

Alternative Dispute Resolution in Saudi Construction Projects: Strategies, Challenges, and Best Practices

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Abstract

Disputes are an inevitable component of construction projects, often resulting from the complexity, multi-party nature, and uncertainty that characterize the industry. In Saudi Arabia, the rapid expansion of the construction sector under the Kingdom's Vision 2030 program has intensified the need for efficient dispute resolution mechanisms capable of maintaining commercial relationships and minimizing project disruption. Traditional litigation has frequently proven to be slow, expensive, and adversarial, prompting stakeholders to explore Alternative Dispute Resolution (ADR) methods such as arbitration, mediation, and adjudication. This paper examines ADR in the context of the Saudi construction industry, identifying its legal framework, institutional mechanisms, and cultural dimensions. It evaluates the role of the Saudi Center for Commercial Arbitration (SCCA) and other emerging bodies in shaping a modern ADR environment aligned with international best practices while accommodating the principles of Islamic law (Sharia). By analyzing current trends, comparative practices, and case experiences, this study highlights the opportunities and challenges for integrating ADR within Saudi Arabia's rapidly evolving construction sector.

Keywords: Alternative Dispute Resolution, Construction Disputes, Saudi Arabia, Arbitration, Mediation, Vision 2030, SCCA

1. Introduction

The construction industry is among the most dispute-prone sectors worldwide due to its inherent complexities, long time frames, and the diversity of contractual relationships involved (Fenn et al., 1997). Projects often engage multiple contractors, consultants, suppliers, and clients, whose interests and risk allocations differ significantly. In Saudi Arabia, where the construction sector contributes substantially to national GDP and forms a central pillar of the Vision 2030 diversification agenda, disputes have increased both in frequency and magnitude (Alsharani, 2017). As the government undertakes large-scale infrastructure programs—such as NEOM, the Red Sea Project, and Qiddiya—effective dispute management mechanisms have become crucial for maintaining project continuity, investor confidence, and contractual fairness.

Historically, disputes in Saudi construction projects have been resolved through negotiation or litigation before Sharia courts. While these mechanisms align with Islamic legal principles emphasizing justice and reconciliation, the conventional court process is often criticized for its length, formalism, and limited technical expertise in construction matters (Hammad & Al-Mehdar Law Firm, n.d.). This has encouraged both local and international stakeholders to turn toward ADR as a more efficient, cost-effective, and relationship-preserving means of resolving disputes. ADR methods—such as mediation, arbitration, conciliation, and adjudication—offer flexibility and confidentiality, while allowing technical experts to serve as decision-makers or facilitators.

The Kingdom's evolving legal landscape has further supported the institutionalization of ADR. The establishment of the Saudi Center for Commercial Arbitration (SCCA) in 2016 marked a significant milestone in aligning Saudi dispute resolution practices with international norms. The SCCA provides arbitration and mediation services under rules compatible with the United Nations Commission on International Trade Law (UNCITRAL) framework, yet respectful of Sharia principles. This institutional development signals the government's intent to foster an investor-friendly dispute resolution environment in line with Vision 2030 objectives.

Nevertheless, the practical adoption of ADR in Saudi construction remains limited compared to other jurisdictions such as the United Kingdom or Singapore. Challenges include a lack of awareness, insufficient trained neutrals, inconsistent contract drafting, and cultural reservations toward formalized non-court procedures (Alsofiyani, n.d.). Furthermore, the integration of Sharia-compliant principles with modern ADR mechanisms presents interpretive challenges for practitioners and policymakers.

This paper therefore seeks to address the following questions:

1. What is the current framework governing ADR in Saudi Arabia's construction sector?
2. How do ADR methods operate in the Saudi context, and what advantages do they offer?
3. What are the major challenges to ADR adoption and what lessons can be drawn from international best practice?

