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Examining the Legal Framework for Dispute Resolution in Construction Partnership Contracts: From Domestic Challenges to International Models

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ABSTRACT

The present study aims to examine and analyze the legal framework for dispute resolution in construction partnership contracts, with a focus on Iran's domestic challenges and a comparative assessment of international models. With the increasing use of joint venture and consortium contracts in civil and infrastructure projects, dispute resolution between contracting parties has emerged as one of the vital pillars ensuring the successful implementation of such projects. Nevertheless, Iran's legal system in the field of dispute resolution for these contracts faces challenges such as the absence of specialized arbitration institutions, weaknesses in the enforcement of arbitral awards, lack of integrated policymaking, and the inefficiency of preventive mechanisms. These factors have contributed to increased legal risk, reduced contractual transparency, and instability in attracting investment. In this context, the study adopts a qualitative approach and employs thematic analysis as its methodological framework. Data were collected through semi-structured interviews with experts in construction law, project engineering, and arbitration, and were analyzed using the six-phase model proposed by Braun and Clarke. The findings reveal the emergence of key themes related to institutional, structural, and procedural deficiencies in Iran's arbitration system, in contrast to the multi-tiered, expertise-based, and structured models developed at the international level, particularly within the frameworks of FIDIC, ICC, and UNCITRAL. Through a comparative analysis, this study elucidates the substantive differences between domestic and international dispute resolution models across five main dimensions: institutions, procedures, training, enforcement, and policymaking. The final results emphasize the necessity of redesigning a multi-layered, specialized, and flexible dispute resolution system for construction partnership contracts in Iran. Such a system, drawing on successful international experiences and relying on specialized, well-trained, and independent arbitrators, can move dispute resolution processes away from traditional pathways toward faster, more cost-effective, and more efficient mechanisms. This institutional transformation can play a significant role in enhancing legal certainty, facilitating joint investment, and improving Iran's position in international construction projects.

Keywords: *construction partnership contracts; joint venture; international consortium*

Introduction

With the rapid growth of civil and infrastructure projects in the country and the shift toward utilizing private sector capacity through construction partnership contracts, one of the most significant legal challenges occupying the



attention of executive bodies, investors, and scholars of public and private law is the issue of **dispute resolution** in this type of contract. Partnership contracts—particularly in complex forms such as joint ventures, consortia, and public–private partnerships (PPP)—are inherently based on long-term, multi-party, and capital-intensive relationships, in which conflicts of interest and the emergence of disputes are inevitable (1, 2). In this context, the role of the legal system in anticipating effective, efficient, and fair dispute resolution mechanisms is pivotal to ensuring investment security, facilitating project implementation, and reducing legal risks (3).

Despite certain advances in drafting partnership contracts—especially through bylaws and sector-specific regulations—Iran's legal system continues to face multiple challenges in the field of dispute resolution. These include the absence of specialized arbitration institutions in the construction sector, the reluctance of public entities to refer disputes to arbitration, jurisdictional conflicts among different forums (general courts, the Administrative Justice Court, and dispute resolution boards), and serious deficiencies in contractual drafting culture and the inclusion of arbitration clauses in contracts (4). Moreover, the enforcement of domestic and foreign arbitral awards has, in some cases, encountered procedural obstacles and inconsistent judicial interpretations. In the absence of a comprehensive commercial arbitration framework, these challenges have caused many disputes arising from construction partnership contracts to be channeled into lengthy, costly, and complex judicial proceedings (5).

By contrast, many leading legal systems have sought to manage disputes through specialized, non-governmental, rapid, and cost-effective approaches by enacting specific partnership legislation, adopting international standard contracts (such as FIDIC-based models), and establishing specialized arbitration and mediation institutions in the construction sector (6, 7). In addition, the use of mechanisms such as Dispute Adjudication Boards and contractual mediation at the pre-arbitration stage has played a significant role in reducing disputes and preserving commercial relationships (8). A smart and adaptive adoption of these models can substantially contribute to reforming the dispute resolution structure of partnership projects in Iran.

Accordingly, the purpose of this article is to examine the legal system governing dispute resolution in construction partnership contracts in Iran, to analyze existing challenges, and to present comparative models drawn from leading international systems. Using an analytical–comparative approach and drawing on official documents, executed contracts, judicial and arbitral decisions, and international legal sources, the article seeks to identify the strengths and weaknesses of current practices and to offer legal proposals for improving dispute resolution mechanisms in partnership contracts. The article is structured into four sections: first, the theoretical and conceptual foundations of partnership contracts and dispute resolution are examined; second, legal challenges in Iran are analyzed; third, comparative experiences are reviewed; and finally, a proposed legal framework is presented.

Theoretical Foundations and Research Background

Construction partnership contracts—particularly in the forms of public–private partnerships (PPP), joint ventures, and consortia—are among the most complex contractual arrangements in civil and infrastructure projects. These contracts typically involve long-term cycles, multiple stakeholders, and substantial levels of investment, with uncertainty, changing conditions, and conflicts of interest constituting their inherent characteristics (2). Consequently, the design of dispute resolution systems in such contracts must be aligned with their collaborative nature and be based on expertise, speed, reasonable cost, and flexibility (1).

