

The Role and Effectiveness of National and International Alternative Means in Dispute Resolution". Study Compared to Islamic Law

Sultan Khamis Issa Al Naabi¹, Maher Ibrahim Ebed Emam², Wael Mahmoud Fakhry³

Abstract

The research aims at defining alternative means, what they are and what they are important for dispute resolution, highlighting the role of alternative means in the resolution of domestic and international disputes, revealing the effectiveness of such means in resolving disputes, resolving litigations, and indicating the legal procedures for resorting to such alternative means at the domestic and international levels, while indicating the legal safeguards offered by such alternative means to disputes. To complete the study, the researchers followed a descriptive, analytical and comparative approach. The study's importance was to identify the nature of these alternative means, the procedures that could be used to resolve disputes beyond the scope of the traditional court, and to highlight their role at the domestic and international levels. The researchers concluded that alternative means called friendly or diplomatic means were capable of absorbing and addressing many domestic and international issues diplomatically and judicially through the conventional judiciary, if it has the necessary legal legislation to make it more effective and capable of absorbing and resolving cases amicably in Oman and in other countries. The researchers recommended that disputes could be resolved by peaceful means; away from judicial courts, if the parties' will exists, and appropriate procedures are in place to resolve them. The researchers appeal to all legislators to seek the establishment of diplomatic courts to resolve local disputes amicably, as adopted by the Sultanate of Oman and the Maghreb, to give judgement to the judgement rendered by those courts, and to make them judgmental in force in accordance with the judgements rendered by the arbitral tribunal and centres and the International Court of Justice.

Keywords: Means, Alternative, Disputes, Diplomacy, Judicial, Domestic, International, Legislation, Courts.

Introduction

Alternative means are of great importance, and they play a crucial role in the peaceful resolution of disputes that have been inherited from time to time. More recently, alternative means of dispute resolution have been divided into political means, judicial means. Political means are: good offices, negotiations, mediation, conciliation and reconciliation. Judicial means of dispute resolution are: the International Court of Justice and arbitration.

The means of resolving disputes are multiple and vary, depending on the issues and types, and according to the litigants' and the judiciary is the original of dispute resolution and the resolution of disputes of various kinds civil or non-civil, whether at the natural person's level or at the legal person's level, The judiciary in accordance with the modern legal system is the holder of general jurisdiction in the adjudication of litigations. legal system, the granting of judicial protection and the granting of the right to everyone, but the law permits the removal of certain conflicts of law, settlement of disputes by means other than the State ' It has recently found some means to resolve the dispute between its parties, far from judicial, whether State or arbitral.

The law authorized the resolution of disputes by traditional and inherited methods, thereby establishing the use of alternative means and making them a substitute for the judiciary; to be of assistance to him and a means of resolving conflicts and settling them amicably.

¹ Assistant Professor at the dept. of Private law, faculty of law., Arab open University, OMAN, Email: sultan.n@aoou.edu.om

² Associate Professor at the dept. of public law, faculty of law., Arab open University, OMAN, Email: maher.e@aoou.edu.om University, OMAN, Email: maher.e@aoou.edu.om.

³ Ph.D., Assistant Professor at the dept. of public law, faculty of law., Arab open University, OMAN, Email: wael.f@aoou.edu.om.

These means have been accepted and resorted to voluntarily by adversaries, both at the individual and corporate levels; or at the State and Government level; in order to solve their problems and restore their rights, because of their privacy and confidentiality.

given the importance and specificity of these alternative means; This research highlights the dissemination of these alternative means, demonstrating their effectiveness, relevance, role in conflict resolution and dispute resolution. at the local and international levels.

Research Objectives:

Definition of alternative means, what they are, and their importance in dispute resolution.

Highlight the role of alternative means in the resolution of domestic and international disputes.

Reveal the effectiveness of these means in resolving disputes and resolving disputes.

Describe legal procedures for the use of such alternative means at the domestic and international levels.

Describe the legal safeguards offered by these alternative means to disputes.

Problem Research:

The research answers several questions, imposed by the nature of its subject, namely:

What are the appropriate alternative means of resolving disputes at the local level?

What are the appropriate alternative means of resolving disputes at the international level?

How effective are alternative means in resolving disputes and resolving liabilities?

What is the legal framework governing these alternative means?

What actions are being taken to ensure the legal implementation of these means?

