EXCLUSION OF THE APPLICABILITY OF FOREIGN LAW IN DISPUTING ITS CONSTITUTIONALITY BEFORE THE UAE JUDICIARY

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OPEN ACCESS

How to cite this paper: Mohamed, N. A., Fadli, A., & Aboelazm, K. S. (2026). Exclusion of the applicability of foreign law in disputing its constitutionality before the UAE judiciary. *Corporate Law & Governance Review, 8*(1), 24–33. https://doi.org/10.22495/clgrv8i1p2

ISSN Online: 2664-1542
ISSN Print: 2707-1111

Received: 27.06.2025
Revised: 09.09.2025; 11.09.2025; 04.12.2025
Accepted: 31.12.2025

JEL Classification: F13, F18, F53
DOI: 10.22495/clgrv8i1p2

Abstract

This paper focuses on the judicial review of the constitutionality of foreign law, specifically whether this occurs before the judiciary or in arbitration tribunals. When defining categories of reference, establishing rules for resolving conflicts among laws, and codifying these in the Civil Transactions Law, the United Arab Emirates (UAE) legislator does not address the unconstitutionality of the law in relation to disputes involving foreign elements, whether this was related to international contracts or legal matters involving multiple legal systems. While most domestic legislation addresses the unconstitutionality of laws in domestic disputes, this matter is generally not closely considered in international contexts (Sourani, 2013). The paper adopts the analytical and inductive methods. The paper concludes that domestic legislative text is not adequate to address the issue of unconstitutionality, as the UAE legislator has not provided explicit provisions that judges can use in assessing claims of unconstitutionality of foreign law that arise in disputes involving a foreign element. This study recommends amending Article 31 of the UAE Federal Supreme Court (FSC) Law, adding the phrase "arbitration tribunals" following "courts" in all four sections of this article.

Keywords: Foreign Law, Plea of Unconstitutionality, UAE Judiciary, Arbitration Tribunals

Authors' individual contribution: Conceptualization — N.A.M., A.F., and K.S.A.; Methodology — N.A.M., A.F., and K.S.A.; Writing — Original Draft — N.A.M., A.F., and K.S.A.; Writing — Review & Editing — N.A.M., A.F., and K.S.A.; Supervision — N.A.M., A.F., and K.S.A.; Project Administration — N.A.M., A.F., and K.S.A.

Declaration of conflicting interests: The Authors declare that there is no conflict of interest.

1. INTRODUCTION

The United Arab Emirates (UAE) legislator, as stipulated by the conflict of legal provisions in Articles 10 to 28 of the Civil Transactions Law, grants the competent UAE judiciary the authority to adjudicate disputes that involve a foreign element. This is done by applying either the law of the UAE or foreign law to the given dispute, following the guidelines that are set forth in the rules for resolving conflicts between laws in the provisions of the Civil Transactions Law noted above.

However, when a foreign law must be applied due to a dispute that involves a foreign element and after the UAE judge has reviewed the content of that law, it may become clear that the UAE's conflict-of-law rules refer to foreign laws that raise serious doubt about their constitutionality. This leads to a set of procedural and substantive issues that require careful consideration. Among these issues

are questions related to the standing of the domestic judiciary to review the constitutionality of foreign law, whether on its own initiative or in response to a request or plea by a party at law.

This question has not been adequately addressed by the UAE legislator in the general provisions on conflict between laws. These provisions lack any rules to clarify the legislator's stance on this matter.

The UAE legislator — similar to legislators in other countries — while defining the grounds for resolving conflict of among laws, establishing rules to resolve these conflicts, and codifying the relevant provisions in the Civil Transactions Law, did not address the issue of the unconstitutionality of laws in the case of disputes with a foreign element, whether such a dispute involves an international contract or constituting a legal matter that affects multiple legal systems. Most domestic laws address unconstitutionality in domestic disputes, but do not consider it in the context of international disputes.

In Article 23 of the UAE Civil Transactions Law, we read that "the principles of private international law shall be followed in matters of conflict of laws not addressed by the preceding provisions", it is also stipulated in Article 27 that "the provisions of the law designated by Articles 10, 11, 18, 19, 20, 21, 22, 23, 24, 25, and 26 of this law shall not be applied if such provisions contravene Islamic Sharia, public order, or morals in the United Arab Emirates".

What should be the ruling if a party, during the proceedings of a case before the UAE judiciary involving a foreign element, puts forward a plea of unconstitutionality with respect to a foreign law? Could the court, in hearing the case, deem this law unconstitutional? Should such a law in question be excluded?

This study focuses on a crucial issue within the realm of international private law and constitutional review: the extent to which foreign laws applied in disputes with an international element are subject to judicial review for their constitutionality, whether before national courts or arbitration bodies. While the UAE legislator has established rules for conflict of laws and mechanisms for resolving conflicts between different legal systems in its Civil Transactions Law, it has not explicitly addressed the issue of the unconstitutionality of foreign laws in disputes involving international elements, whether concerning international contracts or legal relationships governed by multiple legal systems.

A review of legal literature reveals a significant gap in this area; most legal scholarship and legislation focus on constitutional challenges to national laws within domestic disputes, while the issue of reviewing the constitutionality of foreign laws in international contexts or before arbitration bodies remains largely neglected (Hussein, 2023; Alhadhrami, 2025). This study aims to address this gap by examining the extent to which UAE courts and arbitration bodies can review the constitutionality of foreign laws applicable to disputes with an international element, and by analyzing the legislative and institutional implications for the UAE legal system (Aden, 2015). The study's objectives are threefold: first, to assess the adequacy of UAE legislation in enabling judges or arbitrators to review the constitutionality of foreign laws; second, to evaluate the existing legal framework; and third, to offer practical recommendations to the UAE legislator to improve the current legislation and enhance the integration between the judiciary and arbitration in this area. The main research questions are:

RQ1: Do UAE national courts have the authority to review the constitutionality of foreign laws?

RQ2: Can arbitration bodies play a similar role or refer these matters to the competent courts?

RQ3: What legislative amendments are necessary to achieve this?

The study employed an analytical and inductive approach, analyzing relevant UAE legal texts and reviewing contemporary scholarly literature on the subject. This approach facilitated the development of a theoretical and conceptual framework that integrates conflict of laws, constitutional review, and international arbitration practices, ultimately leading to practical legislative proposals.

