

“The Christian (Gregorian) Calendar and the Islamic (Hijri) Calendar in the UAE Legislations and the Possibility of Unifying them”

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Abstract

Islam pays great attention to time, according to which the individual calculates his date of birth, age, and all dates related to his life, and on the basis of it, States calculate the date of their inception, the date of their independence, and other important events. In view of the importance of time in determining the timings upon which many of the shari'a rulings are based and to clarify the verses of Allah the Almighty in this universe, Allah has sworn in its parts in the Quran at the beginnings of several surahs.

Time, in this sense, is the criterion on which the calendar is based, and upon which the time of enactment and enforcement of legislations in the State is determined as well as the periods and durations are calculated. In this article, we will discuss the issue of the Christian (Gregorian) calendar and the Islamic (Hijri) calendar in the United Arab Emirates legislations and investigate the possibility of unifying them or dispensing with one of them and being satisfied with only one calendar, especially since most of the UAE legislations, federal and local, have adopted the Christian (Gregorian) calendar as a basis for calculating the periods and durations.

Keywords: time, Gregorian calendar, Hijri calendar, UAE legislations, unification.

المخلص

يولي الإسلام اهتمامًا كبيرًا بالوقت، حيث يحسب الفرد بموجبه تاريخ ميلاده وعمره وجميع التواريخ المتعلقة بحياته، وبناءً عليه، تحسب الدول تاريخ نشأتها وتاريخ استقلالها، وأحداث مهمة أخرى. نظرًا لأهمية الوقت في تحديد الأوقات التي تستند إليها العديد من الأحكام الشرعية وتوضيح آيات الله تعالى في هذا الكون، فقد أقسم الله تعالى في أجزاءه في القرآن في أول عدة سور.

الوقت، بهذا المعنى، هو المعيار الذي يستند إليه التقويم، والذي يُحدد على أساسه وقت سن التشريعات وإنفاذها في الدولة، كما تُحسب المدد والمدد. في هذا المقال سنناقش موضوع التقويم المسيحي (الميلادي) والتقويم الإسلامي (الهجري) في تشريعات دولة الإمارات العربية المتحدة ونبحث في إمكانية توحيدهما أو الاستغناء عن أحدهما والرضا بتقويم واحد فقط، خاصة وأن معظم التشريعات الإماراتية، الاتحادية والمحلية، اعتمدت التقويم المسيحي (الميلادي) كأساس لحساب الفترات والمدد. **الكلمات المفتاحية:** الوقت، التقويم الميلادي، التقويم الهجري، التشريعات الإماراتية، التوحيد.

Introduction

The Creator, Allah the Almighty, has deposited in the celestial bodies of this universe a power that moves them with perfection, and this is what we notice from the apparent movements of them, especially the movements of the sun and the moon, which Allah the Almighty made among the signs on which the calculation of time depends, as He says in the Quran: "It is He who made the sun a shining light and the moon as a light and measured out for it stages that you might know the number of years and the reckoning"². In this noble verse, there is a reference to the use of both the sun and the moon in measuring time, as their apparent movements result in the passage of time and timing, which forms the pillar of the calendar that nations and civilizations have adopted and are still adopting to date their events³.

However, there is a difference between time and timing; Time means the amount of timing, and idiomatically means specifying the time of the action, beginning and ending whilst timing means the times specified by Allah for the performance of acts of worship which have a specific time in which the action begins⁴. As for timing, it is a noun for a little time and a lot, and jurists and thinkers linked it with movement and change in things⁵. Thus, without movement and change there is no time, which means that there must be events or changes that lead to fluctuations or movements with which time is associated⁶.

Time has been of interest to scientists and philosophers since ancient times. The Greek philosopher Plato believes that time is created with the celestial bodies and their movements, and that this moving world has past, present and future time⁷. Aristotle, from his side, classified time as one of the ten categories that constitute the most general types of existence, namely: time, essence, quantity, quality, place, addition, situation, state, action, and emotion⁸.

The German philosopher George Hegel believes that time carries with it the future, which is the result of the past and emanates from it, as well as the present, which is its most important moment⁹.

Whatever the case, the passage of time generates the feeling of individuals and countries in a moving clock chain of life cycles, whether in the lifetime of individuals or countries, which requires the adoption of an accurate calendar that adjusts this series and determines its dates and timings¹⁰. The calendar, in this concern, means calculating the years, months and days, and it is known in every ancient civilization.

In this article, we will discuss the issue of the Christian (Gregorian) calendar and the Islamic (Hijri) calendar in the UAE legislations and the extent to which it is possible to unify these two calendars, adopt one of them, or keep both.

Research Plan and Methodology

This article has been divided into an introductory section and three main sections: the introductory section discusses the concept of time and its importance in calculating the calendar; the first section discusses the concept of the Gregorian calendar and its applications in UAE legislations; the second section discusses the concept of the Hijri

² The Holy Quran, Surat Yunus (10), verse 5.

³ Hassan bin Muhammad Basra, the Hijri Solar Calendar, Judhur Magazine, Volume 11, Part 25, Dhu al-Qi' dah 1428 AH - December 2007, p.294.

⁴ Ahmed bin Muhammad bin Ali Al-Maqri, Al-Misbah Al-Munir, Part 2, the Scientific Library for Publishing, Beirut, 1998, p.256; Abu Al-Baqaa Ayyub bin Musa Al-Kafawi, Al-Kuliyat: A Dictionary of Terminology and Linguistic Nuances, 2nd Edition, Al-Risala Foundation, Beirut, 1998, p.945.

⁵ Jamal al-Din bin Muhammad bin Makram bin Mandhoor, Lisan al-Arab, Volume 3, 2nd Edition, Dar al-Kutub al-Ilmiyyah, Beirut, 2003, p.199; Majd al-Din Muhammad bin Yaqoub al-Fayrouzabadi, Al-Qamoos al-Muheet, Part 4, Edition 8, Al-Risala Foundation, Beirut, 2005, p.1203.