In legal literature, dispute resolution in partnership contracts is generally divided into two broad categories: formal mechanisms (judicial and quasi-judicial) and alternative dispute resolution methods (ADR). Formal mechanisms

include recourse to general courts, the Administrative Justice Court, or specialized judicial bodies, which—despite their strong enforceability—are often associated with challenges such as procedural delays, lack of judicial expertise in technical construction matters, and high litigation costs (8). In contrast, ADR methods such as arbitration, mediation, conciliation, and dispute boards have become the dominant approach in international partnership contracts due to their speed, confidentiality, flexibility, and expertise-oriented nature (9).

One of the key tools in designing contractual dispute resolution systems is the inclusion of an arbitration clause or a multi-tier ADR clause in the contract. Such clauses are typically drafted in a graduated manner and encompass a spectrum of dispute resolution methods, ranging from direct negotiation to final arbitration (10). For example, FIDIC contract models provide for an initial stage of amicable settlement, followed by referral to a Dispute Adjudication Board, and ultimately international arbitration (6). Moreover, many countries have sought to institutionalize dispute resolution through ADR processes by enacting international commercial arbitration laws or specific partnership legislation, thereby moving dispute resolution away from traditional judicial frameworks (7).

It is noteworthy that dispute resolution in construction partnership contracts is not merely an *ex post* process but rather an integral component of the project's overall legal design. In other words, precise, transparent, and balanced contractual provisions on dispute resolution can prevent the emergence of many disputes in practice and help preserve contractual relationships between the parties (3). In comparative legal literature, the concepts of dispute prevention and dispute avoidance reflect this approach, whereby institutions such as dispute boards intervene during project execution to prevent the escalation of tensions (11).

Overall, designing an effective dispute resolution system for partnership contracts requires a deep understanding of the legal, technical, and economic dimensions of projects, as well as the use of comparative law tools and international standard contracts. Given that many large-scale projects in Iran involve foreign investors or public entities, the absence of an efficient and transparent dispute resolution framework can lead to heightened legal risk, investor uncertainty, and an increase in legal disputes. In this context, identifying theoretical and conceptual models of dispute resolution and adapting them to the domestic legal structure is of particular importance.

From another perspective, a review of the research background on dispute resolution in construction partnership contracts indicates that this field has received growing attention in recent years, owing to the increasing complexity of infrastructure projects and the diversity of contractual models. Domestic and international scholars have sought to analyze the legal, institutional, and operational dimensions of dispute resolution and to propose solutions compatible with different partnership structures. At the international level, works such as the FIDIC standard contracts (6) and studies by Born (8) and Redfern and Hunter (9) have examined the role of arbitration, dispute boards, and mediation in international construction contracts. These studies demonstrate that ADR mechanisms, through flexibility, specialization, and high efficiency, can reduce the burden on courts and prevent cost escalation and project delays. In particular, dispute resolution models used in PPP-based projects in OECD countries represent successful examples of large-scale ADR implementation (12).

From a comparative law perspective, studies such as those by Weber (3) and Gaitskell (11) have analyzed the key role of dispute avoidance mechanisms in preventing disputes. These scholars emphasize that dispute resolution processes should not be purely reactive but must incorporate preventive interventions—such as advisory boards and continuous assessments—from the planning and contract drafting stages onward.

In the Iranian academic context, relatively few studies have directly addressed dispute resolution mechanisms in partnership contracts. Research by Madah (5) and Rahmati (13) has primarily focused on arbitration in

commercial and engineering contracts, highlighting the lack of specialized arbitration institutions, weaknesses in enforcing arbitral awards, and the absence of consistent judicial practice. Vaziri Yeganeh (14), focusing on the legal framework of joint venture and consortium contracts, implicitly emphasizes the need to strengthen specialized dispute resolution systems and identifies the lack of independent and efficient institutions as a major barrier to the development of effective partnerships. Similarly, the study conducted by Majidi and colleagues (15) examines the inefficiency of arbitration institutions in Iran and proposes the establishment of independent arbitration centers through cooperation between the public and private sectors.

Despite these efforts, it can be acknowledged that comprehensive and comparative studies on dispute resolution systems in construction partnership contracts—particularly those focusing on the specific characteristics of infrastructure projects, public entities, and foreign investors—remain underdeveloped in the Iranian research landscape. This research gap is largely attributable to a traditional reliance on general courts for dispute resolution and the insufficient use of ADR mechanisms as part of the overarching legal design of projects. Accordingly, the present study seeks to fill this gap by integrating theoretical analysis, comparative experiences, and empirical insights, and by proposing a modern framework for dispute resolution in construction partnership contracts.

