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Legitimacy and Impacts of Specifications and Standards in Preserving Purposes of Sharia

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Abstract:

This study aims to release the concept of specifications and standards, portrays sources of its legitimacy from the Koran and the Sunnah, and reviews the importance as well as the reasons for Muslim jurists' interest and manifestations of this interest. The study concluded that the utilization of specifications and standards is authorized and that one of the duties of the State must be to nurture and grant attention to this concept given the interests protected by these specifications and standards and their impact on the development of production and the progress of societies.

Key words: specifications and standards, legal standards, Islamic politics.

Provisions of Hidden Defect Warranty in Electronic Contracts

According to French, Emirati (UAE), and Moroccan Laws

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Abstract:

The information technology supplier under an IT contract should comply with the general laws while dealing with the parties of the electronic contract.

Since this is a business contract, the supplier undertakes to provide the customer with the right to use the software. This warranty only exists when the supplier guarantees the troubles emanating from him or others claiming the software; in case this fails, the supplier shall indemnify the client.

The supplier also undertakes to ensure hidden defects that can sometimes devalue the quality of the software and makes it unfit for the use for which it is intended.

The court decisions that treat hidden defects in information technology field reveal some issues such as the intangible nature of the software. How can a client discover the hidden defects? Will the client be in need of an expert in the IT field?

Furthermore, how can we characterize an expertise relationship based on bad faith? And therefore, does an expertise of this kind prevent the software beneficiary from demanding the compensation for the damage caused by a latent defect?

Another case is when the software is vitiated by a virus as a precaution against illegal piracy and the client is fully informed by the supplier. This information can be described as a tacit acceptance by the customer, and therefore, will he be deprived of his right to bring a lawsuit?

In case the delivery contract is issued, we understand that there is a correspondence between the software and the terms of the contract, so what are the boundaries between non-compliance with the contract terms and hidden defects? Can the customer file two lawsuits, one claiming latent defects, and another referring to the discrepancy between the software and the conditions of the contract?

Towards a balance in the liability of the maritime carrier between the interests of both carriers and shippers

In accordance with the Rotterdam Convention of 2008

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Abstract:

The obsession of the international legislators during the preparatory period of forming the Rotterdam Convention in 2008 was to create a balance between the interests of both the carriers and the shippers,, in a way that none of them overwhelms the other so as to avoid the blame that was attributed to both Hamburg convention of 1978 and Brussels treaty of 1924 and their two related addendums, as well as updating the maritime transport rules in line with international developments in this field.

Throughout our study to the carriers' duties under Rotterdam rules compared to those contained in Hamburg and Brussels conventions and their two related addendums, we concluded that the picture was not so rosy for achieving the desired balance as sometimes they tend cuff for the benefit of carriers and sometimes tend to the interests of shippers. This conclusion directed us to raise a fundamental question, regarding the existence of effective interests for the carriers or shippers Countries to ratify the Rotterdam rules?

This question drove us to divide our research into two parts .In the first part we dealt the balance with the basics of the maritime responsibility : it's span and cases of exemptions .In the second part of our research we handled the balance for identification of the responsibility of the maritime carriers by treating the principle of the limited responsibility and the cases of which it is excluded, proving that by mentioning a lot of judicial opinions both old and recent and the practical practices which were controversial amongst the people of law and those who are interested in maritime transport . The Rotterdam

rules, in turn, came to codify the maritime practices, to create new rules and to keep certain provisions enshrined in the Hamburg Rules and the Hague Regulations, Which was the subject of criticism or welcome by us and by the other concerned specialists when enacting the provisions of this Convention and even after it.

This approach enabled us to know the most recent and the renewals in the responsibility of the maritime transport through the comparison between the Rotterdam rules and the Hamburg and Hague ones to spot what is new and what was renewed and reproduced which was included in the two Conventions of Hamburg and Hague. It allowed us, on one hand, to identify the traditional duties of the carriers, those introduced by the Rotterdam Rules or contained in the two conventions of Hamburg and Hague and, on the other hand, to advance certain results and recommendations, which we consider beneficial in this study. Finally, we hope that the different Countries, whether be shippers or carriers, would ratify the Rotterdam rules since its new merits, compared with the past two conventions, exceed its demerits.

