Applicable laws to International Commercial Arbitration

Part 1

International Commercial Arbitration

- Arbitration v ADR
- International Arbitration v Domestic Arbitration
  - Nationalities of the parties
  - The international nature of dispute
- Commercial
  - Any relationship of a commercial nature

Law Applicable to parties' capacities

- The law applicable to them
  - Individuals v corporations
  - Sovereigns
    - Law Applicable to Arbitration Agreements
      - The chosen law
      - The law of the place of the arbitration

Lex arbitri

- What is lex arbitri?
- Choice of place of arbitration automatically operates as a choice of a legal system to regulate an arbitration
- The importance of lex arbitri
- Determination of the place of arbitration
  - Parties - Arbitrators

Lex arbitri and arbitration rules

- need for more detailed procedural rules
- ICC, LCIA, AAA...etc
- The substantive Law
- Parties autonomy
- Choices of substantive law
  - National law v Non-national system of law
- Laws applicable to the enforcement of arbitral awards
Introduction to Legal Aspects of Islamic Finance

Part II

Shair’a

- What is Shair’a?
  - The way v. The law
- Acts of warship v Human transactions
- Colonialism and mere academic Application of Islamic law
- Islamic finance: real subject - great relief to Muslims
- Human and capital resources

Major Financial Prohibitions

- Riba
- Gharar

Main features of Islamic finance
- Money is exclusively a medium of exchange
- Asset-backed financing

Islamic finance techniques

- Banks and classical Islamic financial system
- Reconfiguration of the nominate contracts
  - eg. Murabaha
- Islamic finance v Traditional finance
- All in the form?

Islamic law as governing law

- Islamic law is not a codified law
  - Islamic law v. Common law
    - Decisions by the majority of judges
    - Independent Fatwa
- Different interpretations
- Standardisation “AAOIFI” – “IFSB”
- Arbitration