

# COMBINING THE MEANS OF RECTIFYING JUDGMENTS AND THE METHODS OF APPEAL: A RECENT APPROACH TO RETRACTING FINAL COURT JUDGMENTS OF THE SUPREME COURTS IN THE UNITED ARAB EMIRATES

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## Abstract

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It is legally established that the final judgment rendered by the court of cassation cannot be appealed in any way (Khalil, 2022). However, adhering to this rule may cause injustice in case the judgment is incorrect, as judges are human beings who make mistakes. As a result, the Legislator in the United Arab Emirates (UAE) has introduced in Article 187 (Bis) of the Federal Law No. 11 of 1992 on the Civil Procedures (hereinafter, the Civil Procedures Law) an innovative system, i.e., the system of retracting final judgment, where the final judgment of the court of cassation can be challenged to rectify it and restore justice. The research problem of this study consists of the ambiguity regarding the meaning of this system and its relationship with other means of rectifying or appealing judgments. Hence, this study aims to investigate the meaning of retracting final judgments and how it is distinguished from other forms of appeal. To this end, the study utilizes an analytical approach by interpreting Article 187 (Bis) of the Civil Procedures Law and judgments of courts of cassation across the UAE. The study finds that retraction is a means of appeal that not only can be used by the litigants but also by the court on its own motion. As a result, the rule of retraction is considered of a public policy nature where parties cannot agree to disregard its terms.

**Keywords:** United Arab Emirates, UAE, Judgments, Courts, Right to Appeal, Retraction

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## 1. INTRODUCTION

Under jurisprudence, court judgments<sup>1</sup> are binding and prohibit further reconsideration (Kandeel, 2018; Kantaria, 2014) to maintain the prestige of the judiciary and ensure the stability of legal

positions (Federal Law No. 10 of 1992 issuing the Law of Proof in Civil and Commercial Transactions, Article 49). Their binding nature means a judgment is properly issued in terms of its form and rightfully in terms of the subject matter (Abouelwafa, 2007; Walli, 2008). Hence, once a judgment is issued, the court's jurisdiction is considered to have expired as it no longer has authority over the matter (Khalil, 2022; Omar, 2008). In this regard,

<sup>1</sup> Specifically, definitive court judgments as opposed to provisional judgments.

the permissibility of the retraction and annulment of court judgments has already been thoroughly examined (Mabrouk, 1998; Omar, 2011). In the context of Islamic Sharia, which is one of the main resources of legislation in the United Arab Emirates (UAE), a judgment may not be annulled if it has been issued in a matter of discretion that does not contradict any text from the Holy Quran, Hadith or consensus of Muslim jurists<sup>2</sup>, taking into consideration the legal principle that diligence may not be rescinded by diligence and that the latter diligence carries no more weight than the former (Sharaf, 1988).

Nonetheless, modern legislations have unanimously adopted the principle of litigation on two levels, a principle currently considered a basic foundation and guarantee of litigation which ensures the rights of all litigants (Alqattan, 2023; Alsandal, 2021). In other words, the ultimate goal of the judiciary is to deliver justice in the fullest possible form. Hence, to ensure the accuracy and quality of court judgments, the legislator has specified the system of appeal against judgments not only to provide the litigants with another opportunity to adjust their pleas but also to enable the higher courts to rectify the errors of lower ones. However, if a claim has peaked at the stated judicial pyramid (i.e., the court of cassation), the judgment issued is then considered final on the principle of *res judicata* (an adjudged matter). This is an ultimate binding force that cannot be challenged through any method of appeal, bringing a decisive end to the legal dispute in question (Constitution of the United Arab Emirates, 1996, Article 101; Federal Law No. 10 of 1973 concerning the Supreme Federal Court, Article 67)<sup>3</sup>.

