



**The Concept and Legal Aspects of E governance:
The United Arab Emirates' Perspective**

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By

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Introduction:

E-governance may be understood as the performance of governance through the electronic medium in order to facilitate an efficient, speedy and transparent process of disseminating information to the public, and other agencies, and for performing government administration activities. It is the use of modern Information and Communication Technologies, such as Internet, Local Area Networks, Mobiles etc, by Governments to improve effectiveness, efficiency and service delivery to promote easy access to the Government services to the public. **E-Governance** is a network of organizations to include government, nonprofit, and private-sector entities; in e-governance there are no distinct boundaries.

Definition of E Governance

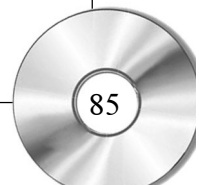
E-governance is defined as a set of "**technology-mediated processes**" that are changing both the delivery of public services and the broader interactions between the citizens and Government.

E-governance is generally considered as a wider concept than e-government, since it can bring about a change in the way how citizens relate to governments and to each other.

Why to introduce e-governance?

The purpose of implementing e-governance is to enhance good governance. Good governance is generally characterized by participation, transparency and accountability. The recent advances in communication technologies and the Internet provide opportunities to transform the relationship between government and citizens in a new way, thus contributing to the achievement of good governance goals. The use of information technology can increase the broad involvement of citizens in the process of governance at all levels by providing the possibility of on-line discussion groups and by enhancing the rapid development and effectiveness of pressure groups. Advantages for the government involve that the government may provide better service in terms of time, making governance more efficient and more effective. In addition, the transaction costs can be lowered and government services become more accessible to the public at large.

Ultimately, the overall goal of E Governance is to make the Government more result oriented, efficient and citizen centered. It enables the citizens and outside world to access Government services and information as efficiently possible through the use of Internet and other channels.





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Main Components of E Governance

E Governance provides a common framework and direction in the implementation of Government Policies in the following areas:

- Across the Public Sector Organizations and Institutions (G2G)
- Between government and the Business community (G2B)
- Between government and Citizens (G2C).

The Fields of Implementation of e-governance

The fields of implementation of e-governance are:-

- **e-administration**- refers to improving of government processes and of the internal workings of the public sector with new Information and Communication Technology (ICT) -executed information processes.
- **e-services**- refers to improved delivery of public services to citizens. Some examples of interactive services are: requests for public documents, requests for legal documents and certificates, issuing permits and licenses.
- **e-democracy**- implies greater and more active citizen participation and involvement enabled by ICTs in the decision-making process by a survey.

Advantages of E Governance

E Governance makes the information widely available to citizens with the aim of increased transparency and accountability, providing information about the political process, about services and choices available. It gives the citizens a greater choice, faster delivery and improved efficiency of services. Further, it improves accessibility of citizens to their elected members, creating a vision for partnership in the decision making process.

E-Government may have the potential to generate enormous benefits in four critical areas:

- i) Transformation of public institutions and service delivery;
- ii) Promotion of transparency;
- iii) Enabling of effective decentralisation; and
- iv) Increment of global competitiveness and integration.

i) Transformation of Public Institutions and Service Delivery

A new vision of e-Government would begin by assessing current capabilities and determining the new roles of government. How new technologies can enable the new roles or transform the way a function or service is delivered.

ii) Promotion of Transparency

Employing new technologies as tools of transformation can assist governments to fight corruption and also to institutionalise transparent public sector practices. In addition to providing information to all interested parties, digital transactions can be traced from origin to point of delivery, and the time it takes to complete them can be accurately measured. All decision-making processes are virtually "visible", separating individual action from routine processes, and creating new levels of accountability.



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iii) Enablement of Effective Decentralization

New technologies can support effective decentralisation and expand its benefits. They create new relationships and enable collaborative work across time and distance. They create better conditions for the decentralisation of resource management as Integrated Financial Information Systems (IFMS) allow for shared and timely management of information, traceable transactions, and the implementation of various accountability measures.

iv) Increment of Global Competitiveness and Integration

A very interesting set of options emerges when considering the impact of e-Government reforms on business environment. New technologies applied to the transformation of government procedures among trade partners have the potential of lowering transaction costs between government and business. In turn, this can increase the competitiveness of local industries as well as attract foreign investment. It also provides a support to the business sector to effectively integrate into global markets.

E-Governance- The UAE Perspective

Internet was introduced in the UAE in the year 1995 and since then, there has been no looking back.

In an effort towards having a hassle free way of interacting with its people, the various departments and ministries of UAE have embarked the path of e-Governance.

The 2008 United Nations Department of Economic and Social Affairs (UNDESA) UN eGovernment Survey has conducted a survey among 192 Member States and prepared an index. This Survey report ranked the UAE in 5th position in terms of transactional services, just behind developed countries like Sweden, Denmark, Norway and the US. The UAE was ranked 32nd in e-government readiness among the 192 member states. **Now it aims to reach among the top TEN.**

The country, which came 42nd in 2005, has out-performed other Gulf countries. The report ranks Bahrain 42nd, followed by Qatar at 53, Kuwait at 57, Saudi Arabia at 70 and Oman at 84. The survey also ranked the UAE **fifth** in terms of transaction services, just behind developed countries.