Research Methodology:

Using the descriptive and extrapolatory approach, through the extrapolation of texts regulating alternative means, the analytical and comparative approach is used to compare Oman's legislation in the adoption of conciliation and reconciliation, arbitration, mediation and political, diplomatic and judicial alternative means of dispute settlement, and compare it with other legislation using such alternative means of domestic or international dispute settlement, and to analyse the contents of the provisions of these alternative means; in order to assess the adequacy of the legislative texts governing them, to provide them with legal safeguards, and to fill gaps that limit the legalization of such alternative means from gaining the force of the judgement.

Research Plan:

This research consists of an introduction and researchers, which falls under each of the two requirements, and a conclusion containing conclusions and recommendations, as follows:

Research 1: What are alternative methods and types.

First requirement: definition of alternative means.

Second requirement: types of alternative means.

Research II: The role of alternative means in the resolution of domestic and international disputes.

First requirement: The role of alternative means in the resolution of domestic disputes.

Second requirement: The role of alternative means in the resolution of international disputes.

Conclusion: Contains conclusions and recommendations.

Literature Reviews

I have benefited from numerous periodicals, scientific letters and academic research on alternative means and their effectiveness in resolving disputes. This research is an extension of the scientific efforts undertaken and written on this subject. Previous studies I have seen and benefited from the following studies:

The book "Alternative Means of Settling Administrative Contract Disputes (Comparative Study)" by Dr. Mahmoud Sabah Abdulrahman, issuance of the National Centre for Legal Issues, first edition, issued in 2023, with a deposit number: 1959/2023, in which the author reviewed the legality of recourse to arbitration in administrative contract disputes, and the comparative jurisprudence of arbitration in international administrative contracts. and the effects of the application of the system of alternative means of settling administrative contract disputes.

2. Alternative Means Book on the Judiciary (Peace-Arbitration-Conciliation-Mediation), Dr. Zainab Wahid Daham, National center for Legal Issuances, first edition, published in 2017, addressing the causes of conflict, the cycle of conflict, alternative means of dispute resolution, in terms of historical development, definition, and the advantages of recourse to them, and characteristics of alternative means, namely negotiation, mediation, mediation, mediation, mediation, and mediation, and mediation. between the provision of alternative dispute resolution.

Brief on the Settlement of International Disputes (International Justice Model), by Dr. Mohamed El-Majzoub and Dr. Tariq Al-Majzoub, Publication of Halabi Rights Publications, 2nd Edition, 2021. The book addressed diplomatic means for the settlement of international disputes: negotiations, good offices, mediation, commissions of inquiry and conciliation: political means for the settlement of international disputes: the role of the United Nations Nations in the peaceful settlement of international disputes, the General Assembly's role in peaceful settlement, the role of the Security Council in peaceful settlement, the role of regional organizations in the peaceful settlement of international disputes, judicial means for the settlement of international disputes, and discussed the difference between international arbitration and justice, international arbitration settlement, international judicial settlement and the obligation of international judgements.

the concept of alternative means.

First, the definition of alternative means:

Alternative means are a term compounded by two words: means, alternate means, means, the language of collection of a single means, and the means, which arrive at the achievement of the purpose, in the choice of health is a substance and X for "means: proximate to others, collect (Walusel) and (means) is said to have been used as a means of aggravation, and proclaim to him by means. Al-Razi,(2011). The alternative, originally derived from the word "allowance", the combination of substitutes, the alternative is feminized, and the alternative or substitute means successor and substitute. Omar,(2008).

Terminology: Alternative means of resolving a dispute are defined as "those mechanisms to which the parties resort rather than the ordinary judiciary, in the event of a dispute between them; with a view to resolving that dispute " Sabah,(2023).

There is an interrelationship between linguistic and terminological stakeholders. Alternative means have everything to come up with, to be a substitute rather than an existing asset. This linguistic meaning has moved to a terminological concept, since these alternative means lead to the resolution of the dispute, rather than the ordinary judiciary, and come either at the parties' own request during the conflict; by requesting its settlement, or coming from an external party, in order to intervene to resolve the dispute between the parties, whether that interference is in the first dispute, or during the conflict

These alternative means have emerged with different names: some are called informal judiciary, others are called conventional judiciary, some are called amicable judiciary.