If, however, the final judgment involves a fault or error, just as with any other human activity, it may be deemed defective; in this case, there is a question as to whether the respective principles of the conclusiveness of final judgments and the stability of legal positions take priority over the delivery of true justice by not acknowledging some judgments as void. Unfortunately, all legislations have prioritized the principle of the conclusiveness of judgments to terminate legal disputes, even if a judgment is defective, based on the assumption that the judgments of the Court of Cassation are the embodiment of truth (Appeal No. 251 of 2022 (Civil & Commercial), 02/01/2012, issued by the Federal Supreme Court; Appeal No. 10484 of the Judicial Year 81 (Civil & Commercial), 28/01/2013, issued by the Egyptian Court of Cassation). Therefore, legislators do not need to stipulate any procedures of appeal against final judgments due to the exclusion of the idea of an appeal in this regard (Appeal No. 3949 of the Judicial Year 60, 25/02/1996, issued by the Egyptian Court of Cassation).

Despite, and in the context of, this position, the following message from Omar Ibn Al-Khaṭṭāb

(the Second Rashidun Caliph) to the renowned Judge Abu Musa al-Ash'ari may be quoted as a sublime directive:

“Shall you order a ruling one day, but then found out that you have been mistaken, this shall not prevent you from retracting your verdict in favor of the right, for Right is Eternal; and it is better to return to the right than to persist in falsehood” (Almabrad, 1997, p. 15).

In this sense, the UAE legislator has, in its continuous efforts to develop the court system, decided to adopt a similar approach to lighten the rigidity of the principle of the conclusiveness of final judgments issued by supreme courts, so that true justice may be delivered<sup>4</sup>. That is to say, the legislator's motive here is based on its belief that void actions are not immune since stability cannot be achieved based on such judgments (Abdelrahman, 2012). Therefore, a new amendment was introduced in Article 187 (Bis) of the Federal Law No. 11 of 1992 on the Civil Procedures (hereinafter, Civil Procedures Law), issued by Decree-Law No. 15 of 2021, stipulating the system of retraction for final judgments and decisions issued by supreme courts<sup>5</sup>. At first glance, one might think that the system of retracting such judgments is a recent innovation previously unknown in law. However, despite the lack of proper legislative cover by the UAE legislator, the system has occasionally been applied by the UAE judiciary (Retraction Petition No. 1 of 2019, 24/06/2019, issued by the Federal Supreme Court; Relinquishment Petition No. 2 of 2021 (Commercial), 23/02/2021, issued by the Abu Dhabi Court of Cassation; Relinquishment Petition No. 9 of 2020 (Commercial), 12/01/2021, issued by the Abu Dhabi Court of Cassation; Appeal No. 187 of 2011 (Penal), 13/09/2011, issued by the Abu Dhabi Court of Cassation; Appeal No. 821 of 2014 (Commercial), N.P., N.D., issued by the Dubai Court of Cassation; Appeal No. 226 of 2009 (Penal), 09/08/2009, issued by the Dubai Court of Cassation), taking into consideration that Article 114 (3) of the Civil Procedures Law also stipulates that, if a judge's inability has been shown, a court judgment issued by the Court of Cassation may be annulled and the appeal reheard before another judicial circuit which excludes the judge who caused such nullity. The UAE legislator has also previously adopted the principle of retraction in the Law Regulating Relations between the Federal and Local Judicial Authorities No. 10 of 2019 (RJR). Pursuant to this legal provision, a litigant who has been damaged by a court judgment issued by one of the state's supreme courts, in contradiction to the principles adopted by the Federal and Local Judicial Principles Unification Authority, may appeal against this judgment for reconsideration within 60 days. Hence, it is safe to say that the recent introduction of Article 187 (Bis) is an attempt to complete the legislative cover of the system of retraction.