Domestic Challenges of the Dispute Resolution System in Iran

Iran's legal framework for dispute resolution—particularly in the field of construction partnership contracts—faces a set of structural, institutional, and procedural challenges that diminish its effectiveness in addressing the technical and legal complexities of large-scale infrastructure projects. The multi-party nature of these contracts, the diversity of actors involved (including public authorities, domestic private companies, foreign investors, and financial institutions), and the multiplicity of technical, financial, and managerial obligations require that potential disputes be managed through specialized, rapid, flexible, and technically informed mechanisms. However, Iran's traditional judicial structure remains centered on general-jurisdiction courts, lengthy proceedings, and non-specialized procedural rules primarily designed for ordinary civil and straightforward commercial claims, and thus it is not responsive to the complex needs of partnership-based construction arrangements. In such circumstances, disputes arising from the interpretation of contractual obligations, risk allocation, variations, price adjustments, delays, termination, and guarantees—rather than being managed through specialized and preventive mechanisms—often escalate into broad, multi-year litigation before general courts. This attritional trajectory not only increases the legal and administrative costs of projects substantially, but also generates direct adverse effects on scheduling, cash flow, and economic productivity by slowing or suspending project performance. Moreover, protracted proceedings and uncertainty regarding judicial outcomes produce a climate of legal unpredictability, which constitutes a major barrier to attracting joint investment and international partnerships in infrastructure projects. From an economic and institutional perspective, this condition increases contractual risk, weakens investors' legal security, and reduces private sector confidence in the existing legal framework. As a result, many economic actors prefer to avoid long-term partnership projects or, by pricing in a higher risk premium, raise their costs—ultimately increasing total project costs and undermining the effectiveness of the government's development policies. Accordingly, the inefficiency of Iran's traditional dispute resolution system is not merely a legal issue; it is an economic and institutional challenge that underscores the urgent need to reassess dispute resolution mechanisms and to move toward specialized, multi-layered systems aligned with international standards.

One of the most significant domestic challenges in the dispute resolution system governing construction partnership contracts is the absence of a specialized, institutionalized, and efficient arbitration body for civil and infrastructure projects. Although Iran's International Commercial Arbitration Law (adopted in 1997) and the domestic arbitration provisions of the Civil Procedure Code provide formal avenues for referring disputes to arbitration, these legislative capacities have, in practice, failed to meet the technical and legal needs of complex partnership projects due to the lack of the necessary institutional and specialized infrastructure (4). A substantial portion of construction-related disputes are hybrid in nature—simultaneously technical and legal—requiring concurrent mastery of contract law principles, project management, national technical-executive systems, and international standards such as FIDIC. Yet many arbitrators operating within the domestic arbitration environment lack this interdisciplinary competence. The shortage of specialized arbitration centers with professional structures and multi-disciplinary tribunals has meant that, in some cases, arbitral awards do not contain sufficiently robust technical and legal reasoning, or they encounter substantive and procedural objections at the enforcement stage in general courts. This situation not only increases the likelihood of annulment or non-enforcement of arbitral awards, but also undermines the confidence of economic operators and investors in arbitration as an alternative to judicial adjudication—thereby prompting many parties, despite the existence of arbitration clauses, to pursue disputes through general courts and effectively neutralizing arbitration's core rationale as a rapid, specialized, and cost-efficient mechanism (8, 9). In addition, the lack of a systematic ranking and accreditation regime for arbitrators, weaknesses in specialized training for construction law, the absence of codified procedures for selecting mutually acceptable arbitrators, and the lack of an official database of qualified specialists have produced heterogeneity and instability in the quality of arbitral proceedings. This institutional gap often results in arbitrator selection being driven by personal relationships or non-professional criteria rather than by relevant expertise and experience in large-scale construction projects. The consequences include a higher probability of inconsistent awards, reduced legal predictability, and weakened contractual security in partnership projects. Accordingly, the development of specialized construction arbitration institutions, the design of training and accreditation systems for arbitrators, and the adoption of professional procedural guidelines should be regarded as essential prerequisites for reforming dispute resolution in Iran's construction partnership contracts.

Another fundamental challenge in Iran's dispute resolution system for partnership contracts is the weakness at the award-enforcement stage and the absence of effective coordination between the judiciary and arbitral institutions. Although Iranian legislation—through instruments such as the International Commercial Arbitration Law and relevant provisions of the Civil Procedure Code—provides mechanisms for the recognition and enforcement of arbitral awards, in practice the enforcement pathway is burdened by multiple judicial obstacles and procedural complexities that materially weaken arbitration's effectiveness. Many awards, after issuance, encounter enforcement challenges due to divergent judicial views regarding the scope of arbitrators' powers, annulment grounds, or alleged conflicts with public policy. Consequently, arbitration in Iran—contrary to its core function as a rapid, reliable, and specialized dispute resolution method—can become a risky and time-consuming process (8, 16).

The Iranian judiciary, particularly at trial and appellate levels, often lacks a consistent practice and adequate specialized legal competence in handling arbitral awards. Insufficient familiarity with the distinctive features of construction contracts, international standards, and the underlying rationale of arbitration can result in divergent—and at times contradictory—interpretations of rules governing the validity, recognition, and enforcement of awards.