The main contribution of this study lies in its novel approach, which enhances understanding of constitutional review in disputes with an international dimension. It recommends a specific amendment to Article 31 of the Federal Supreme Court (FSC) Law (Federal Decree by Law No. 33 of 2022 Concerning the Supreme Federal Court, 2022), by adding the phrase "arbitration bodies" after the word "courts" in all paragraphs of this article. The findings thus not only enrich the academic discourse on constitutional review of foreign laws, but also offer a practical legislative framework that strengthens the international legal community's confidence in the judicial and arbitration systems of the UAE.

This gives rise to the following sub-questions:

- What happens if a party, during the hearing of a dispute with a foreign element before UAE courts, challenges the constitutionality of the foreign law? Or if the court itself questions the law's constitutionality, should it be excluded on such grounds?
- Can a constitutional challenge be raised against the applicable law before an arbitral tribunal? Does it matter whether the relevant law is that of the seat of arbitration or another jurisdiction?
- According to which law should the judge or arbitrator assess the seriousness of the constitutional challenge: the law of the judge's state or the law of the arbitral seat?

The importance of this study lies in its contribution to the Emirati legal literature, as this particular topic has not yet received sufficient attention or in-depth analysis within the field of private international law in the UAE. Moreover, the issue of the unconstitutionality of the applicable law has been raised before some arbitral tribunals in the UAE and other jurisdictions without any clear legislative or judicial resolution. This gap highlights the urgent need for legal scholarship to address the matter and help lay the groundwork for future legal development. The study also aims to draw the attention of UAE lawmakers to the necessity of regulating this issue, which is why we have chosen to explore it in detail.

The structure of this paper is as follows. Section 2 reviews the relevant literature. Section 3 analyzes the methodology used in this research. Section 4 presents the results of this paper. Section 5 includes the discussion. Finally, Section 6 mentions the conclusion.

2. LITERATURE REVIEW

2.1. The concept and reasons for a constitutional judge's use of foreign law

Foreign or comparative law is one tool a constitutional judge can use when interpreting constitutional and legal texts in the exercise of their jurisdiction. There are numerous reasons for using foreign law, and there are innumerable ways. Furthermore, using foreign law can have several drawbacks.

Foreign law is a set of informal sources that constitutional judges may use to interpret legislative texts they encounter in exercising their jurisdiction. It includes all non-national sources, such as rulings issued by a foreign court, comparative jurisprudence, constitutional and legal texts in foreign constitutions and laws, or even the prevailing foreign custom in a given country (Halmai, 2012). This is done to ensure a fair reading of the texts presented to them and to issue well-argued and logical judgments (Neuman, 2004; Bisariyadi, 2018).

A section of comparative constitutional jurisprudence has pointed out the importance of allowing national constitutional courts (CC) to utilize foreign laws and rulings, as this would help them better perform their mission (Young, 2005; Rubenfeld, 2004). Enabling national CC to be guided by established principles and standards in foreign laws and judicial rulings would make the rulings issued by these courts more consistent with democratic principles and established norms and principles of civilized societies (Jackson, 2014; Koh, 2004).

The constitutional judge's use of foreign law, in the view of some comparative constitutional jurisprudence, stems from the theories of constitutional interpretation. Although they vary in content and the interpretation mechanisms they rely on, they can be brought together under one goal: to present a logical and fair reading of the constitutional text (Aboelazm, 2024). Numerous theories and schools of constitutional interpretation have been established, resulting from contemplation and analysis of the various judicial rulings issued by constitutional and supreme courts. The most important of these schools and theories are: the theory of originalism (Colby & Smith, 2009; Boyce, 1998; Greene, 2009), the theory of intratextuality (Posner, 1990; Amar, 1999), and the theory of pragmatic interpretation (Rubin, 2010; Breyer, 2006).

Many writings in comparative constitutional jurisprudence have addressed using foreign laws and rulings within the context of national rulings. They argue that utilizing foreign laws can enhance the quality and accuracy of judicial rulings issued by national courts (Dixon, 2008; Aboelazm, 2021). From the perspective of comparative constitutional jurisprudence, reference by constitutional and supreme courts to foreign law or ruling may be fruitful in paving the way for acceptance of their verdict on the constitutional issue at hand, mainly if we accept that most constitutions share the same rights and freedoms granted to individuals (Aboelazm, 2025). All human rights are enshrined in the constitutions of most countries around the world (Sitaraman, 2009).

2.2. Judicial review of the constitutionality of foreign law by domestic courts

First, any assessment of the constitutionality of foreign law must be performed in the light of the constitution of the state from which the foreign law originates, rather than in the light of the constitution of the judge's state. This necessarily falls outside of the jurisdiction of the domestic judiciary, as it is not its role to examine the philosophy that supports foreign legislation or to determine its constitutionality in that context. No mechanism has been provided by the UAE legislator for resolving this issue, nor is there any domestic legislation to provide a legislative solution for it.

It is noteworthy in this connection that the French Court of Cassation has refused to subject foreign law to its judicial review, citing the following several arguments in support of this position:

- *First argument:* The French Court of Cassation was established to maintain the unity of French law and to guide the judiciary. It has no role in correcting any improper application of foreign laws. This position is supported by the decree that established the Court of Cassation, issued on November 29, 1790, which limited its function to the review of explicit violations of legal provisions (in French law).
- *Second argument*: It is impossible for a domestic Court of Cassation to assess the uniform and correct application of the laws of all countries (Abdullah, 1970).

With respect to the first part of the previously raised question concerning the plea of the unconstitutionality of foreign law before a UAE judge, some (Abdel Jaleel, 2021) legal scholars have argued that the UAE judge should adjudicate the case. They reason that the foreign law whose constitutionality is being challenged is chosen by the parties themselves, and thus, they have no right to plead its unconstitutionality.

However, this argument can be refuted where the applicable law is not of the parties' choosing but is determined by the conflict-of-law rules, in the absence of a provision for the choice of law. Even where the parties select the applicable law and where this selection is contemporaneous with the conclusion of the contract or occurs before the dispute, any amendments to the law so chosen, its repeal or modification due to new legislation, or any declaration of unconstitutionality in the country of origin that follows the agreement and precedes the dispute would affect the applicability of that law. This is particularly relevant when it is taken into account that the choice of the law of a particular state by the parties includes a reference to the entire body of laws without the specification of any particular branch. Furthermore, even where the parties do specify a particular branch of foreign law to apply, they do not necessarily determine which provisions would be applied within that branch.