⁶ Husam al-Din al-Alusi, Time in Ancient Religious and Philosophical Thought, the Arab Institute for Studies and Publishing, Beirut, 2005, p.165.

⁷ Ibid, p.103.

⁸ Yumna Tarif Al-Khouli, Time in Philosophy and Science, Hindawi Foundation for Education and Culture, Cairo, 2012, p.11 & p.65.

⁹ Abd Al-Rahman Badawi, Existential Time, Dar al-Thaqafa, Beirut, 2015, p.20.

¹⁰ Bahija Idlibi, Time is the Message of the Being to Itself, Dar Abdel Moneim Publishers, Aleppo, 2005, p.6.

calendar and its applications in UAE legislations, and the third section discusses the possibility of unifying the Gregorian and Hijri calendars in one calendar. The major findings and recommendations are stated at the end of the article. In this study, we followed the descriptive and analytical approaches, as well as the inductive approach, through which we studied the legislative texts and judicial rulings in-depth and linked their parts in order to reach the desired results.

Introductory Section: The Concept of Timing and its Importance in Calculating the Calendar

The importance of timing is evident in the Holy Qur'an, where Allah the Almighty swears by its parts in many verses. He swore by the afternoon, by the night, by the day, by the dawn, by the forenoon and by the twilight. In the Sunna, It was narrated that the Prophet (PBUH) said, "The feet of a human will not move on the Day of Resurrection until he is asked about four things: about his life and how he spent it, about his youth and what he did with it, about his money from where he acquired it and on what he spent it, and about his knowledge and what he did with it"¹¹. This means that the human will be asked two questions about timing on the Day of Resurrection.

Muslim imams and jurists distinguished between time and timing. One of them said that timing is the passage of time or the period in which the goal is achieved¹². Another said that timing is used to denote long periods while time is used to designate short periods¹³. A third said that timing is the set of successive days, and it is the measure of the changes that occur in nature¹⁴. Some imams also distinguished between timing and era, such as Imam al-Tabari who said that era is the hours of the night and day and that it means the long or short period of it, and that timing is the era from its beginning to its end¹⁵.

In any case, we can say that timing is the measure of recording the facts, events and variables of human life, and we base this on what Dr. Safwat Kamal says: "The concept of timing has been linked in human perception since the early stages of human life to the world of variables that surrounds and coexists with him. Everything around him is constantly changing: the world of the sky with all its planets, the moon, the sun rising and setting, winds, clouds, lightning, thunder and rain in a recurring cycle of life"¹⁶.

Hence, time is linked to the present and the future. This is because a man has the purpose of his existence on this earth, which is the worship of the Almighty God and the realization of the goal of the caliphate on earth¹⁷.

Based on the foregoing, we conclude that time has a great importance in our life, as through its passage that arises from the succession of night and day, the Creator, may He be exalted, taught us the number of years and the reckoning, and guided us to follow a calendar that sets our times, preserves our dates, and documents our events. Hence, the countries of the world adopt their own calendars that are consistent with their values, civilization, heritage, and legal system, and one country may adopt more than one calendar if the issues that are organized differ, especially those related to the religious aspect, and this is what exists in the United Arab Emirates.

Section One: The Christian (Gregorian) Calendar and its Applications in the UAE Legislations

Under this heading, we will discuss the concept of the Gregorian calendar and its origins, and applications of the Gregorian calendar in UAE legislations, each in a separate requirement, as follows:

Requirement One: The Concept and Origin of the Gregorian Calendar

¹¹ Abu Hajar Muhammad Al-Saeed bin Bassiouni Al-Abyani, the Great Encyclopedia of the Parties to the Noble Prophet's Hadith, Part 27, Dar Al-Kutub Al-Ilmiya, Beirut, 2006, p.460.

¹² Imam Abu Abdullah Badr al-Din al-Zarkashi, Al-Bahr al-Muheet fi Usul al-Fiqh, Part 5, Dar al-Kutbi, Beirut, 1994, p.177.

¹³ Redha Saad, the Concept of Time in Islamic Economics, Publications of the Islamic Research and Training Institute, Jeddah, 2000, p.11.

¹⁴ Safwat Kamal, the Concept of Time between Popular Myths and Traditions: An Ethnological Study, Alam Al-Fikr Magazine, Volume 8, Issue 2, Kuwait, 1977, p.516.

¹⁵ Imam Abu Jaafar Muhammad bin Jarir al-Tabari, History of al-Tabari: History of Nations and Kings, Dar al-Turath, Beirut, 1387 AH, pp.9-10.

¹⁶ Safwat Kamal, Op.Cit, p.516.

¹⁷ Allah the Almighty has said "and (remember) when your Lord said to the angles: Verily, I am going to place (mankind) generations after generations on earth" (Surat Al-Baqarah (1), verse 30).

The Gregorian calendar, or as it is known as the Christian or Western calendar, is the calendar that is used in the Western world and widely adopted in most countries of the world. It is built on the birth date of Jesus Christ and depends on the solar year, which represents the earth's revolution around the sun, a full cycle, which is approximately 365 days¹⁸.

Originally, the Gregorian calendar is due to the Julian calendar, which was based on the old Roman calendar, in which the year began in March, but later there was a modification in this calendar, specifically in the year 153 BC, and the year began in January. In the year 45 BC, Caesar of Rome issued a decree declaring that the approved calendar is the solar calendar, and that the solar year consists of 365 days, and the fourth year of 366 days¹⁹. It starts from January and ends in December.

Later, the Christians of Europe found that their feasts and their dates were linked to the events dated by the Jews who were relying on the lunar calendar, which led to a problem represented in the fact that the feasts that were associated with the Jews were moving while the other feasts were fixed because they were built on the basis of the solar calendar, and hence a special lunar-solar calendar was adopted for their feasts, with which they made Sunday the first day of the week for their worship in the church²⁰.

