is because over the course of 2022, the Abu Dhabi Judicial Department (hereinafter: ADJD) further extended the scope of application of the new rules on civil marriage and made it available to everyone except Muslim Emirati citizens who will still have to get married under the Federal Code of Personal Status.\(^\text{20}\)

Between January and August 2022, over 2200 civil marriages had been performed under the new law. One notable case includes that of a recent Afghan refugee stranded in the United Arab Emirates who, in May 2022, married his Canadian Afghan fiancée under the marriage regime while awaiting his resettlement to the United States.\(^\text{21}\) In addition, examples of Arab Muslims

\(^\text{18}\) Article 6 Procedural Regulations.
\(^\text{19}\) Article 55 Procedural Regulations.
having chosen to conclude a civil marriage in Abu Dhabi, as opposed to a religious union in their home country, include male citizens of Saudi Arabia and Kuwait, who married their foreign spouses under the new civil family law. To ease the recognition of such a marriage in countries that only recognize religious marriage for their Muslim citizens, the marriage certificate specifically requires the signature of two males, the ADJD section head and the registrar, who thereby serve as de facto witnesses to the marriage as required in most Islamically inspired family law systems.

Key aspects of marriage under the new law are the lack of a marriage guardian to represent the wife and the prohibition against a polygamous union. Given the civil nature of marriage under the new law, religious differences are disregarded and do not constitute marriage impediments. Accordingly, a Muslim female may marry a non-Muslim male and Muslim men are not restricted to marrying women of an Abrahamic religion. In addition, Article 4 of Law No. 14 of 2021 requires that both spouses are at least 18 years of age (which corresponds to the rules in the Federal Code of Personal Status). Article 5 of Law No. 14 of 2021 as well as Articles 7–9 of the Procedural Regulations further detail the marriage procedures. According to those provisions, marriages can be concluded in person before a judge at the newly established Civil Family Court or in a virtual session via video conference call.

### Divorce

The principal idea underlying the rules on divorce in the new civil family law is that the dissolution of the marriage should be an easily accessible legal process that does not necessarily require legal counsel and provides equal access to divorce for both husband and wife as stated explicitly in Article 11 of the Procedural Regulations.

The divorce envisioned under Article 6–7 of Law No. 14 of 2021 and Article 12 of the Procedural Regulations is a unilateral, no-fault divorce that will usually be pronounced in a single court session. Either spouse may apply for divorce without having to state reasons for the marital breakdown. There will be no mandatory attempt at reconciliation as is the case under the Federal Code of Personal Status. As the court will not investigate who is (primarily) responsible for the divorce, it will typically grant a divorce within the first session; the

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22 Article 8 (5) Procedural Regulations.
23 Article 9 (3) Procedural Regulations.
24 Article 7 (2) Law No. 14 of 2021; Article 39 Procedural Regulations.
entire process (from approval of divorce application to final judicial decree) is envisioned to take no longer than thirty days.\textsuperscript{25}

This extremely liberal approach to divorce deliberately stands in contrast to the restricted access women in particular have to divorce under the Federal Code of Personal Status.\textsuperscript{26} The rules also differ considerably from other religiously inspired divorce regimes in the region. Among the more notable divorce judgments in the first year after the new law’s introduction is the dissolution of a marriage between two Lebanese Maronite Christians who would not have been able to obtain a divorce in their home country.\textsuperscript{27} In this case, the wife filed for divorce before the newly established court while the husband challenged the court’s jurisdiction and claimed that the divorce should be decided according to the applicable Lebanese religious laws. The court ultimately turned down the husband’s request and dissolved the marriage.\textsuperscript{28}

Spouses can amicably agree on the financial aspects of their divorce. Should they not be able to reach such an amicable settlement, the court will decide on the financial consequences of the divorce in a separate court proceeding. Among these financial consequences of divorce — according to the new civil family law — are recurring alimony payments, one-time compensation, and child support. Post-divorce alimony, however, is available only to the divorced wife.\textsuperscript{29} This rule stands in contrast to the general principle of equality between men and women in rights and obligations as specified by Article 16 of Law No. 14 of 2021.\textsuperscript{30} Similarly, available to the divorced wife only is housing support, particularly if she assumes custody for any mutual children.\textsuperscript{31} The court may, however, exempt the father from the duty to provide housing if the mother has sufficient financial means of her own.\textsuperscript{32}

\textsuperscript{25} Article 14 (1) Procedural Regulations.


