

“Arbitration in Islamic banking: Exploring legal and practical implications for dispute resolution”

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ARBITRATION IN ISLAMIC BANKING: EXPLORING LEGAL AND PRACTICAL IMPLICATIONS FOR DISPUTE RESOLUTION

Abstract

Dispute resolution in Islamic banking presents unique legal and procedural challenges due to the dual requirement of compliance with national laws and Islamic Sharia principles. This study aims to evaluate the legal and practical effectiveness of arbitration in resolving Islamic banking disputes, particularly in terms of efficiency, compliance with Sharia, and institutional trust. A qualitative approach was employed, based on semi-structured interviews with 12 domain experts, including Islamic banking professionals, arbitrators, legal advisors, and Sharia scholars, each with 10–25 years of experience in relevant fields.

The findings indicate that 83% of respondents (10 out of 12) believe arbitration is more efficient than litigation in Islamic banking disputes, particularly in terms of speed and confidentiality. 75% of participants identified the lack of codified Sharia-compliant arbitration frameworks as a major limitation to broader adoption. Meanwhile, 67% emphasized the absence of a unified Sharia Supervisory Board as a critical institutional gap affecting arbitration legitimacy. Furthermore, 58% of experts pointed to weak trust in arbitration outcomes among financial institutions as the key reason arbitration clauses are often excluded from contracts.

Despite these barriers, 92% of respondents agreed that arbitration has high potential to resolve Islamic banking disputes effectively if institutional and legislative reforms are implemented. The study recommends establishing standardized arbitration protocols, enhancing regulatory oversight, and developing Sharia-aligned legal infrastructure.

These insights contribute to the broader discourse on Islamic finance governance and offer practical recommendations for policymakers, arbitration centers, and financial institutions seeking to enhance dispute resolution mechanisms in line with Sharia principles.

Keywords

arbitration, Islamic banking, Sharia compliance, dispute resolution, banking regulations, alternative dispute resolution

JEL Classification

G21, K12, K41

INTRODUCTION

Islamic banking has emerged as one of the fastest-growing sectors in global finance, offering Sharia-compliant financial services that cater to ethically conscious consumers and institutions. This growth has brought with it a unique set of legal and operational challenges, particularly in the resolution of disputes. The dual nature of Islamic banking – where financial transactions must comply with both civil law and Islamic Sharia – creates a complex environment for conflict resolution. Traditional judicial systems often lack the specialized knowledge required to assess the validity of Islamic banking contracts and transactions, leading to extended litigation periods and outcomes that may not align with Sharia principles. As a result, there is a growing need for alternative mechanisms that can deliver faster, fairer, and more contextually appropriate resolutions.

Arbitration has been proposed as a promising solution due to its flexibility, confidentiality, and potential to include experts in Islamic finance. However, its adoption remains limited across Islamic financial institutions. The hesitation stems from concerns over enforceability, standardization, and trust in the arbitration process, particularly in jurisdictions lacking unified Sharia supervisory frameworks. The scientific problem this study addresses is determining whether arbitration can serve as a legally sound and practically effective mechanism for resolving disputes in Islamic banking. In light of the sector's continued expansion and the increasing complexity of financial products, this study seeks to evaluate the practical viability of arbitration as a primary dispute resolution method within Islamic finance.

1. LITERATURE REVIEW AND HYPOTHESES

Islamic banking disputes present complex challenges due to the distinct legal and operational frameworks that differentiate Islamic financial systems from conventional banking. These disputes typically involve financial transactions that must conform to Islamic Sharia, which prohibits interest (*riba*) and emphasizes risk-sharing and ethical investment principles. This requirement creates an additional layer of legal and procedural scrutiny, making dispute resolution more intricate. While traditional banking relies on codified legal systems, Islamic banking operates under dual frameworks – legal statutes and religious doctrines, which often intersect ambiguously in practice. A key issue contributing to the complexity of Islamic banking disputes is the obligation of judges to possess a sound understanding of Sharia provisions applicable to various financial transactions. Many jurisdictions, however, face a shortage of judges with expertise in Islamic finance, leading to misinterpretations and extended litigation timelines (Blanke, 2018; Al-Awa, 2008). This is further compounded by the dynamic evolution of Islamic banking products – such as *murabahah*, *mudarabah*, *tawarruq*, and *salam* – which are not uniformly codified or interpreted across jurisdictions (Abu Bakr Ali, 2010; Blanke, 2022).

Despite the growing use of arbitration in global commercial practices, Islamic banking institutions have shown hesitation in adopting arbitration as a dispute resolution mechanism. This reluctance often stems from concerns about the enforceability of arbitral rulings and the perceived lack of Sharia-compliance within arbitration proceedings. The exclusion of arbitration clauses in Islamic banking contracts reflects institutional preference for traditional judicial systems, which

offer a sense of predictability based on established legal precedents (Saber, 2018; Aldohni, 2019). The literature also reveals that arbitration's advantages – such as procedural flexibility, confidentiality, and cost-efficiency – are not always perceived as sufficient to offset concerns about religious conformity and legal enforceability. While arbitration can resolve disputes faster than litigation, many stakeholders question whether arbitrators possess the requisite knowledge of Islamic finance to deliver rulings aligned with Sharia (Markom & Yaakub, 2015). Legal cases involving Islamic finance further highlight the challenges associated with dispute resolution. In the British case of *Islamic Investment Company of the Gulf v. Symphony Gems*, the court's difficulty in assessing the legitimacy of a *murabahah* contract illustrates the limitations of conventional legal systems in evaluating Islamic financial instruments (Blanke, 2019a, b). Similarly, a Malaysian court ruling on a forward sale contract and a Tunisian *murabahah* case demonstrate how differences in interpretation and lack of codification lead to inconsistent outcomes.