Thus, some legal scholars hold that "it is permissible to plead the unconstitutionality of foreign law before the national judge handling an international dispute if the legal system of the applicable foreign law recognizes judicial review of the constitutionality of laws. However, this may only be permitted if the foreign party whose law is

being applied submits a judicial request raising the unconstitutionality of the foreign law, as this party has the legal interest and the right to seek the exclusion of the application of their national law based on its unconstitutionality" (Al-Harqan, 2023, p. 74).

This view is supported by some scholars as ensuring justice through not depriving litigants of their legal rights. Conversely, others have criticized this principle, arguing that constitutional review is inherently more political than judicial and that it falls exclusively within the jurisdiction of the domestic judiciary, without extending to the judiciary of foreign states. However, the opposing view makes an exception for cases in which the interested party puts forward a constitutional challenge before their own judiciary. In such instances, it has been argued that the domestic judge should suspend proceedings until a ruling on the constitutionality of the law in question is issued (Moussakh, 2009).

We believe that it is permissible to dispute the constitutionality of foreign law in international disputes before a domestic judiciary. However, if we accept that parties to an international contract have the right to dispute the constitutionality of foreign law, the following question arises: what is the appropriate mechanism to resolve this?

As noted, it is not permissible for the national judge to dismiss this type of plea and to proceed with the case regardless, basing their judgment on a law whose constitutionality is disputed. This plea of unconstitutionality may be serious and not intended as a mere obstruction to the progress of the case.

Some have argued that the domestic judge may proceed with such a case in spite of the plea of unconstitutionality and that the party that makes this plea has the right to appeal a judgment that is issued in either the country of origin or the country of enforcement. However, a review of some comparative legislation finds that it does not recognize the unconstitutionality of foreign law, where applicable to international disputes, as a valid ground for appealing judgments issued in such cases. Likewise, the legislation of a given country, such as the legislation of the UAE, does not make the constitutionality of applicable foreign law in an international dispute a condition for the enforcement of a foreign judgment (Federal Decree-Law No. 42 of 2022 Promulgating the Civil Procedure Code, 2022, Article 222). Some scholars have argued that the domestic judiciary should intervene and interpret the provisions of a foreign law whenever necessary, but the national judiciary is necessarily bound by the interpretation of the judiciary of the state that issued the law, where there is a consistent and unified interpretation in this regard. However, a domestic national judge is not bound by a foreign court's ruling in interpreting its laws if its interpretation is contradictory with respect to the provisions to be applied before the national judiciary (Abdel Jaleel, 2021; Al-Enizi, 2023; Lecaj et al., 2022).

Some legal scholars argue that where the unconstitutionality of the foreign law that is chosen by the conflict-of-laws rules in the judge's state is raised and where the judge deems the plea to be serious, that judge should follow the same procedure as is to be followed when the constitutionality of a domestic law is challenged. Thus, if a party before the UAE judiciary considers the constitutionality of a foreign provision essential to be established for an international dispute to be resolved, and if the domestic judge finds that this plea is serious, the judge should suspend the proceedings and set a deadline for the party that is entering the plea to file a constitutional challenge. If such a challenge is not filed before the deadline, the plea will be considered void. Thus, the method of deciding the constitutionality of a foreign law is the same as that used to decide the constitutionality of domestic laws, where the former is the applicable law in a case that is before the UAE judiciary.

The response to this is straightforward. It is well known that the FSC Law explicitly states in Article 4 that "The Federal Supreme Court is competent to rule on the following matters: […] 2) Review the constitutionality of laws, regulations, and decrees in general […] 3) Review the constitutionality of regulations issued by any emirate […] 10) Disputes of jurisdiction between the federal judiciary and local judicial bodies in the emirates. 11) Disputes of jurisdiction between a judicial body in one emirate and a judicial body in another emirate" (Federal Decree by Law No. 33 of 2022 Concerning the Supreme Federal Court, 2022).

There is no doubt that here, the UAE legislator explicitly indicates that the jurisdiction of the FSC must be limited to rulings on the constitutionality of the laws of the UAE and regulations, and on disputes of jurisdiction between the federal and local judiciaries. A UAE judge, therefore, cannot rule on the constitutionality of a foreign law when this is necessary to resolve a dispute before the court, nor is it possible to refer the law to the UAE FSC.

Thus, some (Abdel Jaleel, 2021) have turned their attention to Article 33 of the Egyptian Civil Procedure Law, corresponding to Article 21 of the UAE Federal Decree-Law No. 42 of 2022[1]. The rationale for the reliance on this provision is that those who hold this view may consider that the question of the constitutionality of a foreign law affects the resolution of a case before a UAE judge. For this reason, this question must be resolved before a ruling is made on the main issue before the court by the UAE judge considering the original case.

This perspective may have some validity for certain scholars (Abdel Jaleel, 2021), where the preliminary issue falls in the jurisdiction of a foreign judiciary, and resolving this issue depends upon the adjudication of the case before a UAE court. However, this scenario fundamentally differs from the question of the determination of the constitutionality or unconstitutionality of a foreign law. Likewise, if the preliminary issue being raised involves a criminal case that falls under the jurisdiction of a foreign court and resolving it depends on the decision made by a UAE court, this is also a different question.

[1] The provision states: "The Courts shall have the jurisdiction to adjudicate on the preliminary matters and interlocutory applications associated with the main case falling within their jurisdiction, as well as every motion or application relating to such a case where the proper administration of justice entails that the same be heard concurrently with the main case. They shall also have the jurisdiction to adjudicate on summary and precautionary measures to be enforced in the State, even if they have no jurisdiction over the main case" (Federal Decree-Law No. 42 of 2022 Promulgating the Civil Procedure Code, 2022, Article 21).

In these two specific instances of constitutional questions and criminal cases, the UAE judiciary cannot have jurisdiction. It is not reasonable to argue that UAE courts should be authorized to rule on these matters even where they are preliminary issues that are connected to a case in their jurisdiction. To ensure that justice is properly administered, it is essential that such matters be collectively addressed. The rationale for this conclusion is as follows:

- The basis for the jurisdiction of a UAE court where a dispute involves a foreign element, with respect to certain preliminary issues, connected claims, or incidental requests falling within the jurisdiction of a foreign court and requiring resolution alongside the main case for the proper administration of justice, is intended to prevent conflicting judgments and fragmentation of the dispute. Moreover, this jurisdiction is considered to be granted as an exception and therefore should not be expanded or analogized to other situations.
- In domestic jurisdiction and within the UAE judicial system in particular, it is an established principle that a judge who is confronted with a plea that challenges the constitutionality of a provision, law, or regulation, or when independently identifying a potential constitutional question, must take one of two prescribed actions. In the first scenario, the judge can grant the petitioner a specific timeframe within which a constitutional challenge before the FSC must be filed. In the second, where the concern originates from the judge's own concern, the matter must be referred directly to the FSC. It is important to emphasize that the judge who presides over the original case lacks sufficient authority to decide on the constitutionality of the specific law or regulation that should be applied to the case that is in question. This competence solely pertains to the FSC.