\textsuperscript{27} Abu Dhabi Court for Non-Muslims judgment of 21 July 2022 (on file with author).

\textsuperscript{28} This does not imply however that such a civil divorce will be recognized in the wife’s home jurisdictions.

\textsuperscript{29} Article 8 Law No. 14 of 2021, Articles 18, 21–22 Procedural Regulations.

\textsuperscript{30} The provision specifies that the equality of men and women shall be observed in implementing the law, specifically in matters of testimony, estate distribution, right to divorce, and joint custody. The provision does not explicitly require gender equality as regards the financial consequences of divorce.

\textsuperscript{31} Articles 19–20 Procedural Regulations.

\textsuperscript{32} Article 19 (2) Procedural Regulations.
A financial right available to both spouses is compensation awarded in the form of a lump-sum payment.\textsuperscript{33} Despite the divorce itself being granted regardless of fault or responsibility for the marital breakdown, the court may consider such factors in determining post-divorce payments.\textsuperscript{34} This is particularly the case in the award of compensation, which will be calculated at the discretion of the courts taking into consideration factors such as the duration of the marriage, contribution to the failure of the marital relationship, moral or material damage, the number of children born into the marriage, and the financial capabilities of both spouses.\textsuperscript{35} While these factors apply regardless of gender, some considerations are only valid if the wife requests post-divorce compensation. These include her contribution to her husband’s wealth, whether she sacrificed her own career to care for their children, and the standard of living she was accustomed to during their marital life. Finally, an aspect closely connected to the divorce is the rules on custody according to the new civil family law.

3.4 Child Custody
In accordance with Islamic law, parental care under the Federal Code of Personal Status is divided into physical custody (ḥaḍāna) and guardianship (wilāya), with the latter almost always being awarded to the father and the former being subject to the age and gender of the child.\textsuperscript{36} In contrast, the default arrangement under the new civil family law regime is joint custody.\textsuperscript{37} The civil family law recognizes different schemes to divide custody, e.g., weekly, bi-weekly, monthly,\textsuperscript{38} and specifically designates the best interests of the child as the guiding principle in all decisions regarding custody.\textsuperscript{39} The child’s best interests is designated the ‘primary concern’ in exercising custody,\textsuperscript{40} and it takes precedence in court decisions regarding an amendment of the default custody arrangement.\textsuperscript{41} Further, given the civil nature of the new family law regime, religious affiliation no longer constitutes a deciding factor in awarding custody, as is the case under the Federal Code of Personal Status.\textsuperscript{42}

\textsuperscript{33} Articles 16–17 Procedural Regulations.
\textsuperscript{34} Article 15 Procedural Regulations.
\textsuperscript{35} Article 16 Procedural Regulations.
\textsuperscript{36} Cf. Möller, \textit{supra} note 27 at 100–101.
\textsuperscript{37} Article 9 Law No. 14 of 2021.
\textsuperscript{38} Article 28 Procedural Regulations.
\textsuperscript{39} Article 2 (5) Law No. 14 of 2021.
\textsuperscript{40} Article 25 (2) Procedural Regulations.
\textsuperscript{41} Article 34 Procedural Regulations.
\textsuperscript{42} Cf. Möller, \textit{supra} note 27 at 101–102.
The importance of the child's best interests as a guiding principle in child custody is also reflected in the fact that children sixteen and above may decide for themselves who they wish to permanently reside with.\textsuperscript{43} Children aged twelve and above can be heard in court proceedings when determining custody arrangements.\textsuperscript{44} This contrasts with the federal family law regime which, until now, has not recognized a child's right to be heard in custody proceedings. In fact, both the Explanatory Memorandum to the Federal Code of Personal Status and the Abu Dhabi Court of Cassation have denied such a right, arguing that children do not have the mental capacity to appreciate the far-reaching consequences of their decision.\textsuperscript{45}

In case of a dispute, either parent may file for sole custody under Law No. 14 of 2021,\textsuperscript{46} and both mother and father can apply for a travel ban to prohibit the other parent from traveling outside the country with the child.\textsuperscript{47} In general, any travel with the child under joint custody requires either the consent of the other parent or a court order.\textsuperscript{48} These latter two rules are particularly important given the large expatriate population to whom the new laws primarily apply and the fact that in such transnational families, children are at a greater risk of parental abduction into a different jurisdiction.