The Historical Development of Alternative Means of Dispute Settlement:

Alternative means are not a modern term. They have been known from the very age. Some of these means have preceded the ordinary judiciary in their practice and application. They have been and continue to be used to resolve conflicts, resolve disputes at the individual, community and community levels, and some of these means have kept up with the judiciary. Mahmoud Sabah says, "Other means of resolving disputes are emerging alongside the judiciary, thus, as international trade and recruitment evolved, arbitration evolved, with trial procedures that came too close to judicial proceedings, and then with its formalities that brought it closer to the courts, and international treaties then fortified it and its provisions, so that it could no longer be exaggerated to say that arbitration was no longer an alternative means of resolving civil and commercial disputes and administrative contracts. besides arbitration, mediation and conciliation have emerged, and this form of justice is very old, which is older than the justice of the State. Sabah,(2023).

Ancient societies have known over the ages, succeeding civilizations with images and means of friendly settlement of disputes before defining the judiciary -- as a vital facility -- as an organ of the modern State, and as a form of friendly settlement appropriate to the nature of disputes in those societies, reconciliation and arbitration.

When Islam comes, the Islamic Shari 'a has approved many of these means of resolving disputes. Among these means, which are legitimized by Islam and approved by the Shari' a of arbitration, God Almighty has initiated it to resolve the dispute in the holiest relationship, the marital relationship, in the event of a dispute between the spouses, God says :'' And if you fear dissension between the two, send an arbitrator from his people and an arbitrator from her people. If they both desire reconciliation, Allāh will cause it between them. Indeed, Allāh is ever Knowing and Aware.'' The Holy Qur'aan. An-Nisā 35.

The arbitration of the two judgements made a judgement of the husband's parents and a judgement of the wife's parents a means of reconciling the spouses, redressing the situation between the spouses and returning him to pre-rift.

Islam also initiated the reconciliation in the event of disagreement from the husband. The wife was afraid to expose her husband to her. The Almighty God guided the woman to seek the reconciliation, and made the reconciliation between the spouses is better. God said:'' And if a woman fears from her husband contempt or evasion, there is no sin upon them if they make terms of settlement between them - and settlement is best. And present in [human] souls is stinginess. But if you do good and fear Allāh - then indeed Allāh is ever, of what you do, Aware'' The Holy Qur'aan An-Nisā 128.

The Islamic Shariah has made reform a way to resolve disputes at the individual level between believers in the event of disagreement, God says:'' The believers are but brothers, so make settlement between your brothers. And fear Allāh that you may receive mercy''. Al-Hujurat,10

The Islamic Shari 'a also adopted reform as a way to resolve differences at the level of belligerent groups and sects. God says:'' And if two factions among the believers should fight, then make settlement between the two. But if one of them oppresses the other, then fight against the one that oppresses until it returns to

the ordinance of Allāh. And if it returns, then make settlement between them in justice and act justly. Indeed, Allāh loves those who act justly The Holy Qur'aan "Al-Hujurāt,9.

God Almighty affirmed that reform among people is one of the best acts of God Almighty, God Almighty says: "No good is there in much of their private conversation, except for those who enjoin charity or that which is right or conciliation between people. And whoever does that seeking means to the approval of Allāh - then We are going to give him a great reward" The Holy Qur'aan An-Nisā 114.

The Prophet's Sounaa emphasized the importance of reforming the same Bible in a number of prophetic directives, including: "Do I not tell you better than prayers, righteousness and honesty? They said, "Belly, God's messenger." He said, "Reforming the same between, he said," And the corruption of the same between is the present. <https://dorar.net/hadith/sharh/73830>

Most of the world's legislation has been introduced by these alternative means, adopted in its legal legislation and has become a substitute for ordinary justice, to be resorted to in all kinds of civil, commercial, political, family, criminal and other conflicts , The friendly settlement between the opposing parties is reflected in the attempt to agree on the issues at the source of the dispute. Several mechanisms and means have emerged, including mediation, arbitration, conciliation and negotiation. Although these terms are multilateral, they have the same content and purpose, namely, to resolve the dispute, or to try to resolve and settle it amicably.

Types of Alternative Means of Resolving the Dispute.

Alternative means of conflict resolution, varied according to the nature of the dispute, and by the parties covered by the conflict, are as follows:

Good Offices:

Good offices are defined as: "Endeavours aimed at soliciting disputing States to enter into negotiations". Alsyeed ,. (2020).

It is a benign endeavour by a person or persons; In preparation for the peaceful resolution of the conflict, through direct dialogue between them, where the people of good offices initiate an attempt to solve the problem, bring together views, bridge the rift and reconcile the adversaries.

We conclude from the definition that good offices are a means of persuading disputing States, or adversaries, to enter into negotiation, so that they often precede and lead to negotiations, a benign endeavour by a person, persons, organization or State; in preparation for the peaceful resolution of the conflict, through direct dialogue between them.