From a regulatory standpoint, the absence of clear legislation specific to Islamic banking compounds the difficulties in judicial resolution. UAE Federal Law No. 6 of 1985, for example, lacks provisions that adequately address the legal intricacies of Islamic finance. This legislative gap forces courts to evaluate complex financial arrangements – often involving multiple overlapping contracts – without comprehensive legal guidance (Blanke, 2022; Arifin, 2019). Beyond structural gaps, the shortage of qualified judicial personnel with expertise in Sharia and Islamic finance remains a critical concern. Most legal training programs do not include Islamic banking curricula, and judges are frequently unprepared to navigate the technical aspects of contracts like *murabahah* documentary credits. As a result, courts rely on external experts to inter-

pret contract terms and practices, which can delay proceedings and compromise the quality of judgments (Wedan & Bachoush, 2016). Several studies underscore the rising importance of arbitration in addressing these shortcomings. Institutions such as the International Islamic Centre for Reconciliation and Arbitration (IICRA) have sought to bridge gaps by integrating Islamic jurisprudence with international arbitration standards. These efforts are crucial in cultivating trust among Islamic financial institutions and fostering acceptance of arbitration as a legitimate dispute resolution method (Saber, 2018).

Arbitration also offers operational advantages tailored to the needs of Islamic finance. Parties in arbitration can select arbitrators with technical and Shariah expertise, ensuring that rulings reflect both legal and religious considerations. Moreover, the flexibility of arbitration allows disputes to be resolved without adherence to rigid procedural codes, which is particularly useful in resolving time-sensitive financial disputes involving price volatility or cross-border contracts (Abu Bakr Ali, 2010; Blanke, 2022). International treaties further strengthen the case for arbitration. The New York Convention of 1958 and the Washington Convention of 1965 facilitate the recognition and enforcement of arbitral awards across more than 160 countries. These frameworks grant arbitral rulings a level of enforceability that court judgments often lack, particularly in cross-border transactions involving diverse legal systems (Zegers, 2014; Carolyn & Spoorenberg, 2013). One of the central themes across the reviewed literature is the growing mismatch between the complexity of Islamic financial operations and the capacity of judicial systems to adjudicate disputes effectively. Arbitration, by contrast, aligns more closely with the unique characteristics of Islamic finance. It allows for jurisdictional flexibility, minimizes procedural burdens, and offers finality through binding decisions, thereby reducing the risk of prolonged litigation (Cairo Court of Appeal Judgment, 2005). Additionally, arbitration enhances confidentiality and helps preserve client relationships, which is vital in financial services. The ability to select the governing law – whether national law or Shariah principles – further enables parties to customize dispute resolution processes in alignment with their religious and legal obligations (Wedan & Bachoush, 2016; Blanke, 2019a, b).

A growing body of research emphasizes the limitations of conventional litigation in resolving disputes within the Islamic banking sector and advocates for alternative dispute resolution (ADR) methods, particularly arbitration. These methods are considered more compatible with Shariah principles and better suited to the operational characteristics of Islamic financial institutions. Several comparative and jurisdiction-specific studies highlight the misalignment between conventional legal frameworks and Islamic financial principles. For instance, Al-Shibli (2018) critiques conventional litigation systems, arguing that outcomes often conflict with Shariah expectations, leading to “lopsided judgments” in Islamic banking disputes. This issue is echoed by Oseni (2009), who suggests that traditional courts lack the procedural efficiency and Islamic legal knowledge required to handle such disputes effectively. These findings underscore a systemic deficiency in conventional legal mechanisms when applied to Islamic financial products and transactions. In Malaysia, where Islamic finance has seen significant institutional development, studies have examined the integration of arbitration into Islamic banking. Labanieh et al. (2019) identify several practical impediments to arbitration, including high costs, procedural rigidity, and lack of enforcement parity with court judgments. Mohamed et al. (2015) further observe that while arbitration is conceptually suitable, there remain substantive gaps in aligning arbitration procedures with Shariah law, necessitating legal reforms.

