

SYMPOSIUM ON DISPUTE RESOLUTION IN ISLAMIC FINANCE

Theme:

Dispute Resolution in Islamic Finance: Litigation or Arbitration?



Date changed to 5 September 2017



8:30am – 5:30pm



Kuala Lumpur Regional Centre for Arbitration (KLRCA)



Bar Council Malaysia CPD Points:

6 CPD POINTS

T2/05092017/IIUM/KL172444/6

About the Symposium

There is an on-going debate as to whether: litigation (resolution of disputes through the courts) or arbitration (non-court alternative method of resolving disputes) is the more effective mechanism for the settlement of Islamic finance disputes. Studies have shown that Islamic financial institutions tend to favour litigation over arbitration for various reasons. However, in recent years, there has been a strong push, for better or worse, towards the use of arbitration in Islamic finance. It is claimed that arbitration, which has a strong basis in Islamic jurisprudence, has an advantage over litigation as it promotes settlement of disputes speedily and discreetly. Some proponents of arbitrations have suggested that arbitration clauses should be made mandatory in Islamic finance agreements.

Realising the importance of these issues, the Ahmad Ibrahim Kulliyah of Laws (AIKOL) together with the School of Business, Monash University Malaysia, will jointly organise a one-day Symposium to enable the arguments to be presented and debated on a preferred dispute settlement mechanism in Islamic finance. The Symposium will be led by members of the judiciary, legal practitioners and academics who will be carefully selected by reason of their particular expertise and interest in the area. It is hoped that, by the end of the Symposium, participants would be able to conclude which of the two dispute resolution mechanism is preferred for settling Islamic finance disputes.

Benefits of Attending

- Increase awareness of dispute resolution mechanisms and infrastructure available for effective resolution of Islamic finance disputes
- Enable proponents and opponents of litigation and arbitration in Islamic finance to present their arguments in an appropriate forum
- Enable the delegates drawn from among the judiciary, industry, and academia to learn from the presented views and, at the same time, to engage with the presenters and query workability of the viewpoints presented
- Propose to the regulators reform of the existing laws and policies

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Dimension/Scope

- Dispute resolution in Islamic finance: Litigation or Arbitration
- Muamalat Division of the High Court of Malaya and Its role in Dispute Resolution
- Arbitration of Islamic Finance Disputes in Kuala Lumpur Regional Centre for Arbitration (KLRC)
- Mandatory ADR Clauses in Islamic Finance Agreements
- Level of certainty and protection for consumers in the banking sector

Who Should Attend

- Members of the Judiciary
- Islamic Bankers
- Legal Practitioners
- Government officials
- Academics and students
- Regulators
- Finance Managers and Financial Controllers
- In-house legal counsel
- Bankers, Investors, Fund Managers
- Shariah Scholars

Programme

8.30 am - 9.00 am	Registration and Light Breakfast
9.00 am - 9.20 am	Welcome Address Prof. Dato' Sri Dr. Zaleha Kamaruddin <i>Rector of International Islamic University Malaysia</i>
9.20 am - 10.00 am	Keynote Address: Dispute Resolution in Islamic Finance: Litigation or Arbitration? Book Launch: "Islamic Banking in Malaysia: Cases and Commentaries" by Dr. Rusni Hassan, Dr. Ahmad Azam Othman & Dr. Norlizah Mokhtar YAA Tan Sri Dato' Seri Md Raus Sharif <i>Chief Justice of Malaysia</i>
10.00 am - 10.30 am	Tea Break
10.30 am - 11.30 am	Muamalat Division of the High Court of Malaya and its Role in Dispute Resolution Dato' Rohana binti Yusuf <i>Judge, Court of Appeal, Malaysia</i>
11.30 am - 12.30 pm	Arbitration of Islamic Finance Disputes in Kuala Lumpur Regional Centre for Arbitration (KLRC) Datuk Prof. Sundra Rajoo <i>Director, KLRC</i>
12.30 pm - 2.00 pm	Lunch & Zuhr
2.00 pm - 3.00 pm	Mandatory Arbitration Clauses in Islamic Finance Agreements Datuk Dr. Haji Hamid Sultan bin Abu Backer <i>Judge, Court of Appeal, Malaysia</i>
3.00 pm - 4.00 pm	Dispute Resolution in Islamic Finance: Banking Sector's and Consumer's Perspective Puan Fakhah Azahari <i>Partner, Nik Hisham, Fakhah & Co.</i>
4.00 pm - 4.30 pm	Tea Break
4.30 pm - 5.30 pm	Panel Session Theme: Dispute Resolution in Islamic Finance: The Way Forward 1. Dr. Umar Aimhanosi Oseni <i>Executive Director, International Islamic Liquidity Management Corporation</i> 2. Prof. Dr. John Benson <i>Dean, School of Business, Monash University Malaysia</i> 3. Dr. Rusni Hassan <i>Associate Professor and Deputy Dean, IIUM Institute of Islamic Banking and Finance</i> Moderator: Tuan Haji Jalalullail Othman <i>Senior Partner, Shook Lin & Bok</i>

