

The Feasibility of Ratification of the United Nation Convention on Contracts for International Sale of Goods by Islamic Countries, Saudi Arabia as a Case

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Abstract : Recently the windows of globalization weirdly open, which increase the trade between the Western countries and Muslim nations. Sales of goods contracts are one of the most common business transaction in the world. This commercial exchange has faced many obstacles. One of the most concerned obstacles is the conflicts between laws. Thus, United Nation created a Convention on Contracts for the International Sale of Goods (CISG). Some of Islamic countries have ratified the CISG, while other Islamic countries have concerns about the feasibility of ratification of the CISG, and many businessmen have a concern of application of the convention. The concerns related to the conflict between CISG and Sharia, and the long debate about the success, ambiguity, and stability of the CISG. Therefore, this research will examine the feasibility of Muslim countries and Muslim businessmen to adopt the CISG by following steps: First, this research will introduce sharia Law (Islamic contracts law) and CISG and provide backgrounds of both laws. Second, this research will compare the provisions of CISG and Sharia and figuring out the conflicts and provide possible solutions for the conflicts. Third, this study will examine the advantages and disadvantages of adopting the CISG and examining the success of the CISG. Fourth, this study will explore the current situation in Islamic countries by taking Saudi Arabia as a case and explore how the application of Sharia law works and the possibility to enforce the CISG and explore the current practice of foreign Sales in Saudi Arabia. The research finds that there are some conflicts between CISG and Sharia Law. The most notable conflicts are interest and uncertainty in considerations. Also, this research finds that it seems that ratification of CISG is not beneficial for Muslim countries because the convention has not reached its goal which is uniformity of laws. Moreover, the CISG has been excluded and ignored by businessmen and some courts. Additionally, this research finds that it could be possible to enforce CISG in Saudi Arabia, provided that no conflict between the enforced provision and Sharia Law. This study is following the competitive and analysis methodologies to reach its findings. The researcher analyzes the provision of CISG and compares them with Sharia rules and finds the conflicts and compatibilities. In fact, CISG has 101 articles, so a comprehensive comparison of all articles in CISG with Sharia is difficult. Thus, in order to deeply analyze all aspects of this issue, this study will exclude some areas of contract which have been discussed by other researchers such as deliver of goods, conformity, and mirror image rules. The comparative section of this study will focus on the most concerned articles that conflict or doubtful of conflict with Sharia, which are interest, uncertainty, statute of limitation, specific performance, and pass of risk.

Keywords : Sharia, CISG, Contracts for International Sale of Goods, contracts, sale of goods, Saudi Arabia

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