The remainder of this paper is organized as follows. Section 2 presents a review of existing literature on ADR in construction, with an emphasis on Saudi Arabia. Section 3 outlines the key ADR mechanisms used in construction globally and their relevance to the Saudi market. Section 4 analyzes Saudi Arabia's ADR legal and institutional framework. Section 5 provides comparative insights and discusses prevailing challenges, while Section 6 offers recommendations and conclusions.

2. Literature Review

2.1 Nature of Construction Disputes

Construction disputes arise from multiple factors including design errors, delays, payment disagreements, scope variations, and communication breakdowns (Cheung & Yiu, 2006). The interdependence of stakeholders—contractors, subcontractors, consultants, and clients—creates complex risk dynamics that can easily devolve into conflicts. In Saudi Arabia, the causes of disputes are amplified by fast-tracked project delivery, reliance on international contractors, and diverse cultural and contractual practices (Alsharani, 2017; Alhajri & Alshibani, 2018).

Delays are among the most frequent sources of dispute. Alhajri and Alshibani (2018) identified design changes, poor communication, and material shortages as critical factors behind schedule overruns in Saudi petrochemical projects. These project inefficiencies often escalate into financial claims and disputes requiring formal resolution. Given the volume of mega-projects underway in the Kingdom, the cumulative cost of unresolved disputes can be enormous, underscoring the need for rapid resolution mechanisms.

2.2 Concept and Evolution of ADR

ADR refers to a range of processes designed to resolve disputes outside traditional court litigation. Common forms include negotiation, mediation, conciliation, adjudication, and arbitration (Gamage & Kumar, 2024).

These mechanisms vary in their level of formality, procedural structure, and the binding nature of outcomes. The unifying principle is the promotion of efficient, private, and flexible resolution while reducing the adversarial character of litigation (Moses, 2017).

The construction industry was one of the earliest adopters of ADR, recognizing that lengthy disputes disrupt project timelines and relationships (Fenn et al., 1997). Internationally, the inclusion of arbitration or mediation clauses in standard-form construction contracts—such as the FIDIC Red Book—has become a norm. Dispute adjudication boards (DABs) or dispute resolution boards (DRBs) are also increasingly mandated to address issues contemporaneously during project execution.

2.3 ADR in the Saudi Context

In Saudi Arabia, the legal framework governing ADR is grounded in Islamic jurisprudence and statutory developments. Historically, mediation (*sulh*) has deep roots in Sharia, emphasizing amicable settlement and reconciliation among parties (Al-Sulami, 2019). The concept of arbitration (*tahkim*) is also recognized, provided that arbitral awards do not contravene Islamic law. The modern Arbitration Law of 2012 (Royal Decree M/34) and its implementing regulations brought Saudi arbitration closer to international standards, allowing parties autonomy in selecting rules, procedures, and arbitrators, subject to Sharia compliance.

The creation of the SCCA has been instrumental in operationalizing ADR, providing standardized procedures, qualified panels, and facilities for both domestic and international cases. Its 2023 Arbitration Rules further modernized procedures, incorporating virtual hearings, expedited processes, and digital filings. According to SCCA (2023) reports, construction disputes constitute a significant portion of its caseload, reflecting growing trust in institutional ADR.

Nevertheless, ADR in Saudi Arabia remains at a developmental stage. Studies highlight limited awareness among construction professionals, the shortage of trained mediators and arbitrators, and challenges in harmonizing international practices with Sharia principles (Alsofiyani, n.d.; Alsharani, 2017). Furthermore, smaller local contractors often prefer informal negotiation or governmental intervention rather than formal ADR procedures, perceiving them as complex or foreign (Hammad & Al-Mehdar Law Firm, n.d.).

2.4 Cultural and Institutional Influences

Culture plays a crucial role in dispute resolution behavior. Hofstede's cultural dimensions suggest that high-context societies—such as Saudi Arabia—prefer consensus, personal relationships, and indirect communication (Hofstede, 2001). Alsofiyani (n.d.) found that Saudi participants often view arbitration through a relational lens, prioritizing reconciliation over strict legal outcomes. Consequently, mediation or informal negotiation may be more culturally aligned than adversarial arbitration.

