

About the Journal

The Journal of Islamic Studies and Academic Research is a peer-reviewed, scientific, periodic journal specialized in Islamic sciences and related fields. It is issued by the Department of Islamic Sharia at the Faculty of Dar Al-Ulum, Cairo University. The first issue of its first volume was published in 2006. It was previously issued under the name: Journal of the Center for Research and Islamic Studies.

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- 3- Addressing contemporary problems related to Islamic culture and finding solutions for them.
- 4- Discussing contemporary jurisprudential issues to reach their correct Sharia rulings.
- 5- Publishing scientific research by the faculty members of the Faculty of Dar Al-Ulum – Cairo University.
- 6- Contributing to the enrichment and dissemination of Islamic heritage.
- 7- Strengthening cultural relations between the faculty and other faculties inside and outside Egypt.

Scope:

- Specialists in Islamic sciences in its various branches from individuals and institutions, locally and internationally.

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- Principles of Islamic jurisprudence.
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- Objectives of Islamic Sharia.
- Islamic jurisprudence.
- Comparative jurisprudence.
- The Noble Prophetic Hadith and its sciences.
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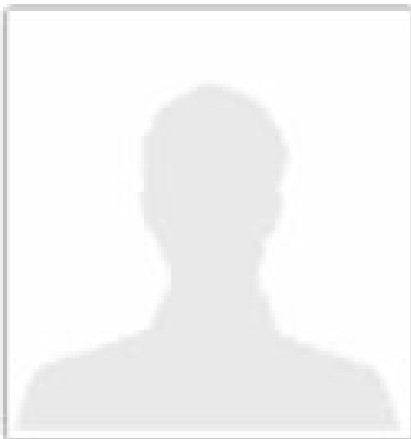
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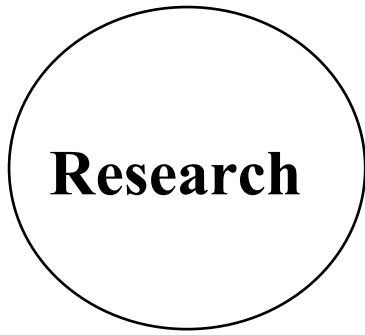
- The Journal of Islamic Studies and Academic Research is a peer-reviewed, scientific, specialized journal that publishes original scientific research characterized by novelty in Islamic sciences.
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In the name of Allah, the Most Gracious, the Most Merciful

Summary: This research addresses the study and analysis of the procedures for filing a lawsuit for the nullification of an arbitral award in the Saudi system, and focuses in particular on two main issues: the procedures for filing the lawsuit, and the competent court for its consideration. The research adopts a comparative approach, presenting the Saudi system in comparison with a number of Arab laws (Jordanian, Emirati, Egyptian, and Algerian) to clarify points of similarity and difference. The research also reaches these procedures from the perspective of Islamic jurisprudence, clarifying their legitimacy and legal controls, aiming to present an integrated vision that combines the legal system and the jurisprudential foundation.

The research also sheds light on one of the most prominent contemporary challenges facing litigants, which is the digital transformation of judicial procedures in the Kingdom, focusing on the technical obstacles of the “Najez” platform, which cause delays in filing nullification lawsuits. The research discusses the serious impact of this delay, as it may lead to the lapse of the legally specified deadline for filing a nullification lawsuit (sixty days).

which threatens the loss of the parties' right to challenge the judgment for reasons beyond their control, and creates a state of legal uncertainty.

The research concluded with a set of results and important recommendations. Among the most prominent results is the legislative gap in the arbitration system and its executive regulations regarding addressing the impact of technical failures on procedural deadlines. The researcher recommends the necessity of legislative intervention to amend the system in a way that ensures the protection of litigants' rights, such as explicitly providing for the suspension of the limitation period in cases of technical obstacles, or requiring the deposit of the judgment as a condition for the commencement of the limitation period, in order to achieve justice and ensure the integrity of judicial procedures in the digital environment.

Keywords: arbitration, Saudi Arabia, nullification, lawsuit, procedures, Najez, technology.

Abstract

This research aims to define the purpose of maintaining the duties required by Islamic law, while clarifying the importance of this purpose in terms of its relationship to achieving the intent of the Shari'a in legislating Shari'a rulings, whether doctrinal, moral, or practical. It also outlines the Shari'a evidence supporting this purpose. The research then discusses one of the components of this purpose in Islamic administrative jurisprudence and contemporary positive administrative jurisprudence: the principle of maintaining the continuous operation of public facilities. The research defines it, explains its importance, and mentions some of its manifestations in Islamic administrative jurisprudence and positive administrative jurisprudence. It also compares the two. The research concludes with a conclusion that Islamic administrative jurisprudence precedes contemporary positive administrative laws in understanding this principle and appreciating its importance. It also reveals that these contemporary positive administrative laws have derived this principle and others from our Islamic administrative jurisprudential heritage .

Introduction

Praise be to Allah, the Exalted, who said:

“And whoever does not judge by what Allah has revealed – then it is those who are the disbelievers. And whoever does not judge by what Allah has revealed – then it is those who are the wrongdoers. And whoever does not judge by what Allah has revealed – then it is those who are the defiantly disobedient. Do they then seek the judgment of the time of ignorance? And who is better than Allah in judgment for a people who are certain.” (1)

And peace and blessings be upon the Messenger of Allah.