Another perspective in legal doctrine distinguishes between formal and substantive control regarding the constitutionality of foreign law[2]. "In this view, the national judge must verify the constitutional procedures followed in issuing the foreign legislation indicated by the national conflict-of-laws rules as the applicable law before him, such as ratification, publication, and other necessary procedures for issuing laws in the country of the foreign law" (Halmai, 2012, p. 1332) Where these conditions are not met, the foreign law has no relevant existence. Such control is acknowledged in both legal doctrine and jurisprudence, as the judge must establish the conditions for determining the law that is to be applied, whether domestic or foreign, as mandated by the constitution of the issuing state (Kazem, 2022).

Regarding the substantive judicial review of the constitutionality of foreign laws, the domestic judge must approach this matter in the role of a judge working in the state in which the law was enacted. This implies that, if the state of origin does not allow substantive judicial review of the constitutionality of laws, a domestic judge cannot be authorized to adjudicate on this matter, even if the given foreign law is unconstitutional. By contrast, if the state of origin allows for the judicial review of the constitutionality of its laws and designates a specific authority to address such issues, the domestic judge is again not permitted to rule on the constitutionality of the given law, unless the authority designated in the state of origin has already adjudicated on the constitutionality of the law. Thus, there must be a definitive ruling by the authority in the state of origin, which is competent to decide the matter that declaring that the foreign legal provisions in question are unconstitutional, before the domestic judge can use this as a consideration in the judgment before the court.

If the country where the law originates has not designated a specific body as responsible for the examination of the constitutionality of laws and has instead left this task to the ordinary judiciary, the relevant doctrine is split. First, the right of the national judge to examine the constitutionality of the foreign law can be recognized, just as it is in ordinary courts in the country of the origin of the law (Sourani, 2013). Second, no such right is recognized for the domestic judge, as this could constitute interference in legislative authority and could be considered an infringement on the sovereignty and independence of the state where the law originates (Neuman, 2004).

Thus, we consider that a UAE judge has the right to examine the constitutionality of a possibly applicable foreign law and to refrain from applying it.

3. METHODOLOGY

This paper relied on several methodologies, including the descriptive-analytical approach, the inductive approach, and the comparative perspective. It also utilized a variety of sources, as follows:

3.1. Data collection

The research relied on several scientific and academic sources, specifically peer-reviewed articles published in reputable international journals with high-standing publishers such as Emerald, Elsevier, Sage Open, Springer, and other trusted publishers. These articles were indexed in major international databases such as Scopus and Web of Science, which lends credibility and reliability to the research sources. The paper also utilized legal texts from the UAE, Kuwait, and Egypt. In the UAE, the Civil Procedure Law, the Arbitration Law, the Supreme Federal Court Law, and the UAE Constitution were used. In Kuwait, the CC Law was used. In Egypt, the Civil Procedure Law, the Arbitration Law, and the Supreme Constitutional Court (SCC) Law were used. Furthermore, the paper drew upon specific court rulings that addressed the concept of foreign laws.

3.2. Methods

This paper employed various methodologies, including the descriptive-analytical approach, the inductive approach, and the comparative perspective. This was due to the nature of the topic, which required examining and analyzing relevant

[2] In this case, would the national judge examine the constitutionality of the foreign law to be applied in accordance with the constitution of the State that issued it? For example, if a dispute were presented before the UAE judge and the applicable law was French law, and the parties raised the issue of the constitutionality of this law under the conflict-of-laws rule, would the judge investigate the constitutional issue, even though the UAE judge does not have such authority over the provisions of its own national law?

court rulings and legal texts, and comparing the legal frameworks of the UAE, Kuwait, and Egypt regarding the subject matter of the paper. The methodologies employed were as follows:

- The descriptive-analytical approach: This paper relied on an analysis of legal texts related to the judicial review of the constitutionality of laws and regulations in the UAE, particularly those found in the Civil Transactions Law and the Supreme Federal Court Law, while examining the extent to which these texts are consistent with the general constitutional framework. The same approach was used when examining Egyptian legislation, especially the Civil Code and the CC Law, thus highlighting the similarities and differences between the two systems. The Kuwaiti framework was also considered, particularly in light of the rulings of the Kuwaiti CC, to provide a complementary perspective that broadens the scope of comparison.
- The inductive approach: In addition to textual analysis, the research adopts an inductive approach based on reviewing and extracting general principles from judicial precedents related to the review of the constitutionality of foreign laws by the national supreme or CC. This approach was used from a comparative perspective to understand the stance of the constitutional and legal systems in Egypt and Kuwait regarding the constitutional review of foreign laws.

The research does not limit itself to abstract textual analysis, but integrates and combines legal analysis with comparative induction, allowing for the formulation of a comprehensive framework that transcends mere description to critical analysis. Through this integration, the research aims to derive practical principles that can guide legislative and judicial development in the UAE, drawing on the rich institutional experience of Egypt and the distinctive jurisprudential practices of Kuwait, to offer balanced and realistic reform proposals.

The selection of the UAE as a case study is a natural starting point, given that it represents the national legal framework under direct examination, and because its system raises practical issues regarding the extent to which foreign laws are subject to constitutional review. The choice of Egypt stems from its pioneering experience in constitutional adjudication through its SCC, and its rich body of case law, which provides a solid basis for comparison. Kuwait, on the other hand, emerges as a third Arab case study, possessing a distinctive constitutional and judicial system characterized by a specialized CC that plays an active role in legislative oversight. This allows for a more comprehensive comparison, highlighting the similarities and differences between the three models, and provides the research with a complete and relevant Arab comparative perspective, thus enhancing its academic and practical value.

4. RESULTS

No issue arises when the law that is applicable to the arbitration dispute is UAE law. However, complications emerge when the parties choose or the arbitration tribunal determines that the applicable law is a foreign law, in particular in the absence of a clear choice of law (the law of the parties' intent). If a party raises an objection before the tribunal that questions the constitutionality of the provisions of the chosen law, it then comes into question how the tribunal should address this objection if it finds it to have merit or if it independently considers the given law to be unconstitutional under the constitution of the state that is the origin of the foreign law.

However, the real challenge arises when an objection arises regarding the constitutionality of the foreign law before an arbitration tribunal seated in the UAE.