The role of good offices is most visible, and more so in today's international disputes, But local disputes are not without good offices, where opinion holders, The people of wisdom, the first of the end, and the reformers in each of the communities with good endeavours to resolve many conflicts and addressing the many problems that arise between individuals whether at the individual level between two people, or the family level, or at the social level between two groups, or between two or two tribes.

Negotiations:

The negotiations are known as the language: Taken from the act, we say: "Authorize it, that is, discuss it, negotiate the people in the matter, that is, negotiate each other in it." Algawhary, ,(1974). The delegation entrusted the competent person and demanded that the dispute be resolved by exercising part of his or her competence to another individual, as determined by law, and the negotiations included an exchange of views between the negotiating parties.

The negotiations read: "A mechanism for resolving the dispute based on direct dialogue between the conflicting parties in an effort to resolve the dispute". Makhoulf, ,(2000).

We conclude from the definition that negotiation is a means of resolving the existing dispute, so that the negotiator intervenes to get the parties and opponents into direct dialogue; lead to a peaceful resolution of their dispute.

Negotiation is a necessary means of obtaining what we want from others, so we often resort to negotiating a lot of transactions. Negotiation is really a communication between two parties to reach an understanding and an agreement, and our dealings in our working lives are hardly without the practice of negotiating, and we negotiate transactions.

We negotiate contracts of various kinds. The individual level is negotiated in many aspects of life, especially in private transactions and contracts between two or more parties, and in family and civil cases in general, when the parties are willing to resolve the conflict without recourse to the courts. people often turn to those with experience, opinions and wisdom, and those who have confidence in society to negotiate them in conflict resolution, resolve disputes, ask them to examine the problem and help find appropriate solutions.

Mediation:

Mediation is known as the language: "The middle of the thing between the two sides, the middle and the middle of the thing, the middle man, the medium, the middle of the people, their medium and their mediation, in one sense, if they enter the middle." Ibn Manzoor, ,(1956).

Mediation: "The effort of a third party, independent of the main parties to the dispute, is impartial to assist the parties in resolving the dispute".

"Mediation by an intermediary," a process whereby a mediator places two persons in a relationship in order to conclude a contract. "

Mediation (general meaning): "A pattern of dispute resolution requires, for the person chosen by the adversaries (mostly because of his or her personal authority), that a draft resolution propose to them, without merely bringing them closer together, other than conciliation, and without the power to impose a judicial award on them, other than arbitration and international judicial authority.

The mediation of labour tendencies comes as "the procedure for resolving collective labour disputes through intermediary intervention, which provides broad powers to gather full information about the dispute, and proposes a solution in the form of a reasoned recommendation, subject to endorsement by the company's partners".

Mediation in general international law tends to be "a peaceful procedure for the settlement of international disputes, characterized by the intervention of a third person (State or group of States, international body or private person) and sometimes overlapping with good offices. Korno ,(1998).

Mediation aims to bring the adversaries closer together and to resolve the situations of the conflicting groups by another person called the mediator, while good offices are characterized by suggestions leading to the resolution of the dispute.

Mediation differs from conciliation in which a complex collective body generally exercises similar functions and differs from arbitration and judicial settlement, who exercise a purely judicial function.

Mediation is an appropriate alternative means of resolving internal disputes, an effort by a party independent of the main parties to the dispute to assist the parties in resolving the dispute.

Mediation between two or more parties is often done by the mediator, whose role is to examine and identify the problem, to bring together views, to find common ground among the parties to the conflict and to help them clarify their positions. The mediator has no power to impose a settlement or to resolve the crisis unless the parties or parties agree with the solutions and proposals put forward to them by the mediator to resolve the dispute, which often sets the stage for reconciliation between the parties.

Conciliation:

Conciliation Language: "Consent and Consent Agreement Demonstration Agreement, consented and agreed to by consent and consensus, and consent shall be in accordance with one agreement, and consent shall be between the two things such as conjunction." Ibn Manzoor, .(1956).

Conciliation is idiom: "Agreement of the parties to attempt a friendly settlement; Through conciliators or conciliators selected by the parties. Mohammed,.(2013).

Conciliation agree with mediation is consistent with the fact that both are carried out by another non-party to the dispute, the conciliator and the mediator.

Conciliation is "an amicable settlement of a particular dispute, the purpose of which is to prevent recourse to courts of any kind". Mohammed,.(2013).

