Qatar: A Hybrid of Legal Traditions

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Over the past several years, Qatar has sought to distinguish itself in the legal sphere. Domestically, it has been engaged in a wide-ranging legal reform process, motivated in part by the Qatari Government’s desire to further develop Qatar’s reputation as a regional centre for investment and dispute settlement. The Minister of State for Council of Ministers Affairs has described this as “a major government restructuring initiative, both from an institutional and legal perspective”.

On the regional and international level, in May 2009 Qatar hosted the world’s first global law forum, an unprecedented gathering of the world’s most eminent legal figures under the banner of a shared “Global Commitment to the Rule of Law”.

Domestic legal reforms in 2007 saw the creation of a Constitutional Court within the Court of Cassation (the court of final appeal), with jurisdiction over matters involving the constitutionality of laws and the decisions of the lower courts. An Administrative Court, established within the Courts of First Instance, Appeal, and Cassation, was also created in 2007, with exclusive jurisdiction over administrative disputes within Government entities.

These reforms were followed in 2009 by the establishment of the Qatar Financial Centre’s (QFC) Civil and Commercial Court and the Regulatory Tribunal on 17th February 2009 by Law No. (2) of 2009 amending certain provisions of Qatar Financial Centre Law No. (7) of 2005 (the “QFC Amending Law”). Articles 8(3) and 8(2) established the Court and the Tribunal respectively.

The QFC’s new twin judicial bodies are intended to serve two broad purposes. Firstly, to increase confidence in the QFC by having both an independent court and appeals process to adjudicate on matters and review judgments. Secondly, to aid in Qatar’s development as a regional economic and financial hub by providing an internationally respected dispute resolution system in the Gulf. Presently, many contractual disputes in the region, particularly in the commercial sphere,

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are adjudicated in courts in London and New York. With a comparable system in Qatar, parties in the region will now have the option of adjudication locally.

1 QATAR’S INTERNATIONAL JUDICIARY

The development of the Court and the Tribunal was a two year process, headed by Lord Woolf, former Lord Chief Justice of England and Wales, and pioneer of legal mediation, and Sir William Blair, serving High Court judge in England and Wales, and expert in Islamic finance. Modelled in large part on the Commercial Court and the Financial Services and Markets Tribunal in London, and drawing inspiration from the Delaware courts (known internationally for their efficiency), a priority was placed on judicial independence, both actual and perceived. The composition of the bodies reflects this goal as their members are all senior jurists and lawyers from jurisdictions recognised as having traditions of genuine judicial independence.2 In this vein, Law No. (2) of 2009 provides that both bodies have the same “financial and administrative independence” from the State and other QFC bodies as enjoyed by the QFC Regulatory Authority. In performing their duties, judges of both the Court and Tribunal are expressly given “legal independence”.

The Court has two circuits: First Instance, and Appellate, each of which consist of three judges.

The jurisdiction of the First Instance Circuit covers civil and commercial disputes involving the QFC (for example, disputes between the QFC and its employees, and disputes between different entities within the QFC). In the absence of a contrary agreement between the parties that identifies a different legal jurisdiction or dispute resolution mechanism, the Court also has jurisdiction over any civil and commercial disputes involving a QFC licensed body, regardless of whether or not the other party to the dispute belongs to the QFC.

Specifically, the First Instance Circuit will hear civil and commercial disputes that arise:

a. from transactions, contracts, arrangements or “incidences” taking place in or through the QFC between entities established in the QFC.

2 QFC Civil and Commercial Court members:
President of the Court Lord Woolf
Justice Aziz Mushabber Ahmadi
Justice Lord Cullen of Whitekirk KT
Justice Barbara Dohmann Q.C.
Justice Sir Peter Gibson
Justice Sir Philip Otton
Justice Ronald Sackville A.O., Q.C.
Registrar Michael McKenzie C.B., Q.C.

QFC Regulatory Tribunal members:
Chairman of the Regulatory Tribunal Sir William Blair
Michael Thomas Q.C.
Professor Francois Gianviti