Some Drawbacks in the Emirati Consumer Protection Law of 2006:

A Comparative Study with the Omani Consumer Protection Law 2014

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Abstract:

We dealt with an exceptionally important subject, namely the drawbacks in the consumer ' protection law compared with the recently enacted one :The Omani Law ,taking an advantage of the western experience embodied in the French laws .The study indicated the double responsibility of both the consumers' protection management and the court in the UAE ,whereas the Omani Law assigned this to the General Authority of the Consumer protection and the French legislator gave this task to the general directorate of competition, consumption and cheat fighting . The researcher, then, realized the drawbacks of the Emirati legislation as the chambers of commerce and industry are not involved with the execution of the laws as well as its failure of activating the rights of the customers being unaware of them and of their implementations in reality.

We recommended that the Emirati and the Omani legislators take the example of the French legislators in being committed clearly, before contracting, to enlighten the customer with the dangers of the misuse .The researcher ,also, recommended the customer would complain to the customers protection management which belongs to the Ministry of Economy in the concerned emirate before suing the case to the court, which represents an attempt to solve the dispute cordially and quickly ,provided that the duration of solving the dispute should not take more than one month .In case the consumers protection management failed to solve the dispute cordially the case would be referred to the court attached with a memorandum containing all the defenses and the claims of both parties. On the other hand, if the case is

directly sued to the court, before resorting to the customers' protection management, we recommend not to accept it.

Key words: customers' protection law, drawbacks, duration of effectiveness, consumers' rights, suppliers liabilities, the administrative regulations, judicial regulations

The Concept of Trade Secrets and the Conditions of their Protection as an Intellectual Property Right

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Abstract:

The protection of trade secrets as a right of intellectual property in the comparative legal system has been established. The research presented the concept of secrets and the Moh conditions of their protection and made recommendations to the Emirati legislator to adopt their protection, taking into account the right of society to seek knowledge of autonomous self-efforts and the right of the worker to develop his knowledge and abilities.

The invalidity of the arbitration award in the Saudi Law

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Abstract:

The judicial ruling is issued by the judges of the State whom are appointed, after the verification of certain conditions on both personal and scientific sides. Despite their scientific and practical qualification, the judgments of the State's jurisdiction shall be subject to appeal according to the judicial system of each country, unlike the arbitration awards.

It should be noted that most of the Arab arbitration laws do not stipulate conditions in the arbitrator related to the scientific field , where the illiterate person in some countries can be arbitrator, The arbitration Law in Saudi did not require that the arbitrator to obtain a degree in Law or in Sharia Law, except in the individual arbitrator. In the event that the arbitral tribunal is composed of more than one arbitrator, it shall be satisfied the requirement of the degree condition in the President of the arbitral tribunal.

Since the arbitration Law in Saudi has not been allowed the appeal of judgment, except for the claim of invalidity; and in this situation it might there is a chance of fear of lack of legal expertise of the arbitrator, there may be an excess of the arbitrator or breach of the basics of the litigation.

Therefore, the Saudi arbitration Law did not leave the arbitral award without a control via the judicial system to guarantee the right to the affected party of the arbitral award to submit a claim of invalidity when there is an availability of one of the specific cases based on the Saudi arbitration Law.

This study discussed the provisions concerning the invalidity of the arbitral award by examining cases of invalidation of the arbitration award, and The lawsuit provisions of the nullification, and the effects of the judgment of invalidity.

Keywords: invalidity, nullification, arbitration, arbitral, Saudi.

The Balance between the Individual's Right to Property and the Requirements of the Administration in the Provision of Public Service:
A Comparative Study

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Abstract:

In order to exercise its functions efficiently, the public administration possesses several areas of expertise, among them is the expropriation for the reason of public utility. It represents a major danger to the right of private property; it has been surrounded by several arrangements; included in the law n° 91-11, and put in execution by the decree ministerial n° 93-186, in order to establish a balance between the individual's right to the private property and the requirements of the public service.