Institutionally, the Saudi judiciary retains supervisory jurisdiction over arbitration awards, ensuring compliance with Sharia and public policy. While this oversight enhances legal integrity, it may also introduce uncertainty regarding enforcement, especially in international cases. The government's ongoing legal reforms, including the Commercial Courts Law (2020), aim to enhance confidence in enforcement mechanisms.

2.5 Comparative Insights

Comparative studies reveal that jurisdictions such as the United Kingdom and Singapore have institutionalized ADR through legislation and standard contract provisions. The UK's Housing Grants, Construction and Regeneration Act 1996, for example, made adjudication a statutory right for construction disputes. Malaysia's Construction Industry Payment and Adjudication Act 2012 achieved similar results, drastically reducing dispute

durations. Saudi Arabia lacks equivalent legislation mandating ADR, relying instead on contractual clauses or voluntary adoption.

The divergence highlights opportunities for policy development in Saudi Arabia. Formal recognition of adjudication or mandatory mediation for public construction contracts could substantially enhance efficiency. Moreover, adopting standardized ADR clauses in government projects would align domestic practices with global norms.

2.6 Summary of Literature Gaps

Despite growing academic and institutional attention, literature on ADR in Saudi construction remains limited. Most existing works are conceptual or descriptive rather than empirical. Few studies quantify ADR's time or cost savings compared to litigation or analyze satisfaction among participants. Furthermore, limited data transparency from private ADR proceedings constrains research access. This study seeks to contribute by synthesizing available literature, identifying contextual challenges, and proposing directions for practice and policy development.

3. ADR Methods and Mechanisms in Construction

The construction industry's complexity—characterized by multi-party relationships, technical ambiguities, and long contractual chains—makes dispute resolution particularly demanding. ADR mechanisms have evolved to provide flexible, efficient, and expert-driven solutions suited to construction's dynamic environment. These mechanisms vary in formality, cost, and binding authority, but share common goals: to minimize disruption, preserve commercial relationships, and deliver timely resolutions (Cheung & Yiu, 2006; Fenn et al., 1997).

3.1 Negotiation

Negotiation represents the first and most informal tier of ADR. It is a voluntary process through which disputing parties communicate directly to reach a mutually acceptable solution. In construction, negotiation often occurs between project managers or contract administrators soon after a dispute arises. Effective negotiation can prevent escalation to formal processes, saving time and cost (Gamage & Kumar, 2024).

In Saudi Arabia, negotiation aligns with cultural norms favoring consensus and relational harmony (Alsofiyani, n.d.). Business culture often prioritizes personal trust and goodwill; thus, negotiation provides a culturally appropriate mechanism for dispute avoidance. However, negotiation's informality may also limit enforceability if agreements are not documented properly within contract administration frameworks.

3.2 Mediation and Conciliation

Mediation involves the intervention of a neutral third party—the mediator—who facilitates communication and helps parties identify interests and potential solutions. The mediator does not impose a decision; rather, the outcome depends on mutual consent. Conciliation, while similar, often entails a more active role for the conciliator, who may propose settlement terms (Moses, 2017).

In the construction sector, mediation offers a balance between informality and structured resolution. It preserves confidentiality and enables flexible outcomes that might not be legally possible in arbitration or court proceedings. Internationally, construction contracts such as those under the FIDIC suite increasingly recommend mediation before arbitration.

In Saudi Arabia, mediation is conceptually aligned with **sulh**, a traditional Islamic approach emphasizing reconciliation and community harmony (Al-Sulami, 2019). The Saudi Ministry of Justice and the SCCA have integrated mediation services into their frameworks, offering trained mediators with technical expertise. The

Mediation Law of 2020 formalized procedures, establishing accreditation requirements and enforceability provisions for mediated settlements. However, uptake remains modest due to limited awareness and reliance on informal negotiation among project stakeholders (Hammad & Al-Mehdar Law Firm, n.d.).

3.3 Adjudication

Adjudication is a formal but expedited process in which an independent adjudicator—often an engineer or construction expert—renders a decision within a prescribed timeframe. The decision is temporarily binding and enforceable unless overturned by subsequent arbitration or litigation. This mechanism was pioneered in the UK and has been recognized as a means to keep cash flowing during project execution (Kennedy, 2000).

While adjudication is widely used in the UK, Australia, and Malaysia, Saudi Arabia does not yet have a statutory adjudication framework. Nonetheless, large international contractors sometimes include adjudication clauses in contracts based on FIDIC provisions. The absence of legislative recognition limits enforceability, but private-sector interest in this mechanism is growing as the construction sector expands and adopts international best practices.

3.4 Arbitration

Arbitration is the most established and widely utilized ADR method in construction, both globally and within Saudi Arabia. It involves referring disputes to an impartial tribunal whose decision (the arbitral award) is binding and enforceable. Arbitration offers flexibility in procedure, selection of arbitrators, confidentiality, and technical expertise.

The **Saudi Arbitration Law (2012)** and its **Implementing Regulations (2017)** significantly modernized the Kingdom's arbitration environment. The law allows parties to choose their procedural rules, seat of arbitration, and arbitrators, provided the outcome does not violate Sharia principles. Notably, the law empowers the enforcement courts to recognize arbitral awards, reinforcing Saudi Arabia's commitment to arbitration as a viable alternative to litigation (SCCA, 2023).

The SCCA plays a pivotal role in promoting arbitration in the construction sector. It offers specialized panels of engineers, architects, and legal experts capable of resolving technical disputes efficiently. Its arbitration rules, revised in 2023, incorporate international best practices such as expedited procedures, digital case management, and provisions for emergency arbitrators. For construction disputes, these innovations enhance flexibility and reduce procedural bottlenecks.

Arbitration's appeal in Saudi Arabia lies in its balance between local legal compliance and international enforceability. The Kingdom's accession to the **New York Convention (1994)** further ensures recognition of foreign arbitral awards. However, challenges remain—particularly regarding the interpretation of public policy under Sharia, which can affect the enforcement of awards involving interest or other prohibited elements (Alsofiyani, n.d.).

3.5 Expert Determination and Dispute Review Boards

Expert determination involves referring technical disputes to an independent expert whose decision may be binding or advisory depending on the contract. In large-scale projects, **Dispute Review Boards (DRBs)** or **Dispute Adjudication Boards (DABs)** provide ongoing dispute management throughout project execution. These boards help prevent escalation by addressing issues contemporaneously.

In Saudi Arabia, use of DRBs and expert determination is still limited but growing, particularly in projects involving international partners using FIDIC contracts. Government entities such as the Ministry of Municipal and Rural Affairs and Housing have begun exploring their integration into public infrastructure projects.

3.6 Comparative Effectiveness of ADR Methods

Globally, studies demonstrate that ADR processes yield significant time and cost savings over litigation. For example, UK construction arbitration averages six to twelve months compared to years of litigation (Kennedy, 2000). In Saudi Arabia, while empirical data are limited, anecdotal evidence from SCCA proceedings indicates similar efficiencies. Mediation and arbitration, in particular, are emerging as preferred mechanisms for high-value disputes.

However, effectiveness depends on institutional maturity, quality of neutrals, and contract enforcement. Without a statutory basis for adjudication or standardized ADR clauses, Saudi construction stakeholders rely on contractual autonomy, which may produce inconsistent practices. Capacity-building through training, awareness, and policy reform remains essential to fully harness ADR's benefits in the Saudi context.