The content of conciliation is the intervention of a third person, to the consent of the conflicting parties, so as to make a particular effort to limit the widening of the scope of the dispute between the parties, and to try to arrive at a proposal to the parties' consent.

"The Egyptian legislator argues that conciliation is a pre-arbitration procedure. This observation was found in Greek law, where in the Greek cities the arbitrator's job is in two stages: first, conciliation, and second, arbitration, if the conciliation process fails." Khalid ,.(2004).

As part of the conciliation process, negotiations are conducted with the assistance of a conciliator, with extensive technical or legal expertise, and conciliation is an amicable way of settling disputes, with the will and willingness of the parties to the dispute, through the intervention of a third party to settle the dispute.

Conciliation has many advantages, and one of the most important is that it reduces the duration of dispute settlement, maintains relations between adversaries, and strikes a balance and a tie between the parties so that everyone is winning.

There is a relationship between conciliation and reconciliation, where reconciliation seems to lead to reconciliation between the parties or between the parties, paving the way for reconciliation, a satisfactory outcome for the adversaries, or a mutually convenient solution; The Omani legislature therefore combined conciliation and reconciliation in one sense, and the establishment of conciliation and reconciliation committees in the Sultanate of Oman to achieve the same goal, namely, access to peace and ending the dispute, there is a convergence between the means of conciliation and mediation in terms of their application, so the two means have taken their way to become an alternative means of resolving disputes. Zainab Wahid Daham says in her book *Alternative Means of Justice*: "Thus the Arab Foundation's agreement to ensure investment has established mediation and conciliation negotiations as an alternative means of resolving the dispute. to resolve the dispute, before resorting to arbitration. The ICC Reconciliation and Arbitration System also provided for the Optional Conciliation System and established procedures, as did the United Nations Commission on International Trade Law (UNCITRAL), which established conciliation rules that had occurred in international disputes and had an impact on the dissemination of conciliation as a means of amicable dispute resolution, but conciliation and mediation remained alternative means of dispute resolution. Khalid ,.(2004).

Compromise:

Al-Salah Language: "Taken from a Compromise that fixes a good and irreparable state of corruption, the good against corruption, the reform contrary to corruption, the reformed thing after the corruption of its establishment, and the reformed people still hostile and divisive among them. Ibn Manzoor, .(1956).

"A Compromise contract whereby parties to an ongoing or foreseeable dispute are settled, each party shall waive certain of its claims and its results shall be known to the parties before signing it." Zainab D. (2017).

Some scholars have defined it as: "Agreement on a disputed right between two persons, whereby one waives his claim in return for the other's waiver of his claim, or for the performance of something. Sabah,.(2023).

Compromise in Islam has begun to resolve many disputes at the private and public levels. At the private level, the Peace has begun to resolve the marital dispute caused by the intransigence of the husband. If the wife is afraid to expose her husband to her and to escape her, Allah Almighty guided the woman to seek peace and make peace between the spouses good.

More recently, people have recourse Compromise in administrative, commercial and family disputes, in criminal cases and in criminal reconciliation, and the latter are achieved by seeking amnesty, compensation, financial allowance, waiver and withdrawal of complaint in return. Sabah,.(2023).

The Omani legislature has approved the principle of Compromise in resolving disputes between adversaries. Chapter V of the Procedure and Regulation of Hearings in Chapter I of Article (99) of the Omani Civil and Commercial Procedure Law promulgated by Royal Decree No. 29/2002 "The Court begins the first hearing by presenting the hearing to the adversaries. this is a clear indication of the Omani legislature's concern for the importance of peace and its role in resolving disputes between litigants at the local level.

Arbitration:

Arbitration Language: Name of origin (judgment) In the sense of judgment, it is said: judgement, judgment, judgment among them, and judgment between the people separated them Intermediate Lexicon ,(1972).

Ibn Manzoor stated that the arbitration was a source (he ruled) of tightening enough with the opening, and in Mali, I am said to have ruled that the judgement was to be delegated to him. Ibn Manzoor, .(1956).

Arbitration in the terminology: "The two adversaries take over a ruling between them, the stakeholders choose a person to rule in dispute, without the arbitrator having jurisdiction between them". Al Farsi, ,(2010).

The definitions of arbitration have been many and are limited here to the most important definitions of arbitration as a means of resolving disputes, to which the parties to the dispute voluntarily resort, requesting the arbitration of one or more persons, one of whom is named arbitrator, or recourse to a permanent arbitral tribunal or centre, to adjudicate the dispute that arose between them, and to remove him from the judiciary's authority. Sabah,.(2023).