In the sixteenth century, specifically during the era of Pope Gregory XIII, this calendar, which was called the Julian calendar, was modified, as the leap system was modified to become the system known at the present time. In the year 1582 AD, the Gregorian calendar began to be used in some European countries, such as France, Italy, Spain, and Portugal. After that, Sweden and Germany applied it in the year 1583 AD, and the last European country to adopt it was Greece in 1923 AD²¹.

Thus, due to its regularity and stability, the vast majority of countries in the world adopted the Gregorian calendar because it depends on the solar year that organizes the days in relation to the annual seasons, which is accompanied by a regular and constant change in the climatic seasons, and enables people to know the seasons of holidays, agricultural seasons, and others²².

Requirement Two: Applications of the Gregorian Calendar in the UAE Legislations

Some UAE legislations have adopted the Gregorian calendar as a basis for calculating the legal periods and durations stipulated therein. Given the abundance and diversity of these legislations at the federal and local levels, we will give some examples.

Article 9 of the Federal Civil Transactions Law No.5 of 1985 and its amendments stipulated that "appointments are calculated according to the solar calendar, unless the law stipulates otherwise". In the interpretation of this article, the Explanatory Memorandum of the Civil Transactions Law says: "Muslim jurists differed as to which of the solar or lunar calendars should be adopted, and some of them saw the adoption of the solar calendar and some of them the Hijri calendar, and therefore it was seen to adopt the solar calendar unless the law stipulated otherwise"²³.

We note here that the federal legislator used the term "solar calendar" and not the Gregorian calendar, just as the explanatory memorandum in its explanation of this article mentioned the solar calendar as well.

¹⁸ Muhammad Safwat Nouredine, the Third Millennium, Al-Tawhid Magazine, Issue 11, Year 28, 2000 AD, p.2; Muhammad bin Ahmed bin Omar Al-Shatri, Mandhoumat al-Yawaqit men fan al-Mawaqit, Dar Nadhem, Beirut, 1400 AH, p. 94.

¹⁹ Muhammad Mustafa Al-Adhami, Between the Hijri Calendar and the Gregorian Calendar, Journal of Islamic Solidarity, Volume 27, Part 11, Publications of the Saudi Ministry of Hajj, June 1973, p.740.

²⁰ Abu Al-Rayhan Muhammad bin Ahmad Al-Biruni Al-Khwarizmi, the Remaining Effects of the Empty Centuries, Dar Al-Kutub Al-Ilmiyyah, Beirut, 2019, p.24.

²¹ Muhammad Mustafa Al-Adhami, Op.Cit, p.742.

²² Rana Youssef Khoury, Guide to the Hijri-Gregorian Conversion and the Perpetual Hijri and Gregorian Calendars, Dar Al-Turath Al-Arabi, Beirut, 1999, p.38; Hassan bin Muhammad Basra, Op.Cit, p.296.

²³ The Explanatory Memorandum of the UAE Civil Transactions Law, Published in the Shari'a and Law Journal, the twenty-fifth Year, Issue 45, Part 1, January 2011, p.22.

However, with regard to the age of majority, the lunar calendar was adopted, as the text of Article 85 of the Civil Transactions Law came as follows: “2- A person reaches the age of majority if he completes twenty-one lunar years”. In its explanation of this article, the Explanatory Memorandum said: “If he reaches the age of majority, which is twenty-one full Hijri years, enjoying his mental faculties, he completes discernment, then eligibility”²⁴.

There are two notes here; first we see that the explanatory memorandum used the term "Hijri year" unlike the law which used the term "lunar year", although there is no difference between the lunar year used by the law and the Hijri year used by the memorandum, concerning calculation and number of days, but the unification of terminology is important. Second, the federal legislator adopted the solar or Gregorian calendar as the basis for calculating all periods related to the application of the provisions of the Civil Transactions Law, but the legislator deviated from that in Article 85 and other Articles and adopted the Hijri calendar, and we do not see anything preventing the continued adoption of the solar calendar in these articles, especially since it made the solar calendar the basis for calculating all periods.

Many other laws have adopted the Gregorian calendar such as the Federal Labour Law No.33 of 2021 where Article 67 stipulates that “calculation of the periods and dates provided for in this Law shall be in the Gregorian calendar, and the Gregorian year is 365 days, while the month is 30 days”. This is a praiseworthy matter, and it has a precise and clear definition, especially since the law included specific periods in order to regulate the relationship between workers and employers, as calculating periods and dates according to the Gregorian calendar facilitates the mechanism for calculating salaries, wages, overtime work, leaves of all kinds, end-of-service reward and other matters, due to the fixed number of days in the Gregorian calendar and the possibility of knowing it in advance.

The Penal Law No.3 of 1987 and its amendments also adopted the Gregorian calendar. Article 11 of the Law states “the periods and dates stipulated in this Law shall be calculated according to the solar calendar, unless the law stipulates otherwise”. We note here that the legislator followed the approach of the Civil Transactions Law, so he used the term solar calendar and did not use the term Gregorian calendar, although they are synonymous terms. We also note that the legislator's adoption of the Gregorian calendar makes it possible to accurately determine the periods of penalties because the days and months of the solar calendar are firmly established.

The Regulations for the Federal Civil Procedures Law No.11 of 1992 and its amendments adopted the Gregorian calendar. Article 6/9 of the Regulations provides “the dates specified in the month or year are calculated in the Gregorian calendar, taking into account a month has 30 days and a year has 365 days, unless the law stipulates otherwise”. The Federal Criminal Procedures Law No.35 of 1992 and its amendments adopted the Gregorian calendar, and provides in Article 329 that “the dates and periods set forth in this law shall be calculated according to the Gregorian calendar, unless otherwise stipulated”.

The Federal Law of Endowments (waqf) No. 5 of 2018 adopted the Gregorian calendar, and stipulated in Article 3 that “the Gregorian calendar shall be adopted for the periods stipulated in this law”. We note here that this law has adopted the Gregorian calendar, despite the fact that the endowment is an Islamic system that distinguishes Islamic law from other laws or other legal systems, and it was supposed to be calculated according to the lunar calendar due to its close connection with the religious aspect and life of the Muslim.