It is worth mentioning here that there is a significant difference between the procedure of retraction stated in the said law of RJR, and

<sup>2</sup> See the following verse: “But no, by your Lord, they can have no faith, until they make you (O Muhammad) judge in all disputes between them, and find in themselves no resistance against your decisions, and accept [them] with full submission” (The Holy Quran, n.d., 4:65). Also, see the following Hadith 5421: “No one should pass two judgments on one issue” (The Book of the Etiquette of Judges, n.d.), and Al-Nasā'ī (2001).

<sup>3</sup> In addition, regarding the application of this principle, see the following at the judiciary of the Federal Supreme Court: Appeal No. 12 of 2011 (Civil & Commercial), 12/12/2011; Appeal No. 535 of 2010 (Civil), 19/01/2011; Appeal No. 1 of 1999 (Civil), 24/10/2004; Appeal No. 6 of 2004 (Penal), 03/10/2006; and Abu Dhabi Court of Cassation: Appeal No. 33 of 2010 (Personal Affairs), 16/02/2011.

<sup>4</sup> These development efforts started when the Emirate of Abu Dhabi launched its own judicial system, separating it from the federal one and initiating the reform and modernization of the judicial system. For more detail regarding these efforts, see Groo (2008).

<sup>5</sup> It is worth mentioning that in October 2022, the civil procedures law was repealed, and a new law was passed where Article 187 (Bis) becomes now Article 190.

the system of retraction introduced recently in the Civil Procedures Law. This difference warrants an examination of the new system's importance and an exploration of its various legal aspects. The current study thus investigates the definition of the system of retraction pursuant to the new amendment introduced to the UAE's Civil Procedures Law and attempts to provide appropriate recommendations to the legislator. It aims to identify and outline the system of retraction, taking into consideration that it is stipulated in just one legal provision, i.e., Article 187 (Bis). The study seeks to achieve this aim by investigating how retraction is defined and how it is distinguished from other forms of appeal. This is crucial as identifying the nature and the aspects of the retraction will determine the procedures and the circumstances one could utilize it.

The rest of this study is structured in the following way. Section 2 reviews the relevant literature concerning the means of appealing and rectifying court judgments, whereas Section 3 explains the methodology used to conduct the study. Section 4 provides detailed study results and discussion. Finally, Section 5 sets out the findings of the study, recommendations to the legislator, limitations of the study, and perspectives for future research.

## 2. LITERATURE REVIEW

To the best of our knowledge, no specific study has been dedicated to the UAE system of retraction since its implementation, but there are a few valuable studies on retracting court judgments. One such study was done by Abdelrahman (2012). It addressed the system of retraction in French, Egyptian, and Lebanese Laws, concluding that there is an obvious legislative basis for the system of retraction in these laws, despite there being no explicit stipulation. Our study, on the other hand, adds new knowledge to this theme not only by addressing the UAE but also because the system of retraction has been explicitly stipulated by the UAE legislator, which has already determined its general features. Another study was conducted by Zaghlol (1998). It has some similarities with the current research, but Zaghlol (1998) mainly addressed the issue of amending judgments through their interpretation, the rectification of material errors, and the fulfillment of claims overlooked by substantive courts, i.e., courts of the first instance and appellate courts. His study does not address the rectification of final judgments issued by the Court of Cassation. Therefore, the present study differs as it addresses an entirely different subject concerning the amendment of final judgments and decisions issued by the Court of Cassation through the legal system of retraction.

At this point, it is essential to realize that the UAE judicial system differentiates between three court rulings: judgments, orders, and payment orders. A judgment is a decision made by the judge over a disputed matter in an adversarial procedure (Allaheebi & Fattal, 2022). Therefore, it is required that the judgment be written, contains its grounds, and issued by a properly formed court (Alsaawi, 2020), and that the principle of confrontation between the litigants be taken into account.