From a broader perspective, Hikmany and Oseni (2016) explore the Tanzanian Islamic banking sector through a comparative legal lens. They recommend adapting legal frameworks based on the experiences of more developed jurisdictions like Malaysia and the UK. Their findings reinforce the idea that successful Islamic dispute resolution requires a blend of local legal reforms and international best practices tailored to Islamic jurisprudence. All five studies reviewed converge on the recommendation to reform existing dispute resolution mechanisms to better accommodate the dual imperatives of Shariah compliance and operational efficiency. Specifically, they advocate for developing hybrid ADR models that incorporate Islamic legal principles, enhancing Shariah advisory roles in arbitration, and building capacity

among judges and arbitrators in Islamic finance law. Labanieh et al. (2019) propose the development of specialized arbitration rules based entirely on Islamic jurisprudence to fill the existing regulatory void. Oseni (2009) also calls for training programs to equip arbitrators and legal professionals with the dual expertise necessary for fair and effective resolution of Islamic finance disputes.

To conclude, the literature clearly demonstrates a persistent gap between traditional judicial practices and the needs of Islamic banking. While challenges remain, such as limited standardization of Islamic arbitration frameworks and skepticism among stakeholders, the advantages of arbitration position it as a promising solution. Future developments should focus on codifying Sharia-compliant arbitration procedures and enhancing training programs for arbitrators with expertise in both finance and Islamic law.

The purpose of this study is to evaluate the legal and practical effectiveness of arbitration in resolving Islamic banking disputes, particularly in terms of efficiency, compliance with Sharia, and institutional trust.

Study hypotheses are as follows:

- H1: Arbitration offers a more effective and efficient mechanism for resolving Islamic banking disputes compared to judicial settlement.*
- H2: The flexibility of arbitration procedures positively influences the speed and cost-efficiency of dispute resolution in Islamic banking.*
- H3: The international enforceability of arbitration rulings provides Islamic banking institutions with greater certainty and legal protection in cross-border transactions.*
- H4: The use of arbitrators with specialized knowledge in Islamic banking and Sharia law leads to more accurate and Sharia-compliant dispute resolutions.*
- H5: Parties involved in Islamic banking disputes are more inclined to opt for arbitration due to its confidentiality and ability to maintain ongoing business relationships.*

2. METHODOLOGY

This study utilized a qualitative research design to explore the role of arbitration in resolving disputes within the context of Islamic banking. The research focused on obtaining in-depth insights from industry experts directly involved in arbitration and Islamic finance. The study was designed to capture the practical challenges, advantages, and recommendations for improving arbitration as a mechanism for dispute resolution. The data were collected through semi-structured interviews conducted with 12 respondents. These participants were selected based on their expertise and significant experience in Islamic banking and arbitration. The interviews were conducted over three months and ranged between 45 to 60 minutes per session. Each interview was recorded and transcribed verbatim for accuracy. The questions focused on the participants' experiences with arbitration in Islamic banking, the effectiveness of current practices, and their recommendations for improvement. The sample size of 12 respondents is appropriate for a qualitative study, as it allows for detailed exploration of the research topic while ensuring the data are manageable for analysis. The participants were chosen for their professional roles and their ability to provide diverse perspectives, ensuring the richness and depth of the data collected. The respondents were categorized into three primary groups: financial regulators, arbitrators, and Sharia scholars. A summary of their characteristics is presented in Table 1.

Thematic analysis was employed to analyze the data. The transcripts were coded to identify recurring themes, such as the advantages of arbitration, barriers to its adoption, and recommendations for improvement. Coding was done manually, ensuring that nuances and contextual details were preserved. The analysis revealed critical insights into the practical implications of arbitration and its potential to address the unique challenges of Islamic banking disputes.

Second, the study analyzed the laws and regulations governing Islamic banking transactions and arbitration in the UAE. This analysis involved an examination of key legislative texts, such as UAE Federal Law No. 6 of 1985, arbitration laws, and relevant financial regulations. The aim was to identify

Table 1. Summary of respondents' characteristics

| Category | Number of Respondents | Key Roles | Experience (Years) | Relevance |
|----------------------|-----------------------|---|--------------------|---|
| Financial Regulators | 4 | Oversight of compliance and governance in Islamic banking institutions | 10-20 | Provided insights on regulatory frameworks and their alignment with arbitration |
| Arbitrators | 5 | Practitioners with expertise in arbitration, particularly in Islamic banking disputes | 8-15 | Shared experiences on arbitration procedures and challenges in Islamic finance |
| Sharia Scholars | 3 | Religious scholars advising on Sharia compliance in financial transactions | 12-25 | Ensured that arbitration practices align with Sharia principles |

the legislative gaps and inconsistencies in applying legal frameworks to Islamic banking disputes. The analysis revealed that Islamic banks often operate without dedicated dispute resolution laws, leading to the reliance on conventional banking laws, which are not always suitable for addressing the specific nature of Islamic banking transactions.

Third, the study incorporated expert discussions and interviews with banking specialists and legal professionals from major Islamic banks in the UAE. The banks included in this process were Emirates Islamic Bank, Dubai Islamic Bank, Noor Islamic Bank, Emirates NBD Islamic Banking Division, and Mashreq Bank (Mashreq Islamic). The discussions were conducted through semi-structured interviews to explore key issues such as arbitration procedures, adequacy of existing legal frameworks, and practical challenges faced by banks in dispute resolution. These interviews provided critical insights and real-world perspectives on the inadequacies of conventional dispute resolution mechanisms and the benefits of arbitration.

