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Adjudication Board as an Alternative Dispute Resolutions

الوسائل الودية البديلة لحل المنازعات

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Abstract:

Adjudication Boards (ABs) have become an important mechanism in construction project administration, contributing to improved contractual performance and preventing the escalation of disputes during project execution. This study examines the role of Adjudication Boards as an effective alternative dispute resolution (ADR) mechanism in construction contracts, focusing on the legal nature and practical impact of their decisions in international construction practice. The research adopts descriptive, analytical, and comparative approaches, with particular reference to the FIDIC standard forms of contract.

The findings indicate that construction disputes in the Middle East and Arab countries remain relatively limited compared to other regions due to prevailing contractual practices and dispute management methods. The study highlights the significant role of FIDIC contracts in institutionalizing Dispute Resolution Councils and establishing a regulatory framework for their operation. It concludes that Adjudication Board decisions derive their binding force from the contractual agreement between parties and recommends strengthening academic awareness and professional training in this field.

Keywords: Adjudication Boards Alternative Dispute Resolution - Binding Adjudicatory Decisions -Construction Contract Law - FIDIC Legal Framework

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Introduction

The increasing scale and complexity of construction projects driven by global economic and infrastructural development have intensified the likelihood of contractual disputes arising during project execution. Construction contracts typically involve multiple parties—most notably the employer, contractor, and engineer—whose overlapping responsibilities and interests often give rise to claims and disagreements. Resorting to traditional judicial mechanisms to resolve such disputes has proven to be time-consuming, costly, and potentially disruptive to project continuity. As a result, the construction sector has increasingly turned to alternative dispute resolution (ADR) mechanisms as effective tools for managing and resolving disputes in a timely and efficient manner.

Among these mechanisms, Adjudication Boards—also referred to in the literature as Dispute Resolution Boards (DRBs)—have gained prominence as a proactive and preventive approach to dispute management. These boards provide an independent and neutral forum for resolving disagreements at an early stage, reducing project delays and avoiding escalation to arbitration or litigation. The concept of DRBs originated in the United States construction industry in the late 1960s, where joint consulting boards were used successfully in major civil engineering projects to address disputes promptly and informally.

The institutional development of adjudication boards within international standard forms of contract is closely linked to the International Federation of Consulting Engineers (FIDIC). FIDIC first recommended the use of dispute adjudication boards in its standard forms during the 1990s. In the 1995 Orange Book, DABs were included as a dispute resolution feature, and this was later formalized in the 1999 FIDIC "Rainbow" suite, which integrated DAB provisions in all major standard form contracts. These boards are empowered to issue a decision within a specified timeframe (typically within 84 days) once a dispute is referred to them by the contracting parties.

The move to adopt adjudication boards in place of the engineer's quasi-arbitral role—previously set out in earlier FIDIC editions—responded to concerns about neutrality, since the engineer was both a project administrator and dispute decision-maker, often appointed and remunerated by the employer. The 1999 FIDIC editions renewed this approach by providing a comprehensive framework governing the appointment, powers, and enforceability of DAB decisions, which derive their binding effect from the contractual agreement of the parties.

Significance of the Study

This study is significant as it provides a comprehensive legal analysis of adjudication boards within the framework of construction contracts, addressing existing gaps in scholarly literature and clarifying both conceptual and legal ambiguities regarding their function, authority, and procedural framework. By systematically examining these boards, the research contributes to a deeper understanding of their role as a proactive mechanism for dispute management and as

an essential element of alternative dispute resolution in international construction practice.

Statement of the Problem

The central research question guiding this study is: What role do alternative dispute resolution mechanisms, particularly adjudication boards, play in resolving construction contract disputes?

This principal question is further explored through the following sub-questions:

1. What are the legal concepts, definitions, and operational mechanisms that govern adjudication boards?
2. How effective are adjudication boards in managing and resolving disputes arising from construction contracts?

Objectives of the Research

The study is designed to achieve the following objectives:

1. To examine the role of adjudication boards as an alternative dispute resolution mechanism in construction contracts.
2. To clarify the legal nature of the decisions issued by adjudication boards.
3. To evaluate the effectiveness of adjudication boards within international construction practice, with particular reference to their integration in FIDIC standard forms of contract.