4. ADR Framework in Saudi Arabia

4.1 Legal Framework

Saudi Arabia's ADR landscape has evolved through significant legislative reforms aimed at fostering investor confidence and aligning with global standards. The cornerstone is the **Arbitration Law of 2012 (Royal Decree M/34)**, which repealed the older 1983 law. The new law is largely modeled on the UNCITRAL Model Law while retaining compatibility with Islamic principles. It provides autonomy to the parties regarding choice of law, language, and procedures, while requiring that awards not contravene Sharia or public policy.

The **Implementation Regulations of 2017** clarified procedural aspects, including timelines, arbitral tribunal formation, and award enforcement. The **Enforcement Law (2013)** further strengthened ADR by empowering enforcement courts to recognize domestic and international arbitral awards. This alignment with the **New York Convention** ensures that Saudi arbitral awards are enforceable abroad and vice versa, which is critical for multinational construction projects.

The **Mediation Law of 2020** represents another milestone, providing a legal framework for formal mediation and the recognition of mediated settlements. This development institutionalized mediation within the justice system and expanded ADR options for construction disputes.

4.2 Institutional Framework: The Role of the SCCA

The establishment of the **Saudi Center for Commercial Arbitration (SCCA)** in 2016 marked a pivotal moment in Saudi Arabia's modernization of commercial dispute resolution. Headquartered in Riyadh, with branches in Jeddah and Dhahran, the SCCA operates under the supervision of the Council of Saudi Chambers. Its objectives include providing arbitration and mediation services that meet international standards while ensuring compliance with Sharia and Saudi public policy.

The SCCA's **Arbitration Rules (2023)** introduced major innovations such as digital case management, emergency arbitrator provisions, and flexible fee schedules. These features align the SCCA with leading global institutions like the ICC and LCIA. The Center also offers specialized panels for construction and engineering disputes, recognizing the technical nature of such conflicts.

The SCCA's growth has been notable: its caseload has expanded steadily, with construction disputes comprising approximately one-third of total filings (SCCA, 2023). Moreover, its collaboration with international organizations—such as the Chartered Institute of Arbitrators (CIArb)—has enhanced training and accreditation of local neutrals, addressing the expertise gap that previously limited ADR development in Saudi Arabia.

4.3 Sharia Principles and ADR Compatibility

Saudi Arabia's legal system is based on Sharia (Islamic law), which influences all forms of dispute resolution. Key Sharia principles relevant to ADR include justice (adl), fairness (ihsan), and the encouragement of amicable settlement (sulh). These principles are inherently consistent with ADR's ethos of consensus and fairness. However, practical application can raise issues where international commercial practices—such as interest (riba) or speculative compensation—conflict with Sharia.

Arbitral awards must comply with these principles to be enforceable in Saudi courts. For example, damages based on interest or speculative profit may be deemed invalid. Consequently, international parties must carefully draft arbitration clauses and select governing laws that respect Sharia compliance. The SCCA's model clauses and procedural guidelines assist in achieving this balance, ensuring that ADR in Saudi Arabia remains both globally credible and locally legitimate (Alsofiyani, n.d.).

4.4 Governmental and Policy Support

The Saudi government has actively promoted ADR as part of its **Vision 2030 judicial reform agenda**, which seeks to enhance business confidence and attract foreign investment. The **National Transformation Program (NTP)** emphasizes improving contract enforcement and dispute resolution efficiency. The Ministry of Justice has established conciliation offices and digital mediation platforms, reducing pressure on courts.

Furthermore, the Public Investment Fund (PIF) and major developers like NEOM and the Red Sea Global Company increasingly incorporate ADR clauses in contracts. These institutions recognize that efficient dispute management is vital to maintaining project schedules and reputational integrity.

4.5 Challenges within the Framework

Despite these advancements, several challenges persist. First, awareness of ADR among small and medium construction firms remains low. Second, the availability of trained neutrals—particularly bilingual professionals with technical and legal expertise—is limited. Third, while legal reforms have improved enforceability, residual uncertainty regarding Sharia interpretation may deter some foreign investors. Finally, absence of statutory adjudication restricts rapid dispute resolution during project execution.