Finally, and again in contrast to the above-mentioned general rule on a gender equal application of the civil family law, the new rules place the financial responsibility of child support entirely on the father.\textsuperscript{49} The mother is in no way obliged to spend on her child's education, residence fees, medical treatment, or other daily or periodic expenses. Should she assume financial responsibility however, and should the father not fulfil his financial obligation, the newly established court has considered this an indication of the father being an unfit custodian and has awarded sole custody to the mother.\textsuperscript{50}
3.5 Inheritance

The last aspect of personal status covered under Law No. 14 of 2021 is inheritance.\textsuperscript{51} Key elements of the new rules on testate and intestate succession are the establishment of a special register for the deposition of wills drawn up under the new law,\textsuperscript{52} fixed shares that demonstrate a clear preference for the nuclear family, and recognizing only spouses, children, parents, and siblings as potential heirs.\textsuperscript{53} Additionally, the new rules provide that if the deceased dies intestate, any heir may request the application of a foreign set of laws designated through the rules on private international law.\textsuperscript{54}

The most notable feature of these new rules on inheritance are the apportionments the new law establishes for intestate succession. Henceforth, if a person dies intestate, half of his or her estate will go to the surviving spouse and the other will be divided among the deceased's children on equal basis, without any difference between sons and daughters.\textsuperscript{55} In the absence of any surviving children, the second half of the estate will go to the parents or, should they be predeceased, to the siblings of the deceased, again without any difference based on gender. The rules differ considerably from those stipulated in the Federal Code of Personal Status in which quotas are still largely based on traditional Islamic jurisprudence. Should Muslim who are subject to the new civil family law regime prefer to divide their assets according to Islamic quotas, they will therefore have to draw up and register a will to this effect.

4 Law No. 41 of 2022

As mentioned before, the federal civil family law is clearly modelled after Abu Dhabi's local legislation. In many instances, its articles are a verbatim adoption of those already contained in Law No. 14 of 2021. For this reason, the following remarks will highlight only those provisions of the federal law that notably differ from Abu Dhabi's model statute.\textsuperscript{56}

\textsuperscript{51} Intestate succession and wills are regulated only in Law No. 14 of 2021, the Procedural Regulations do not yet contain additional provisions on the subject matter.

\textsuperscript{52} Article 13 Law No. 14 of 2021.

\textsuperscript{53} Article 11 (2) Law No. 14 of 2021.

\textsuperscript{54} Article 11 (3) Law No. 14 of 2021.

\textsuperscript{55} Article 11 (2) Law No. 14 of 2021.

\textsuperscript{56} It should also be noted that the order of chapters and articles is slightly different in Law No. 41 of 2022. Chapter 1 (Articles 1–4) covers general provisions on, e.g., the scope of application and the gender equal application of the law, marriage is covered in Chapter 2 (Articles 5–6), divorce is covered in Chapter 3 (Articles 7–9), child custody is covered in Chapter 4 (Article 10), Inheritance and Wills are covered in Chapter 5 (Articles 11–13),
One of the most important differences of Law No. 41 of 2022 is personal jurisdiction. The law only applies to non-Muslim citizens and foreigners, thereby referring exclusively to a person’s religious affiliation. Muslim citizens of ‘non-Muslim’ countries are not covered by the civil family law outside of Abu Dhabi.

According to the same article, and in contrast to Abu Dhabi’s civil family law regime, Law No. 41 of 2022 also allows foreigners to unilaterally request the application of the laws of their home country without prejudice to the conflict of law rules as contained in the country’s Civil Code. Furthermore, Article 1 also makes it possible to instead opt into the Islamically-inspired Federal Code of Personal Status of 2005 by mutual agreement of the parties involved.

Secondly, spouses must be 21 years of age to conclude a civil marriage under Law No. 41 of 2022. It is unclear why the federal legislator chose to raise the minimum age of marriage for civil marriage, given that under both the Federal Code of Personal Status of 2005 and Abu Dhabi’s Law No. 14 of 2021, a marriage can be concluded at eighteen. Moreover, Law No. 41 of 2022 does not preclude a polygamous civil marriage to be concluded altogether. Instead, a husband must only submit a proof of divorce if his home jurisdiction does not recognize polygamy. If he is a citizen of a country that allows polygamy, he must only disclose any existing marriage. The prospective wife, in contrast, must always declare that no other marriage is in effect, regardless of her home jurisdiction.