Indeed, the above stated legal texts could regulate many operations of expropriation during one decade and half. Nevertheless; their rules appeared inefficient in a certain time facing the bureaucracy, especially after the launching of big projects of infrastructure in the beginning of this new millennial. That pushed the Algerian legislator to complete the law 91-11 two times.

In spite of, the practice shows us that the institution of a real balance between the individual's right to the private property and the requirements of the public service have not been reached yet.

Withdrawal of Constructive Confidence: A comparative study

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Abstract:

A few parliamentary systems adopted a rare form of no-confidence. This form is a constructive on the contrary of withdrawal of usual confidence, which is considered more destructive. This constructive form of no-confidence does not lead to ending the government as soon as withdrawal of the confidence by the parliament. According to this form, the Parliamentary Council cannot withdraw confidence from Prime Minister or existing government only after the election of a new prime minister as an alternative. The request to withdraw confidence should include the name of the alternative candidate at the same time. This means that the majority of members of parliament should support the withdrawal of confidence as well as the alternative candidate to head the government in order to be exempt or resignation of the Prime Minister or government. The linkage between the two conditions for the purpose of making the vote a successful is a very difficult and rare, and this is what leads us to say that the withdrawal of constructive confidence reduces the probability of ending governments so that they are more stable rather than the situation where the withdrawal of ordinary confidence.

Study on the Compliance of Islamic Investment Funds with the Provisions of Islamic Law (Sharia) within the Framework of French Legislation

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Abstract:

The religious nature of Islamic investment funds distinguishes them from the traditional ones by making their assets credible for Muslims investors on the one hand, and, on the other hand, obligating the Investment Services Providers to reassure investors about their effective religious compliance which constitutes a real challenge in the Occidental Countries.

In this study, dedicated to the control of compliance of the Islamic Investment Funds with the Islamic Sharia in France, we will devote the first section for discussing the means of this control and simultaneously the role that the Sharia Supervisory Board could play in ensuring its effectiveness. This discussion can't be completed without illuminating the role of the Judiciary and Financial Markets Authorities in supervising the works of this board. In the second section, we will go over the civil and administrative sanctions for noncompliance of these funds with the Islamic Sharia that can ensure an effective protection for the funds' subscribers in France.

Key Words

Islamic Investment Fund, Sharia Supervisory, Sharia Supervisory Board, French Legislation, Islamic sharia, the Financial Markets Authority.

International Cooperation in Combating Modern Forms of Maritime Piracy

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Abstract:

Maritime piracy has increased since 2008, posing a real threat to the international peace and security. Therefore, many voices criticized the international legal legislations related to maritime piracy and accused them of being incapable of dealing with this widening phenomenon, being very limited to a few articles contained in the United Nations Convention for the law of seas of 1982.

That criticism necessitated to study all the international legislations related to piracy, which were issued before and after 2008. As a result, we noticed that all the international conventions related to the sea and the international resolutions issued by the Security Council and the United Nations Assembly after 2008 pointed out the need to adhere to a general legal principle that is known as "The International Cooperation" to suppress acts of maritime piracy. It was also obvious that the 1982 Convention clearly emphasized the duty of the States and the relevant organizations to adhere to this principle to put an end to piracy. That was very strong in article (100) and many others.

Based on the revision of those articles, we realized that the international cooperation is essential to combat piracy and to punish the perpetrators, and that the most significant mechanisms of this principle lie in exchanging information and data among stakeholders, who are law enforcement forces, local and international police, sea forces and others. It was also concluded that the cooperation amongst these parties should be aggregate and of multi-specialty, due to the enormous challenges faced by the international cooperation, mainly related to the exchanged information.

Having said that, many new entities that were created at the regional and international levels started acting, by adhering to cooperation amongst them, to

eradicate piracy, as a result, piracy has actually decreased indicating that adherence to the international cooperation the way described by the international legislations, particularly the United Nations Convention for the Law of the Sea 1982, will be sufficient to eradicate maritime piracy wherever it occurs and consequently punish the perpetrators and the facilitators of such crime.