On the other hand, an order is a decision made by the judge in his judicial authority upon a request for matters without a dispute (Mohammad, 2021). The order is governed by Article 140 of the Civil Procedures Law. It is issued by the judge in camera, i.e., the opponent is not summoned (Khalil, in press). The method of objecting to the order is not by appeal because it is not a judgment, but rather by the grievance. The party who wishes to object to the order is required to submit the grievance to the same judge. Having the same judge to review his own decision is not permissible if it is a court judgment as this contradicts the principle of the judge's impartiality due to the fear of upholding the judge's own decision (Mabrouk, 2015). In addition, a grievance of an order has no time limit as an appeal would have.

Lastly, a payment order is an order issued by the judge upon an application submitted by the person concerned to pay a debt if it is in writing and due in payment according to brief and fast procedures in the absence of the party against whom the order was issued (Alsarhan, 2023).

The last two rulings, i.e., orders and payment orders, are also referred to as "decisions" in general (Khalil, 2022), and that explains why the law stated "judgments and decisions" in the new system of retraction. The new amendment to the law expressly and specifically provides for the inclusion of both judgments and decisions issued by the courts of cassation. This means that all three rulings of the Court of Cassations are subject to the system of retraction.

The study traced back the origin of the principle of conclusiveness in Islamic jurisprudence regarding the components of the binding force of court rulings (Sharaf, 1988), the theory of court ruling in Sharia and law and found that court's judgment is generally unappealable (Abouelbasal, 2000; Garadat, 2006). On the contrary, many jurists believe that objection to judgments may be either through rectifying methods or methods of appeal (Aljali, 2023; Alsandal, 2021; Alsarhan, 2023). However, except for the petition for reconsideration, none of these methods can be applied to the rulings of the court of cassation because they are final rulings that are not subject to appeal (Ahmed et al., 2022; Alqattan, 2023).

Thus, the UAE Legislator decided to come up with a new system that allows the appeal of final judgment if it is deemed to be in error. A recent study analyzing the laws of civil procedures between the USA and the UAE concluded that the system in both countries, including the UAE, needs to be modified to keep pace with current developments and to be more accessible to litigants (Gupta, 2022). Other studies that are worth mentioning here are Kandeel (2018) who has addressed issues related to appealing final court judgments and decisions. However, what he lacks is that he has not addressed the matter of retracting final judgment because it was not passed by the legislator at that time. Other scholars, such as Alqattan (2023) and Alsarhan (2023) have mentioned the system of retraction briefly in their general books regarding the UAE civil procedures without digging deep into its policy or the wisdom behind as they merely enunciated the wording of Article 187 (Bis).

### 3. RESEARCH METHODOLOGY

The study adopts the analytical approach. In this approach, the subject of the study is highlighted into isolated elements so that to study their components separately and derive their pros and cons (Alsharkawi, 2018; Shawki, 2011). This methodology suits legal matters as it puts the legal texts into perspective from both theoretical and practical aspects. Reviewing the legal text by interoperating its wording, the context, and the application of the courts will give a clear understanding of the text's purpose and show how it should be implemented. Considering this, we have analyzed the legal texts, mainly Article 187 (Bis) of Civil Procedures Law which was introduced by the legislator in its recent amendment. In addition, we examined judicial principles associated with the court's judgment to clarify what the legislator meant by implementing the new system, indicate its dimensions, and differentiate between it and the rest of the other means of appealing or rectifying the court's judgment. To this end, the study has also explored academic literature to investigate the system of retracting final judgments. However, because of its novelty as being recently introduced into the UAE legal system, and its disregard for the fundamental rule of *res judicata*, we found that the system of retracting final judgment has been investigated by few studies (Abdelrahman, 2012; Zaghlol, 1998).

As a result, and to reach a detailed understanding of the retraction system, we have compared the new system with other similar means of objecting to the court's judgment. The study conducted a comparison between the means of appealing judgments, e.g., appeal, cassation appeal, petition for reconsideration, and the nullity of the court judgment. Moreover, the study has compared the retraction and the means of rectifying the judgments, e.g., interpretation of a court judgment, petition for rectification due to material errors, petition for rectification due to court's omission of claims, and petition for relinquishment. Finally, the study compares between the retraction provided in the Civil Procedures Law and the retraction provided in RJR. Some of these methods are utilized by the litigants for being a judicial right, whereas others are exclusively utilized by the court on its own motion, the aim is to identify the position of retraction in relation to these methods.