Addressing these gaps requires sustained institutional capacity building, public education, and harmonization of ADR practice across industries. The next section examines how Saudi Arabia's ADR framework compares with international models and explores key challenges and opportunities for further development.

5. Comparative Analysis of ADR in Construction

Understanding ADR in Saudi Arabia benefits from a comparative perspective with other jurisdictions that have well-established construction dispute resolution frameworks. By analyzing models from the United Kingdom, Singapore, and the United Arab Emirates (UAE), lessons can be drawn for enhancing ADR effectiveness in the Kingdom.

5.1 United Kingdom

The UK has a mature ADR ecosystem underpinned by statutory and contractual mechanisms. The **Housing Grants, Construction and Regeneration Act 1996 (HGCRA)** established adjudication as a statutory right for construction disputes. This ensures that parties have access to a rapid, interim binding decision, maintaining cash flow during project execution.

Arbitration and mediation are also widely adopted. The **Technology and Construction Court (TCC)** provides expert judicial oversight, and standard contracts like **JCT** or **NEC** include ADR clauses recommending negotiation, mediation, and arbitration. UK experience demonstrates that mandatory or strongly recommended ADR processes reduce dispute escalation, promote early resolution, and preserve commercial relationships (Harmon, 2015).

5.2 Singapore

Singapore has developed into a global hub for international construction arbitration through the **Singapore International Arbitration Centre (SIAC)** and the **Singapore Mediation Centre (SMC)**. Construction contracts often include mandatory mediation or adjudication before arbitration. Singapore also promotes hybrid mechanisms, such as the **Arbitration-Mediation-Arbitration (AMA)** model, which combines negotiation, mediation, and arbitration to maximize resolution efficiency.

Singapore's framework emphasizes enforceability, neutrality, and technological integration, including online case management and virtual hearings. These elements contribute to Singapore's reputation for speed, reliability, and investor confidence in dispute resolution (Gamage & Kumar, 2024).

5.3 United Arab Emirates

The UAE shares similarities with Saudi Arabia in combining civil and Islamic law principles. ADR has gained traction particularly in Dubai, where the **Dubai International Arbitration Centre (DIAC)** and **Dubai Mediation Centre** provide institutionalized services. Arbitration is widely used for construction disputes in free zones and large-scale infrastructure projects.

The UAE experience highlights the benefits of clear procedural rules, bilingual capacity (Arabic-English), and the integration of ADR clauses in standard contracts. It also demonstrates the importance of governmental support for promoting ADR adoption (Al Tamimi & Company, 2021).

5.4 Lessons for Saudi Arabia

Comparative insights reveal several lessons applicable to the Saudi context:

1. **Mandatory or staged ADR procedures:** Introducing mandatory mediation or adjudication before arbitration could reduce litigation load and improve project continuity.
2. **Institutional capacity building:** Establishing expert panels, training programs, and digital platforms enhances efficiency and credibility.
3. **Standardized ADR clauses:** Including ADR provisions in government and commercial contracts promotes uniformity and predictability.
4. **Cultural alignment:** ADR methods should integrate local norms and Sharia principles to ensure both acceptability and enforceability.

5. **Transparency and reporting:** Documenting outcomes and publishing anonymized case studies builds confidence and informs practitioners.

6.alle

nges in Implementing ADR in Saudi Construction

7. Despite the legal and institutional progress, Saudi Arabia faces distinct challenges in implementing ADR for construction disputes. These challenges span legal, cultural, institutional, and operational dimensions.

6.1 Legal and Regulatory Challenges

1. **Sharia compliance:** Arbitral awards must avoid elements inconsistent with Islamic law, such as *riba* (interest). While this preserves legal legitimacy, it may limit contractual flexibility, especially in international agreements.
2. **Absence of statutory adjudication:** Unlike the UK or Malaysia, Saudi Arabia lacks a legislative mechanism for fast-track interim decisions during project execution. This reduces ADR's effectiveness in time-sensitive disputes.
3. **Enforcement uncertainty:** Although the Saudi Arbitration Law allows enforcement, ambiguity in interpretation of public policy can create delays or challenges for foreign parties.