While in Abu Dhabi, a wife’s right to alimony will only terminate if she remarries, Law No. 41 of 2022 only recognizes post-divorce alimony for the custodial mother. If a divorced wife loses custody, her claim to alimony also lapses.

As regards paternity, Law No. 41 of 2022 specifically refers to the possibility of a court-ordered DNA test. Very much in line with the Federal Code of Personal Status of 2005, Article 14 (2) makes such a test conditional upon the child being of unknown filiation (majhūl al-nasab) so that a DNA test can never

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57 Article 1 (1) Law No. 41 of 2022.
58 Article 1 (2) Law No. 41 of 2022.
59 Article 5 (1) Law No. 41 of 2022.
60 Article 6 (3) Law No. 41 of 2022.
61 Article 9 (9) Law No. 41 of 2022.
62 Article 14 (2) Law No. 41 of 2022.
overrule paternity established by marriage.\textsuperscript{63} The same article also opens up the possibility of adoption (referred to by the Arabic ‘\textit{tabanni}’) to be introduced by cabinet decision.\textsuperscript{64} Introducing full adoption of orphans and children without permanent caretakers would be a groundbreaking novelty in the United Arab Emirates where, given its prohibition in Islamic law, adoption is not yet possible.\textsuperscript{65}

5 Conclusion and Outlook

The introduction of Law No. 14 of 2021 has brought profound changes to family law and, one must add, not only in the United Arab Emirates, but also in broader regional comparison. Whereas legal concepts such as civil marriage and no-fault divorce have been discussed and debated in other Arab-Muslim countries for years, in Abu Dhabi the introduction of such far-reaching reforms happened almost overnight and was not accompanied by significant public debates (\textit{e.g.}, the change of the weekend from Friday-Saturday to Saturday-Sunday shortly thereafter probably received broader attention). This is partially because the new civil family law does not apply to the local Muslim population. Nonetheless, the law’s rules on personal jurisdiction, as detailed above, do result in a significant number of Muslim foreigners, at least in Abu Dhabi, now being subject to the new family law regime.

With the passing of Law No. 41 of 2022 roughly a year later, the new legal developments have also been extended to the federal level. However, the new civil family laws, particularly their different scopes of application, demonstrate an incomplete change of paradigm. It is still unclear what the main marker of identity and therefore distinction in legal matters is in the pluralistic, multinational, and multireligious society of the United Arab Emirates. The laws oscillate between citizenship and religious affiliation, and Abu Dhabi has redefined ‘Muslims’ as those hailing from a Muslim jurisdiction. This, again, is remarkable given that the region has a long history of family law clearly divided along religious and confessional lines only. What is also notable is that


\textsuperscript{64} Article 14 (3) Law No. 41 of 2022. In Abu Dhabi too, an adoption law, which would supplement Law No. 14 of 2021, has been drafted, but not passed yet.

\textsuperscript{65} Cf. Möller, \textit{supra} note 63, pp. 356–358.
despite religious affiliation still being recorded for residency purposes (without the option to not provide any religious affiliation), and faith thus being a publicly known factor of group affiliation in the country, it is not being used as a criterion to designate the applicable family law in the largest of the seven emirates.

In addition, the fact that in Abu Dhabi, civil marriage has been opened to all foreigners regardless of religious affiliation will further shake up the region's family law practice. Many Arab Muslims have now decided to marry under the new civil family law regime, despite the potential difficulties they may encounter in the recognition of such a union in their home country (particularly in instances in which religious marriage impediments are disregarded). Similarly, non-Muslim Arab foreigners have made use of the civil family law to obtain a divorce which they could not apply for under the religiously inspired laws of their home country, as the divorce judgment of a Lebanese Christian couple cited above indicates. The new civil family law will thereby also have considerable implications for cross-border recognition of personal status matters among Arab countries that have traditionally encouraged judicial cooperation.

Finally, given the popularity of the new civil family law, particularly when it comes to marriage as numbers indicate, one may wonder whether a further extension of the scope of application is possible. Given the speed with which the United Arab Emirates have introduced and promoted the new civil family law, one may even contemplate a ‘secular’ family law regime which national citizens too may opt into, and which complements the religious system.