Indeed, the rulings of judiciary and arbitration resolve disputes and settle them, and the resolution of disputes entails a binding judgment for one of the parties over the other, whereby the latter bears a financial obligation in his liability or its forfeiture. This is a matter of great importance, whose magnitude is attested by the verses of the Qur’an and the hadiths of the Messenger Muhammad (peace and blessings be upon him), and it reflects the impact of such rulings on people’s lives.

The Saudi legal system has come, following the approach of Islamic Sharia, to address this important matter. It has enacted a system that includes establishing the principle of challenging judicial and arbitral rulings, and has assigned this to courts of a higher degree than courts of first instance, in order to ensure justice, verify it, and unify jurisprudence. These higher courts review the rulings of lower courts and examine challenges against them, not merely as a review and scrutiny of the rulings, but also to ensure their correctness and accuracy.

What concerns us in this research is the challenge of arbitral rulings. This type of challenge differs from challenging judicial rulings in several aspects, including: the system governing it, its causes, its designation, and the procedures for filing it.

This type of challenge is conducted by filing a lawsuit known as: the nullification of the arbitral award. The procedures for filing it involve several issues, among which two are of high importance:

(1) Surah Al-Ma’idah, verses 44–50.

The time limit for filing a lawsuit for the nullification of an arbitral award, and the competent court for hearing a nullification lawsuit of an arbitral award, and both of them will be the subject of this research.

Among the most important issues and problems that should be noted is that the procedures for filing a nullification lawsuit of an arbitral award in Saudi Arabia are carried out electronically and technically through the “Najez” platform of the Ministry of Justice, and this platform has revealed technical defects that have caused delays in many requests for depositing arbitral awards, as will be explained in the practical applications. This has created confusion among arbitration parties who were unaware of the system’s lack of clarity regarding linking the filing of a nullification lawsuit to the deposit of the arbitral award, as will be shown in the judicial applications, such as the request for enforcement of the arbitral award. Accordingly, the time limit for filing a nullification lawsuit is affected by this delay, and may even expire in some cases. So how can the competent court address this problem? Especially in light of the absence of a provision in the arbitration system addressing this issue, and how does Islamic jurisprudence view the statutory provisions that impose a specific time limit for filing a nullification lawsuit, and in determining the competent court to hear the nullification lawsuit?

Reasons for choosing the topic of the research are:

1. The need to clarify the rulings of the time limit for filing a nullification lawsuit under the Saudi system and comparing it with the most prominent relevant foreign laws.
 2. The need to clarify the rulings of the competent court for hearing nullification lawsuits under the Saudi system and comparing it with the most prominent relevant foreign laws.
 3. The need to clarify the legitimacy of filing a nullification lawsuit and the annulment of an arbitral award by the competent court, and to clarify the legitimacy of determining a specific time limit for filing nullification lawsuits, and to clarify the legitimacy of determining the competent court to hear nullification lawsuits in Islamic jurisprudence.
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Research Objectives:

1. Encompassing – as much as possible – the most important issues of the procedures for filing a nullification lawsuit of an arbitral award in the laws under comparison within the scope of this research.
2. Clarifying the technical aspects – as much as possible – in the Najez platform of the Ministry of Justice, and those related to the procedures for filing a nullification lawsuit of an arbitral award.
3. Clarifying the most important Sharia and legal rulings in the procedures for filing this nullification lawsuit.
4. Presenting regulatory solutions to the technical problems caused by the Najez platform in the procedures for filing nullification lawsuits.

Difficulties encountered in preparing this research:

The inability to find research or books addressing the technical problems and their applications in depositing arbitral awards in the Najez platform of the Ministry of Justice, and their impact on the time limit for filing a nullification lawsuit of an arbitral award, as will be detailed in the judicial applications, and the inability to find research or books discussing some rulings related to the procedures for filing a nullification lawsuit of an arbitral award in Islamic jurisprudence.

Research Methodology:

It relies on the applied method, the descriptive method, the analytical method, and the comparative method.

Method Procedures:

1. Collecting and editing one of the most prominent modern Saudi judicial rulings regarding practical applications, which includes in its reasoning: the time limit for filing a nullification lawsuit, the competent court for hearing the nullification lawsuit, the lack of jurisdiction, while presenting the evidence of the reasons for the judicial ruling and its operative part, mentioning the text of the reasons for the judicial ruling and the operative part in the judgment, and explaining what is concluded from the judicial ruling and its reasons.
2. In the applied method also: practical applications. Highlighting the most important procedures required by the Najez platform in electronic procedures.

Chapter Two: The competent court for hearing a nullification lawsuit of an arbitral award, and it includes the following sections:

- First section: The competent court for hearing a nullification lawsuit in some foreign laws.
- Second section: The competent court for hearing a nullification lawsuit in the Saudi system.
- Third section: Comparison of the competent court for hearing nullification lawsuits between the Saudi system and some foreign laws.
- Fourth section: The ruling on assigning a court to hear a nullification lawsuit in Islamic jurisprudence.
- Fifth section: Practical applications in the competent court for hearing nullification lawsuits.

Conclusion

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After that, we move to detailing the chapters and sections of the research, saying:

