proceedings. However, the arbitration agreement is a binding agreement, as will be seen when discussing the arbitration law of Saudi Arabia.

The Arbitration Agreement and the Arbitration Clause in Islamic Law

The Arbitration Agreement

There is no mention of a model arbitration clause or agreement in the classical Shari′a treatises; however, the general rules of Shari′a contract law are applied to arbitration agreements. An arbitration agreement can be formed by an offer and an acceptance or by any word or action that indicates the intention of the parties to refer the dispute to arbitration.[66] The Majalla set a few conditions for the validity of the arbitration agreement, which are:

- the dispute must already have arisen and be clearly defined;
- the parties must have agreed to arbitration by a reciprocal offer and acceptance and they must say the following to the arbitrator – 'arbitrate between us because we have appointed you as an arbitrator';
- the arbitrator must be appointed by name; and
- the arbitrator must have the capacity to be a witness.[67]

With the exception of the Maliki school, which considers the appointment of an arbitrator as irrevocable, the appointment of an arbitrator is revocable up to the point of the issuance of the award, except where the appointment has been confirmed by a court or if the arbitration agreement contains a provision for the non-revocation of the arbitrator. The Maliki school stresses the irrevocability of the appointment of arbitrators and the arbitration agreement in the light of the following Quranic verse: 'O you, who believe, fulfil the contracts.'[68] This verse calls for the fulfilment of all contractual obligations, and the arbitration agreement is a binding contract. In addition, assuming that the arbitration agreement is not a binding obligation, it will undermine the strength of arbitration as an effective dispute settlement mechanism.

The arbitration agreement should be documented in writing to prevent any future disputes regarding the arbitration.[69] Islamic law encourages the recording of all debts and contracts, as the Quran states: 'When you deal with each other, in

66 M. Ibn Taymiyyah, *Majmou' Alfatawa* (2nd edn., The Ministry of Islamic Affairs of Saudi Arabia, 1995), Vol. 29, p. 20.

67 A. Alahdab, *Altahkeem Ahkamouh wa Masaderouh* (1st edn., Naoufal Publications, 1990), p. 26.

68 The Quran 5: 1.

69 See, generally, A. Al-Kenain, 'Tadween Almorafa′a Alqadaiyah', *Al-Adl Journal*, 2 (1999), pp. 76–115.

transactions involving future obligations in a fixed period of time reduce them to writing. Let a scribe write down faithfully as between the parties.'[70]

The Arbitration Clause

One of the conditions of the validity of an arbitration agreement is to have an existing dispute; therefore, the legality of the arbitration clause is controversial. Under Shari′a, there are two grounds on which to challenge the legality of the arbitration clause. First, the submission of a non-existing dispute to arbitration might involve uncertainty (*gharar*), which is prohibited in Shari′a contract law. Under Shari′a, a contract whose subject matter did not exist at the time of the conclusion of the contract is not acknowledged and is similar to the prohibited contracts of selling unborn animals.[71] Also, the enforcement of the arbitration clause is suspended on the occurrence of disputes between the contracting parties – this is contrary to the fact that contractual obligations under the arbitration clause are among the obligations that cannot be conditional, according to the four schools.[72]

The previous view counters the basic principles of Shari′a contract law; according to the principle of freedom of contract, parties to the contract are free to include any term or condition as long as these terms and conditions are not contrary to the mandatory principles of Islamic law, such as those providing for the payment of interest, resulting in a risk or any practice involving any kind of speculation where the parties become unable to predict the result of the contract.[73]

When looking at the sources of Islamic jurisprudence, especially the doctrines of istihsan and urf, it is difficult not to allow the use of arbitration clauses for the following reasons:

- They are necessary in commercial contracts in general and in international commercial contracts in particular, as they enable justice to be achieved more quickly.
- They are commonly used in commercial transactions.
- They do not really involve uncertainty or risk because arbitration clauses provide that the contracting parties should choose an authority other than the court to resolve their disputes.

Although the teachings of the Hanbali school are very strict in matters that relate to rituals and beliefs, they are very flexible in commercial and financial transactions.

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70 The Quran 1: 282.

71 See, in general, M. Wohidul Islam, 'Dissolution of Contract in Islamic Law', *Arab Law Quarterly*, 13 (1998).

72 Y. Al-Samaan, *The Legal Protection of Foreign Investment in the Kingdom of Saudi Arabia* (1st edn., Dar Alandalus for Publication and Distribution, 2000), pp. 253–54.

73 Supra n. 67, Alahdab, pp. 28–30.

According to the Hanbali teachings, contractual clauses are valid as long as they are not contrary to the purpose of the contract. Ibn Taymiyyah added that a contractual clause is valid even if it is not necessary, appropriate or even relevant to the contract. Al-Sanhury made the following comment:

> With the renewal brought about by Ibn Taymiyyah, the Hanbali doctrine made a great step forward [i]n the way of evolution. It has shed the prohibition of double contracts and restricted the number of defect clauses as it is held that a clause is only defected if it is contrary to the object of the contract or the provisions of Shari′a, i.e. the law public order or good morals. In this, the Hanbali doctrine has come quite close to the [W]estern doctrines: any clause which accompanies the contract is valid unless it is impossible or contrary to public order or good morals. Said clause is then set aside but the contract remains valid unless this clause condition is the determinating motive of the contract: in this case, the contract is also set aside.[74]

To sum up, arbitration clauses are recognized as valid by all the schools as long as they are not contrary to public order and do not permit an action prohibited under Shari′a. Risk and uncertainty make a transaction void and it is obvious that an arbitration clause does not involve any risk.[75]

The Scope of Arbitration

Unlike Western laws, Shari′a does not restrict arbitration to commercial matters only. It gives arbitration the full competence to work as a real alternative to the judiciary. The scope of arbitration in Islamic law is a matter of disagreement between the four schools; the differences in the scope of arbitration given by each school are a result of the different definitions applied to it; nonetheless, arbitration in its narrowest sense under Shari′a is wider and more comprehensive than arbitration in Western legal systems. The scope of arbitration under each school of fiqh will be examined in the following few paragraphs.

The Hanafi School

The Hanafies have two opinions regarding the scope of arbitration. The first permits arbitration in all subject matters except Hodoud and Qissas; some scholars permit arbitration in the case of murder by error.[76] They consider Hodoud as crimes

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74 A. Al-Sanhury, *The Sources of Truth in the Muslim* Fiqh (1st edn., Maktabat Alhalabi Alhoqouqiyah, 1998), Vol. 2, p. 102. Cited by Alsamaan, supra n. 72, p. 254.

75 Ibid.

76 The term Hodoud describes crimes which are punishable by a pre-established punishment found in the Quran, and the execution of the punishment is definite; examples

against God and they have fixed punishments that have been set by Him and are found in the Quran and in the Sunna. The second does not allow arbitration to cover Hodoud but does allow it in Qissas. The supporters of this division argue that because Hodoud are crimes against God there is no way to arbitrate in them. Qissas, however, are crimes committed against other human beings; those victims or their heirs therefore have the right to decide on the punishment, and on whether to execute it or not. They add that if the family of a murdered person were to take revenge on the murderer prior to the case appearing before the court, their action would be considered acceptable and they would have no criminal liability.

The Maliki School

The Malikies restrict the application of arbitration to commercial matters only; they say that cases involving any issue other than money must be decided by a judge. In their view, the arbitrator has limited jurisdiction on the given case and the disputed parties only; subjects other than money are of the competence of the judicial authority. The Malikies do not put limitations on the terms of reference of the arbitral panel. For instance, if an arbitrator renders a correct judgment on a case that is outside his jurisdiction, the judgment would be valid subject to the ratification of a court judge; nonetheless, he would be warned not to do it again.[77]

The Shafi'e School

The Shafi′es have three main opinions regarding the scope of arbitration; some of their scholars deny the validity of arbitration if there is a court in the town, because arbitration might weaken the power of the court. Another group of scholars give arbitration the same scope and power as litigation; they argue that the appointed arbitrator has the same power as the appointed judge, as both have been appointed; and the validity of arbitration is not restricted to commercial disputes. The third group of scholars allows arbitration to proceed in all subject matters except in criminal disputes.

The Hanbali School

The Hanbalies largely give arbitrators the same jurisdiction as court judges. Some scholars do not allow arbitration in criminal matters because the nature of criminal cases is different from that of commercial disputes. Ibn Taymiyyah did not restrict the scope of arbitration and he gave it the same scope as litigation; however,

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are rape, theft and terrorism. Qissas is a term to describe revenge crimes; in Qissas crimes, the victim or his family has a right to seek retribution and retaliation, and also a right not to execute the judgment, as in the case of murder and injury.

77 Supra n. 6, Ibn Farhoun, p. 145.

according to him, an arbitral award has no value without judicial review, which is the same concept followed by the Saudi legal system nowadays.[78]

Applicable Law

The concept of the conflict of laws under Shari′a has different dimensions in contrast to modern Western laws. All four schools of fiqh insist on the mandatory application of procedural and substantive Shari′a rules; the application of any law other than Shari′a or any custom or practices that are not in compliance with Shari′a on a dispute between Muslim parties within the Muslim state is totally prohibited. The ban has been brought about by the following Quranic verses: 'Those who do not judge according to what Allah has sent down, they are the unjust.'[79] 'Those who do not judge according to what Allah has sent down, they are the sinners.'[80]

Islamic law pays no attention to states, borders and other concepts such as nationality and domicile; it only recognizes two main categories of legal subjects, Muslims and non-Muslims. With regard to Muslims, Shari′a is a personal law and is applicable regardless of whether the Muslim travels or resides in or outside Islamic territory. In other words, Shari′a applies extraterritorially to Muslims. Regarding non-Muslims, Shari′a is a territorial law, as it applies to anyone travelling or residing in Islamic territory, with the exception of family law and religious affairs.[81] In the latter cases, Islamic conflict law adheres to the personality of laws by allowing non-Muslims a relative legislative and judicial autonomy. If a Muslim party is involved in any dispute, Shari′a will be the applicable law; however, there are some cases where the dispute involves non-Muslims only, which will be given more attention when discussing the qualifications of arbitrators.

The conflict of laws under Shari′a arises to some extent between the rules of the different Shari′a schools, but it should be noted that the problem of the conflict of laws is not so material in arbitration, because each party will nominate its arbitrator, which can be considered as an implied choice of school. Article 1803 of the Majalla provides that the defendant in judicial proceedings is allowed to choose a judge from his own school if he has been brought before a judge from another school of law. The choice can be made if the application of the other school's teachings will result in a substantial change in the award or the judgment.[82] To overcome this problem, there are four judges belonging to the four schools of fiqh in major Muslim cities. Similarly, judges in Saudi Arabia have the

78 A. Al-Kenain, *Altahkeem fe AlShari'a Alislamiyah: Altahkeem Al'am, wa Altahkeem fe Alshiqaq Alzaouji* (1st edn., Dar Alasimah, 2000), p. 49.

79 The Quran 5: 45.

80 The Quran 5: 47.

81 M. Berger, 'Conflicts of Law and Public Policy in Egyptian Family Law: Islamic Law through the Backdoor', *American Journal of Comparative Law*, 50 (2002), pp. 555–56.

82 Supra n. 2, Alatasi, article 1803.

right to apply the teachings of the four schools on an equal basis. As a final remark, the application of the different schools results in a very minor difference and, in many cases, the four schools incorporate the opinions of each other within their teachings as different ways of interpreting the same legal text.

Arbitrators

Qualifications of Arbitrators

An important condition for the validity of arbitral awards is that they be awarded by a qualified arbitrator. Also, having an arbitrator that lacks one of the qualifications can be solid ground for challenging an arbitral award not just under Shari′a, but as a recognized concept in all civilized arbitration rules. There has been a dispute among the four schools of fiqh with regard to the required qualifications of arbitrators. There are two main views on whether the arbitrator should possess the qualifications of a judge or not. The difference in the requirements is based on the nature of the arbitration and whether it is similar to conciliation, agency or litigation. The first view does not require the arbitrator to possess all the qualifications of a judge – It is necessary for him to be a Muslim man only. This opinion has been supported by some Malikies and by Ibn Taymiyyah from the Hanbali school, justifying arbitration as a kind of agency. For this reason, Ibn Taymiyyah held that an arbitral award is of no affect without judicial review.[83] The second opinion represents the view of the majority of Muslim scholars, which requires the arbitrator to possess all the qualifications of a judge.[84] There are eight qualifications of a judge under the four schools' law, which will be elaborated in turn.

The arbitrator should be Muslim There is no doubt among all the scholars that a non-Muslim is not allowed to adjudicate in any dispute involving a Muslim element if the dispute concerns an action performed within Muslim territory. According to the Malikies, the Shafi′es and the Hanbalies, arbitration proceedings in Muslim territory must be adjudicated by a Muslim arbitrator and non-Muslims should not serve as judges or as arbitrators, even to arbitrate between non-Muslims.[85] However, banning non-Muslim arbitrators from arbitrating in a totally non-Muslim dispute might contradict the following Quranic verse: 'So let the People of the Gospel judge according to what God has sent down therein.'[86] The Hanafies have no restrictions on this issue and permit non-Muslims to arbitrate

83 Supra n. 66, Ibn Taymiyyah, Vol. 35, p. 355.
84 Supra n. 78, Al Kenain, p. 58.
85 Ibid.
86 The Quran 5: 47.

between non-Muslims in all subject matters in accordance with the above-quoted Quranic verse.[87]

According to the Hanbali school, apart from settling personal status disputes, non-Muslims are not allowed to serve as arbitrators inside Islamic territory. If the arbitration agreement provides for the settlement of the dispute by conciliation, then the arbitrators/conciliators can be non-Muslims because the agreement is considered to be an agency agreement that can be executed by them. Moreover, oral testimony and expert opinion from non-Muslims are assumed to be valid in commercial matters.[88]

The arbitrator should be mature Muslim scholars agree that maturity is one of the most important qualifications of judges and arbitrators. Shari′a law assumes underage people to be under the authority and guardianship of others, so they cannot have authority over people themselves.[89] The Hanafies, the Malikies and the Hanbalies prohibit child arbitration because children lack the necessary technical qualifications and experience. Some Malikies approve the arbitration of a child if he renders a correct judgment.[90]

The arbitrator should be prudent As an essential condition for the acceptance of a testimony and oath, prudence is also required in arbitrators by all four schools.[91] It is not sufficient for a judge/arbitrator to use his five senses like any ordinary man. He must have the ability to understand, analyse and solve complicated problems, although some Maliki scholars do not like too much cleverness.[92] Prudence and Adalah share many common aspects, but Adalah is more comprehensive, including prudence in addition to matters of religion and behaviour.

The arbitrator should be knowledgeable about Shari'a law An arbitrator must have sufficient understanding of Shari′a law, especially the Quran, the Sunna, the ijma′ and the qiyas. A judgment without reference to one of these sources will be considered null and void and will not be approved by the judge for enforcement. The Shafi′es, the Hanbalies and some of the Malikies and Hanafies require a judge/arbitrator to be a 'mujtahid', i.e., to have the ability to exercise ijtihad.[93] The majority of Hanafies and some of the Malikies and Hanbalies, however, do not require him to be so. Ibn Taymiyyah from the Hanbali school argued that arbitrators should be specialists and so should have knowledge in their areas of specialization only. He added that a general knowledge of Islamic law should be obtained by the arbitrator

87 Supra n. 78, Al Kenain, p. 59.
88 Supra n. 4, Ibn Qodamah, Vol. 14, p. 170.
89 Supra n. 21, Alsamnani, Vol. 1, p. 52.
90 Supra n. 78, Al Kenain, p. 61.
91 Supra n. 4, Ibn Qodamah, Vol. 10, p. 45.
92 Ibid.
93 Supra n. 7, Almawardi, Vol. 2, p. 380.

in order to enable him to render a valid judgment that does not contradict the main principles of Islamic Shari′a. The Malikies allow non-specialists to arbitrate provided that they seek specialists' consultation and the award is based totally on the experts' testimony, otherwise the award will be void.[94]

The arbitrator should possess the characteristics of adalah The word *adalah* is a comprehensive term to describe a person's character. Honesty, a stable mind, decent behaviour, good moral values and avoidance of forbidden things and major sins all make up the character of an adl person.[95] In contrast, the term *fasiq* is used to describe the opposite qualities and is usually reserved for those whose moral character is corrupt. According to the Malikies, the Shafi′es and the Hanbalies, if the authority appoints a judge who is not adl, he will have no valid authority and judgments.[96] The Hanafies and some Malikies do not require a judge to be adl – a non-adl person can still have a valid authority and judgment if he has been appointed by the authority. In addition, some Malikies, Shafi′es and Hanbalies use the concept of 'necessity judge' to describe either an appointed judge who does not possess all the required qualifications or a powerful person without the legal authority needed to help run people's daily lives.[97]

Though adalah is a requirement for a court judge whether an arbitrator has to be adl or not is still a matter of dispute. Some Hanafies, the majority of the Malikies and the Hanbalies do not recognize the appointment and the judgment of a fasiq arbitrator because they consider arbitration to be equivalent to litigation. The other view recognizes the appointment and the judgment of a non-adl or fasiq arbitrator provided he is professionally qualified.[98] It can be said that if a person's testimony is accepted, his arbitration should be recognized.

