laws differ among each other with regard to handling the lacking legislation phenomenon.

However, the main topic of the present study is to discuss the sources of the complementation of legislation, especially as related to observing the order of sources in both the United Arab Emirates Civil Law and Iraqi Civil Law.

The reasons for choosing this subject include the differences about handling the complementation of legislation and the novelty of the subject according to my knowledge. However, the essential reason is the importance of the subject, its relation to reality and its effective response to the needs of society and close affinity with justice.

In the present study, I will try to elaborate on the concept of the complementation of legislation. Being the positive side of the lacking legislation with some emphasis on the theories related to lacking legislation and juristic and legislative solutions for the handling of lacking legislation and how to complement it. However, these introductions mean to attain a specific goal, which is the focus of the paper. This goal is to elaborate on the position of both UAE and Iraqi laws with regard to the question of complementation and the solutions found in them in order to reach some useful conclusions.

Complementation of Legislation

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Abstract

It is known that legislation is the main source of laws in most countries; yet the only source in some countries and for some laws. Being the main source means that the judge should first refer to the legislation to reach a judgment for the case before him. Thus, legislation becomes the first source of adjudication. However, it might happen that the legislation does not include certain cases or that the conditions may change which leads to lack of legislation for such novel cases. This means that the legislation is lacking and requires complementation. Most legislators have been aware of the problem of lacking legislation. Moreover, this issue has turned into a legal phenomenon that prevailed in all civil laws. This made legislators interfere to handle it by adopting channels and sources to bridge the gap and complement the lacking legislation so that the judge may not feel unable to decide on the case or take lacking legislation as an excuse to avert justice.

Here appears the importance of the complementation of legislation. It becomes an optimal method for the realization of justice, an effective means for the development of the law and its response to society requirements and a main tool that helps the judge to properly undertake his duties. This great importance of the complementation of legislation entitles it to be the subject of a study like this.

The problem of the study is basically embodied in the fact that there are differences among jurists as to question to legislate or not to legislate. Here, I would elaborate on this question and how

you choose, for witnesses." However, if they are unable to use the strongest way, they may move to the one lower than it. Hence, the ways of judging are more general than those related to the protection of rights. Sometimes, the judge judges based on the testimonies of two male witnesses or one male witness and two male witnesses or based on a witness and oath, denial of oath, oath returned to the plaintiff or certain conditions and circumstances associated with the case as the case may be.

Hence, the ways of judging are something different from the ways of protection of rights; both of which are separate. Rights are protected by ways that the owner of the right may choose without the need for a judgment by the judge and the judge may issue a judgment that has nothing to do with the way the owner of the right has chosen to protect his right or even passed by his mind.

The owners of rights, more often than not, do not have adequate proofs to protect their rights, the Islamic *Sharee'ah* has prescribed multiple ways by which the judge issues his judgments.

As judging based on the testimony of a single witness without taking the oath is very important for the judiciary who have seen judicial events that have been substantiated by the testimony of a just witness, become certain that substantiating different rights may not be easy and known that rejection of this type of testimony will certainly lead to the waste of rights and drop testimony where it is most needed, I have decided to discuss this intricate subject to make it clear for judges how to act in such circumstances. This needs to state that the Legislator is keen on protecting rights, how could it then drop a right that has been testified to by a fair and just witness?

Judging Based on the Testimony of a Single Witness without Taking the Oath

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Abstract

All praise belongs to Allah; we seek his help and forgiveness and we seek refuge with him against the evils of ourselves and our evil deeds. Whoever Allah guides no one may misguide and whoever all misguides no one can guide. I bear witness that there is no deity worthy of worship other than Allah who has no partners and that Muhammad is his slave and messenger, may Allah have peace and blessings upon him, the members of his pure family and his rightly guided companions.

Allah has sent messengers and revealed books to guide human beings to the path of justice by which heaven and earth are maintained. Justice is a reflection of the law legislated by Allah for He is the just and the wise and may not contradict Himself by providing some signs of justice which are lower in rank to some other signs of justice which are higher in rank. He has also established ways and means to attain justice as an ultimate goal. Hence, any way that leads to justice is part of the religion and does not contradict it.

In order for human beings to protect their rights, Allah has guided them to follow the strongest, clearest and straightest way. He says, "Get two witnesses, out of your own men, and if there are not two men, then a man and two women, such as

The Principle of Integration in the Jurisdiction of the International Criminal Court

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Abstract

The present study discusses the principle of integration in the jurisdiction of the International Criminal Court.