For example, concepts such as “violation of public policy” or “excess of jurisdiction” may be interpreted broadly, which jeopardizes the security of enforcement and diminishes incentives to use arbitration in the construction sector. In such a context, the losing party can rely on varied interpretations of procedural rules to delay enforcement or render the award ineffective.

This deficiency in enforcing arbitral awards entails substantial economic consequences, particularly in construction partnership contracts where project timelines, continuous cash flow, and rapid decision-making are critical. Delays in enforcement can lead to project suspension, increased financial costs, and reduced confidence among foreign investors. Moreover, without a coordinated and efficient regime for recognizing and enforcing arbitral awards, the principal objective of resorting to arbitration—effective dispute resolution within a secure and specialized environment—is fundamentally compromised. Therefore, reforming judicial practice, enhancing judges’ legal awareness of construction arbitration, and developing supporting enforcement institutions are indispensable for improving Iran’s legal framework governing partnership contracts (7, 8).

From an institutional standpoint, a key structural challenge in the legal framework governing dispute resolution in Iran’s construction projects is the absence of a coherent and systematic national legal policy on how contractual disputes should be addressed. Unlike many advanced systems that adopt comprehensive guidelines, unified standards, and centralized arbitration or quasi-judicial bodies to provide a coherent and reliable dispute resolution framework, Iran continues to experience institutional fragmentation and inconsistent approaches. Different public entities—ministries, municipalities, state-owned companies, public contractors, and even private actors—often decide how to draft and implement dispute resolution mechanisms based on their own interpretations of contractual principles, internal bylaws, or even personal experience. Consequently, not only is there no uniform practice in determining the competent forum, but even the type and conditions of referring disputes to arbitration or courts may vary fundamentally across comparable contracts. This heterogeneity and lack of coordination generate multiple adverse consequences: uncertainty for contracting parties, increased legal unpredictability in dispute processing, and opportunities for stronger parties to exploit regulatory gaps by imposing unfair or inefficient mechanisms. Furthermore, this fragmentation contributes to procedural conflicts, unnecessary diversity in adjudicative approaches, an expanded caseload, prolonged resolution timelines, and diminished public trust in dispute resolution institutions. Accordingly, it is necessary to adopt a coherent national policy—grounded in comparative legal principles and successful international practice—to develop and implement a standardized and coordinated dispute resolution regime for partnership contracts, particularly in the construction sector. This can be achieved through specialized regulations, the establishment of a central construction arbitration institution, and mandatory compliance by public entities with shared guidelines for designing contractual mechanisms (7, 12).

In addition to structural and institutional deficiencies, another major gap in Iran’s dispute resolution framework is insufficient attention to the institutionalization of preventive mechanisms for managing conflicts. In many construction partnership contracts, dispute resolution is designed in a traditional and reactive manner—meaning that arbitration or litigation is contemplated only after a dispute has already arisen—whereas advanced legal systems increasingly emphasize preventing potential disagreements from turning into legal disputes. Mechanisms such as Dispute Boards, mediation involving technical and legal specialists, and early-warning systems for identifying friction points before escalation have an established role in international models, including FIDIC standards. These tools not only reduce legal costs and resolution time, but also foster continuous professional dialogue between parties, thereby enhancing transparency, mutual trust, and contractual sustainability (3, 6, 11).

Nevertheless, in Iran's commonly used construction contracts, such tools are often either entirely ignored or included only formally, without clearly defined implementation structures or enforcement guarantees. The absence of binding regulations in public laws and bylaws requiring such mechanisms, limited awareness among lawyers and project managers of their advantages, and a shortage of specialists in technical-legal mediation are among the factors hindering institutionalization of preventive tools. As a result, minor and manageable disagreements at early stages—without timely intervention—develop into chronic and complex disputes that disrupt project performance and impose substantial costs on the parties. Therefore, reforming contractual and legal structures to mandate dispute-prevention design, providing extensive training in ADR, and promoting a culture of using dispute boards can significantly enhance the quality of dispute resolution in partnership projects (3, 11).

In conclusion, while Iran's dispute resolution framework is legally equipped with mechanisms such as domestic and international arbitration, mediation, and judicial adjudication, in practice it lacks sufficient coherence and effectiveness due to the absence of efficient specialized institutions, shortages of arbitrators proficient in construction law, and institutional fragmentation in the application of rules. Challenges such as lengthy litigation, overlapping jurisdictions, weak enforcement of arbitral awards, and the lack of coordinated practices have undermined the confidence of investors and construction-sector stakeholders in existing dispute resolution capacities. This not only exposes contract implementation to higher risks but also significantly reduces the legal and economic security of projects. In such circumstances, redesigning Iran's dispute resolution structure—emphasizing specialization, flexibility, and alignment with successful international models such as FIDIC, UNCITRAL, and ICC—is unavoidable. Establishing arbitration institutions with professional accreditation, deploying preventive tools such as dispute boards and specialized mediation, and drafting contractual frameworks aligned with international standards are among the measures capable of enhancing the legal system's effectiveness in managing partnership disputes, reducing attritional and costly litigation, and creating a stable and predictable legal environment that facilitates the expansion of construction partnership contracts and the attraction of domestic and foreign joint investment (6, 7, 17).