Speakers

YAA Tan Sri Dato' Seri Md Raus Sharif | *Chief Justice of Malaysia*

Tan Sri Dato' Seri Md. Raus Sharif graduated with LLB (Hons) from the University of Malaya in 1976. His Lordship obtained his LLM from the London School of Economics in 1987 and began his legal career in 1976. He held various distinguished posts as, inter alia, Legal Advisor to the Ministry of International Trade and Industry, Malacca State Legal Advisor, Legal Advisor at the Pensions Division at the Public Services Department, Legal Advisor to the Ministry of Defence, Legal Advisor to the Ministry of Home Affairs, Kelantan State Legal Advisor and Treasury Solicitor to the Ministry of Finance. He was elevated to the High Court of Malaysia in 1996, the Court of Appeal in 2008 and thereafter, as Judge of the Federal Court in 2009. His Lordship now serves as the Chief Justice of Malaysia. In recognition of his public service, Tan Sri has been awarded several honours, including Kesatria Mangku Negara (KMN) in 1994 and Darjah Yang Mulia Pangkuan Negeri (DMPN) in 2000.

Datuk Dr. Haji Hamid Sultan bin Abu Backer | *Judge, Court of Appeal, Malaysia*

Justice Datuk Dr. Haji Hamid Sultan bin Abu Backer, a Judge of Court of Appeal Malaysia, is a barrister and a fellow of the Chartered Institute of Arbitrators. He is a graduate in economics and also an honours and masters degree holder from University of London in Insurance, Shipping and Syariah Law. He also holds post graduate diplomas in Islamic Banking and Finance and also in Syariah Law and Practice from International Islamic University Malaysia. He was a member of the Malaysian Bar Council for more than 6 years and has served as Chairman in various committees. He has been invited as a visiting Scholar of University of Sheffield in United Kingdom and also participates in various other activities of Universities such as examiner of PhD thesis, external examiner, Guest Speaker, etc. He has written on various subjects, inclusive of Civil Procedure, Criminal Procedure, Evidence, Conveyancing, Islamic Banking and many more areas, on commercial law. His books grace the libraries of law firms and the chamber of judges.

Dato' Rohana Yusuf | *Judge, Court of Appeal, Malaysia*

Dato' Rohana Yusuf graduated with LLB (Hons.) from University of Malaya in 1980. She obtained Diploma Syariah Law & Practice and Masters in Comparative Laws in 1993. She commenced her legal career at the Attorney General's Chambers serving in various capacities as legal advisers to a number of Departments and Ministries. She opted for earlier retirement and later became legal adviser to a commercial bank and was also in legal practice. Before her elevation to the Bench, she served as Deputy Director in Islamic Banking Department at Bank Negara Malaysia. On elevation, she was the High Court Judge in Kuala Lumpur and was the first to serve at Muamalat Bench. Now at the Court of Appeal she is also chairing the Court of Appeal Panel hearing cases including Muamalat cases.

Prof. Dato' Sri Dr. Zaleha Kamaruddin | *Rector, International Islamic University Malaysia*

Prof. Dato' Sri Dr. Zaleha Kamaruddin is the Fifth Rector of the International Islamic University Malaysia. She obtained her LL.B (Hons) from University Malaya in 1985 and several other academic qualifications including a PhD in Comparative Laws at UCL, University of London in 1994. She has served IUM for more than 28 years in various capacities. She has been a member of several government panels and committees on issues relating to fatwa, Islamic law, Civil law, women and children's rights. As a result of her expertise, she has been consultant to Governments of Canada, Netherland, Macau and Tokyo. She is an erudite researcher and author of several academic journals, books within and outside Malaysia. She has been appointed as Head, Law Cluster for Islamic Consultative Council, under the Deputy Prime Minister's office in Malaysia.

Prof. Dr. John Benson | *Dean, School of Business, Monash University Malaysia*

Professor Dr. John Benson is a Fellow of the Academy of Social Sciences in Australia and a Senior Associate of St Antony's College at Oxford University. He has held visiting professorships at Oxford University and the London School of Economics in the United Kingdom; University College Dublin, Ireland; Université Jean Moulin, Lyon 3 in France; and Osaka and Hiroshima national universities in Japan. John has been a frequent consultant to government, business and trade unions in Australia, Japan and Europe. He has authored/edited twelve books and written over one hundred academic journal articles and book chapters. His research has focused on employment relations with special interest in alternate dispute resolution processes.