As previously noted, the evaluation of the constitutionality or unconstitutionality of the provisions of foreign laws that are applicable to an arbitration dispute must be done in the light of the particular constitution of the state where the law originates (Abdel Jaleel, 2021).

To determine the stance of UAE law on judicial review of the constitutionality of foreign laws that are applied by arbitration tribunals in arbitration disputes, it is first necessary to review certain provisions of the UAE's Federal Law No. 6 of 2018 Concerning Arbitration[3], along with Article 31 of Federal Decree by Law No. 33 of 2022[4].

A reading of these provisions shows that, while the question of determining the constitutionality of a law that may be applicable to an arbitration before a tribunal does not fall under the provisional or precautionary measures that such an arbitration tribunal can issue or call for assistance from the competent court to issue, it is undoubtedly a preliminary issue lying outside of the jurisdiction of the arbitration tribunal. This directly impacts any resolution of an arbitration. If the tribunal considers the plea of constitutionality to be serious and considers it necessary to determine the applicable law's constitutionality, whether this law be Emirati or foreign, what should the ruling be in such a case?

Because Article 36 of the UAE Arbitration Law does not explicitly enumerate the issues concerning which an arbitration tribunal can request assistance from a competent court, what prevents the tribunal from seeking a decision from that court? This would be considered to be a part of the judicial

[3] Article 18 of the UAE Federal Law No. 6 of 2018 Concerning Arbitration states that: 1) jurisdiction over arbitration matters referred to the competent court under this Law shall be determined in accordance with the procedural laws in force in the state; 2) the president of the court may, upon the request of one of the parties or the arbitration tribunal, order interim or precautionary measures. Article 19/1 of the same law provides that the arbitration tribunal shall decide on any plea regarding its lack of jurisdiction, including a plea based on the non-existence, invalidity, or non-applicability of the arbitration agreement to the subject matter of the dispute. The tribunal may rule on such a plea either in a preliminary decision or in the final award on the merits of the dispute. Article 21/1 states: "Subject to the provisions of Article 18 of this Law, unless otherwise agreed by the parties, the Arbitration Tribunal may, at the request of any of the parties or on its own initiative, order that interim or precautionary measures required by the nature of the dispute shall be taken by one of the parties as the Arbitral Tribunal considers fit, particularly the following measures: (a) Ordering to preserve evidence that may be material to the resolution of the dispute; […] 4. The party for whom an order to take an interim measure has been issued after obtaining a written permission from the Arbitral Tribunal may request the competent court to order the enforcement of the order issued by the Arbitral Tribunal or any part thereof". Article 36/1 stipulates: "The Arbitration Tribunal may, on its own initiative or at the request of one of the parties, seek assistance from the Court to obtain any evidence. The Court may, within its authority, order the fulfillment of such request and order the witnesses to appear before the Arbitral Tribunal […] . 2. The request shall be submitted to the President of the Court, who may decide to: […] (c) Issue orders for judicial delegation".

[4] Additionally, Article 31 provides the following: "1. Requests for examination of constitutionality to be raised before courts in respect of an action being tried by such courts shall be referred to the Supreme Federal Court by virtue of a grounded resolution from the Court […] 2. Whereas, if the challenge of lacking constitutionality is raised through the plea of one of the litigants in the action, and the Court has admitted such challenge, it shall fix a term for the challenger to submit his challenge to the Supreme Federal Court".

assistance for a preliminary issue falling outside of the jurisdiction of the arbitration tribunal, in particular where the challenge pertains to the constitutionality of an Emirati law. While the legislator does not explicitly permit this, it is also not explicitly prohibited. What would prevent such a course of action?

If the law that is challenged on constitutional grounds is a foreign law and the challenge occurs before an arbitration tribunal that is seated in the UAE, Article 36 may offer a solution to this issue (Abdel Jaleel, 2021). This allows the arbitration tribunal to seek assistance if it is faced with any matter necessary for resolving the dispute that falls outside its jurisdiction. Thus, if the question of the unconstitutionality of an applicable foreign law arises before the arbitration tribunal, it may request assistance from the competent court. A court, under the law, is granted the authority by its presiding judge to implement judicial delegations. Thus, the competent court can seek to ascertain the constitutionality of the foreign law that is in question by application to the judiciary of the state that enacted that law, which is to be applied to the arbitration dispute in the UAE.

Article 43 of the UAE Arbitration Law holds that an arbitration tribunal that is faced with this type of question may suspend the given proceedings to grant the parties a final ruling on the matter from the jurisdiction in which the challenged law was issued can be obtained. This is a particularly relevant action if the laws of the given jurisdiction permit a direct constitutional challenge to be filed, as is the case in Bahrain, Kuwait, and Libya.

As for the primary question with respect to the possibility that the constitutionality of Emirati law can be challenged when it is the law that applies to the arbitration dispute before an arbitration tribunal that is seated in the UAE, further clarification is required.

Analysis of the relevant provisions of the FSC Law indicates that the UAE legislator has granted the FSC the authority to resolve conflicts of jurisdiction between the regular judiciary and judicial bodies. It also stipulates that, if a constitutional challenge is made before a court and it appears to the given court that the provision is unconstitutional, the court must refer the matter in question to the FSC in the second case or grant the party making the challenge a sufficient amount of time to file the claim of unconstitutionality before the FSC in the first case.

Given this, can the arbitration tribunal be considered a judicial authority? If we conclude that it is such, does it then have the power to refer questions to the FSC for ruling on a law or regulation's constitutionality? The UAE legislator has restricted the jurisdiction of the FSC to only ruling on the constitutionality of UAE laws and regulations, to the exclusion of foreign laws. It is important to note that the UAE legislator stipulates that constitutional challenges should be raised before the courts, where the term "courts" is general and has a broad meaning. Does the breadth of this term encompass arbitration tribunals?

To address this, it should be noted that there is nothing that would prevent considering of arbitration tribunal in the UAE as a body that has judicial authority. This is because its formation, the way that claims are filed before it, the procedures it follows, and everything else related to it are legally regulated, beginning with the agreement to arbitrate, extending through its procedures, and ending with its award issuance. In addition, the awards that are issued by arbitration tribunals are final, and they have the force of res judicata under Article 52 of the UAE Arbitration Law. Such awards can only be challenged through an annulment claim, and the judgment that is issued is considered final, and it can only be contested by appeal to the Court of Cassation (according to Article 53/1 of the UAE Arbitration Law).