We can here say that the Emirati legislator's adoption of the Gregorian calendar for calculating periods and dates in the laws of civil and penal procedures is a praiseworthy matter, since the United Arab Emirates employs people from many countries of the world, and since the calendar approved in most countries of the world is the Gregorian calendar, and since those people may have documents or papers dated with this calendar, this will facilitate litigation procedures for them and contribute to speeding them up and thus achieve justice.

We can add that in their adoption of the Gregorian calendar, these laws follow the steps of the UAE Federal Constitution of 1971, which made the Gregorian calendar the basis for calculating time, such as calculating the term of membership of the Federation President and his deputy, or the age of a member of the Federal National Council (art.52). Here, we must say that Article 7 of the Federal Constitution stipulates that “Islam is the official religion of the federation, and Islamic law is a major source of legislation” which may suggest that the lunar calendar, which is

²⁴ The Explanatory Memorandum of the UAE Civil Transactions Law, Op.Cit, p.62.

the calendar approved by Shari'a and depends on the moon rotation as the basis for calculation, should be adopted. In spite of that, however, the Gregorian calendar is the calendar that has been adopted.

Finally, we refer to one of the rulings of the UAE Supreme Court where it held that: "the dates specified in the month or years are calculated according to the Gregorian calendar, considering that the month is 30 days"²⁵.

Section Two: The Hijri Calendar and its Applications in the UAE Legislations

In this section, we will discuss the concept of the Hijri calendar and its origin, and applications of the Hijri calendar in UAE legislation:

Requirement One: The Concept and Origin of the Hijri Calendar

The Hijri calendar is called the Islamic calendar or the lunar calendar, and it is linked to the rituals of Islam, such as fasting, Hajj, feasts, and zakat. It is also linked to the verses of the Holy Quran, where Allah the Almighty says "and the moon we have measured for it mansions (to traverse) till it turns like the old dried curved date stalk"²⁶, and where He says: "they ask you (O Mohammad) about the crescents. Say: these are signs to mark fixed periods of time for mankind and for the pilgrimage"²⁷.

The lunar calendar had been adopted by the Arabs during the Jahiliyyah, but Arabs did not know the mechanism of calculating the years, as they linked them to the famous events that occurred in their environment²⁸.

When Islam came, Muslims followed the calendar approved in the Jahiliyyah, and this situation continued during the era of the Prophet (PBUH) and the era of the Caliph Abu Bakr²⁹. However, the matter changed during the reign of Caliph Umar, who adopted the Hijri calendar in the Islamic state, meaning that he made the history of the Islamic state start from the year of the Prophet's migration³⁰.

The Hijri calendar depends on the crescents, which Allah made as times for mankind to know and date their events, and it is based on natural phenomena, and therefore this calendar is not subject to modification or change. This, in turn, confirms the amount of accuracy, precision, and constancy attached to this calendar, as it was adopted from the time of Caliph Omar and remained in effect until the present time³¹.

The Hijri calendar consists of twelve lunar months and is nearly equal to 354 days³². As these lunar months are not linked to the seasons that are determined by the solar cycle, the Islamic occasions that always fall in the same month every year may come in different seasons. Thus, Hajj and the month of Ramadan, for example, can come in summer

²⁵ Appeal No.104 of 2022 (Civil Appeal) Issued by the Federal Supreme Court on 3/14/2022, Published on the Emirates Lawyers Website.

²⁶ Sura Yasin (36), verse 39. For more Explanation and Details, See Sheikh Abdul Aziz bin Hameen Al-Hamin, Importance of the Hijri Calendar, Journal of the Ministry of Justice, Kingdom of Saudi Arabia, Volume 1, Issue 3, Rajab 1420 AH - October 1999 AD, p.103; Hassan bin Muhammad Basra, Prayer Times and Sunset Time, Scientific Miracles Journal, Issued by the Muslim World League, Issue 13, Rajab 1423 - September 2002, p. 50; Mufti Abdullah Al-Qalqily, Opening the New Year, Huda Al-Islam Magazine, Ministry of Awqaf, Islamic Affairs and Holy Sites in the Hashemite Kingdom of Jordan, Volume 4, Number 1, Muharram 1379 AH - July 1959, p.2505.

²⁷The Holy Qura, Surat Al-Baqarah (1), verse 189.

²⁸ Group of Scholars, the Hijri History, the Unity of Nation and the March of Civilization, Al-Mudawana Magazine, the Islamic Fiqh Academy in India, Volume 1, Issue 3, Rabi` al-Awwal 1435 AH, p.4; Farouq Hassan, the Hijri and Lunar Calendar, Islamic Awareness Magazine, Issue 344, Rabi` al-Akhir 1415 AH - September 1994, p.38 & p.40.

²⁹ Hussein Jumaa, the Idea of Time in Arabic Studies, Arab Heritage Journal, Issues 86-87, August 2002, p.58; Muhammad bin Ahmed bin Omar Al-Shatri, Op.Cit, p.78; Muhammad Mustafa Al-Adhami, Op.Cit, p.739.

³⁰ Abu Al-Fida Ismail bin Omar bin Katheer, the Beginning and the End, Volume 3, Edited by Ali Shiri, Revival of Arab Heritage, Cairo, 1988, p.251; Sheikh Abu Al-Abbas Ahmed Al-Qalqashandi, Sobh Al-Asha fi Kitab Al-Insha, Part 6, Al-Mataba Al-Amiriyyah, Cairo, 1333 AH, p.241.

³¹ Sheikh al-Islam Taqi al-Din Ahmad bin Taymiyyah, Fatwas Collection, Volume 13 - The Book of Jurisprudence of Zakat, Fasting and Hajj, Obeikan Library, Riyadh, 2020, p.79.

³² For Details on the Meanings of the Names of the Hijri Months, see: Group of Scholars, Op.Cit, p.6; Imam Al-Hafidh Jalal Al-Din Abd Al-Rahman Al-Suyuti, Al-Shamarekh fi Ilm Al-Tarikh, Edited by Anwar Mahmoud Zanati, Ain Shams University Press, Cairo, 2004, p.103 and onwards.

or winter, just as these occasions do not come in the same season except every thirty-three times when the lunar cycle is completed.