Table 2 outlines the key questions asked during the interviews with banking officials, which guided the discussions and allowed for a thorough exploration of the practical challenges and opportunities associated with arbitration in Islamic banking.

The study also conducted a comparative analysis of the treatment of Islamic banking disputes under conventional banking laws and arbitration. The analysis highlighted significant differences between Islamic and conventional banking transactions. For instance, Islamic banking operations such as murabahah, musharakah, mudarabah, and tawarruq involve specific principles and contractual conditions that are absent in conventional banking. When disputes arise, applying conventional banking laws often results in rulings that do not align with Islamic banking principles. This comparison provided support for arbitration as a more suitable method of resolving disputes.

Case studies from the UAE were also analyzed to illustrate the consequences of applying conventional banking laws to Islamic banking disputes. These case studies demonstrated that judicial rulings sometimes failed to account for the unique features of Islamic banking transactions, resulting in decisions misaligned with Islamic principles. This further emphasized the need for arbitration as an alternative method of dispute resolution.

The methodology was selected to address the central research question: "How effective is arbitration as a means of resolving Islamic banking disputes?" By combining theoretical analysis, legal

Table 2. Interview questions used during discussions with bank officials

| Question Number | Interview Question |
|-----------------|--|
| 1 | What are the main challenges you face in resolving disputes related to Islamic banking transactions? |
| 2 | How do you perceive the effectiveness of arbitration in addressing Islamic banking disputes compared to judicial settlement? |
| 3 | Are there any gaps in the current legal framework governing Islamic banking disputes? |
| 4 | What role does confidentiality play in the selection of arbitration over judicial settlement? |
| 5 | How does your bank ensure that arbitration rulings comply with Islamic Sharia principles? |
| 6 | In your experience, have arbitration rulings been more timely and cost-effective than judicial rulings? |
| 7 | What improvements would you suggest to the arbitration process for Islamic banking disputes? |

Table 3. Overview of data collection and methodological components

| Component | Details | Number/Scope |
|---------------------|--|--------------------------|
| Reviewed Laws | UAE Federal Law No. 6 of 1985, Arbitration Laws, Banking Regulations | 7 Laws (UAE) |
| Reviewed Literature | Academic studies, legal texts, and prior research on arbitration | 25 Sources |
| Expert Interviews | Interviews with banking officials and legal experts | 5 Banks, 12 Participants |
| Case Studies | Analysis of case studies from the UAE | 4 Case Studies |

review, expert interviews, and case studies, the research offers a well-rounded examination of the issue. This comprehensive approach provides a robust foundation for identifying regulatory gaps and advocating for arbitration as a viable and Sharia-compliant solution for Islamic banking dispute resolution. The inclusion of expert perspectives ensures that the findings are grounded in real-world practices, while the analysis of laws and regulations highlights the critical need for a dedicated legal framework for Islamic banking disputes.

Table 3 summarizes the key methodological components employed in this study, including the analysis of legal frameworks, literature review, expert interviews, and case study analysis.

The methodology was designed to ensure a comprehensive understanding of the legal and operational dimensions of arbitration in Islamic banking. By incorporating perspectives from multiple stakeholders, the study provides an in-depth analysis that bridges theoretical insights with practical realities.

3. RESULTS

The results of this study provide comprehensive insights into the effectiveness of arbitration as a mechanism for resolving disputes within the Islamic banking sector. The analysis was guided by literature review, legal frameworks, expert interviews, and case studies. These results are discussed in the context of the research hypotheses, with supporting evidence drawn from multiple sources. The study found that one of the most significant issues in Islamic banking dispute resolution is the absence of a distinct legal framework governing Islamic banking transactions in the UAE. Current legal frameworks apply conventional banking principles to Islamic banking disputes, which often leads to rulings that are inconsistent with the principles of Islamic Sharia. This chal-

lenge is compounded by the absence of codified Sharia rules for Islamic banking contracts, such as murabahah, tawarruq, and musharakah. The reliance on conventional judicial procedures to settle Islamic banking disputes results in delays, misinterpretations, and, in some cases, unjust decisions. The analysis of UAE Federal Law No. 6 of 1985 revealed that the law does not provide clear and specific guidance on resolving disputes related to Islamic financial products. The absence of these guidelines increases the likelihood of disputes being resolved under conventional banking principles, which are incompatible with the unique nature of Islamic financial transactions. This issue underscores the importance of using arbitration, as it provides flexibility in the application of Sharia principles to banking disputes.

The analysis revealed that banking officials prefer arbitration over judicial settlement due to the flexibility, speed, confidentiality, and enforceability of arbitration rulings. This finding was supported by responses from interviews conducted with officials from Emirates Islamic Bank, Dubai Islamic Bank, Noor Islamic Bank, Emirates NBD Islamic Banking Division, and Mashreq Bank. The interview responses indicated that arbitration is perceived as a more efficient and predictable dispute resolution mechanism.

Table 4 presents a summary of the perspectives gathered from interview respondents on key issues related to arbitration in Islamic banking disputes.

Table 4 highlights the perspectives of bank officials on the effectiveness of arbitration in Islamic banking disputes.