Datuk Prof. Sundra Rajoo | *Director, Kuala Lumpur Regional Centre for Arbitration (KLRC)*

Datuk Professor Sundra Rajoo is the Director of the Kuala Lumpur Regional Centre for Arbitration (KLRC). He is currently the President of the Chartered Institute of Arbitrators (CIArb) Global, the worldwide leader in training, accreditation and practice of Alternative Dispute Resolution. He is the Past President of the Asia Pacific Arbitration Grouping (APRAG), which is a federation of nearly 40 arbitral institutions in Asia Pacific region. He is also a Chartered Arbitrator and an Advocate & Solicitor of the High Court of Malaya (non-practising), a Professional Architect and Registered Town Planner. He has had over 200 appointments as arbitrator either as a chairman, co-arbitrator of three-man panels and sole arbitrator in international as well as domestic arbitrations.

Puan Fakhah Azahari | *Partner, Nik Hisham, Fakhah & Co.*

Puan Fakhah Azahari obtained her LLB (Hons) from International Islamic University Malaysia (IIUM) in 1991. She is an Advocate & Solicitor with the partnership of Messrs. Nik Hisham, Fakhah & Co. since 1994. She focuses on Islamic Banking & Finance, corporate finance transaction along with research and development. At present, she is a director of Muamalat Invest Sdn. Bhd., a Syariah Counsel, accredited mediator, chartered arbitrator and accredited tutor/lecturer and trainer. She was also certified in WTO, International Trade and Development from Graduate Institute Geneva, Switzerland in 2014. Recently, she obtained her Diploma in Islamic Banking & Finance Arbitration from Institute Chartered Arbitrator (UK).

Dr. Rusni Hassan | *Associate Professor and Deputy Dean, IIUM Institute of Islamic Banking and Finance*

Dr. Rusni Hassan, an Associate Professor and Deputy Dean at IIUM Institute of Islamic Banking and Finance, graduated with LLB(Hons), LLB(Syariah), Master of Comparative Laws and Ph.D in Law. She serves in the Shariah Committee for a number of institutions in Malaysia and foreign countries. She is a registered Shariah Advisor with the Securities Commission Malaysia. She is active in the Association of Shariah Advisors in Islamic Finance Malaysia and the International Council of Islamic Finance Educators. She has spoken in various seminars, workshops and conferences. Her publication includes titles on Islamic Banking and Takaful, Islamic Banking under Malaysian Law, Corporate Governance of Islamic Financial Institutions and articles in local and international journals. She received awards as a Promising Researcher at IIUM in 2012, the Most Talented Women Professional in Islamic Banking, Asia Islamic Banking Excellence Awards, CMO Asia, 2014, and Women of Distinction in her contribution in the field of Islamic Finance and law by Venus International Women Awards. In 2013, she was listed among the Top 10 Women in Islamic Finance by CPI Financial.

Dr. Umar Aimhanosi Oseni | *Executive Director, International Islamic Liquidity Management Corporation*

Dr. Umar Aimhanosi Oseni is an Executive Director, Legal and Compliance at the International Islamic Liquidity Management Corporation, Malaysia. Prior to this, he was an Associate Professor of Law at the International Islamic University Malaysia (IIUM) and a Visiting Fellow at the Islamic Legal Studies Program, Harvard Law School, United States. He received his LLB (Hons) in Common and Islamic Law from the University of Iflorin, Nigeria; Masters of Comparative Laws (with Distinction) and a PhD from IIUM. His published articles cover widely on current legal and regulatory issues in Islamic finance as well as Alternative Dispute Resolution.

Tuan Haji Jalalullail Othman | *Senior Partner, Shook Lin & Bok*

Tuan Jal Othman, a senior practitioner, heads the Islamic Finance department in Messrs Shook Lin & Bok. He was instrumental in setting up the Islamic Finance practice and continues to chart the course of this practice area within the Firm. His task includes, inter alia, setting the policy direction for the incremental development of this area of practice within the Firm and developing a structured research and development unit to promote an effective continuing legal education scheme within the Firm. Leveraging on 24 years of experience as a banking and finance lawyer, he guides and leads his team in the retail, mezzanine and tier one financing deals, both for onshore and cross-border clients.

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- Written cancellation after 22 August 2017: No refund will be entertained.
- In the event of a no-show, delegates are still liable for the full Symposium fees unless cancellation is received by CLJ before the cut-off date above.

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