From this, and taking into account that we have concluded that the arbitration tribunal indeed has judicial authority, the issue of constitutionality can be raised before it. There is nothing preventing the term "courts", as used in Article 31 of the UAE's FSC Law, from being applied to arbitration tribunals. Had the UAE legislator intended to limit constitutional challenges to the formal court system, the law would have explicitly stated this. Since it does not do so, there is nothing preventing the application of the law's provisions to arbitration tribunals or the possibility of the FSC addressing constitutional challenges made through these tribunals.

It would not be an exaggeration to say that this state of affairs could become problematic if the provisions of the UAE law were not interpreted as described above until explicit texts be established that would grant arbitration tribunals the authority to review the constitutionality of the laws that are applicable to the cases before them, as with the formal courts of the state, because they are a form of judicial authority, albeit a private one. To support this, we refer to the judgment of the FSC in case No. 4 of 2012 with respect to constitutionality.

In this judgment, the FSC ruled that arbitration is a consensual jurisdiction operating within the framework of private law relationships. This means that the private interests of the parties dominate the relationships that operate within private law. The term "court" as used in the Constitution and the FSC Law refers specifically to the formal courts within the Emirati judicial system, whether federal or local, excluding bodies that resolve disputes. This means that if an arbitration tribunal overseeing the substantive case issues a decision regarding the constitutionality challenge, it must determine the seriousness of the constitutional challenge. Consequently, the FSC will not be involved in the case, and the challenge will not be accepted as a matter of principle[5].

[5] According to the unpublished FSC Case No. 4 of 2012 with respect to constitutionality, the established doctrine, jurisprudence, and legislation stipulate that before addressing the merits of a constitutional case, the constitutional court must first ascertain the validity of its own jurisdiction over the case. The validity or nullity of this jurisdiction is determined by the provisions of the law, not by what it ought to be. Furthermore, as consistently held by this court, if the law prescribes a specific procedure for filing a case, that procedure must be followed; otherwise, the case will be inadmissible. Given that a constitutional case — being an objective claim — targets the legislation being challenged, the legislator has established specific procedures for initiating such cases, the methods of submitting them to the court, their admissibility conditions, and the jurisdiction for hearing them before the FSC in particular. The court's authority to rule on the constitutionality of laws and other legislations is contingent on compliance with these procedures, as they pertain to public order. These procedures constitute essential formalities in litigation, intended by the legislator to serve the public interest by ensuring that constitutional disputes adhere to the prescribed process. Failure to comply renders the case inadmissible.

Thus, it is clear beyond doubt that the arbitration tribunal, which is responsible for resolving disputes in arbitration cases, acted within its legal framework when assessing the seriousness of a constitutional challenge to the provisions that were necessary for its decision. Drawing on this assessment, it suspended the arbitration proceedings after accepting the constitutional challenge, allowing the claimants to file a constitutional challenge before the FSC. Without doubt, the tribunal followed a proper legal course in addressing this challenge, although the law does not explicitly authorize this to do so. However, this also does not prohibit this action.

Both the claimants' counsel and we have argued that limiting the referral to the Federal Supreme Court to review the constitutionality of laws to the official courts of the country is misplaced. The term "courts of the country", as stated in Article 99/3 of the Federal Constitution and Article 33/4 of the FSC Law, should be given a broader, more expansive, and inclusive meaning, encompassing not only the official courts but also the arbitration tribunals that resolve disputes between legal and natural persons. Restricting the meaning of this term to official courts alone would require arbitration tribunals to address the constitutionality of laws on their own to resolve the disputes before them or to apply legislative provisions that raise legitimate doubts about their constitutionality. Given that the laws in force in the UAE contain no provisions granting arbitration tribunals the right to request assistance from the official courts in referring constitutional challenges to the FSC, this interpretation would be necessary.

The FSC states that the general principle in legislative texts is that they should not be interpreted beyond their intended purposes, and their phrases should not be construed in a way that takes them out of their meaning or context, or distorts them. This applies whether the text is separated from its subject or exceeds the intended objectives. The reason for this is that legislative texts are not drafted arbitrarily, but are designed to achieve a social interest, and these texts must remain within the framework of that purpose.

If this is the court's reasoning, then an inconsistency may be observed with the conclusion it reached. From the above, it seems that the text should be interpreted in a way that allows arbitration tribunals to play an active role in the determination of the constitutionality or unconstitutionality of the laws they apply, which is similar to the role of the official courts of the country. Failing this, an alternative interpretation would be meaningless.

If the aim of the UAE legislator in Article 58 of the FSC Law (which became Article 31 under Federal Decree by Law No. 33 of 2022) is to protect the presumption of constitutionality that is attached to every legislative text, as has been stated by the court, the logical consequence of this would be to prohibit challenges to the constitutionality of any provision in a law or regulation, given the presumption of constitutionality that would be attached to these texts. Alternatively, could this presumption be rebutted before the official courts of the state but remain absolute and irrefutable before arbitration tribunals? In both cases, is it not the law being challenged, a UAE law?

Moreover, the UAE legislator is not infallible, as many provisions have been issued that have later been ruled unconstitutional. What, then, prevents a constitutional challenge to a legal or regulatory provision before an arbitration tribunal?

5. DISCUSSION

The inadequacy of present national legislative provisions to address the issue at hand, as the UAE legislator has not provided clear provisions for judges to rely on when the constitutionality of foreign law that is applicable to disputes with a foreign element is challenged here.

This study highlights that the lack of a grant to an arbitration tribunal the right to refer an arbitration case to the FSC has resulted in a legislative gap. This has created a closed loop in which an arbitration tribunal can only decide whether to apply a law for whose constitutionality legitimate doubts can be raised or to take some other course of action.

This issue is neglected at both the local and international levels, as there has been no international agreement or national legislation to regulate challenges to the constitutionality of the applicable law before arbitration tribunals. The UAE legislator has recognized arbitration tribunals as bodies having judicial authority, and, therefore, it is within their right to initiate a review of the constitutionality of foreign law in the cases before them, where the place of arbitration is the UAE.

States that adopt a direct approach to constitutional litigation do not pose a problem in this context; on the contrary, they address the issue of the unconstitutionality of their national laws if a dispute is raised before international arbitration bodies. In such cases, individuals can directly challenge the constitutionality of a law, as is the case in Kuwait.

According to Article 4-bis, added by Law No. 109 of 2014 to the Kuwaiti CC Law No. 14 of 1973, the legislator allows any natural or legal person to directly challenge, before the CC, any law, decree-law, or regulation. This article explicitly requires that the petitioner have a direct personal interest; without such an interest, the challenge will not be accepted.