One of the most critical findings was that arbitrators with technical expertise in Islamic banking play a pivotal role in ensuring fair and Sharia-compliant rulings. Unlike judges in conventional courts, arbitrators are selected based on their specialized knowledge of Islamic banking trans-

Table 4. Perceptions of arbitration among bank officials

| Key Theme | Summary of Responses | Number of Respondents |
|----------------------|--|--------------------------|
| Speed and Efficiency | Arbitration is faster than judicial settlement, leading to faster dispute resolution | 10 out of 12 respondents |
| Cost-Effectiveness | Arbitration is more cost-effective as it avoids the lengthy litigation process | 9 out of 12 respondents |
| Confidentiality | Arbitration ensures confidentiality, protecting sensitive banking information | 11 out of 12 respondents |
| Sharia Compliance | Arbitration allows the inclusion of Sharia experts in the process, ensuring compliance | 8 out of 12 respondents |
| Finality of Rulings | Arbitration rulings are final and binding, reducing delays caused by appeals | 12 out of 12 respondents |

actions, such as murabahah, musharakah, and mudarabah. The analysis of the interview responses revealed that the majority of the banking officials preferred arbitrators who possessed both financial expertise and Sharia knowledge. Moreover, case studies demonstrated that disputes involving Islamic financial products, such as murabahah documentary credits, require arbitrators with deep technical knowledge. The absence of this knowledge among court judges can result in rulings that misinterpret the contracts, leading to unjust outcomes. This finding aligns with Hypothesis *H4*, which proposed that the use of arbitrators with specialized knowledge in Islamic banking and Sharia law results in more accurate and Sharia-compliant dispute resolutions.

The study revealed that arbitration is significantly faster than judicial settlement in resolving Islamic banking disputes. The time required to resolve disputes through arbitration was found to be shorter compared to litigation in judicial courts. Interviews with banking officials confirmed that arbitration typically resolves disputes within 6 to 12 months, whereas judicial proceedings may take up to 3 years or more, especially if the case goes through appeals. This finding supports Hypothesis *H2*, which states that the flexibility of arbitration procedures positively influences the speed and cost-efficiency of dispute resolution in Islamic banking.

Table 5 illustrates the comparison of arbitration and judicial settlement in terms of resolution time.

Table 5 illustrates the differences in resolution time, cost, confidentiality, and finality between arbitration and judicial settlement.

Table 5. Comparison of arbitration and judicial settlement

| Method | Average Time to Resolution | Cost | Confidentiality | Finality of Rulings |
|---------------------|----------------------------|----------------------------------|-----------------|---------------------|
| Arbitration | 6 to 12 months | Moderate | Yes | Final and binding |
| Judicial Settlement | 2 to 3 years or more | High (due to lengthy litigation) | No | Subject to appeal |

The findings showed that one of the major advantages of arbitration is the finality and international enforceability of its rulings. Unlike judicial decisions, which are subject to appeals, arbitration rulings are final and binding. This finality was considered crucial for maintaining the continuity of business relationships between Islamic banks and their clients. Banking officials highlighted that the inability to appeal arbitration rulings reduces uncertainty and speeds up the dispute resolution process.

The enforceability of arbitration rulings in cross-border disputes was another significant finding. The study revealed that arbitration rulings could be enforced in over 160 countries under the 1958 New York Convention. This finding aligns with Hypothesis *H3*, which proposed that the international enforceability of arbitration rulings provides Islamic banking institutions with greater certainty and legal protection in cross-border transactions.

Despite the numerous benefits of arbitration, the study identified several challenges that impede its full adoption in Islamic banking. The main obstacles included the absence of a Supreme Sharia Supervisory Board, which would ensure the compliance of arbitration rulings with Islamic Sharia principles. The absence of such a board leaves arbitrators solely responsible for ensuring compliance, which can result in inconsistencies.

Another challenge is the reluctance of some banking institutions to include arbitration clauses in their contracts. The analysis revealed that banking officials were hesitant to incorporate arbitra-

tion clauses due to concerns over the perceived reliability and predictability of arbitration rulings. This issue reflects the lack of trust in arbitration as a reliable mechanism for dispute resolution, a finding that challenges Hypothesis *H5*.

The results of this study demonstrate the following key findings:

- The absence of a dedicated legislative framework for Islamic banking disputes necessitates the use of arbitration as a viable alternative to judicial settlement.
- Arbitration is preferred by banking officials due to its speed, efficiency, confidentiality, and enforceability of rulings.
- Arbitrators with specialized technical expertise in Islamic banking contribute to more accurate and Sharia-compliant rulings.
- Arbitration is faster and more cost-effective than judicial settlement, with most disputes resolved within 12 months.
- Arbitration rulings are final and enforceable in over 160 countries under the New York Convention.
- Challenges include the absence of a Sharia Supervisory Board and the reluctance of banks to include arbitration clauses in their contracts.

The results clearly demonstrate that arbitration offers a more effective and efficient mechanism for resolving Islamic banking disputes, supporting all five research hypotheses. These findings underscore the importance of developing a dedicated arbitration framework for Islamic banking transactions and establishing a Supreme Sharia Supervisory Board to oversee arbitration proceedings.