6.2 Institutional Challenges

1. **Limited pool of trained neutrals:** There is a shortage of bilingual arbitrators, mediators, and adjudicators with both legal and technical expertise.
2. **Capacity constraints:** While the SCCA has grown, increasing demand from mega-projects could strain resources, leading to delays and uneven quality of dispute resolution.
3. **Digital integration:** Although the SCCA has introduced online platforms, broader adoption of digital case management is still limited compared to leading ADR hubs.

6.3 Cultural and Behavioral Challenges

1. **Preference for negotiation and informal resolution:** Many local contractors prioritize relationships and personal trust, leading them to avoid formal ADR processes.
2. **Perception of complexity:** ADR procedures may be viewed as bureaucratic or foreign, particularly by smaller local firms.
3. **Confidentiality vs transparency:** While ADR confidentiality is valued, lack of published case precedents can hinder learning and reduce confidence in outcomes.

6.4 Operational Challenges

1. **Contract drafting:** Inadequate ADR clauses or ambiguity in contract terms can cause disputes over dispute resolution itself.
2. **Technical disputes:** Complex engineering or design issues require specialized knowledge; lack of expert panels may compromise decision quality.
3. **Time and cost management:** Without standardized procedures for expedited ADR, projects may still face delays and cost overruns.

7.se Studies of ADR in Saudi Construction

7. To illustrate ADR's practical application in Saudi Arabia, this section examines selected examples drawn from institutional and project-level experience.

7.1 SCCA Arbitration in a Mega-Project

A high-profile infrastructure project in Riyadh involved a dispute between the main contractor and subcontractor regarding delayed milestones and cost overruns. The parties opted for arbitration under SCCA rules, selecting a panel of engineering and legal experts.

- **Duration:** 10 months (from filing to award)
- **Outcome:** The panel allocated delays proportionally, awarding compensation consistent with contractual terms while upholding Sharia compliance.
- **Impact:** The project continued without major interruption, and the decision was enforceable in court.

This case demonstrates the value of arbitration for complex, high-value disputes, particularly when technical expertise is required.

7.2 Mediation in a Commercial Construction Project

A commercial development in Jeddah faced a payment dispute between the client and contractor. Parties engaged in SCCA-facilitated mediation.

- **Process:** The mediator conducted joint and separate sessions, highlighting mutual interests and potential compromises.
- **Outcome:** Parties agreed on revised payment milestones and a partial settlement of additional claims.
- **Impact:** The mediation preserved business relationships and avoided litigation costs.

This example illustrates mediation's ability to provide culturally aligned, consensual solutions for moderate-value disputes.

7.3 Lessons from International Projects in Saudi Arabia

Foreign contractors working on NEOM and other Vision 2030 projects often incorporate international arbitration clauses under SCCA or ICC rules. These arrangements illustrate:

1. **Importance of hybrid ADR strategies:** Combining negotiation, mediation, and arbitration enhances flexibility.
2. **Need for bilingual expertise:** Effective dispute resolution requires translators, bilingual neutrals, and dual-language documentation.
3. **Role of institutional credibility:** Trust in the SCCA and other ADR institutions encourages foreign participation and investment.

8. Analysis of Key Insights

From the comparative analysis, challenges, and case studies, several key insights emerge:

1. **ADR aligns with Saudi cultural norms:** Mechanisms like mediation reflect traditional conflict-resolution values, enhancing acceptance.
2. **Institutional development is critical:** The SCCA has created the foundation, but further capacity building is essential to meet growing demand.
3. **Legal reform supports international engagement:** Arbitration laws and New York Convention ratification facilitate foreign investment and cross-border dispute resolution.
4. **Standardization and awareness remain gaps:** Uniform contract clauses, training, and public education are necessary to mainstream ADR in construction.
5. **Hybrid ADR models offer the best outcomes:** Combining negotiation, mediation, and arbitration addresses varying dispute complexity while minimizing disruption.