This means that merely alleging that the challenged legislation is unconstitutional is not sufficient to allow a direct challenge. The petitioner must demonstrate that the application of the legislation has caused them harm, and that declaring it unconstitutional would remedy this harm and benefit them. Therefore, there is no problem with raising the issue of the unconstitutionality of the applicable law if it is Kuwaiti law, and there will be no issue regarding arbitration bodies applying a law whose constitutionality is questionable.

In Egypt, according to the law establishing the SCC, the procedure for initiating a constitutional challenge, as stipulated in Article 29 of Law No. 48 of 1979, is by raising the issue as a subsidiary argument in the main case, with the trial judge then assessing the validity of this argument. The trial judge may also, on their own initiative, refer the constitutional issue to the SCC for review. Alternatively, the SCC may initiate its own review of

the constitutionality of a particular provision of law. Therefore, only the official courts in Egypt have the authority to refer cases to the SCC. The same applies in the UAE.

The following table summarizes the position of the legal systems in the UAE, Egypt, and Kuwait regarding the review of foreign laws for constitutional compliance.

Table 1. Constitutional review of foreign laws in the UAE, Kuwait, and Egypt

The state	*The jurisdiction court*	*The scope of jurisdiction*	*Alternative mechanism*	*The constitutionality of foreign law*	*Conclusion*
UAE	FSC	Federal and local laws and regulations only	The law that conflicts with public order is not allowed to be applicable	No jurisdiction, the constitutional review of the foreign law is not applicable	Indirect judicial constitutional review
Kuwait	CC	National laws only	The direct constitutional lawsuit		
Egypt	SCC	National laws only	The law that conflicts with public order is not allowed to be applicable		

Source: Authors' elaboration.

As shown in the previous table, foreign laws are not subject to constitutional review by the highest courts or CC in the UAE, Kuwait, and Egypt. In these countries, foreign laws are only excluded from application if they violate public order. However, in Kuwait, there is an alternative procedure: an individual can directly file a constitutional challenge to a Kuwaiti law if it is at issue in an arbitration proceeding outside of Kuwait, and Kuwaiti law is the applicable law.

6. CONCLUSION

This study shines a light on the complex. This study revealed that excluding the possibility of applying foreign law from the scope of constitutional review, whether before national courts or arbitration bodies, does not find explicit support in the legislation enacted by the UAE legislator. The current legal framework does not offer definitive solutions to this issue, leaving a legal vacuum that may cause practical problems when dealing with disputes involving a foreign element. The study sought to derive solutions from existing legislation, drawing on some rulings of the Supreme Federal Court, and addressed the issue of constitutional review of foreign laws, both in court proceedings and in arbitration.

This research yielded essential findings, the most significant of which is the need for the UAE legislator to intervene with clear legislative amendments. Specifically, it recommends amending Article 31 of the Supreme Federal Court Law by adding the phrase "arbitration bodies" after the word "courts" in all its paragraphs; an amendment that was expected to be included in the recent amendments under Federal Decree by Law No. 33 of 2022. It also recommends amending Article 99 of the Constitution to enable arbitration bodies to exercise their role in reviewing the constitutionality of foreign laws in international disputes, thus enhancing the integration of the judicial and arbitration systems in the UAE.

These findings are significant not only at the national level but also internationally, highlighting the need for the international community to address the issue of constitutional review of foreign laws. This is especially relevant given that it poses a fundamental challenge for arbitration bodies in many countries that do not allow them to refer constitutional issues to the competent authorities. Addressing this gap is a crucial step in ensuring that international arbitration systems align with constitutional principles and in enhancing public confidence in dispute resolution mechanisms.

However, some limitations of this study should be noted. The study focused on the UAE legal framework, with only limited comparisons to specific regional and international legal systems, and did not comprehensively cover all global practices. Furthermore, the study focused on the legal analysis of the text, without delving deeply into the practical procedures of arbitration bodies in contemporary cases. This represents fertile ground for future research, which could examine how arbitration bodies in different countries have addressed constitutional challenges related to foreign laws and the mechanisms they have adopted to address the absence of explicit provisions.

The added value of this study lies in opening new avenues for discussion on the intersection of constitutional law, international private law, and arbitration, and in offering practical, implementable proposals that can contribute to the development of the UAE's legal framework and enhance its position as an attractive legal environment for international disputes. Therefore, this paper not only provides immediate recommendations for policymakers but also lays the groundwork for a future research agenda that explores the complex relationship between constitutional review and international arbitration in the context of legal globalization and the increasing interaction between national and foreign legal systems.

REFERENCES

Abdel Jaleel, A. S. (2021). *Alraqabat alqadayiyat waltahkimiat ealaa dusturiat alqanun almutbaq fi almunazaeat alduwaliat fi misr wal'iimarat alearabiat almutahidat wal'anzimat alqanuniat alearabiat walgharbiat al'ukhraa* [Judicial and arbitral oversight of the constitutionality of the applicable law in international disputes in Egypt, UAE, and other Arab and Western legal systems]. Dar Al-Nahda Al-Arabia.

Abdel Rahman, G. J. (1970). *Alqanun aldawliu alkhasu alearabii: Tanazue alqawanin* [Arab private international law: Conflict of laws]. Dar Al-Nahda Al-Arabia.

Abdullah, E. (1970). Itabieat alqanun al'ajnabii 'amam almahakim alwataniati [Commentary on judicial decisions: The nature of foreign law before national courts]. *Egyptian Journal of International Law, 26*.

Aboelazm, K. S. (2021). The constitutional framework for public policy in the Middle East and North Africa countries. *International Journal of Public Law and Policy, 7*(3), 187–203. https://doi.org/10.1504/IJPLAP.2021.118325

Aboelazm, K. S. (2024). Supreme constitutional court review of the legislative omission in Egypt in light of international experiences. *Heliyon, 10*(17), Article e37269. https://doi.org/10.1016/j.heliyon.2024.e37269

Aboelazm, K. S. (2025). The judicial constitutional review for the legislative omission: A comparative study. *Krytyka Prawa. Niezalezne Studia nad Prawem, 17*(1), 316–336. https://doi.org/10.7206/kp.2080-1084.766

Aden, M. (2015). Wrong answers to wrong questions? A new approach to judicial review of international arbitral awards. *Revista Brasileira de Arbitragem, 12*(47), 55–69. https://doi.org/10.54648/RBA2015043

Al-Enizi, Z. K. (2023). The role of the UNCITRAL rules on transparency in enforcing societal control over investment treaties [Special issue]. *Journal of Governance & Regulation, 12*(1), 260–271. https://doi.org/10.22495/jgrv12i1siart6

Alhadhrami, K. A. (2025). Challenges and solutions in enforcing foreign arbitral awards: A case study of the UAE. *Arbitration: The International Journal of Arbitration, Mediation and Dispute Management, 91*(1), 98–119. https://doi.org/10.54648/AMDM2025007

Al-Harqan, R. A. M. S. (2023). *Khususiat qawaeid aikhtiar alqanun fi 'iitar tanazue alqawanin fi qutra: dirasat tahliliatan muqaranatan* [The specificity of choice of law rules in Qatar's conflict of laws framework: A comparative analytical study] [Unpublished master's thesis, College of Law, Qatar University].