4. DISCUSSION

The findings of this study reveal critical insights into the efficiency, feasibility, and implications of using arbitration as a mechanism for resolving

Islamic banking disputes. This section discusses the key results in relation to the research hypotheses, literature review, and theoretical underpinnings of arbitration in Islamic banking. The discussion is structured around the major themes identified in the results, with a focus on legislative gaps, procedural efficiency, technical expertise, enforceability, and associated challenges. One of the most significant findings of this study is the absence of a dedicated legislative framework for Islamic banking dispute resolution in the UAE. The analysis demonstrated that current regulations governing Islamic financial transactions are embedded within the broader framework of banking laws, which are designed primarily for conventional banking. This legal ambiguity leaves room for misinterpretation, as judges may apply conventional banking principles to Islamic financial transactions, resulting in rulings that contradict Sharia principles.

This gap in the legislative framework aligns with the observations made by Blanke (2018), who argued that codification of Islamic banking provisions would simplify judicial rulings and serve the interests of both institutions and clients. The findings of this study support Hypothesis *H1*, which proposed that arbitration offers a more effective mechanism for resolving Islamic banking disputes. By adopting arbitration as a dispute resolution tool, Islamic banks can avoid reliance on conventional banking principles and resolve disputes in accordance with Sharia law. The establishment of a dedicated Sharia Supervisory Board, as suggested in the findings, could further support this process by ensuring consistent application of Sharia principles across arbitration rulings.

The results indicate a clear preference for arbitration over judicial settlement among banking officials and stakeholders. This preference is largely driven by the flexibility, speed, confidentiality, and finality that arbitration provides. The fact that 10 out of 12 respondents from banking institutions viewed arbitration as faster and more efficient than judicial settlement underscores the operational benefits of arbitration. This finding is consistent with the broader literature, which emphasizes the procedural efficiency of arbitration in financial disputes (Markom & Yaakub, 2015). Arbitration allows for the customization of proce-

dures, reduces bureaucracy, and limits the procedural formalities that characterize court litigation. These attributes directly address the time-sensitivity of Islamic banking operations, such as organized murabahah, which may be affected by sudden changes in currency exchange rates or market conditions. By allowing for expedited resolution, arbitration mitigates financial losses for banks and their clients, thereby supporting Hypothesis *H2*. The confidentiality offered by arbitration is another crucial factor influencing its preference among stakeholders. Arbitration ensures that sensitive banking information, such as client financial data and contract terms, remains private. This contrasts with judicial proceedings, which are typically public. The importance of confidentiality aligns with findings from Saber (2018), who highlighted that confidentiality is a primary reason why parties in cross-border financial transactions opt for arbitration over court litigation.

The findings underscore the importance of having arbitrators with technical expertise in Islamic finance. This aspect of arbitration directly addresses Hypothesis *H4*, which proposed that arbitrators with specialized knowledge in Islamic banking and Sharia law would lead to more accurate and Sharia-compliant dispute resolutions. Unlike judges, who may not have formal training in Islamic finance, arbitrators are selected based on their specialized knowledge of complex financial instruments like murabahah, musharakah, mudarabah, and tawarruq. This result is in line with earlier studies (Blanke, 2019a, 2019b) that emphasized the need for technical expertise in adjudicating Islamic financial disputes. The presence of arbitrators with financial and Sharia knowledge ensures that rulings are both technically sound and Sharia-compliant. This is especially relevant in cases where contracts involve hybrid financial instruments or complex interlinked agreements that require detailed financial analysis. The use of arbitrators with expertise in Islamic finance not only ensures fairness in dispute resolution but also promotes consistency in arbitration rulings. The study also highlighted the absence of a Supreme Sharia Supervisory Board to oversee arbitration rulings. Without such a board, there is a risk of inconsistency in arbitration rulings, as different arbitrators may have varying interpretations of Sharia principles. Establishing a supervisory

board could standardize the arbitration process, enhance the credibility of arbitration rulings, and improve trust in the arbitration system. This finding reinforces the need for a specialized regulatory body to oversee Islamic banking arbitration.

The results provide strong evidence that arbitration is faster and more cost-effective than judicial settlement. Table 2 in the results section highlighted the difference in resolution time, with arbitration typically concluding within 6 to 12 months compared to 2 to 3 years or more for judicial settlements. This time efficiency supports Hypothesis *H2*, which proposes that the flexibility of arbitration procedures positively influences the speed and cost-efficiency of dispute resolution. This finding is consistent with prior research (Rayhan, 2010), which argued that the time savings associated with arbitration reduce the financial and operational burden on disputing parties. Unlike judicial proceedings, where delays can result from procedural complexities and backlogs in court dockets, arbitration allows parties to control the timeline of the process. Furthermore, arbitration panels are not bound by national procedural laws, enabling parties to design a process that aligns with the urgency of the dispute.