International Models of Dispute Resolution in Partnership Contracts: A Comparative Perspective on Practices and Structures

At the international level, the development of dispute resolution mechanisms in partnership contracts has consistently progressed in parallel with the growing technical, financial, and legal complexity of infrastructure and construction projects. Recognizing the multidimensional nature of these contracts, countries and international institutions have moved toward designing multi-tiered, expertise-driven, and flexible dispute resolution systems capable of delivering rapid, specialized, and effective responses to challenges arising during project execution. Unlike the traditional approach prevalent in many national legal systems—often grounded in protracted court proceedings, rigid civil procedure rules, and non-specialized adjudication—leading global systems emphasize dispute prevention, technical arbitration, the use of dispute boards (DAB/DAAB), specialized mediation, and the appointment of arbitrators with engineering, legal, and project management backgrounds through an integrated and systematic design (16, 18).

One of the most prominent reference instruments in this field is the FIDIC suite of standard conditions of contract, which is widely used as a contractual benchmark in international construction projects. These conditions propose a staged dispute resolution structure that begins with the project engineer's determination, proceeds to referral to

a Dispute Avoidance/Adjudication Board (DAAB) during the project, and—if the dispute persists—allows recourse to final arbitration under institutional rules such as those of the ICC (6). This structure enables a significant proportion of disputes to be resolved at early stages, thereby protecting projects from suspension or severe contractual tension. In addition, the ICC Arbitration Rules, as one of the most advanced institutional arbitration regimes, demonstrate high efficiency in partnership-related disputes through features such as the appointment of specialized arbitrators, expedited procedures, and electronic case management systems (17).

Moreover, the UNCITRAL Arbitration Rules provide a neutral and international framework frequently used in cross-border arbitration. By offering mechanisms such as the appointment of neutral arbitrators, flexibility in selecting the applicable law, and freedom in determining the language of arbitration, UNCITRAL creates a suitable environment for resolving international contractual disputes (10). In developed jurisdictions, institutions such as the London Court of International Arbitration and the Singapore International Arbitration Centre have also strengthened confidence among construction-industry actors and international investors by employing specialized arbitration panels, arbitrator education and accreditation systems, and sector-specific dispute resolution practices (8, 19). Accordingly, international dispute resolution models in partnership contracts are not only aligned with project realities, but are designed to reduce time, cost, and legal friction while creating a reliable environment for investment attraction and successful project delivery. The proven effectiveness of these models offers a practical roadmap for developing countries such as Iran, which can benefit from these experiences by redesigning domestic legal and institutional structures toward higher efficiency and specialization (8, 9).

Among the diverse international dispute resolution models, the legal framework embedded in FIDIC instruments is widely regarded as one of the most comprehensive and successful, particularly for large-scale construction contracts characterized by high technical and financial complexity. Through a gradual and staged approach, this model establishes a multi-layered mechanism for managing and resolving disputes throughout the project lifecycle. At the first stage, disputes are pursued through the project engineer's determination, whereby the engineer—positioned as an impartial actor—provides a technically informed view on contractual interpretation and the claims presented. If the parties are dissatisfied, the matter proceeds to the second stage, namely referral to a Dispute Board (DAB/DAAB), which occupies a central role in the FIDIC structure (6).

The DAAB is an independent body typically composed of engineers, legal experts, and project managers who remain continuously available during project implementation. Its mission is to prevent the accumulation of disputes and their escalation into litigation or arbitration by means of monitoring, evaluation, and rapid decision-making. The DAAB's continuous presence and procedural flexibility constitute a key advantage relative to traditional dispute resolution structures, because the board operates within the project environment, achieves a more accurate understanding of the dispute's technical context, and can issue effective and binding decisions within a short timeframe without requiring complex judicial or arbitral formalities. Even when such decisions are temporary or subject to review in final arbitration, practice indicates that parties frequently accept them to preserve project continuity and avoid escalation (18). Broad comparative experience across regions—including infrastructure projects in Asia, energy and petrochemical projects in the Middle East, and urban transport development in Europe—has repeatedly confirmed the effectiveness of DAB/DAAB mechanisms in dispute management, contractual relationship stabilization, legal cost reduction, and prevention of project stoppages (3, 18).

Alongside the structured FIDIC model, the International Chamber of Commerce (ICC) has played a significant role in advancing dispute resolution mechanisms for construction partnership contracts through its arbitration

framework. The ICC Arbitration Rules (2021) have gained a prominent international position by offering flexible, efficient, and project-adaptable procedures suited to complex construction disputes. A core feature of ICC arbitration is the possibility of appointing arbitrators with both technical and legal specialization in the construction sector—an indispensable requirement for disputes involving high engineering and financial complexity (17). In addition, the ICC's expedited procedure can shorten timelines for time-sensitive partnership contracts, while innovations such as electronic arbitration management platforms, digital case tracking, and the reduction of unnecessary procedural formalities further enhance efficiency. Practical experience indicates that ICC arbitration not only offers speed and procedural effectiveness, but also enjoys comparatively higher recognition and enforcement rates in domestic courts across jurisdictions, particularly where parties originate from different legal systems and require a neutral, internationally credible forum (8, 9). The ICC framework also allows for flexible drafting of tailored arbitration clauses, enabling dispute resolution design to be customized to the specific nature of partnership projects.