Requirement Two: Applications of the Hijri Calendar in the UAE Legislations

Some UAE legislations have adopted the Hijri calendar as a basis for calculating periods, durations and appointments entirely, and some legislations have adopted the Hijri calendar partially. Below are some examples.

The Federal Personal Status Law No.28 of 2005 and its amendments adopts the lunar calendar as the basis for calculating all periods and dates. It states “the lunar calculation is used for the periods mentioned in this law, unless otherwise stipulated” (Art.3). We note here that the federal legislator used the term “lunar calculation” and not the lunar calendar or the Hijri calendar. The Explanatory Memorandum of the Personal Status Law in its explanation of this article has mentioned the term lunar calculation as well. It provides “the legislator adopts the lunar calculation in calculating the periods mentioned in the personal status law, such as calculating the waiting period and eligibility”³³.

However, the Explanatory Memorandum did not follow the same approach. It used the term Hijri year in its explanation of Article 172 of the Law, as it states “the age of majority in the Islamic world was set for the first time in the year 1288 Hijri at twenty years”. In addition, the explanatory memorandum used the term year in several articles, such as Article 20 and Article 20/7, and term amm (annum) in several articles, such as Article 46. Although there is no difference between the two terms in the number of days, there is a difference in meaning. The word year indicates distress, poverty, and anguish whilst the word amm indicates ease, prosperity and goodness³⁴.

As for the legislations which partially adopt the lunar calendar, they include the Civil Transactions Law and the Criminal Procedures Law. Article 85/2 of the Civil Transactions Law provides “a person reaches the age of majority if he completes twenty-one lunar years”. In its explanation of this article, the Explanatory Memorandum of the Civil Transactions Law states: “if he reaches the age of majority, which is twenty-one full Hijri years, and enjoys his mental faculties, he completes discretion, then he is eligible”³⁵. We note here that the explanatory memorandum used the term “Hijri year”, unlike the law, which used the term “lunar year”, which necessitates the unification of terms in order to achieve harmony between the texts of the law and their explanations in the Memorandum. However, calculating periods according to the Hijri calendar is consistent with the Islamic shari’a as Islamic rituals and the rules regulating the life of a Muslim are linked to the Hijri date, such as the date of zakat payment and the waiting period of a woman³⁶.

Thus, the Civil Transactions Law has made the lunar calendar a basis for calculating the age of majority, without distinction between males and females in this regard. Referring to the explanations of the Explanatory Memorandum for all the texts of the law, we did not find any text explaining the reason why the legislator relied once on the lunar calendar and once on the solar calendar when calculating the age, periods, or dates stipulated by the law.

As for the Federal Penal Procedures Law No.35 of 1992, although according to Article 329 it made durations and periods to be calculated according to the Gregorian calendar, it stipulated in Article 289 that the calculation should be made according to the Hijri calendar in the case in which a death sentence is imposed on a pregnant woman. The text reads “the execution of the death penalty against a pregnant woman shall be postponed until she gives birth and is breast-fed within two Hijri years”. In fact, this is in harmony with the shari’a rulings set in the Holy Qur’an, where Allah the Almighty says: “and mothers shall breastfeed their children for two full years”³⁷.

Finally, we would like to refer to one of the rulings of the UAE judiciary in this regard, where it was stated “the field of application of the rules of the Civil Transactions Law in terms of the eligibility conditions differs from it in the field of what was stipulated in Federal Law No.7 of 2004 Concerning the Service of Individuals in the Armed Forces, the

³³ The Comprehensive Encyclopedia of the UAE Personal Status Law and the Explanatory Memorandum, Prepared by Basil Al-Hafidh, Dar Al-Hafidh, Dubai, 2021, p.166.

³⁴ Ahmed bin Muhammad bin Ali Al-Maqri, Op.Cit, p.111; Jamal al-Din bin Muhammad bin Makram bin Mandhoor, Op.Cit, Volume 12, p.431; Abdullah Al-Ansari, the Year and the Amm: Contrasting Suffering and Prosperity, An Article Published in Al-Bayan Newspaper, Dubai, 19 July 2014, p.6.

³⁵ The Explanatory Memorandum of the UAE Civil Transactions Law, Op.Cit, p.62.

³⁶ Sheikh Yusuf Al-Qaradhawi, the Jurisprudence of Zakat, Part 1, Al-Risala Foundation, Beirut, 2014, p.164.

³⁷ Surat Al-Baqarah (1), verse 233.

first text relates to the full capacity to exercise the rights stipulated in the Civil Transactions Law and the laws deriving from it, which is twenty-one lunar years..³⁸.

Section Three: The Extent to which it is Possible to Unify the Gregorian Calendar and the Hijri Calendar in One Calendar in the UAE Legislation

Under this heading, we will focus on some problems that arise from the application of calendars in UAE legislation, and then we will evaluate the idea of unifying the Gregorian and the Hijri calendar in one calendar:

Requirement One: The Problems Arising from Calendars in the UAE Legislation

By investigating the texts of almost all of the UAE legislations, federal and local, we found that there are several problems regarding the calculation of durations, appointments, and periods.

Brach One: Problems in the Absence of a Text on a Specific Calendar to be Adopted

There are several problems in this context:

(1) - The problem in the case of not adopting any calendar at all

The following two sub-problems are derived from this problem:

(A) - In the event that no provision is made for the adoption of any calendar, but there is a preamble, the legislation was issued after reviewing it:

In fact, there are dozens of legislations in this concern. These legislations did not specify the calendar that should be adopted in calculating periods stipulated. For example, the Law No.5 of 2015 regarding the Disposal of Waif and Abandoned Properties in the Emirate of Dubai states “the price of the waif is transferred to the account of the public treasury of the government of Dubai if its owner does not claim its price within fifteen years from the date of its sale” (art.5/b). The law does not include any text specifying the calendar to be adopted, but it can be said that by referring to the preamble to the law, we find that it states: “after reviewing the Civil Transactions Law No.5 of 1985 and its amendments ...we issue the following”. Based on what is stated in this preamble, we believe that resort should be made to the Civil Transactions Law, which means that the Gregorian calendar is the calendar that should be applied.