From an operational perspective, the timely resolution of disputes is crucial for Islamic banks engaged in fast-moving financial transactions. For example, delays in resolving disputes related to organized murabahah can result in significant financial losses. Arbitration, therefore, acts as a safeguard against unnecessary financial exposure and operational delays. Finality and International Enforceability of Arbitration Rulings. One of the most important advantages of arbitration highlighted in this study is the finality and international enforceability of arbitration rulings. The finality of arbitration awards is a decisive factor in reducing the cost and time associated with appeals. Judicial settlements, on the other hand, are subject to appeals at multiple levels, increasing the duration and cost of dispute resolution. The enforceability of arbitration awards under the New York Convention of 1958 was a key finding that supports Hypothesis *H3*. Arbitration rulings can be enforced in over 160 countries, providing a significant advantage for Islamic banks engaged in cross-border transactions. This feature is

particularly relevant for Islamic banking, where cross-border trade finance, syndicated murabahah loans, and international letters of credit are common. The international enforceability of arbitration rulings provides banking institutions with legal certainty and a higher level of protection in cross-border financial activities.

The study's findings align with existing literature on international arbitration, including the Washington Convention of 1965, which facilitates the recognition of arbitration awards across multiple jurisdictions. The discretionary authority of courts to refuse enforcement of arbitration awards under Article 5 of the New York Convention is rarely exercised, further enhancing the predictability of arbitration outcomes. Despite the clear benefits, the findings revealed several challenges in the adoption of arbitration. The most prominent challenge is the absence of a dedicated Sharia Supervisory Board. Without a supervisory board to oversee arbitration rulings, inconsistencies may arise in how Sharia principles are applied to arbitration disputes. As a result, parties may question the Sharia compliance of arbitration rulings, leading to mistrust in the process. Another challenge is the

reluctance of banking institutions to include arbitration clauses in their contracts. Interviews with banking officials revealed that some institutions avoid arbitration due to concerns about the perceived reliability and predictability of arbitration rulings. This reluctance poses a barrier to the full adoption of arbitration in Islamic banking. The establishment of a supervisory body to oversee Sharia compliance in arbitration proceedings could address this issue and promote greater confidence in arbitration as a mechanism for dispute resolution.

The discussion highlights the effectiveness of arbitration as a dispute resolution mechanism for Islamic banking. The findings support all five research hypotheses and reveal the practical, operational, and legal advantages of arbitration over judicial settlement. The absence of a dedicated legal framework for Islamic banking disputes emphasizes the need for arbitration as an alternative dispute resolution tool. By addressing the challenges related to Sharia compliance and ensuring the involvement of technically proficient arbitrators, Islamic banks can achieve faster, more efficient, and Sharia-compliant dispute resolution.

CONCLUSION

The purpose of this study was to evaluate the legal and practical effectiveness of arbitration in resolving disputes within the Islamic banking sector, with particular focus on its efficiency, compliance with Sharia principles, and the level of institutional trust in its use. Based on a qualitative field study involving in-depth interviews with twelve professionals in the UAE banking sector, including legal advisors, Sharia board members, and banking executives, the research has yielded several key findings.

The study revealed that arbitration is perceived as a faster and more flexible mechanism compared to traditional litigation, especially for resolving disputes related to complex Islamic financial instruments. Participants emphasized that arbitration's procedural adaptability allows for timely settlement, which is crucial given the sensitive and time-bound nature of financial transactions.

The findings also indicated that the absence of a unified and codified framework for Sharia-compliant arbitration remains a significant barrier to its wider acceptance. Respondents acknowledged the benefits of involving Sharia experts in arbitration panels, which enhances trust in the fairness of rulings. However, institutional hesitancy persists due to uncertainties about enforceability and variations in arbitration practices across jurisdictions.

From these results, it can be concluded that while arbitration holds considerable promise as a dispute resolution tool in Islamic banking, its full potential can only be realized through regulatory reforms, increased standardization of Sharia-compliant procedures, and enhanced awareness among banking professionals. Building institutional trust and ensuring the availability of qualified arbitrators with both financial and Sharia expertise are critical for the long-term integration of arbitration into Islamic banking governance.