In parallel with FIDIC and ICC, UNCITRAL instruments remain another key source for designing dispute resolution mechanisms in international contracts. The UNCITRAL Arbitration Rules, widely accepted in international contracting practice, are particularly useful where parties come from different legal traditions and prefer a neutral procedural architecture (10). These rules provide a comprehensive framework for all arbitral stages—from tribunal constitution to award issuance and procedural governance—while emphasizing party autonomy in arbitrator appointment, flexibility in determining the seat and language of arbitration, and institutional independence, thereby aligning dispute resolution with international standards and the operational requirements of complex projects (10, 16).

Taken together, the solutions advanced by international frameworks such as FIDIC, ICC, and UNCITRAL demonstrate that successful dispute resolution in major construction projects is built on a combination of specialization, flexibility, multi-stage design, and the capacity to adapt to project-specific conditions (6, 10, 17). These models can serve as a roadmap for reforming and redesigning dispute resolution systems for construction partnership contracts in Iran.

From a comparative standpoint, the experience of leading jurisdictions indicates that achieving an effective and responsive dispute resolution system for construction partnership contracts requires hybrid and multi-tier approaches. Countries such as England, Singapore, France, and the United Arab Emirates—having accurately recognized the technical and legal complexity of construction projects—have designed diverse models aligned with contractual realities, balancing speed, accuracy, expertise, and fairness (16). While maintaining arbitration as a final and binding method, these systems also employ complementary tools such as pre-dispute negotiation, professional mediation, ad hoc expert determination, and combined dispute resolution mechanisms, including Dispute Resolution Boards, which reduce tensions, prevent the crystallization of formal claims, and accelerate dispute settlement (3, 9).

In this context, Singapore's integrated approach—supported by strong institutional arbitration and mediation infrastructures—illustrates how professional mediation and facilitated arbitration can function sequentially or, in some cases, as alternatives. Judicial support for arbitration institutions, restrained court intervention in arbitral awards, and the provision of specialized training for arbitrators and mediators in the construction sector are among the factors frequently associated with the relative success of this model (19).

In conclusion, comparative analysis indicates that improving dispute resolution in partnership contracts depends on designing hybrid, expertise-based, and flexible mechanisms inspired by successful international models. Iran

can similarly draw on these experiences by establishing independent institutional structures, training and accrediting specialized arbitrators, and promoting preventive approaches in construction contracts, thereby moving its dispute resolution framework toward greater efficiency, predictability, and specialization (3, 8).

Comparative Assessment Between Iran and International Systems

A comparative assessment between Iran and international systems with respect to dispute resolution in construction partnership contracts reveals significant gaps as well as important opportunities. While many leading jurisdictions—such as England, France, Singapore, and the United Arab Emirates—have moved toward designing multi-layered, expertise-based, and preventive mechanisms, Iran's legal system remains largely dependent on traditional litigation and general arbitration models, which have limited effectiveness in managing the complex disputes that arise in major construction projects. In international practice, arbitration is typically only one stage of the dispute resolution pathway and is commonly supplemented by tools such as Dispute Avoidance/Adjudication Boards (DAABs/DABs), specialized mediation, structured negotiation, and expedited arbitration (9). This staged design not only reduces the time and cost of dispute settlement, but also increases flexibility and specialization in the dispute resolution process. For instance, under the FIDIC system, the presence of a DAAB from the beginning of the project enables disputes to be addressed at the moment they arise, thereby preserving court proceedings or final arbitration as a last resort rather than a first response (6). By contrast, in Iran, dispute resolution mechanisms are generally activated only after a dispute has crystallized, usually in the form of proceedings before general courts or traditional arbitration. Not only is there no strong specialized construction arbitration institution, but civil procedure rules and restrictive judicial approaches to arbitral awards have also prevented arbitration from achieving the necessary agility, flexibility, and finality. The absence of dispute prevention boards, the lack of technical-legal mediation centers, and the absence of systematic training for specialized arbitrators constitute additional structural deficiencies in Iran.

Institutional differences are equally pronounced. While international arbitration institutions such as the ICC and SIAC operate independently and with global credibility through professional frameworks, case-management systems, and specialized arbitrators, Iran's arbitration bodies remain limited in number, fragmented, and often lack sufficient independence, authority, and capacity to manage high-value and technically complex disputes (17, 19). The absence of codified procedures for arbitrator appointment, limited transparency in proceedings, and weak judicial support for award enforcement have exposed arbitration to serious risks. Legally, while international frameworks such as the UNCITRAL Arbitration Rules facilitate recognition and enforcement by articulating relatively clear procedural architectures, in Iran strict and inconsistent interpretations of public policy, the lack of coherent judicial practice, and heavy procedural formalities have created substantial obstacles at the enforcement stage (8, 10).