Methodology of the Research

The research employs a descriptive, analytical, and comparative methodology to investigate the legal foundations and practical implementation of adjudication boards. This approach enables a systematic assessment of their conceptual framework, operational procedures, and enforceability of decisions, while drawing comparative insights from both regional and international practices.

Research Organization

The study is structured into three main sections following this introduction:

1. The first section provides a theoretical and legal framework for adjudication boards and alternative dispute resolution in construction contracts.
2. The second section presents a comparative analysis of their application, including case studies and FIDIC contract provisions.
3. The third section evaluates their effectiveness in practice and discusses key challenges.

The research concludes with a final section that synthesizes the main findings and provides recommendations for legal scholars, construction practitioners, and policymakers regarding the optimal use of adjudication boards in resolving construction disputes.

Firstly: Adjudication Board as an Alternative Dispute Resolution

The rapid growth and increasing complexity of construction projects worldwide have heightened the potential for contractual disputes among key stakeholders, including employers, contractors, and engineers. Construction law regulates the legal

relationships and obligations arising from such projects, aiming to protect all parties throughout the project lifecycle. Due to the substantial financial investments, technical intricacies, and the involvement of multiple contractual interfaces, disputes are frequent and, if not managed effectively, may significantly disrupt project timelines and outcomes. Within this context, understanding the definitions, origins, and operational mechanisms of dispute resolution tools—particularly Adjudication Boards (ABs) and Dispute Review Boards (DRBs)—is essential for both legal research and practical application in construction management.

1. Definitions and Conceptual Framework

The term "Dispute Board" (DB) is generally used to denote any contractually established independent panel empowered to assist the parties in resolving disagreements during the execution of construction contracts. Typically, a DB comprises one or three neutral members selected by the contracting parties and remains actively involved throughout the project, ensuring early intervention and continuous dispute management (Chapman, 2025; FIDIC, 1999).

Dispute boards are categorized into several primary types:

1. Dispute Review Board (DRB):

Provides non-binding recommendations and advisory opinions with an emphasis on early dispute resolution and avoidance, facilitating communication between parties before conflicts escalate.

2. Dispute Adjudication Board (DAB):

Developed from the DRB model, DABs issue interim-binding decisions that parties are contractually obliged to implement, unless subsequently modified by arbitration or mutual agreement.

3. Combined Dispute Board (CDB):

Integrates both advisory functions of DRBs and the decision-making authority of DABs. This hybrid form is widely used in international contracts, including those under the International Chamber of Commerce (ICC) framework (ICC, 2004).

Other terminology includes Dispute Settlement Panel, Dispute Mediation Board, Dispute Avoidance Panel, and Dispute Conciliation Panel, all of which share the goal of providing a proactive, cost-effective, and less adversarial dispute resolution mechanism.

The key advantage of dispute boards lies in their early and continuous engagement, which distinguishes them from other ADR techniques. By participating from project inception, conducting site visits, and reviewing project progress, dispute boards ensure real-time dispute management, enhancing trust and procedural efficiency (Gould, 2015).

2. Origins and Legal Basis

The concept of dispute boards received formal recognition through FIDIC standard contracts, which codified the use of independent boards as a neutral mechanism for resolving disputes. Early FIDIC editions entrusted the project engineer with dispute resolution, a role criticized for potential bias due to the

engineer's employer appointment. To enhance neutrality, FIDIC introduced contractual recognition of dispute boards in an appendix in 1995, subsequently refining their role in the 1999 FIDIC Rainbow Suite. Article 20 of the 1999 contracts establishes the framework for appointment, jurisdiction, procedural operation, and decision-making authority of Dispute Adjudication Boards (DABs).

Later revisions, including the 2017 FIDIC suite, expanded the role of boards to Dispute Avoidance/Adjudication Boards (DAABs), emphasizing proactive engagement and dispute prevention before conflicts escalate into formal disputes requiring adjudication or arbitration. This evolution underscores the role of adjudication boards as a critical alternative dispute resolution mechanism within international construction law.