We also collected several judicial rulings related to the issue of retraction from the courts of cassation across the UAE, i.e., Federal Supreme Court, Abu Dhabi Cassation Court, Dubai Cassation Court, and Ras Al Khaimah Cassation Court. These rulings were explored to identify its application, and to determine the nature of retraction thereof and to which category it belongs, and thus to answer the question of the study.

### 4. RESULTS AND DISCUSSION

It is safe to say that the system of retraction is very similar to the three legal systems of a) the means of appeal against judgments (e.g., appeals and petitions for reconsideration and cassation appeal); b) the means of rectifying judgments (e.g., the

rectification of material errors, the interpretation of judgments, and the omission of adjudication on some claims); and, c) the relinquishment of judicial principles. The system of retraction is similar to these legal systems in terms of resubmitting the issued judgment to the judiciary for amendment or annulment; however, retraction differs in several other aspects, which will be addressed in detail next.

#### 4.1. Retraction and cassation appeals

Retraction is different from cassation appeal as the latter is an extraordinary course of action through which final judgments rendered by the appellate court, or sometimes by the court of first instance, may, in certain cases, be annulled before the Supreme Court (Appeal No. 9 of 2015, 15/06/2015)<sup>6</sup>. The cassation appeal can only be filed on the subject of law alone (Anand, 2020; Mabrouk, 2018).

In such cases, the court's goal is to review the contested judgment for its legality, regardless of the subject matter. The court's role is limited to affirming or annulling the judgment and referring the claim to its original court for rehearing<sup>7</sup>. The Court of Cassation is thus mainly concerned with reviewing judgments issued by courts of appeal (in most cases) or final judgments issued by any other type of court when challenging a final verdict that has acquired the force of *res judicata* (Federal Law No. 10 of 1992 on the Civil Procedures, Article 173 (2)). With the system of retraction, however, the competent court is concerned with a judgment that has already passed through the stages of appeal and cassation appeal, i.e., the court reviews final judgments or decisions issued by the Court of Cassation itself as if it is a fourth level of litigation<sup>8</sup>.

#### 4.2. Retraction and petition for reconsideration

Petitions for reconsideration are another extraordinary course of appeal against final judgments, provided that certain causes are available. Petitions are submitted to the same court that issued the contested judgment, i.e., the concerned court may be the Court of First Instance, the Court of Appeal, or the Court of Cassation (Mohammad, 2021). A petition for reconsideration always assumes there is a mistake in the facts of a claim, a matter which should initially be addressed through appeal; however, since some judgments cannot be appealed, the litigant in such cases has to submit a petition for reconsideration. This type of appeal is based on certain legal grounds, such as the emergence of new facts, of which the court had no knowledge at

<sup>6</sup> In their ruling, the Federal Supreme Court stated that, pursuant to Article 173 of the Civil Procedures Law, an appeal of cassation shall be based on a violation of law or an error in its application, interpretation or nullity, if the dispute's adjudication is contradictory to another ruling, issued previously between the same litigants, which has acquired the binding force of an adjudicated matter.

<sup>7</sup> There are exceptions to this rule, as the Court of Cassation may hear the subject matter in the following cases: if the appeal is submitted for the second time, pursuant to Article 184 of the Civil Procedures Law; or if the appeal is concerning a claim of personal affairs, pursuant to Article 13 of the Federal Law No. 28 of 2005 on Personal Status.

