

A sustainable future: legal perspectives on climate change and the environment in the United Arab Emirates

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The UAE Centennial 2071 project is the national strategy that has been put in place for the next 50 years and that will enhance the country's reputation, and drive it to become one of the best countries in the world by 2071. Core to this strategy is the commitment of the government to observing international and regional commitments to the climate change agenda, and promoting investment in projects that are built on solid sustainability principles, in order to achieve a better quality of life for its citizens.

The UAE has adopted many of the long-term sustainability plans developed by the United Nations Sustainable Development Goals' initiatives, including:

- no poverty;
- zero hunger;
- good health and well-being;
- quality education;
- gender education;
- clean water and sanitation;
- affordable and clean energy;
- decent work and economic growth;
- industry, innovation and infrastructure growth;
- reduced inequalities;
- sustainable cities and communities;
- responsible consumption and production;
- climate action;
- life below water;
- life on land;
- peace, justice and strong institutions; and
- partnership for the goals.

(as monitored by the Federal Competitiveness and Statistics Authority)

Climate change

Climate change and the security of core assets required to enable the country to function independently, is a key concern for the UAE government. Geographical considerations, increasing temperatures, changes in weather patterns, and lack of rain create a harsh environment in which to support a successful economy, build and maintain essential utilities infrastructure, allow people to live and work, to grow food and maintain adequate water supplies. Environmental experts believe these issues, if not addressed urgently, could cause critical security of supply issues in the near future. We are already witnessing the government taking greater responsibility for critical infrastructure assets, such as, water supply, seawater desalination facilities, food production, and more investment in clean energy projects.

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Clean energy

The UAE’s Energy Strategy 2050 seeks to convert the country to clean energy sources by the year 2050, with the following targets: Clean energy 44 per cent, Gas 38 per cent, Clean coal 12 per cent and Nuclear energy six per cent.

There are however, significant challenges ahead to improve the UAE’s current global rankings in relation to air pollution and unsustainable groundwater extraction. A recent study by the UN SDSN Global Index indicated the UAE’s level of freshwater withdrawal from renewable water resources was at 2346.5 per cent as opposed to a global average of 65.4 per cent. Air pollution ranks amongst the highest in the world according to the Environmental Performance Index prepared by Yale University. The UAE ranks as fourth globally in exposure to particulate matter (2.5), which stem from highly dangerous, carcinogenic materials from fossil fuels. The UAE has put in place emissions’ targets that are comparable to international standards. What is needed, is more assistance (financial, knowledge, and technical) to support industrial operators with compliance, and to put the infrastructure in place to enable the targets to be met

Sustainable infrastructure assets

A number of steps are being taken aimed at achieving sustainable infrastructure assets. In order to reduce its carbon footprint, the UAE monitors the emission of gases arising from industrial activities and that contribute to the greenhouse effect, and as a result, has reduced its carbon emissions significantly in recent years. The Abu Dhabi National Oil Company has committed to reducing flaring of natural gas. Developers of commercial buildings and domestic housing stock, are required to comply with green building codes.

Measures that will improve sustainability and tackle environmental challenges aimed directly at population behavior, and enabling change at a cultural level include: taxation on higher polluting cars; greater emphasis on electric powered cars; and the prohibition of single use plastic items such as bags, cutlery, bottles and cups. It is important for those who believe in the importance of the environment to the economy to participate in activities that benefit everyone.

Legislative change

The UAE was one of the first countries in the Middle East to introduce environmental protection legislation, demonstrating the vision and leadership of H.H. Sheikh Zayed bin Sultan Al Nahyan, President of the UAE, and fondly remembered as the ‘father of the nation’. Sheikh Zayed, introduced the Federal Law No. 24 of 1999 on the Protection and Development of the Environment, having recognised that the protection of the environment was, and in the future would be, of critical importance to the success of the country and its economy. This law placed protections upon biodiversity, land and marine areas, and required any person or company that intended to carry out any activity that might cause any harm to the environment to obtain a permit from the environmental regulator – The Ministry of Climate Change and Environment

(‘MOCCAÉ’). Since then, secondary regulation has been promulgated to control various environmental risks, and the responsibility for environmental controls and protection extended to other governmental stakeholders, creating a collective responsibility on government departments to consider the environmental risks and benefits of many economic and industrial activities and projects. That being said, given the pace of change at international and national level in terms of the overall strategy and policy agenda, there is much to be done to develop new legislation that supports the strategy and enables the economy, business and the community to thrive.

Legislative change typically starts by benchmarking existing legislation against the laws of other countries that have led the way on the environmental and sustainability agenda. Singapore is a good example of a jurisdiction that is often benchmarked by the UAE government as representative of the type of success which could be replicated and thereafter improved upon in the UAE, by introducing measures which ensure all citizens enjoy clean air, water and sanitation, quality healthcare and education, as well as lush greenery and safe common spaces. The creation of a garden city with rooftop gardens and green walls has made a difference as Singapore has become one of the most carbon efficient countries in the world. Vertical food zones and investment in agriculture have been important in shaping success in relation to many of the goals which the UAE also strives to achieve.

In the United Kingdom, the government has outlined a ten-point plan which includes a number of objectives including the greater use of nuclear power, increased production of low carbon hydrogen public transport, offshore wind power investment and 30,000 hectares of trees to be planted every year, as part of nature conservation efforts. The UAE is committed to similar goals, having brought its first nuclear power plant to operational level in August 2021, and having completed significant renewable energy projects, largely in solar energy projects, and is now also examining greater use of waste-to-energy and wind projects.

Investing in a sustainable future

The role played by financiers in assisting the government to achieve environmental goals should also not be underestimated. Whether funding comes from sovereign wealth sources, investors, or banks, there should be an increased focus on borrowers meeting certain environmental criteria before a project is approved for investment. European banks have already taken this type of approach in relation to the European Principles for the Environment. Many international institutions insist upon adherence to the Equator Principles when providing project finance.

‘Responsible investing’ is the trending investment strategy adopted by many key investors seeking to account for both financial returns and social/environmental good in their investment decisions. This new investment approach acknowledges the relevance to the investor of environmental, social and governance (‘ESG’) factors, and of the long-term health and stability of the market as a whole. Many investors have started to integrate ESG factors into their investment portfolios and investment decisions when assessing a potential investment in a company. There is a noticeable confidence that ESG analysis can provide valuable insights about factors having a significant impact on the financial metrics of a company and therefore better inform investment decisions and financial performance. ESG is increasingly important for investors in public companies and so, to win the battle for capital, public companies must respond by improving their ESG credentials and mind-set and correspondingly inform the market. ESG is also a major pillar of public policy and strategic planning for governments and, on the global platform, is a part of the United Nations Sustainable Development Goals.

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Conclusion

Having set a clear strategy, policy agenda and goals, new regulation in relation to the environment and climate change for the UAE must take into consideration the concerns and interests of all stakeholders, including government, business, and the population. The correct balance of law coupled with investment will ensure that the UAE government can regulate effectively and continue to encourage trade and tourism whilst protecting the natural environment. Close and effective cooperation with the international community and regional neighbours will also be of critical importance to ensuring a unified and consistent approach to effective regulation, and to support a happy and cohesive society.

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