Overall, the gap between Iran and international systems in contractual dispute resolution can be summarized along several principal dimensions:

(a) Lack of specialized and independent arbitration institutions in Iran versus well-structured international institutions

In Iran, despite the existence of statutory frameworks for arbitration, the dispute resolution environment remains largely devoid of specialized, coherent, and reputable institutions capable of focusing specifically on civil engineering and construction contracts. Existing arbitration bodies often operate within general commercial

structures and lack a professional institutional design tailored to the construction sector, as well as adequate administrative and organizational independence. This institutional weakness has contributed to arbitration being viewed and practiced in a traditional, non-specialized manner, closely dependent on judicial structures, and therefore unable to perform effectively in complex disputes. By contrast, leading international arbitration institutions have achieved global credibility through specialized tribunals, technology-enabled case management, and institutional rules adapted to the needs of complex infrastructure disputes (8, 17). These institutions also enhance predictability and transparency through dedicated guidelines, online case-management systems, and curated rosters of specialized arbitrators.

A further fundamental difference lies in transparency, reliability, and operational consistency. Whereas in Iran arbitration is often conducted in a non-transparent and person-dependent manner without standardized procedural safeguards, international institutions apply quality control mechanisms and institutional oversight that enhance party confidence and the legitimacy of arbitral outcomes (8, 9). This structural gap is one of the principal reasons domestic arbitration has not been widely adopted in construction and investment projects involving foreign stakeholders in Iran.

(b) Absence of preventive stages such as DAAB and mediation in Iran versus multi-tier dispute resolution internationally

A defining feature of international dispute resolution systems is the staged design of dispute settlement. Regimes such as FIDIC treat arbitration as a final step and, through mechanisms such as DAABs, mediation, and engineer determination, seek to prevent escalation at early stages (6, 18). This multi-layer approach significantly reduces litigation and arbitration caseloads while preserving cash flow and project timelines. In Iran, however, dispute resolution remains largely confined to two traditional options: courts or arbitration. There is no formalized structure for preventive mechanisms such as technical–legal mediation, guided negotiation, or specialized boards operating throughout the project lifecycle. Even in large public or partnership contracts, arbitration or mediation clauses are often drafted superficially and are frequently non-operational in practice. As a result, minor disagreements may develop into large-scale legal crises. The absence of preventive instruments has increased judicial burdens and legal costs and has contributed to instability in the management of partnership projects.

(c) Weak training, ranking, and accreditation systems for arbitrators in Iran versus professional arbitrator-selection frameworks internationally

Iran's arbitration system suffers from a substantial deficit in specialized training, professional ranking, and arbitrator accreditation. Unlike many jurisdictions that impose tailored qualification requirements for construction arbitration, Iran lacks institutionalized pathways for certifying arbitrators with technical competence in project engineering, contract administration, and construction risk. The absence of formal training programs, professional certifications, and performance metrics has resulted in significant variability—and at times instability—in award quality. International practice, by contrast, places strong emphasis on structured arbitrator education and accreditation for technical disputes, which enhances party trust and helps ensure that awards comply with international standards (3, 18). Establishing a transparent ranking system, developing performance indicators, designing specialized examinations, and creating a national roster of qualified arbitrators are among the reforms capable of reducing this gap and bringing Iran closer to international institutional practice.

(d) Challenges in enforcing arbitral awards in Iranian courts versus effective legal support for arbitration internationally

Award enforcement is a critical link in the effectiveness of arbitration. In advanced legal systems, arbitration-supportive frameworks constrain the grounds for setting aside awards and confine the role of courts largely to recognition and efficient enforcement, thereby ensuring arbitration functions as a true alternative rather than a symbolic substitute for litigation (8, 16). In Iran, however, award enforcement faces multiple barriers. Divergent judicial interpretations of concepts such as “public policy,” “excess of jurisdiction,” or “procedural irregularity” have led to frequent challenges to awards through annulment requests or resistance to enforcement. In addition, the lack of consistent judicial practice and limited judicial specialization in arbitration have intensified legal uncertainty, which in turn elevates investment risk in large-scale projects.

(e) Lack of institutional coherence and integrated policymaking in Iran versus comprehensive dispute-resolution policies in other countries

A major structural weakness in Iran's dispute resolution system is the absence of a unified and coordinated national legal policy. Different public entities often approach dispute referral and dispute resolution design through divergent perspectives, producing inconsistent and sometimes ambiguous contractual mechanisms. This results in conflicting practices, reduced predictability for contracting parties, and a fragmented dispute resolution landscape. In many jurisdictions, dispute resolution policy is treated as an integral component of infrastructure development strategy, with governments issuing standardized guidelines, promoting model contracts, and requiring preventive mechanisms such as dispute boards or professional mediation to move dispute management away from ad hoc and discretionary practices and toward institutionalization and professionalization (1, 12). If Iran aims to expand international investment participation and implement complex multi-stakeholder infrastructure projects, it will need to develop a coordinated legal framework, identify competent policy-making institutions, and adopt binding contractual standards. Without such coherence, dispute resolution mechanisms will likely remain fragmented, inefficient, and dependent on isolated institutional approaches.