This applies to the Federal Ruins Law No.11 of 2017, the Federal Arbitration Law No.6 of 2018, the Law No.2 of 2022 regarding the Expropriation of Real Estate in the Emirate of Dubai, the Landlord and Tenant Law No.20 of 2006 in the Emirate of Abu Dhabi, the Law No.5 of 2010 regarding Real Estate Registration in the Emirate of Sharjah, the Law No.7 of 2008 regarding the Acquisition and Registration of Land Ownership in the Emirate of Ajman, etc.

(B) In the event that no provision is made for the adoption of any calendar and in the absence of a preamble to the legislation:

An example, here, is the Federal Law No.17 of 1972 regarding Nationality and Passports, which neither includes any preamble, nor refers to any other law when there is no text regulating a specific issue. However, we believe that since nationality is one of the sovereign issues that the law regulates within what was stipulated in the UAE Federal Constitution of 1971, it is necessary to resort to the constitution, which in turn has adopted the Gregorian calendar, and therefore the calculation here will be according to this calendar.

(2) - The problem in the absence of a text on the adoption of any calendar, but the presence of a text referring to the Federal Civil Transactions Law when there is no text on an issue:

An example here is the Real Estate Ownership Law No.3 of 2006 in the Emirate of Umm Al-Quwain, which provides “non-citizens and citizens of the GCC can acquire usufruct rights over real estate located within the investment areas for a long-term up to 99 years”. Article 10 of the Law, however, provides “the provisions of the Civil Transactions Law apply to matters not provided for in this Law”, which implicitly means that resort should be made to the Civil Transactions Law and, accordingly, the Gregorian should be applied.

(3) - The problem in the absence of a text on the adoption of any calendar, but the presence of a text that refers to the legislations in force in the country when there is no text on an issue:

³⁸ Appeal No.246 of 2014 (Civil Appeal) Issued by the Federal Supreme Court on 10/1/2014, Emirates Lawyers Website.

An example is the Endowments and Donations Law No.14 of 2017 in the Emirate of Dubai, which provides “where there is not text covering a particular issue reference should be made to the enforceable legislations in the state” (art.48). Accordingly, resort should be made to the Civil Transactions Law, which is the general law in this concern and which adopts the Gregorian calendar.

(4) - The problem in the absence of a text on the adoption of any calendar, but the existence of a text referring to the principles of Islamic law and the provisions of Islamic jurisprudence:

An example is the Federal Law No.10 of 1992 on Evidence in Civil and Commercial Transactions, which states “if the judge does not find a text in this law, he shall rule in accordance with the Islamic Sharia, taking into account the choice of the most appropriate solutions from the doctrine of Imam Malik and Imam Ahmed bin Hanbal. If he does not find a text, then from any other doctrine as required by the interest” (art.6). We believe here that the Hijri calendar is the calendar that should be applied. This is because the Hijri calendar is the calendar that is recognized by all Islamic doctrines. In practice, however, the Gregorian calendar is the calendar that is applied in courts in relation to civil and commercial transactions.

(5) - The problem in the absence of a text on the adoption of any calendar, but the existence of a text in some articles that adopts Gregorian calendar:

An example is the Federal Law No.23 of 1991 regarding the Regulation of the Legal Profession, which does not provide for the adoption of any calendar, but in Article 6 calculates periods by the Gregorian year, which may give an indication that the legislator intends to make the Gregorian year the basis for calculation.

(7) - The problem in the absence of a text on the adoption of any calendar, but the existence of an implementing regulation that adopts Gregorian calendar:

An example is the Federal Civil Procedure Law No.11 of 1992, which does not provide for any calendar, but the Implementing Regulations of 2018 states “the dates specified in the month or year should be calculated according to the Gregorian calendar” (art.6/9). Thus, as the Regulation explains and clarifies the texts of the law, this should be applied to the periods and dates stated in the law, which have to be calculated according to the Gregorian calendar.

Branch Two: Problems in the case of existing of texts regulating conflicting situations

There are several problems in this context, which we will highlight as follows:

(1) - The problem in the case of an issue that is regulated by two different legislations with two different calendars:

An example here is the age of a minor who is authorized to trade. Article 162 of the Civil Transactions Law No.5 of 1985 stipulates that the minor should reach the age of Eighteen Hijri years in order to be given the permission to trade, but Article 18/2 of the Commercial Transactions Law No.18 of 1993 provides that a minor may trade when he completes Eighteen Gregorian years. We can see here that since the legislator talks about a minor who is authorized to trade, the provisions of the Commercial Transactions Law should prevail, which means that the Gregorian calendar is the calendar that should be applied.

(2) - The problem in the case where the legislation explicitly adopts calculation according to the Gregorian calendar and implicitly adopts calculation according to other calendars:

The most evident example here is the Federal Penal Procedures Law No.35 of 1992, which explicitly adopts the Gregorian calendar as the basis for calculating the periods and dates and implicitly adopts the Hijri calendar as well as other calendars. Article 288 of the Law provides “the death penalty shall not be carried out on official holidays or holidays recognized by the religion of the convict”. Here, we believe that the reference in determining these holidays is the lunar calendar on which the Muslim holidays are calculated. As for the holidays of the rest of the religions, they may be governed by the Gregorian calendar or any other calendars according to the religion of the convict, such as the Hebrew calendar for Jews, the Sikh calendar (Nanak) for Sikhs, or the Hindu calendar for hindu, etc.

(3) - The problem when the words “year” and the word “annum” are used in the same legislation:

An example is Executive Council Resolution No.3 of 2019 on Housing Subsidy in the Emirate of Sharjah, which in Article 4 calculates the age by years and in Article 5 calculates it by annums (amms). Although these two terms denote the same concept, each of them is used in the language to denote a specific circumstance, which necessitates unifying them so that harmony and consistency are achieved in the formulation.