<sup>8</sup> In this regard, it is to be emphasized that, in the UAE and the wider Middle East, the hearing of retractions is not considered a level of trial; that is to say, it is well-known that the principle of a trial at two levels is permissible only before the Court of First Instance and the Court of Appeal; in contrast, the Court of Cassation is concerned with the legal aspects and, hence, is not considered another level of trial. In the same way, retraction is not considered a level of trial.

the time of issuing its judgment, a clear discrepancy in the court's verdict, or any other causes as mentioned exclusively in Article 169 of the Civil Procedures Law (Appeal No. 9 of 2015, 15/06/2015, issued by the Federal Supreme Court) on the other hand, retraction differs as its causes are related to procedural errors conducted by either the court of cassation or one of its staff.

#### 4.3. Retraction and the nullity of a court judgment

The nullity of a court judgment occurs when it is permissible to initiate a claim for the annulment of a judgment due to the presence of a fundamental defect compromising the three basic pillars of any court judgment issued. That is, a judgment shall be rendered by the competent court affiliated with a certain judicial authority; through valid litigation, where the respondent is duly notified of the matter; and, in writing (Alnedani, 2009). In this sense, a null judgment is considered void, without any resulting legal effects; thus, should someone rely on this judgment, an appeal does not need to be submitted against such a judgment, but it would be enough to deny it (Khater, 2014)<sup>9</sup>. If any other defects are involved, they may not remove the judicial nature of the judgment and so it may be challenged through the stated methods of appeal (Appeal No. 196 of 2020, Record 14, Session of 27/10/2020, issued by the Abu Dhabi Court of Cassation). On this basis, with a null judgment, the litigant is not seeking an amendment but rather its annulment entirely as null and void. Therefore, this procedure is different from the system of retraction as the latter is mainly based on there being an aspect that can be challenged and canceled, while a null judgment is considered non-existent (Walli, 2008). However, Alnedani (2009) believes that it is permissible to challenge a null ruling through all stated means of appeal against rulings.

#### 4.4. Retraction and petitions for the interpretation of a court judgment

Petitions for the interpretation of a court judgment entail that a court judgment will be returned to the competent authority which has issued it, to clarify ambiguities and outline the objective elements constituting the judgment. This interpretation may not be used as the means for an amendment, omission, or addition in the judgment (Mohammad, 2021). Such petition may be submitted to the court of first instance, appellate court, and the court of cassation, whereas retraction is exclusively submitted to the court of cassation and aims to change the outcome of the judgment.

#### 4.5. Retraction and petitions for rectification due to material errors

Litigants may submit a petition for the rectification of a court's judgment due to the presence of a material, clerical, or mathematical error that affects the judgment's structure (Alsandal, 2021). This method may not be used for the judgment's

amendment or annulment and may only be used to rectify material errors, such as typos and mathematical mistakes (Appeal No. 132 of 1992, Session of 26/9/1992, issued by the Dubai Court of Cassation). The same ruling of petition for the interpretation of a court judgment may apply here where retraction is submitted to the court of cassation, and it aims to change the outcome of the judgment.

#### 4.6. Retraction and petitions for rectification due to the court's omission of claims

A petition for the rectification of a judgment due to the court's omission of certain claims is a procedure stated in Chapter III of the Civil Procedures Law under the title "Rectification & Interpretation of Judgments". It is considered another method of judgment rectification concerned with reviewing the issued judgment if the court has failed to adjudicate on certain objective claims; in such cases, the litigant resorts to the same court that issued the judgment, to redress any missed claims (Khalil, 2022). This procedure is not considered a method of appeal as it may not be used for the judgment's amendment or annulment. It is only used to adjudicate certain pending issues.