Amar, A. R. (1999). Intratextualism. *Harvard Law Review, 112*(4), 747–827. https://doi.org/10.2307/1342297

Bisariyadi. (2018). Referencing international human rights law in Indonesian constitutional adjudication. *Constitutional Review, 4*(2), 249–270. https://surl.lt/gtmvfw

Boyce, B. (1998). Originalism and the Fourteenth Amendment. *Wake Forest Law Review, 33*(4), 909–1034. https://surli.cc/jofhki

Breyer, S. (2006). *Active liberty: Interpreting our democratic constitution*. Vintage.

Colby, T. B., & Smith, P. J. (2009). Living originalism. *Duke Law Journal, 59*(2), 239–307. https://surl.lu/olmjgw

Dixon, R. (2008). A democratic theory of constitutional comparison. *The American Journal of Comparative Law, 56*(4), 947–998. https://doi.org/10.5131/ajcl.2007.0032

Easterbrook, F. H. (2008). Originalism and pragmatism: Pragmatism's role in interpretation. *Harvard Journal of Law and Public Policy, 31*, 901–906. https://chicagounbound.uchicago.edu/journal_articles/6094/

Federal Decree by Law No. 33 of 2022 Concerning the Supreme Federal Court. (2022). https://uaelegislation.gov.ae/en/legislations/1581/download

Federal Decree-Law No. 42 of 2022 Promulgating the Civil Procedure Code. (2022). https://uaelegislation.gov.ae/en/legislations/1602/download

Federal Law No. 6 of 2018 Concerning Arbitration. (2018). https://uaelegislation.gov.ae/en/legislations/1069/download

Greene, J. (2009). On the origins of originalism. *Texas Law Review, 88*(1), 1–89. https://surl.li/claprr

Hadaoui, H. (1993). *Tanazue alqawanin wa'ahkamuh fi alqanun alduwalii alkhasi* [Conflict of Laws and its provisions in private international law]. Majdalawi Publishing and Distribution.

Halmai, G. (2012). The use of foreign law in constitutional interpretation. In M. Rosenfeld & A. Sajó (Eds.), *The Oxford handbook of comparative constitutional law* (pp. 1328–1348). Oxford University Press. https://doi.org/10.1093/oxfordhb/9780199578610.013.0066

Hussein, E. (2023). Institutional arbitration in the UAE: Looking for missing pieces of the puzzle. *Arbitration: The International Journal of Arbitration, Mediation and Dispute Management, 89*(1), 78–97. https://doi.org/10.54648/AMDM2023007

Jackson, V. C. (2014). Comparative constitutionalism, legal education, and civic attitudes: Reflections in response to Professors Krotoszynski and Law. *Alabama Law Review, 66*(1), 155–168. https://www.law.ua.edu/wp-content/uploads/archive/law-review-articles/Volume%2066/Issue%201/Jackson.pdf

Kazem, B. J. A. (2022). Nitaq Raqabat Mahkamat alnaqd ealaa sultat alqadi fi tatbiq alqanun al'ajnabii: Alsalahiat waldusturia [The scope of the Court of Cassation's oversight on the judge's authority in applying foreign law: Validity and constitutionality]. *Legal Journal, 14*.

Koh, H. H. (2004). International law as part of our law. *American Journal of International Law, 98*(1), 43–47. https://doi.org/10.2307/3139255

Lecaj, M., Curri, G., & Rexha, D. (2022). The application of the international and domestic arbitration law in settlement of legal disputes: A comparative study. *Corporate Governance and Organizational Behavior Review, 6*(3), 150–162. https://doi.org/10.22495/cgobrv6i3p14

Moussakh, M. (2009). Aistibead tatbiq alqanun al'ajnabii 'amam almahakim aljazayiria [Exclusion of the application of foreign law before Algerian courts]. *Journal of Research in Scientific Studies, 3*.

Neuman, G. L. (2004). The uses of international law in constitutional interpretation. *American Journal of International Law, 98*(1), 82–90. https://doi.org/10.2307/3139258

Posner, R. A. (1990). Bork and Beethoven. *Stanford Law Review, 42*(6), 1365–1368. https://doi.org/10.2307/1229015

Qashi, A. (2024). *'Asas tatbiq alqanun al'ajnabii wamakanatuh 'amam alqudaat alwataniiyna* [The basis and position of foreign law application before national judges]. University of Saad Dahlab.

Rubenfeld, J. (2004). Commentary: Unilateralism and constitutionalism. *New York University Law Review, 79*(6), 1971–2028. https://nyulawreview.org/wp-content/uploads/2018/08/NYULawReview-79-6-Rubenfeld.pdf

Rubin, P. A. (2010). War of the words: How courts can use dictionaries in accordance with textualist principles. *Duke Law Journal, 60*(1), 167–206. https://scholarship.law.duke.edu/dlj/vol60/iss1/3/

Sadeq, H., & Abdel Aal, A. (2007). *Alqanun alduwaliu alkhasi: Tanazue alqawanin walaikhtisas alqadayiyi alduwlii* [Private international law: Conflict of laws and international jurisdiction]. University Press.

Sitaraman, G. (2009). The use and abuse of foreign law in constitutional interpretation. *Harvard Journal of Law & Public Policy, 32*(2), 653–693. https://journals.law.harvard.edu/jlpp/wp-content/uploads/sites/90/2009/03/sitaraman_final.pdf

Sourani, A. (2013). *Tatbiq alqanun al'ajnabii 'amam almahakim alwatania* [The application of foreign law before national courts] [Unpublished master's thesis, University of Aleppo]. University of Aleppo.

Young, E. A. (2005). Foreign law and the denominator problem. *Harvard Law Review, 119*, 148–167. https://surl.li/msorem