The principle of integration aims at putting an end to impunity for those who are involved in international crimes provided for in section five of the Rome Statute. These are the crimes that have been described by the statute of the ICC Court as the most dangerous international crimes on the stability of the international community. These crimes include genocide, crimes against humanity, war crimes and crimes of aggression. These crimes are first and foremost the responsibility of the States and not that of the International Criminal Court. However, the latter may exercise its jurisdiction if it finds that the state in question is unable to punish those who commit such crimes due to lack of jurisdiction or failure to do so as a result of the collapse of its judicial or administrative system or even to judge the accused summarily in order not to appear before international justice or simply to silence international opinion. In this case, the jurisdiction moves to the International Criminal Court which punishes those who commit these crimes pursuant to the principle of integration.

Several countries have suffered from this phenomenon which are about to threaten their entities and made people lose trust in their financial institutions. Therefore, countries have joined forces to combat and control these crimes and limit their successive technological developments which have led to the creation of new relations between money laundering and terror funding. This relationship surfaced after the 9/11 terrorist events that took place in the United States. These dubious operations of money laundering linked with terrorism contributed to distorting the image of some Middle Eastern countries, eventually leading to a negative view towards these societies.

As these suspicious activities contradict the provisions of the Islamic Sharee'ah and as Saudi Arabia is certain of the negative effects resulting from these crimes on lawful economy and other security and social aspects, it has been keen to cope with international efforts to combat money laundering. Therefore, Saudi Arabia has doubled efforts to control these crimes, track down their sources and combat all their activities. It has also did its best kingdom-wise to control funding of these dubious activities. The legislative authorities have enacted stringent laws criminalizing and penalizing these crimes. These include the approval of the Saudi Council of Ministers of the Anti-money Laundering Law motion under resolution No. 167 dated 20.6.1424 AH corresponding to 18.8.2003 and the ratification of the law by Royal Decree No. M/39 dated 25.6.1424 AH corresponding to 22.8.2003 followed by a new Anti-money Laundering Law issued by Royal Decree No. M/31 dated 11.5.1433 AH corresponding to 3.4.2012. Hence, Saudi Arabia has become one of the states which took important steps in the fight against money laundering.

Money Laundering Crimes, Rulings and Efforts to Combat them (Comparative Study with International Laws and Conventions)

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Abstract

For human beings to acquire their living, they always aspire to collect money. Allah says "You love riches very much." Humans, by instinct, love riches and do all they can to acquire them. However, some immoral people follow zigzagging ways to satisfy their desires in hoarding money. These ways contradict the *Sharee'ah* rules and provisions which enjoin acquiring money through lawful ways and means.

By having a quick look at money acquisition operations these days, we will discover some astonishing wrong ways through some technological means to earn money in the time of globalization when capitals control political decisions and affect sovereignty of states.

One of the unlawful techniques of earning money in our present time is money laundering which has visibly appeared as a complicated fraudulent way that covers up sources of unlawful money to look like lawful ways. This crime has become one of the most important international organized crimes which are highly complicated and fast developing in a manner that prevents security authorities from discovering them easily.

Characteristics of Partnership Contracts and How they can Be Used in Islamic Financing (Juristic Financial Study)

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Abstract

Many a researcher of Islamic economics state that partnership contracts are the optimal model of Islamic economics. Therefore, research institutes and financial institutions should give them due care in terms of thought and application. Researchers believe that these contracts have special financial characteristics of high economic efficiency and are better in position than debt contracts like sales and leases.

This paper seeks to profoundly research these characteristics that distinguish partnership contracts represented in partnerships, speculations and agricultural joint ventures in order for us to know how to use them in Islamic financing. It has been found that there are several advantages and characteristics for Islamic financial institutions that can be realized through the application of partnership contracts. It is not true that debt contracts represented by profit-sharing and leasing, for example, are more efficient and less risky than partnerships because the structuring of Islamic financial products using partnership forms will organize contractual relationships between parties participating in the financing process in a manner that preserves the interests of all of them.

ability to deliver the service, 14) different descriptions of service and 15) different conditions of the one delivering the service and the beneficiary.

In short, this paper has discussed the factors affecting determination of lawyers' fees in the Saudi and American laws in the light of Islamic jurisprudence. I have highlighted similarities and differences between the two laws. In summary, the factors provided in both laws, though diverse, are eventually determined by actual practice as the one governing their effect on the determination of lawyers' fees. However, this actual practice is affected by a number of factors.

