

# The Role of Shari'a in International Commercial Arbitration

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Different legal backgrounds of the parties, their counsels and the arbitrators as well as conflicting substantive and procedural laws are considered as one of the crucial factors in the efficiency and efficacy of the proceedings in International Commercial Arbitration. Given the economic importance of Muslim countries and the increasing number of transactions between Muslim and non-Muslim parties, *Shari'a* has been seen as an increasingly significant issue in the field of international commercial arbitration in recent years. Due to nature of *Shari'a*, this increasing significance has given rise to a number of questions and problems.

This project tries to provide a comprehensive study and investigation that can deal with all aspects of these questions, problems and the possible answers. The aim of this study is to elucidate the relevance and importance of *Shari'a* in the field of International Commercial Arbitration with a focus on three areas of investigation: role of *Shari'a* in internationalization of commercial arbitration law, *Shari'a* as applicable law to the substantive issues of a dispute and the relation between *Sharia* and public policy as a ground for refusing enforcement of arbitral awards.

In order to achieve the aim of the project, the project has been divided into two phases. The first part of the Phase 1 will be devoted to study the concepts of arbitration and arbitrator and the core principles of arbitration in light of *Shari'a*. For the second part of Phase 1, the effects of *Shari'a* in different stages of arbitration will be studied. In Phase 2 of the project, the mentioned elements in the second part of Phase 1 and their effects on two aspects of legislation and practice will be analyzed by a comparative study between Egypt, Iran, United Arab Emirates (Abu Dhabi and Dubai) and Saudi Arabia.

It is expected that the findings of this study will prove that *Shari'a* as a body of law which has affected Muslim society for centuries can potentially play a role as a source for transnational commercial law. Also, the results of study are expected to prove that the view that considers *Shari'a* as an evolving organism and confirmed by the modern trend provides the answers for the problems where an agreement calls for *Shari'a* to be applied as well as the answers for the questions regarding the relation between *Shari'a* and public policy.