Conclusion

This article clearly demonstrates that the dispute resolution system governing construction partnership contracts in Iran suffers from significant deficiencies in terms of institutional structure, procedural mechanisms, legal instruments, and alignment with global models. These shortcomings have not only reduced the efficiency and speed of dispute resolution, but have also weakened the confidence of economic actors, domestic and foreign investors, and public authorities in domestic mechanisms. A comparative review of international experiences shows that countries such as England, Singapore, and the United Arab Emirates, as well as international institutions, have succeeded in developing multi-layered, expertise-based, and staged models that both enable effective dispute prevention and ensure that, when disputes arise, they are resolved with minimal time and cost. By contrast, Iran's arbitration and dispute resolution framework remains largely reliant on traditional arbitration, lacks specialized construction-focused centers, and is devoid of systematic training and professional evaluation systems for arbitrators. The complex and time-consuming enforcement of arbitral awards, ambiguous interpretations of public policy rules, and the absence of mediation mechanisms and active dispute boards during project execution are among the key factors contributing to the inefficiency of the current system. Moreover, the lack of unified national

policymaking and consistent practice has led to heterogeneity in contract design and dispute referral methods across different public entities. While partnership contracts inherently require transparency, predictability, and speed, the existing framework has proven structurally incapable of meeting these requirements. Consequently, a fundamental redesign of Iran's dispute resolution system is unavoidable. Such a redesign should focus on establishing specialized arbitration institutions, adopting national guidelines for project-related dispute resolution, institutionalizing preventive tools such as dispute boards and mediation, implementing professional training and ranking systems for arbitrators, and facilitating the enforcement of arbitral awards. This transformation would not only enhance legal certainty in infrastructure and construction projects, but would also represent a foundational step toward improving Iran's capacity to attract domestic and international investment in the construction sector. Aligning domestic mechanisms with global standards and drawing on successful international experience can therefore provide a sustainable strategy for strengthening the country's legal framework for dispute resolution.

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Authors' Contributions

All authors equally contributed to this study.

Declaration of Interest

The authors of this article declared no conflict of interest.

Ethical Considerations

All ethical principles were adhered in conducting and writing this article.

Transparency of Data

In accordance with the principles of transparency and open research, we declare that all data and materials used in this study are available upon request.

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References

1. Yescombe ER. Public Private Partnerships: Principles of Policy and Finance: Butterworth Heinemann; 2011.
2. Grimsey D, Lewis MK. Public Private Partnerships: The Worldwide Revolution in Infrastructure Provision and Project Finance: Edward Elgar Publishing; 2004.
3. Weber F. Dispute Avoidance and Resolution Boards: A Practical Approach: Wiley Blackwell; 2015.
4. Legal Deputy of the Presidency. Legal report on arbitration and dispute resolution in construction partnership contracts. 2019.

5. Madah A. Examination of the legal structure of the arbitration system in international commercial contracts with a focus on Iranian commercial companies URL - <https://civilica.com/doc/1595154> 2020.
6. FIDIC. Conditions of Contract for Construction (Red Book): Fédération Internationale des Ingénieurs-Conseils; 2017.
7. UNCITRAL. Model Law on International Commercial Arbitration: United Nations Commission on International Trade Law; 2013.
8. Born GB. International Commercial Arbitration. 3rd ed: Kluwer Law International; 2021.
9. Redfern A, Hunter M. Law and Practice of International Commercial Arbitration. 6th ed: Sweet & Maxwell; 2015.
10. UNCITRAL. UNCITRAL Arbitration Rules (as revised): United Nations Commission on International Trade Law; 2010.
11. Gaitskell D. Dispute Resolution Boards in Construction Contracts: Dispute Resolution Board Foundation; 2007.
12. OECD. Recommendation on Public Private Partnerships. 2016. doi: 10.1787/dcr-2016-en.
13. Rahmati AA, Keshavarz Rad A. Legal management of disputes between employers and contractors in construction projects. 2025.
14. Vaziri Yeganeh M. Causes of dissolution of construction partnership contracts and their impact on pre-sale agreements. 2023.
15. Majidi S, Karimi MH. Hardship clause as a solution to the difficulties of fulfilling obligations in construction partnership contracts. 2019.
16. Moses ML. The Principles and Practice of International Commercial Arbitration. 3rd ed: Cambridge University Press; 2017.
17. ICC. ICC Arbitration Rules: International Chamber of Commerce; 2021.
18. Bunni N. The FIDIC Forms of Contract: A Practical Guide. 3rd ed: Blackwell Publishing; 2005.
19. Tan C. International Arbitration and Mediation in Singapore: Singapore Academy of Law; 2019.