Allah knows best and peace and blessings of Allah be upon our Prophet Muhammad, the members of his pure family and rightly guided companions.

region for the same legal service and skill. For the application of this method, the court has laid down 12 criteria to help determine lawyers' fees. These include the following: 1) time and effort, 2) novelty and difficulty of case, 3) required legal skills to provide the proper legal service, 4) depriving the lawyer from accepting other cases because of accepting the case in question, 5) the charges prevailing in the law profession market for similar legal services, 6) the amount subject of the case and the realized result, 7) the time limit, 8) the nature and duration of dealings between the two parties, 9) expertise, reputation and capabilities, 10) contingency or lump sum fees, 11) resentment of the case and 12) similar fees granted by the court.

Both judicial systems agree that the fees of the lawyer should be reasonable and fair, that the one who determines this fairness and reasonability is the judge considering the case. Irrespective of the diversity of factors provided by both laws, the important factor is the fair market price which is assumed, at least theoretically, to be based on the twelve factors or some of them.

From the Islamic jurisprudence point of view, more than fifteen factors that affect determination of equitable fees, some of which agree with the factors adopted by the Saudi or American laws and some others are different. These factors include: 1) actual practice, 2) evaluation by experts, 3) interests of people, 4) does not exceed the stated fee according to the Hanafites, 5) majority actual practice, 6) determination at the time of work according to the preponderant opinion, 7) difference of time, place and conditions, 8) percentage of completion, 9) supply and demand, 10) low and high need, 11) conditions of compensation, 12) nature of compensation, 13)

Factors Affecting Determination of Lawyers Fees

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Abstract

All praise belongs to Allah and peace and blessings of Allah be upon the Messenger of Allah.

Determining fair lawyers' fees is a problematic issue for judges, lawyers and their clients. Therefore, I found it suitable to probe what experiences other countries have in this regard.

The present study presents a view based on the Saudi law and the American one. The Saudi law provides that the lawyer's fees are determined either by contract or court after consulting experts on a number of cases.

However, the factors affecting determination of these lawyers' fees include the following: 1) the effort exerted by the lawyer according to actual practice (*urf*); 2) the benefit he realized for his principal; 3) the stage of litigation and 4) the agreement between the two parties. The executive regulations of the Law Profession Practice Law give the court the authority to determine which factors apply. However, fees are determined by experts who work with courts or others outside courts.

According to the American law, two ways are applied concerning contracting between the lawyer and the client: 1) contingency fees and 2) Lodestar method; the latter being the fairer method according to American courts. It determines the time spent by the lawyer on the case multiplied by the charges of lawyers prevailing in the

Fighting Rebels and Enemy Warriors at the Holy Mosque of Makkah

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Abstract

All praise belongs to Allah and peace and blessings be upon the last Prophet.

Allah has gratified and honoured the holy mosque in Makkah; He has given it a lofty position. He says, "The first house of worship established for people is the one in Bakkah. Allah has also described Makkah as the secure town. He says, "By the secure town." Moreover, He has named it as the "mother of villages" indicating its high position. Allah says, "We have revealed unto you an Arabic Qur'an to warn [the people of] Umm Al-Quraa and those living around it. He blessed its inhabitants with security. He says, "Lo! Ibraaheem said, 'My Lord make this town secure.'"

The holy mosque has a high position and great sanctity in the heart of every Muslim as it is the source of the light of Islam that enlightened the whole world. Therefore, it is very important to discuss the subject of dealing with rebels and enemy warriors who may carry out hostile acts within this sacred area.

and discussing the actual conditions where this subject has prevailed by describing it and stating its relevance. The research industry has required for the plan of the study to comprise an introduction, three topics and conclusion. In the introduction, I have defined the vocabularies of the title. In the first topic I discussed the fundamentals of the freedom of substantiation in the commercial law, in the second topic I discussed the scope of the application of freedom of substantiation in the commercial law, in the third topic I discussed the limits imposed on the freedom of substantiation in the commercial law and in the conclusion I listed the most important conclusions I have reached and some of the recommendations related to the study.

Alqadhaaiyah Journal

Freedom of Substantiation in the Commercial Law

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Abstract

The majority of jurists contend that the methods of substantiation are limited, that the judge may only build his judgment on them and that he may not look for substantiations in other than them. This trend, though looks acceptable in civil disputes, commerce and related litigations, rejects this limitation and restriction because the factor governing speedy conclusion of commercial contracts and trust prevailing among traders justify for the trader not to document his transaction by common ways as indicated in the verse on debt. One of the requirements of releasing the trader from documentation is to give the trader the freedom to document his actions by all means of substantiation.

The present study will shed light on this subject by highlighting *Sharee'ah* and legal provisions, probing relevant legal provisions