#### 4.7. Retraction and relinquishment

Relinquishment is a procedure that may be undertaken by a judicial circuit at the court of cassation while hearing a claim or appeal, as this circuit may submit a petition to the court's general board for the relinquishment of a previously issued judicial principle (Federal Supreme Court Law No. 10 of 1973, amended by virtue of Federal Law No. 14 of 1985, Article 65; Abu Dhabi Judicial Department Law No. 23 of 2006, Article 10 (Bis-3); Law No. 13 of 2016 about Judicial authority in the Emirate of Dubai, Article 20; Decree No. 5 of 2012 regarding the Organizational Structure of the Courts Department, Article 11)<sup>10</sup>. The procedure can also be undertaken by the Supreme Court, and Federal or Local Attorneys General, regarding the relinquishment of a principle that has previously been stated by the Federal and Local Judicial Principles Unification Authority (Unification Authority), i.e., it is a procedure that may be taken by the court, not the litigants (Federal Law No. 10 of 2019, Article 16).

If the relinquishment concerns a dispute submitted before a judicial circuit at the court of cassation, then the court's plenary assembly may consider the matter and it does so by being the court of final and highest level of litigation. The ruling issued by the plenary assembly is considered final, as the said assembly may not refer the claim back to the same circuit because they are required to adjudicate on the matter should it accept the circuit's petition (Appeal No. 563 of 2016 (Civil), 17/04/2018, issued by the Federal Supreme Court)<sup>11</sup>. However, if the petition is submitted to the Unification Authority, then it will not concern a particular dispute; hence, the authority's decision

<sup>9</sup> Appeal No. 61 of the Judicial Year 11 (Penal), 25/10/1989, issued by the Federal Supreme Court; Appeal No. 70 of 2008 (Commercial), 10/06/2008, issued by the Dubai Court of Cassation.

<sup>10</sup> For more details about the principle of relinquishment in Sharia, see Kamli (2012).

<sup>11</sup> With regard to the application by supreme courts on cases of relinquishment, where the court has adjudicated on the subject matter, see Relinquishment Petition No. 9 of 2020 (Commercial), 12/01/2021 and Appeal No. 821 of 2014 (Commercial), N.P., N.D.

will not affect any ruling issued under the judicial principle in question (Federal Law No. 10 of 2019, Article 18). On this basis, it is obvious that the relinquishment is different from a retraction as it does not result in the annulment of a previously issued final judgment. Further, it should not be considered a means of appeal as only courts or the attorney-general, but not litigants, may undertake it. The judicial authority's jurisdiction is also not limited to considering the possibility of relinquishment, since it may also be extended to including adjudication on the dispute itself.

#### 4.8. The distinction between retraction in Civil Procedures Law and Federal and Local Judicial Authorities (RJR)

The retraction specified in the provision of Article 18 of the RJR is considered another type of appeal permissible for those sentenced, by any of the state's Supreme Court, in a way that is contradictory to any of the principles of the Judicial Principles set by the Unification Authority. That is, a damaged party may submit a petition to the same Supreme Court that issued the ruling, either for its annulment or reconsideration. It seems that this sort of appeal is the most similar to the system of retraction under examination, as stated in Article 187 (Bis) of the Civil Procedures Law; however, the difference between the two procedures lies in the former being limited to a litigant damaged by a court ruling, and that the initiation of this procedure is limited to being within 60 days of the date of issue of the ruling.

On the other hand, the system of retraction stipulated in Article 187 (Bis) is a newly introduced legal system that has never previously been specified<sup>12</sup>. This unique system combines the respective systems of appeal and the rectification of judgment in an extraordinary method of appeal against the judgments and decisions of supreme courts, as the final level of litigation that may not be subject to any further means of appeal<sup>13</sup>. The courts have also treated this system as a method of appeal in its provisions titled "Methods of Appeal against Court Judgments"<sup>14</sup>. Nonetheless, the system is not merely a method of appeal because an appeal necessitates the presence of a damaged litigant seeking the amendment of a court judgment or decision; in contrast, retraction is a power granted both to a litigant damaged by a court's decision and to a court. Therefore, retraction may also be considered a method of rectifying judgments by permitting courts to review their own judgments and decisions upon their own motion.