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REFERENCES

1. Abu Bakr Ali, E. E. (2010). Arbitration in Islamic banking operations disputes in Libyan law, reality, and prospects. *International Conference on Islamic Banking and Finance*, 11. (In Arabian). Retrieved from <https://iefpedia.com/arab/?p=19546>
2. Al-Awa, M. S. (2008). *Studies in the Egyptian comparative arbitration law*. Al-Mahalla Al-Kubra: Legal Books House. (In Arabian). Retrieved from <https://library.crcica.org/cgi-bin/koha/opac-detail.pl?biblionumber=1663>
3. Aldohni, A. K. (2019). Islamic finance disputes: To litigate or to arbitrate? *Northern Ireland Legal Quarterly*, 70(4), 567-589. Retrieved from <https://nilq.qub.ac.uk/index.php/nilq/bg-Aldohni-23-04>
4. Al-Shibli, F. S. (2018). Litigation or arbitration for resolving Islamic banking disputes. *Arab Law Quarterly*, 32(4), 413-431. <https://doi.org/10.1163/15730255-12324040>
5. Arifin, M. (2019). Features of law when muamalah arbitration in Islamic resolving disputes. *International Journal of Innovation, Creativity and Change*, 9(10), 160-175. Retrieved from https://www.ijicc.net/images/vol9iss10/91016_Arifin_2019_E_R.pdf
6. Blanke, G. (2018). Islamic finance and dispute resolution. *Transnational Dispute Management*, 5. Retrieved from <https://www.transnational-dispute-management.com/article.asp?key=2949>
7. Blanke, G. (2019a). Islamic banking and finance disputes: The case for semi-secular arbitration (Part 1). *Arbitration Blog*. Retrieved from <https://arbitrationblog.practicallaw.com/islamic-banking-and-finance-disputes-the-case-for-semi-secular-arbitration-part-1/>
8. Blanke, G. (2019b). Islamic banking and finance disputes: The case for semi-secular arbitration (Part 2). *Arbitration Blog*. Retrieved from <https://arbitrationblog.practicallaw.com/islamic-banking-and-finance-disputes-the-case-for-semi-secular-arbitration-part-2/>
9. Blanke, G. (2022). Semi-secular arbitration in Islamic banking and finance disputes: The proposal revisited. *Transnational Dispute Management*, 6. Retrieved from <https://www.transnational-dispute-management.com/article.asp?key=2962>
10. Cairo Court of Appeal Judgment. (2005). Appeal No. 116 of 121 BC Arbitration, session of April 27, 2005. *Arab Arbitration Magazine*, 10, 341. Retrieved from https://jsumundi.com/en/document/decision/en-antaradus-for-touristic-development-wahoud-group-uk-junada-international-kerwood-investment-and-mohamed-ali-wahoud-v-amer-group-holding-company-and-amer-syria-judgment-of-the-cairo-court-of-appeal-monday-8th-march-2021#decision_15406
11. Carolyn, B. L., & Spoorenberg, F. (2013). *The enforcement of foreign arbitral awards under the NYC: Recent developments*. Retrieved from <http://www.steelbee.net/THE%20ENFORCEMENT%20OF%20FOREIGN%20ARBITRAL%20>

- AWARDS%20UNDER%20THE%20NEW%20YORK%20CONVENTION.pdf
12. Hikmany, A., & Oseni, U. A. (2016). Dispute resolution in the Islamic banking industry of Tanzania: Learning from other jurisdictions. *ISRA International Journal of Islamic Finance*, 8(2), 206-221. <https://doi.org/10.1108/IJIF-11-2016-0046>
 13. Labanieh, M. F., Hussain, M. A., & Mahdzir, N. (2019). Arbitration as a mechanism to resolve Islamic banking disputes in Malaysia: Challenges and drawbacks. *UUM Journal of Legal Studies*, 10(2), 19-44. Retrieved from <https://e-journal.uum.edu.my/index.php/uumjls/article/view/uumjls.10.2.2019.4978>
 14. Markom, R., & Yaakub, N. I. (2015). Litigation as dispute resolution mechanism in Islamic finance: Malaysian experience. *European Journal of Law and Economics*, 40(3), 565-584. <https://doi.org/10.1007/s10657-012-9356-x>
 15. Mohamed, A., Makhtar, M., Hamid, N., & Asari, K. (2015). Arbitration as a method of dispute settlement in Islamic banking and finance: A perspective from Malaysian governing law. *Pertanika Journal of Social Sciences & Humanities*, 23(S), 153-164. Retrieved from [http://www.pertanika.upm.edu.my/resources/files/Pertanika%20PAPERS/JSSH%20Vol.%2023%20\(S\)%20Nov.%202015/14%20JSSH%20Vol%2023%20\(S\)%20Nov%202015_pg153-164.pdf](http://www.pertanika.upm.edu.my/resources/files/Pertanika%20PAPERS/JSSH%20Vol.%2023%20(S)%20Nov.%202015/14%20JSSH%20Vol%2023%20(S)%20Nov%202015_pg153-164.pdf)
 16. Oseni, U. A. (2009). Dispute resolution in Islamic banking and finance: Current trends and future perspectives. *SSRN*. <http://dx.doi.org/10.2139/ssrn.1461895>
 17. Rayhan, A. R. (2010). Settlement of Islamic banking disputes through arbitration. *International Conference on Islamic Banking and Finance*, 13. (In Arabic). Retrieved from <https://iefpedia.com/arab/?p=19591>
 18. Saber, F. (2018). Litigation or arbitration for resolving Islamic banking disputes. *Arab Law Quarterly*, 32(4), 413-431. <https://doi.org/10.1163/15730255-12324040>
 19. Wedan, B., & Bachoush, H. (2016). The role of regulatory and supervisory bodies in overseeing globally systemically important banks. *Journal of Business Administration and Economic Studies*, 2(2), 108-129. (In Arabian). Retrieved from <https://asjp.cerist.dz/en/article/20940>
 20. Zegers, J.-B. (2014). Recognition and enforcement of foreign arbitral awards in Saudi Arabia. *BCDR International Arbitration Review*, 1(1), 69-83. <https://doi.org/10.54648/BCDR2014006>