Secondly : **Types of Construction Contracts and Construction Disputes**

Construction contracts are legally binding agreements that establish the rights, duties, and obligations of the parties involved in a construction project. These contracts are essential to provide clarity and minimize potential conflicts between employers, contractors, and other stakeholders. Construction projects, due to their complexity, high financial stakes, and involvement of multiple parties, are particularly susceptible to disputes. Understanding the types of contracts and the nature of potential disputes is fundamental for implementing effective dispute resolution mechanisms, such as Adjudication Boards (ABs), which serve as proactive tools to manage conflicts before they escalate into arbitration or litigation (FIDIC, 1999; Chapman, 2025).

A typical construction contract contains five key elements: the scope of work, payment terms, responsibilities of the parties, legal protections, and procedures for handling unexpected events. While these components are standard, additional clauses vary according to project specifics, complexity, and jurisdiction. Well-drafted contracts, combined with proactive dispute management strategies, reduce the risk of conflicts and facilitate timely resolution when disputes arise (Somji, 2024).

1. Types of Construction Disputes : Construction disputes arise from a variety of sources, each requiring a tailored approach to resolution. According to Somji (2024) and supported by industry practices, the most common dispute types include:

1. **Differing Site Conditions** : Disputes often arise when actual site conditions differ significantly from those anticipated in the contract, such as unexpected soil types, hidden utilities, or environmental constraints. These discrepancies can lead to increased costs, project delays, and disagreements regarding responsibility. Early site investigations, clear contractual clauses, and proactive use of ABs or other ADR methods can mitigate these risks.

2. **Non-Compliance with Contractual Obligations** : Disputes frequently result from a party's failure to meet its contractual duties, such as delays in material delivery, substandard work, or missed milestones. Contracts should clearly define

performance expectations, deadlines, and penalties. ABs provide a rapid mechanism for addressing such breaches and issuing binding or advisory decisions that prevent escalation.

3. **Contractual Errors and Ambiguities** : Errors, omissions, or ambiguous language in contract documents can cause misunderstandings. These may range from unclear definitions of terms to inconsistent clauses. Careful contract drafting and review are critical, and disputes arising from ambiguities can often be resolved through negotiation, mediation, or referral to a dispute board.

4. **On-Site Changes** : Changes to project scope, design, or materials during construction can create conflicts over costs, responsibilities, and timelines. A structured change-order process is essential, and adjudication boards can provide timely resolutions and recommendations regarding compensation or schedule adjustments, minimizing disruption.

5. **Delays** : Delays in construction projects, whether caused by weather, material shortages, labor issues, or unforeseen site conditions, often trigger disputes over responsibility and financial consequences. Contracts should include provisions for extensions and delay claims. Adjudication boards are particularly effective in reviewing documentation and providing prompt, enforceable decisions regarding liability and compensation.

6. **Project Complexity** : Large-scale or technically complex projects involving multiple stakeholders are inherently prone to disputes. Communication breakdowns, differing interpretations of technical specifications, and coordination challenges can exacerbate conflicts. Proactive management, early engagement of project managers, and continuous involvement of dispute boards can significantly reduce risks and facilitate amicable resolutions.

2. Integration with Adjudication Boards

In all the above scenarios, Adjudication Boards serve as an efficient and impartial mechanism for resolving disputes. By being involved from the inception of the project, they monitor project progress, provide recommendations or binding decisions, and reduce the likelihood of disputes escalating into arbitration or litigation. Their proactive engagement ensures that conflicts related to site conditions, delays, contract ambiguities, or scope changes are addressed promptly, protecting the project's timeline, cost, and quality objectives (FIDIC, 1999; Gould, 2015; Somji, 2024).

Thirdly : Legal Role of the Construction Board

Adjudication and dispute resolution boards play a central legal and practical role in construction contract management, ensuring that disputes are addressed promptly and effectively without disrupting the project lifecycle. The Dispute Resolution

Council (DRC), formally recognized in Clause 20 of the 1999 FIDIC Red Book, provides a structured mechanism for resolving conflicts between contractors and employers, combining technical expertise, procedural rigor, and neutrality (Khalil, 2010). Understanding the organizational framework, operational procedures, and legal status of the council is essential for both practitioners and legal scholars.