In this way, the system of retraction has the same features as relinquishment, with the period

of initiation of a petition being within one year of the date of issue of the ruling. Despite the special nature of the system of retraction, we are more inclined to view this legal system as a method of appeal against court judgments, following the legislator's stipulations in Chapter IV "Cassation", without ignoring its uniqueness.

## 5. CONCLUSION

The study addressed the definition of retraction due to its importance as a recently implemented legal system that may be used to annul the final judgments or decisions of supreme courts. This action has never previously been permissible through any of the ordinary or extraordinary methods of appeal. The major conclusions of the study are as follows.

The system of retraction was adopted to reconcile two conflicting interests: on one hand, the delivery of true justice through the annulment of void judgments and, on the other, the maintenance of the principles of the binding force of a judgment and the stability of legal positions. The legislator has prioritized the delivery of true justice as an exception and so it is an exceptional legal system that may not be subject to any further expansion.

The system of retraction is not unfamiliar to the UAE judiciary, as it has previously been utilized with certain claims on the pretext of delivering true justice; however, this use was based on comparative jurisprudence rather than legislative cover.

The system of retraction is different from both the ordinary means of challenging court judgments via appeal and the extraordinary means via petitioning for reconsideration and cassation. It is also different from rectifying court judgments or petitioning to relinquish judicial principles.

Before adopting the system of retraction, the legislator permitted an appeal against final judgments, albeit within a limited scope, through the RJR for cases of violation by the supreme courts of any of the principles stated by the Unification Authority.

Under the procedure of retraction, the UAE legislator has added a new means of appeal to the ordinary means of the amendment or annulment of judgments, as stated in Part Twelve concerning the stated methods of appeal against court judgments, specifically Chapter IV "Cassation".

To answer the hypothesis of the study, it is thus concluded that retraction is a procedure of a unique and exceptional nature that combines appeal and rectification, taking into consideration that it could be initiated by the court upon its own motion or by litigants. However, the aspect of the appeal is more dominant for being labeled by the legislator and included in Chapter IV. As a result, the rule of retraction is considered of a public policy nature where parties cannot agree to disregard its terms.

In light of the above results, we recommend the amendment of Article 18 (2) of the RJR due to it being contradictory to the system of retraction. Instead, the system should be referred to as follows: "All federal and local judicial authorities, with their different levels of litigation, shall follow the principles stated by the competent authority, as a violation by any subsequent court ruling of any of

<sup>12</sup> It is worth mentioning that the procedure of retraction was actually applied by courts, as supreme courts used to retract some of their rulings; however, this procedure was exercised without proper legislative cover. Therefore, the system of retraction is in fact not a new legal system; rather, it was recently introduced as a new legislation.

<sup>13</sup> By virtue of an exception stated in Article 187 of the Civil Procedures Law, a petition for reconsideration is permissible, provided that the Court of Cassation's ruling is issued on the dispute's subject matter as a case stated in Clauses 1–3 of Article 169 of the Federal Civil Procedures Law; this is in addition to the fulfillment of a case concerning the judge's disqualification, as stated in Article 116/3 of the same law.

<sup>14</sup> Article 187 (Bis), concerning the system of retraction, is stated in Chapter IV "Cassation" in Part Twelve "Methods of Appeal against Court Rulings" of the Civil Procedures Law, and Appeal No. 856 of 2021 (Commercial), 01/08/2022, issued by the Abu Dhabi Court of Cassation.

these principles may be invoked as legal grounds for appeal through any of the legally stated methods of appeal; in this sense, in case of any violation by a supreme court in the state to any of these principles, after their issuance by the competent authority, the legal provisions of retraction may be invoked, as stated in Article 187 (Bis) of the Civil Procedures Law”.

Last but not least, the subject of retraction is still new in the UAE judicial system, and few judgments and jurisprudential studies could be found to accommodate all of its aspects. This study is limited to defining the concept of retraction and could not investigate its other aspects. Future studies regarding the conditions of retraction, its causes, and its effects on the overturned judgment are recommended.

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