The arbitrator should be male Shari′a requires an arbitrator to be a man; the appointment of a woman as a judge/arbitrator is considered null and void even if she gives a correct judgment.[99] Scholars support this opinion with the following Hadeeth: 'When the Prophet heard the news that the people of Persia had made the daughter of Khosrau their Queen, he said, "Never will succeed such a nation as makes a woman their ruler".'[100] They also apply the general principles of the following Quranic verse: 'Two men shall serve as witnesses; if not two men, then a man and two women whose testimony is acceptable to all. Thus, if one

94 Supra n. 4, Ibn Qodamah, Vol. 14, pp. 5–37.

95 Supra n. 9, Saleh, p. 36.

96 Supra n. 78, Al Kenain, p. 73.

97 S. Alramly, *Nihayat Almohtaj Ila Sharh Alminhaj* (3rd edn., Dar Ihya′ Altorath, 1993), Vol. 8, p. 240.

98 H. ben Maza, *Sharh Adab Alqadi*, ed. Abilwafa Alafgani and Abibakur Alhashimi (1st edn., Dar Alkotoub Al Ilmiyah, 1994), Vol. 4, p. 66.

99 Supra n. 4, Ibn Qodamah, Vol. 11, p. 380.

100 Supra n. 53, Albukhari, Vol. 9, Chapter 88, Hadeeth No. 219.

woman becomes biased, the other will remind her.'[101] According to this verse, a male's testimony is equal to that of two women; therefore women are not as competent as men in certain roles, such as judge and arbitrator. Not all schools of fiqh think the same, however. The Hanafies do not require judges/arbitrators to be men – they permit women to arbitrate in all cases except crimes. The Hanafies' practice contradicts their opinion, though, as the Hanafies ruled Islamic countries for centuries during the Ottoman Empire and never appointed a woman as a judge. The vast majority of Muslim scholars do not recognize the appointment of women arbitrators because women are not qualified to be judges.[102]

The issue of employing women in the judiciary as judges carries a great deal of controversy in Saudi Arabia. In the past, restrictions on female employment in the judiciary were criticized by many international human rights organizations. These days the issue is being raised within the kingdom, too, asking for women to be given the right to become arbitrators and even judges. Such an issue seems to be more about social nature than about legal or religious matters, as it relates to the common culture and traditions that are important sources of public policy in modern Saudi law. Moreover, customs and practices are sources of Islamic law just as any fatwa, ijtihad or ijma′ should fit within the overall social order. What can be said about female arbitration can also be said about other issues, such as women driving in Saudi Arabia, although there is no religious objection regarding the latter.

The arbitrator should not be blind, deaf or mute A judge should not be blind, deaf or mute as such disabilities can impede him from rendering accurate judgments. Partial hardness of hearing and sight can be tolerated as long as it does not affect the arbitration.[103] With regard to hearing and sight, scholars are divided amongst three opinions, The Hanafies, the Shafi′es and some Hanbalies require the arbitrator not to be deaf or blind as one of these disabilities nullifies his appointment and can be grounds for challenging the judgment.[104] The second opinion is propounded by the Maliki school, which says that sight and hearing are very important conditions that should be met in an arbitrator. If deafness or blindness occurs during the course of his appointment, the arbitrator should be replaced as soon as possible, yet if he renders a judgment it will be considered valid. They also apply the same conditions for talking disability. The third view is that of some Hanbalies, who do not see blindness and deafness as obstacles to the appointment of an arbitrator. A mute person cannot be appointed at all except in the view of some Shafi′es, which requires the arbitrator to be able to communicate by understandable sign language.[105]

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101 The Quran 1: 282.
102 Supra n. 78, Al Kenain, pp. 77–79.
103 Supra n. 4, Ibn Qodamah, Vol. 11, p. 381.
104 Supra n. 98, Ibn Maza, Vol. 4, p. 61.
105 Supra n. 16, Saiyed, p. 47.