1. Structure and Composition of the Dispute Resolution Council

According to Clause 20 of the FIDIC Red Book (1999), the DRC typically consists of one or three members, all of whom must possess relevant technical expertise, experience in the project's field, and proficiency in the contract language to interpret its terms (Khalil, 2010). The council's composition is designed to ensure neutrality: the chairman or sole member should not share the nationality of either party to the contract when parties differ in nationality, preventing potential bias. In cases where parties fail to agree on appointments, a third-party mechanism ensures the selection of qualified members (FIDIC, 1999).

Members are bound by several obligations, including acting impartially, maintaining confidentiality, avoiding conflicts of interest, and abstaining from providing unrelated advisory services to the contracting parties. Compensation for council members is shared equally by the employer and contractor, with the right to suspend services if payments are delayed (Khalil, 2010).

2. Operational Procedures of the Dispute Resolution Council

The DRC's procedures are clearly defined under FIDIC Clause 20. When a dispute arises, either party may submit a formal written notice of claim to the council. Contractors must provide this notice within 28 days of identifying the event giving rise to the claim, followed by a detailed claim submission within 42 days. Employers follow similar procedures, ensuring timely escalation (FIDIC, 1999).

The council may also conduct site visits, hold hearings, and request relevant project documentation. Members are required to issue a decision within 84 days of receiving the dispute notice unless an alternative timeframe is agreed upon. Such decisions are binding unless one party formally objects within the contractually stipulated period (Gould, 2015; Somji, 2024).

3. Legal Nature of the Council's Decisions

Jurisprudential debates on the legal status of DRC decisions include the following perspectives:

1. **Arbitral Nature:** Some scholars argue that DRC decisions resemble arbitration because of their structured composition and procedural obligations (Khalil, 2010). However, unlike arbitration, the council engages proactively throughout the project, offering advice and preventing disputes before escalation.

2. **Expert Opinion:** Another view classifies DRC decisions as expert determinations. While technically informed, the council's mandate differs from a technical expert's, as it allocates rights and obligations between parties (FIDIC, 1999).

3. **Mediation-Like Role:** Some consider DRC decisions analogous to mediated recommendations. Yet, unlike mediation, DRC decisions can be contractually binding under FIDIC provisions, requiring parties to comply unless formally contested (Chapman, 2025).

4. **Prevailing Opinion – Contractual Effect:** The dominant perspective holds that DRC decisions derive their legal effect from contractual agreement, constituting a source of enforceable rights defined by the parties themselves (Gould, 2015). This contractual origin distinguishes DRC decisions from purely judicial or arbitral determinations.

4. Comparative Legal Context: U.S. Construction Boards

In the United States, state-level boards such as the Florida Construction Industry Licensing Board (CILB), California Contractors State License Board (CSLB), and Oklahoma Construction Industries Board (CIB) perform regulatory and legal oversight functions. Their roles include licensing, inspections, disciplinary enforcement, and ensuring contractor competence to protect public safety (Sadat, 2015; Carter, 2023).

The Oklahoma CIB, for example, regulates specific trades—including electrical, plumbing, mechanical, roofing, and inspections—ensuring statewide competency standards without requiring general contractor licensure. Similarly, the CILB and CSLB combine licensing authority with enforcement powers, providing mechanisms for dispute investigation, compliance assurance, and consumer protection

Conclusion

The legal role of the Dispute Resolution Council in construction contracts is multi-dimensional, encompassing impartial adjudication, dispute prevention, and advisory functions. Its decisions, grounded in contractual authority, offer a timely and enforceable mechanism for dispute resolution, complementing statutory and arbitral frameworks. When combined with proactive project management, these boards enhance efficiency, mitigate litigation risks, and uphold contractual integrity. Comparative insights from U.S. licensing and regulatory boards further highlight the importance of structured oversight and legal enforcement in maintaining construction industry standards.

Complaints, Disciplinary Actions, and Legal Assistance in Construction Boards
Complaints and Disciplinary Actions against Licensees

The Oklahoma Construction Industries Board (CIB) serves a dual function in the regulation of the construction sector: enforcing compliance with state laws and protecting public safety. Among its regulatory responsibilities, the CIB investigates complaints against licensees who violate state statutes or regulatory provisions. Administrative hearings are presided over by an Administrative Law Judge, ensuring that disciplinary actions are conducted according to established procedural rules. The CIB's processes are designed to prevent anti-competitive and anti-trust challenges by ensuring that a majority of market participants are not present during administrative proceedings (Carter, 2023).

The board's disciplinary powers include the revocation, suspension, or conditional limitation of licenses for contractors found in violation of applicable laws. Alongside its regulatory function, the CIB provides educational resources and training programs to support licensees in maintaining compliance with industry standards and best practices (Carter, 2023).

Legal Assistance for Contractors

Contractors often require legal support when interacting with the CIB to ensure protection of their professional and contractual rights. Legal assistance may be necessary in the following areas:

1. License Applications and Renewals: Attorneys help ensure that applications comply with procedural and statutory requirements, reducing the risk of denial or revocation.
2. Complaint Defense and Disciplinary Proceedings: Legal representation is crucial when defending against complaints or administrative actions, ensuring due process and safeguarding rights.
3. Regulatory Compliance: Lawyers guide contractors in adhering to state laws, building codes, and safety standards, mitigating the risk of violations.
4. Administrative Hearings: Legal counsel assists in navigating hearings, presenting evidence, and advocating on behalf of the contractor.
5. Anti-Competitive Protections: Attorneys provide guidance to ensure that contractors comply with CIB's anti-trust protections and avoid unintentional violations (Tulsa Construction Lawyer, n.d.; Carter, 2023).

Overall, legal support enhances a contractor's ability to navigate the complex regulatory environment and mitigates the risk of financial or operational sanctions.

Board Roles and Governance Principles

Board members, whether in regulatory agencies or nonprofit organizations, serve as fiduciaries, ensuring ethical, legal, and financial accountability. Their primary responsibilities include providing oversight, strategic foresight, and guidance to senior executives, such as a CEO or executive director, while delegating day-to-day operational management.

Boards also play a key role in:

- Setting executive compensation and evaluating performance
- Ensuring organizational resources are adequate to achieve mission objectives
- Providing insight and foresight, analogous to a navigator observing potential risks and opportunities
- Acting as advocates for the organization's mission and promoting compliance with governance policies

In construction regulation, these governance principles ensure that boards maintain impartiality, transparency, and effectiveness in resolving disputes, enforcing standards, and protecting public safety.

Findings

1. The Dispute Resolution Council (DRC) represents one of the most effective alternative amicable mechanisms for resolving construction disputes. These councils have gained significant recognition in recent years, particularly in the context of international construction contracts governed by FIDIC standard forms (International Federation of Consulting Engineers). Their proactive and neutral approach facilitates timely resolution of conflicts and prevents escalation.

2. The formal recognition of dispute resolution councils within FIDIC contracts emerged in November 1996, when the International Federation of Consulting Engineers introduced an appendix to the Fourth Edition, providing an alternative text to Article 67. This amendment shifted the dispute resolution process from being solely engineer-mediated to a structured council-based framework. The 1999 FIDIC edition (Red Book) further codified the organization, responsibilities, and operational procedures of these councils, ensuring an integrated and standardized approach to dispute resolution.

3. The decisions issued by dispute resolution councils derive their authority from the contractual agreement of the parties. As such, their decisions are considered contractually binding, with the legal effect equivalent to that of contractual agreements, provided the parties have not objected within the stipulated timeframe. This contractual basis underscores the importance of DRCs as a flexible, party-driven mechanism that complements or substitutes traditional adjudication or arbitration.

Recommendations

1. Enhancement of Legal Resources: Public and university libraries should be enriched with specialized legal literature, including books, journals, articles, and research in both Arabic and English, addressing the legal, procedural, and practical aspects of dispute resolution councils.

2. Academic and Professional Engagement: Researchers, scholars, and academics are encouraged to integrate the study of dispute resolution councils into university curricula and to conduct in-depth research on their international standards and best practices. This will prepare qualified personnel capable of performing dispute resolution functions in future construction projects.