The UAE Leads Gulf in E Governance and it stood first among Arab States with respect to e Readiness Maturity. The UAE also won two awards at the 13th Middle East eGovernment and eServices Excellence Awards ceremony.

Legal Measures in electronic Transactions in the UAE

The Electronic Transactions and Commerce Law No. 2 (the "ETCL") 2002

Dubai passed the Electronic Transactions and Commerce Law No. 2 (the "ETCL") in 2002.

- Article 27 permits the government to accept the filing of documents in the form of electronic records. The government may specify the manner or format through which the records can be filed.



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- The ETCL addresses electronic signatures as legally valid for both general contracts and contracts with the Government.
- The ETCL permits payments to government agencies through electronic means. But Article 6(3) provides that the consent of the government to electronic transactions must be expressed and cannot be inferred.
- Article 27 of the ETCL permits the government to accept tenders electronically.
- The government also promotes and enables electronic payments through its e-government initiative.

The Federal Electronic Transactions and Commerce Law, 2006

At the Federal level, as part of the Federal Government's efforts to regulate electronic transactions and boost user's confidence, the UAE, has, in February 2006, issued Federal Law No. 1 of 2006 concerning Electronic Transactions and Commerce Law ("ETCL"). Chapter Four in the ETCL addresses electronic transactions and regulates the formation and validity of on-line contracts. Under Chapter Four, **a contract will not lose its validity or enforceability** for the simple fact that it was formed by one or more electronic messages.

- **Article 12 of the ETCL provides that an on-line contract may be concluded between two or more Automated Electronic Systems; without personal intervention, and such contract shall be valid.**
- **Further, the ETCL has recognised electronic signatures and outlined the criteria according to which an electronic signature shall be regarded as equivalent to a handwritten signature.**

Amendments in the Law of Evidence in Civil and Commercial Transactions (promulgated by Federal Law No. 10 of 1992)

Electronic documents and electronic signatures were not initially addressed under the Law of Evidence. Nonetheless, the UAE Federal and local governments have realized such legal vacuum and the fact that e-commerce can only achieve its full potential if there is a modern legal infrastructure that can support the growth of e-commerce. Hence, the UAE Federal and local governments have opted to develop a new legal regime to cope with this fast growing area of e-commerce.

In an attempt to fill the gaps in the existing laws on par with the ETCL, the UAE, has, in October 2006, issued Federal Law No. 36 of 2006, amending the Law of Evidence in Civil and Commercial Transactions (promulgated by Federal Law No. 10 of 1992).

- Pursuant to the Law, electronic signatures shall have the same force and effect as other signatures mentioned in Law of Evidence provided they comply with the provisions of the ETCL.
- Further, electronic writing, communication, records and documents shall have the same force and effect as accorded to official and traditional writing and communication under the Law of Evidence provided they comply with the conditions and provisions of the ETCL.



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- The Commercial Transactions Code also recognizes the validity of E Contract. Article 13 says that for the purpose of contracting, it is permissible to express offer and acceptance, partly or wholly, by means of electronic Communication.
- And a contract shall not be denied validity or enforceability on the sole ground that it was concluded by means of one or more Electronic Communication.

Article 12 of the ETCL provides that Electronic information shall be given due evidential weight. To have legal validity and in judging this validity, certain requirements must be met such as:

The extent of the reliability of the manner in which the operations of executing, entering, generating, processing, storing, presenting or communicating was carried out;

The reliability of the manner in which the integrity of the information was maintained;

The extent of reliability of the source of information;

the extent of reliability of the manner in which the identity of the originator, was ascertained or

Any other relevant item.

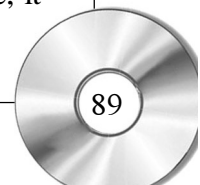
The evidentiary value of the e transactions and e signatures are based on some presumptions.

- It is presumed that a secured e-signature is reliable, and is that of the person involved and specifically approves the electronic document attached to it.
- It is further presumed that a secured electronic document has remained unchanged since its creation and is reliable.
- Even though it may involve one or more electronic communications, a contract may not be less valid or less legal.

For purposes of concluding contracts, partial or total acceptance may be made electronically. An arrangement may be made by electronic devices (two or more information systems) without personal intervention. Such agreement shall be valid according to the DETCL.

Conclusion

Mere technical advancement in e-commerce and e-governance is not enough. A constant legal support system is required. From time to time, it





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is required to be updated with all related Laws, with all required safeguards; so as to enable the UAE to compete effectively with the most advanced nations. The legal system needs to cope up with the emerging new technological developments.

The pace and enormous growth of e-commerce, creating new challenges to any legal system and hence the need arises to continue to develop a legal regime to cope with this fast growing area. The UAE legislators are no doubt on the right track but should continue to enact special laws so as to secure a competitive edge in the digital economy.

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