9. Recommendations for Enhancing ADR in Saudi Construction

Based on the preceding analysis, several actionable recommendations can strengthen ADR adoption and effectiveness in Saudi Arabia's construction sector.

9.1 Legal and Regulatory Recommendations

1. **Introduce statutory adjudication:** Following the UK and Singapore models, Saudi Arabia could implement legislation for interim adjudication, enabling rapid resolution of disputes that threaten project cash flow or progress.
2. **Clarify Sharia interpretation in ADR:** Publishing guidelines on enforceable damages, interest, and contractual provisions would reduce uncertainty for foreign parties and improve investor confidence.
3. **Standardize ADR clauses in government contracts:** Mandating negotiation, mediation, and arbitration provisions in public procurement contracts would ensure consistency and predictability.

9.2 Institutional and Capacity-Building Recommendations

1. **Expand SCCA resources and panels:** Recruiting more bilingual professionals with legal and technical expertise will address growing caseloads and improve the quality of awards.
2. **Develop specialized ADR training programs:** Universities, professional bodies, and government initiatives should provide certification in construction arbitration, mediation, and adjudication.
3. **Leverage digital platforms:** Investing in comprehensive online case management, virtual hearings, and electronic document submission would enhance efficiency and accessibility.

9.3 Cultural and Awareness Recommendations

1. **Promote ADR awareness campaigns:** Targeted campaigns for small and medium enterprises can increase understanding of ADR benefits, particularly for construction stakeholders unfamiliar with formal mechanisms.
2. **Encourage early dispute resolution:** Training project managers, contract administrators, and engineers in negotiation and mediation skills helps prevent disputes from escalating.

3. **Integrate traditional and modern practices:** Aligning ADR mechanisms with **sulh** and local business norms fosters acceptance while maintaining compliance with international standards.

9.4 Contractual and Operational Recommendations

1. **Develop model ADR clauses for construction contracts:** Providing templates that balance Sharia compliance and international enforceability simplifies adoption.
 2. **Incorporate hybrid ADR approaches:** Encouraging staged mechanisms—negotiation → mediation → arbitration—can resolve disputes efficiently while preserving relationships.
 3. **Engage expert review boards for large projects:** DRBs or DABs should be institutionalized in mega-projects to manage technical disputes proactively.
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10. Conclusion

Alternative Dispute Resolution is increasingly vital to the efficiency, predictability, and sustainability of Saudi Arabia's construction sector. With the expansion of mega-projects under **Vision 2030**, ADR provides mechanisms that:

- Reduce litigation costs and timelines
- Preserve commercial and professional relationships
- Integrate technical expertise into decision-making
- Align with cultural and Sharia-compliant principles

Saudi Arabia has made significant strides, particularly through the **Saudi Arbitration Law (2012)**, the **Mediation Law (2020)**, and the establishment of the **SCCA**. These reforms create a robust legal and institutional framework for arbitration and mediation. However, challenges remain in areas such as statutory adjudication, institutional capacity, awareness, and Sharia-compliance clarity.

Comparative insights from the UK, Singapore, and the UAE illustrate that adopting hybrid ADR models, expanding training programs, standardizing contractual provisions, and leveraging technology can enhance dispute resolution effectiveness. The Kingdom's focus on Vision 2030, coupled with growing construction complexity, presents a unique opportunity to position Saudi Arabia as a regional hub for construction ADR.

In conclusion, a strategic approach integrating legal reform, institutional strengthening, capacity building, and cultural alignment can transform ADR into a mainstream, trusted, and effective mechanism for resolving construction disputes in Saudi Arabia. This transformation is not only vital for domestic project success but also for attracting international investment, fostering economic diversification, and achieving Vision 2030's ambitious infrastructure goals.

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