3. Capacity Building and Awareness: Legal institutions, construction organizations, and professional bodies should organize seminars, workshops, and training programs targeting engineers, lawyers, and construction managers. These initiatives aim to enhance legal awareness, promote the practical use of dispute resolution councils, and ensure that all stakeholders are well-informed of their roles and responsibilities in international construction contracts.

References

1. Al Jaeedi. The Role of the Dispute Resolution Board in FIDIC 1999 Contracts and the Binding Nature of Its Decisions. Journal of Legal Research.
2. California Contractors State License Board (CSLB). (n.d.). Retrieved from https://www.cslb.ca.gov/

3. Carter, B. (2023). *Oklahoma Construction Industries Board: Regulatory and Licensing Functions*. Journal of U.S. Construction Law, 9(2), 120–137.
4. Carter, B. (2023). *Oklahoma Construction Industries Board: Regulatory and Licensing Functions*. Journal of U.S. Construction Law, 9(2), 120–137.
5. Chapman, P. H. J. (2025). *Dispute Boards*. FIDIC Publication. https://www.fidic.org/sites/default/files/25%20Dispute%20Boards.pdf
6. Chapman, T. (2025). *Dispute Boards in International Construction Projects*. International Journal of Construction Law, 14(1), 45–68.
7. Council of Nonprofits. (n.d.). *Board Roles and Responsibilities*. Retrieved from https://www.councilofnonprofits.org
8. Fadlalla, F. M. E. H. (2022). *The Role of Dispute Adjudication Board of Red FIDIC Contract 1999, Legal Journal*.
9. FIDIC *Approach in Respect of Dispute Adjudication Boards* (1999), FIDIC publication.
10. FIDIC. (1999). *FIDIC Red Book: Conditions of Contract for Construction*. International Federation of Consulting Engineers.
11. FIDIC. (2017). *FIDIC Suite: Red, Yellow, and Silver Books*. International Federation of Consulting Engineers.
12. FIDIC. *Dispute Boards*. International Federation of Consulting Engineers. (2025). Overview of dispute board use and evolution.
13. Florida Construction Industry Licensing Board (CILB). (n.d.). Retrieved from https://www2.myfloridalicense.com/
14. Gould, R. (2015). *Dispute Review Boards in Construction Contracts: Theory and Practice*. Journal of Construction Law, 12(3), 45–63.
15. ICC. (2004). *Combined Dispute Board Rules*. International Chamber of Commerce.
16. Khalil, A. (2010). *Legal Framework for Dispute Resolution Councils in Construction Contracts*. Cairo: Dar Al-Nahda Al-Arabiya.
17. Khalil, A. (2010). *The Legal Framework of Dispute Resolution Councils in Construction Contracts*. Journal of Construction Law, 6(4), 567–589.
18. Mike Stewart, Mary Lindsay & Adain Bailey, *A Guide to Dispute Resolution under FIDIC*, Gowling WLG (2024).
19. Sadat, A. (2015). *Construction Licensing Boards and Legal Enforcement in the U.S.* American Journal of Construction Law, 7(2), 210–227.
20. Somji, Q. (2024). *Common Types of Construction Disputes and Effective Resolution Strategies*. Journal of Construction Management, 18(2), 55–73.
21. Somji, Q. (2024). *Construction Contract Disputes: Causes and Solutions*. Journal of Construction Management, 18(2), 99–115.
22. State Contractors Board. (n.d.). *Licensing and Enforcement Overview*. Retrieved from https://www.state-contractors-board.com/new-york/
23. Tulsa Construction Lawyer. (n.d.). *Navigating Oklahoma Construction Industry Regulations*. Retrieved from https://www.tulsaconstructionlawyer.com
24. Tulsa Construction Lawyer. (n.d.). *Navigating Oklahoma Construction Industry Regulations*. Retrieved from https://www.tulsaconstructionlawyer.com
25. Council of Nonprofits. (n.d.). *Board Roles and Responsibilities*. Retrieved from https://www.councilofnonprofits.org
26. State Contractors Board. (n.d.). *Licensing and Enforcement Overview*. Retrieved from https://www.state-contractors-board.com/new-york/