The arbitrator should be impartial Muslim scholars pay a great deal of attention to the principle of the impartiality of judges and arbitrators. The reasons behind such regulations are to promote justice and to give confidence in the legal system. A few issues might harm the impartiality of the arbitrator and might prevent his appointment or serve as grounds for challenging the arbitral award. The first impediment is hostility. The Shafi′es see no problem if the award is in favour of the arbitrator's opponent, but if it is not in his favour they have two opinions: some of them do not allow the appointment on the ground of hostility, because enemies are not allowed to be witnesses against each other; while others believe the ratification to be subject to the disputant's permission. The second impediment is dispute, which refers any normal dispute even if it does not reach the level of hostility.[106] There is a great deal of conflict regarding this issue but, briefly, if the arbitrator is in dispute with both parties, some scholars reject his appointment and do not recognize his awards, while others allow him to arbitrate without conditions. If the arbitrator is in dispute with one of the disputants, there is unanimity on banning his arbitration.

If the arbitrator is one of the parties to the same dispute, there are four views regarding the validity of his appointment. The first view allows one of the parties to the dispute to act as an arbitrator as long as he is adjudicating in equity. The second does not allow a party to the dispute to serve as an arbitrator; the Hanafies justify this opinion by saying that a party to the dispute is not allowed to be a witness against the other party, thus he is not allowed to arbitrate. The third opinion does not encourage one of the parties to be an arbitrator in the dispute, but if this happens the award is valid. The fourth does not allow one of the parties to serve as an arbitrator in the same dispute unless he is willing to issue an award in favour of his opponent, as it will be considered as a form of admission (*iqrar*).[107] The main view encourages the parties to avoid any suspicion with regard to the impartiality of the arbitrators; if they both agree on an arbitrator, his award will be valid.

The third impediment to the impartiality of the arbitrator is kinship. The kinds of relationship that annul the appointment are fatherhood, motherhood, including grandfathers, grandmothers, great-grandfathers and great-grandmothers, in Arabic called '*alosoul*'. This category also includes children, grandchildren, and their children as well as the wife and husband in Hanafi teachings. Scholars have two opinions regarding kinship: some Shafi′es and Hanafies allow kin to judge against family members only; others allow family members to be chosen as arbitrators.[108]

106 Ibid.
107 Ibid.
108 Supra n. 1, Ibn Nujaim, Vol. 7, pp. 26–27.

The Appointment of Arbitrators

The appointment of an arbitrator is a contractual act entered into by two or more parties involved in a judicial or extrajudicial dispute.[109] All parties should consent to the appointment of the arbitrator; there are some differences of opinion among the four schools as to whether the consent of the parties is required at the time of the appointment only or whether it should continue until the arbitrator makes his award. The appointment should be made in the arbitration agreement subject to the acceptance of the arbitrator as mentioned above.[110] The Hanafies require an arbitrator to be known to the parties to avoid uncertainty; however, if a person arbitrates between two parties, without an appointment, and they accept his award, his appointment will apply retroactively.[111] Some modern texts deny the institutional appointment under Shari′a and argue that arbitration is an independent mechanism for settling disputes and it should not fall under the influence of any official institution.[112] This argument contradicts the Quran, in which the appointment of arbitrators in family disputes should be done through the court judge as seen above.

The Number of Arbitrators

Multiple arbitrators' proceedings were unknown pre-Islam. Traditionally, arbitrators had to settle disputes alone, acting as single judges.[113] All four schools permit the parties to have more than one arbitrator; the Shafi′es permit two arbitrators; the Hanafies, the Hanbalies and the Malikies allow parties to have more than two arbitrators.[114] Some Hanbalies do not recommend the appointment of an even number of arbitrators for the sake of reaching unanimity when issuing the award. This approach was adopted by the Arbitration Act of 1983 in Saudi Arabia, which will be seen below.

Remuneration of Arbitrators and Administration Fees

The issue of judges' remuneration has been recognized by all four schools, which have recommended that a suitable remuneration be drawn from the public treasury to ensure judges' impartiality. The case is different with arbitration, though, as it is a private dispute settlement method. Under all the schools, the parties to the arbitration agreement should bear the fees of the arbitrators. The Hanbali scholar Ibn Qayem Aljaoziyah set two conditions for the arbitrator's

109 Supra n. 9, Saleh, p. 39.
110 Supra n. 16, Saiyed, pp. 38–40.
111 Supra n. 78, Al Kenain, p. 100.
112 Supra n. 9, Saleh, p. 39.
113 This effect can be seen in article 4 of the Arbitration Regulation of Saudi Arabia.
114 Supra n. 78, Al Kenain, pp. 105–106.