Requirement Two: Evaluating the Idea of Unifying the Gregorian Calendar and the Hijri Calendar in the UAE Legislation

At the outset, it is to be said that some shari'a and law jurists believe that the Hijri calendar is the calendar that should be adopted, because it is based on the moon and its course in the zodiac, which is a tangible and visible sign known to all people. Accordingly, they believe that calculation by moon and crescents is the calculation that is recognized in shari'a and known by the whole prophets of Allah³⁹.

Another trend went further, as it called for adopting a unified universal Hijri calendar at the level of the Islamic world. In this regard, the second Islamic astronomical conference held in Amman in 2001 provided a recommendation to this effect. This recommendation however remained a proposal as it faced difficulties in its implementation⁴⁰. In our opinion, there is nothing that prevents the adoption of this calendar if it is compatible with the shari'a controls related to this issue, but we believe that this calendar will be limited to replacing the Hijri calendar without cancelling the Gregorian calendar, and this will not change anything in the matter.

It may come to mind to say that the UAE Federal Constitution of 1971 stipulates in section 7 that Islam is the religion of the state, which requires the application of Islamic law in all its details and in all aspects of life, including following the Islamic Hijri calendar. It is possible to respond to this by saying that the current global system in economy, trade, banking, aviation, shipping, travel, education, industry, etc, is based on the Gregorian or solar calendar, and the adoption of this calendar by the Arab countries, including the United Arab Emirates, came in line with this logic. Also, the civil laws in most Arab countries adopted the Gregorian calendar as a basis for calculating the periods and dates stipulated in them.

This is not a shame because most countries of the world adopt the Gregorian calendar and the Arab countries are part of this world, and perhaps what the constitution means by saying that Islam is the official religion of the state is what relates to issues relevant to worships, rituals and matters of religion and social aspects of life. Thus, the UAE legislator adopts the lunar calendar in matters of personal status that are closely related to the life of a Muslim.

This is in addition to the fact that there is nothing that prevents the adoption of the Gregorian calendar in matters of transactions, since it is required by the interest of society, and it can be considered as one of the unprescribed public interests in which the interest of society is fulfilled, and which was endorsed by the jurists of Islamic law, and it means the approval of the legislator for any matter that achieves the interests of people and wards off corruption from them⁴¹.

Some writers believe that adopting the lunar calendar in all walks of life may be confusing, due to the lack of synchronization between months and seasons, which makes the lunar month move between the seasons of the year, sometimes it is in winter and sometimes it is in summer, and its day may be long in one season and short in another, and this would affect the seasons of agriculture as well as fasting⁴².

Other jurists believe in the necessity of harmonizing between the Islamic Hijri calendar, which depends on the cycle of the moon, and the Christian (Gregorian) calendar, which depends on the cycle of the sun. They consider that adopting the Gregorian calendar is appropriate for public life, since the seasonal dates are fixed and specific, and that adopting an accompanying lunar calendar would achieve the link between the Prophet's migration and the solar year.

³⁹ Sheikh Muhammed Salih Al-Munjid, the Islam Site Book: Question and Answer, Part 3, A Word on the Numerical Miracle in the Qur'an and the Use of the Solar Calendar, p.182.

⁴⁰ Nidal Qusoum, Steps Towards Solving the Problem of the Unified Islamic Calendar, An Article Published on the Islamic Project for Monitoring the Crescents Website, 2007, Conclusion and Results, www.astronomycenter.net (last accessed 30/11/2022).

⁴¹ Abu Abdullah Shams al-Din Muhammad Ibn al-Qayyim al-Jawziyyah, Al-Taroq al-Hukamiyyah fi al-Siyasa al-Shari'ah, Part 1, Dar Alam al-Fawa'id, Mecca, 1428 AH, p.31. See also: Khaled Azab, Al-Omran: Philosophy of Life in Islamic Civilization, the Egyptian Lebanese House, Cairo, 2022, p.35; Hafiz Aslam & Abu Al-Hassan Ahmed, the Concept of Politics - Its Origins and Purposes in the Holy Qur'an, Journal of Islamic Sciences, Volume 27, Month 1, p.174.

⁴² Muhammad Al-Hashemi, Problems of the Hijri Calendar :Does this Calendar Have Any Benefit?, Middle East Transparency Website, August 9, 2021.

This is what exactly Professor Hasan Waqfi called for in his book *Taqweem Al-Minhaj Al-Qawim*, in which he laid down the basics of this Hijri solar calendar⁴³.

Some writers support this trend by saying that the months of the Hijri year can be used in the solar year and that the Holy Qur'an acknowledges the importance of the solar and lunar calendar together, where Allah the Almighty says: "and they stayed in their cave for three hundred (solar) years, adding nine (for lunar years)"⁴⁴, which means three hundred lunar years, and since the difference between the solar year and the lunar year is three years in every hundred years, nine additional years have been mentioned in the Qur'an⁴⁵.

From our side, we can say that the memory of nations must be present with its heritage and civilization, and from this civilization is the Hijri calendar, which should be continually adopted as the basis for calculating dates, periods and durations that have relevance to the religious aspects of the Muslim's life such the due date of zakat, the waiting period for woman, feasts, holidays, etc. However, there is nothing that prevents the adoption of the Christian calendar in transactions and dealings that do not affect the religious aspects of the Muslim's life.

This is because the origin of the solar year and the lunar year is one; that is the cosmic phenomena created by Allah the Almighty, and the relationships and systems He put in place to manage and control these phenomena, such as the moon's rotation around the earth, which is the basis of the Hijri calendar, and the earth's rotation around the sun, which is the basis of the solar calendar. All these phenomena, relationships, and systems are among the signs of Greatness of Allah the Almighty in this universe. Accordingly, there is nothing that many prevent the use of the two calendars in parallel, each within its own domains.

This means that it is not possible to unify the lunar and solar calendars within one calendar, as it is not possible to compel the world to accept a calendar specific to a particular country. The case here is similar to that in many countries that adopt their own calendars, such as the Chinese calendar, the Hebrew calendar, the Hindu calendar, etc, and these calendars are only adopted by their countries and are linked to matters mostly related to the religious and spiritual aspect of the life of the person⁴⁶. This, definitely, applies to the Hijri calendar. However, adopting the Gregorian calendar is inevitable due to its importance at the level of international trade and communication with the countries of the world economically and politically⁴⁷.

And just as we cannot do without the Hijri calendar due to its association with aspects of religious life, worship and rituals, we cannot do without the Gregorian calendar due to the importance of adopting it at the level of international trade and communication with the countries of the world economically and politically.

Based on all of that we conclude that there is no harm in adopting the lunar and solar calendar, each within its scope, and this was the case in the past. In this concern, we refer to the South Arabian texts (texts of the Arabs of the southern Arabian Peninsula), and to the book of one of the famous historians who said "the Arabs of the southern Arabian Peninsula followed two calendars: the solar calendar in agriculture and paying profits, and the lunar calendar in ordinary matters"⁴⁸. It is noteworthy to refer to the position of the Kingdom of Saudi Arabia, which has officially adopted the Hijri calendar since the founding of the state in 1932 AD, but as of October 2, 2016 AD, replaced it with the Gregorian calendar in order to keep pace with developments and facilitate communication with the other countries of the world economically and politically.

Conclusion: Findings and Recommendations

⁴³ Hasan Waqfi Al-Qadi, known as Al-Khaymi Al-Dimashqi, *Taqweem Al-Minhaj Al-Qawim*, Al-Mubta'a Al-Salafiyyah, Cairo, 1354 AH, p.42 and onwards.

⁴⁴ Surat al-Kahf, verse 25.

⁴⁵ Muhammad Al-Hashemi, Op.Cit.; Adel Yousef Al-Marzouq, Comparison between the Solar Year and the Lunar Year, An Article Published in Al-Anbaa Newspaper, Kuwait, 12 January 2017, p.7.

⁴⁶ See Rachel Woodlock (2022) *Minority Religions under Irish Law: Islam in National and International Context*, *Islam and Christian-Muslim Relations*, 33:3, 320-322, DOI: [10.1080/09596410.2022.2072061](https://doi.org/10.1080/09596410.2022.2072061).

⁴⁷ See Ghassan El Masri (2022) *The European Katechon: A Note on the Political Theology of Present-day Christian-Muslim Engagement*, *Islam and Christian-Muslim Relations*, DOI: [10.1080/09596410.2022.2139914](https://doi.org/10.1080/09596410.2022.2139914).

⁴⁸ Historian Jawad Ali, *Al-Mufassal fi Tarikh al-Arab before Islam*, Vol.16, Edition 4, Dar al-Saqi, Beirut, 2001, p.140.

The main conclusions in this article are:

1- The idea of time is linked to the creed and calendar, and due to its importance in the life of the individual, Allah the Almighty has sworn by its parts in the Quran, just as many surahs of the Qur'an were named after its parts, such as Surat Al-Fajr, Al-Duha, Al-Asr and Al-Layl.

2- The calendar, in which time is the basis for calculation and through which durations, dates and ages are calculated, is one of the important issues as it relates not only to transactions but also to acts of worship, and therefore many legal and shari'a rulings are based on it.

3- The UAE legislator has adopted the Islamic (Hijri) calendar entirely in some laws, such as the Personal Status Law, and partially in other laws, such as the Civil Transactions Law and the Criminal Procedures Law. The Christian (Gregorian) calendar is also adopted in most laws, such as the Commercial Transactions Law, the Labour Law, the Penal Code, and the Civil Procedures Law. Thus, the UAE legislator was successful in adopting the Hijri calendar in matters related to aspects of worship and rituals, and in adopting the Gregorian calendar in matters related to the various aspects of transactions, especially commercial ones.

4- The Gregorian calendar is the main calendar adopted by most of the UAE federal and local legislations, and it is the calendar that is adopted by the UAE Federal Constitution.

5- In light of all of that discussed above, we reach the main conclusion that it is not possible to unify the Hijri and Gregorian calendars with one calendar, as each has its own calculation mechanism that is different from the other. This is due to the fact that the Hijri calendar depends on the rotation of the moon around the earth, while the Gregorian calendar depends on the rotation of the earth around the sun. In addition, each of them has its own privacy and occasions that are associated with it, and it has its own names and symbols, which are difficult to apply to the other calendar accurately. It is also not possible to abandon either of them at the present time, and therefore it is inevitable to maintain the adoption of the Hijri calendar in matters of personal status and matters related to worship and rituals, and to maintain the adoption of the Gregorian calendar in matters of daily life, due to the widespread use of this calendar at the global level, which is related to the state's communication with other states and nations, especially at the economic, commercial and political levels.

What reinforces our opinion is that the United Arab Emirates uses the Gregorian and Hijri calendars on its national currency, both paper and metal, and there is nothing more significant, more symbolic, and a deeper expression of the state's sovereignty and entity than currency.

Recommendations

1- The need to unify the terminology used in the UAE legislation, as some legislations use the term solar calendar to denote the Gregorian calendar, and the term lunar calendar to denote the Hijri calendar. Likewise, some UAE legislations use the term year whilst some use the term annum (amm). Although each of these terms denotes a period of time estimated at twelve months, the unification of terminology enhances consistency between the vocabularies of legislation.

2- We recommend unifying the periods in the Civil Transactions Law to be according to the Gregorian calendar, especially the age of the minor who is authorized to trade. By doing this, harmony will be achieved between the provisions of the Civil Transactions Law itself and between it and the Commercial Transactions Law, which regulates this issue.

3- We recommend the legislator to adopt a specific calendar in the legislations in which he did not specify a calendar for calculating the periods and dates stipulated in it, and we suggest the Gregorian calendar, which is the calendar adopted in all legislations with the exception of the personal status law, and some other related legislations.

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