Arbitration in this sense is a legal regime whereby a binding judgement is settled in a legal dispute between two or more parties by a third person or persons, deriving their task from the agreement of the parties to the dispute. " Waly,.(2007).

The other team define arbitration as "the parties' choice of their judge through the enforcement of the arbitration clause, or the arbitration engagement". Daham,.(2017). they argued that arbitration was a special judicial system in which a particular litigation was served, and in which arbitrators were assigned to adjudicate.

Another group went on to define arbitration as "the agreement to submit the dispute to a particular person or persons; without the competent court. Khalid ,(2004).

The Islamic sharia approved arbitration as a means of resolving disputes, as God set out to resolve the dispute in the holiest relationship, the marital relationship, in case of dispute between the spouses, it made the arbitration of the two rulings, a judgement of the husband's parents and a judgement of the wife's parents, a means of reconciling the spouses, redressing the situation between them and returning him to the pre-rift.

In today's era, arbitration plays a major role in the resolution of disputes. Modern laws have initiated commercial arbitration in a judicial capacity. Laws have been enacted by legislation, the arbitration judgement has granted the authority of the judgement, and the judgements of arbitral tribunals and centres have been made legally binding.

The Omani Civil and Commercial Litigation Arbitration Act was promulgated by Royal Decree No. 47/97 and promulgated by the Omani Civil and Commercial Litigation Arbitration Act, which regulates the dispute over a legal relationship of a contractual or non-contractual economic nature; article 3 provides that arbitration shall be international in the provision of this Law if its subject matter is a dispute relating to international trade. " Omani Arbitration act, (2024).

Omani arbitration act covers domestic and international civil and commercial disputes.

Successful applications that support the course of alternative dispute resolution in the field of arbitration and mediation include the experience of the Morocco, which has incorporated arbitration and mediation into the judicial system. promulgated Act No. 08.05 on the Reproduction and Compensation of Title VIII of Section V of the Civil Procedure Act of 30 November 2007, expanding the arbitral tribunal's competence to include arbitration in financial disputes arising from the unilateral conduct of the public person; disputes in contracts entered into by a public person, the permissibility of arbitration in disputes concerning public contracting and public institutions, and the rules of law relating to mediation are all regulated by the Convention through the draft law on mediation and arbitration. Daham,.(2017).

There is a difference between arbitration and conciliation, that the solution proposed by the conciliator or mediator is binding only after it has been approved by the litigants, whereas the arbitrator's judgement requires the litigants, and their consent is not required for the judgement to apply to them. " Khalid ,(2004).

There are similarities and differences between arbitration and reconciliation: the similarities are that both are contracts. Arbitration is a contract, whether in the form of clause or conjunction, and reconciliation is a contract, both of which lead to the termination of the dispute according to some, whereas the differences replace the arbitration contract with the litigants' obligation to deprive jurisdiction from the courts, and to submit to an arbitrator or arbitral tribunal. in the peace contract, there is a mutual waiver between the litigants, in respect of each other's claims, and in arbitration the judgement is enforceable in accordance with the procedures established in the General Arbitration Rules. In the peace contract, the dispute ends with the satisfactory mutual waiver of all disputes. Khalid ,(2004).

The Role of Alternative Means in the Resolution of International Disputes.

General international law has since the League of Nations recognized the principle of the peaceful settlement of disputes; In order to delegitimize the use of force in the future; To be subsequently enshrined under the Charter of the United Nations, thereby losing the use of force as a force and its legitimacy in resolving any dispute; This is in keeping with the following peaceful methods and means:

Good Offices and Their Role in the Resolution of International Disputes:

Good offices are called friendly endeavours, namely, the pursuit of a settlement of the dispute, through "a person who is not a party to the conflict, (a State, an international organization, a private person enjoying international standing, recognition and respect or to the parties to the conflict by working through diplomatic means to find a way to bring the parties concerned closer together; Enabling them to negotiate directly, or to resort to another means of settlement. Al-Anani, ,(2013).

Article 2 of the Hague Convention of 18 October 1907 on the Peaceful Settlement of International Disputes stipulates: "Contracting States must resort to good offices... to resolve the dispute between the two States ". Article 3 also states that "such endeavours are not considered unfriendly". Article 6 of the Convention states that good offices are solely of the nature of advice and advice. good offices rules were enshrined only at the First Hague Conferences of 1899 and the Second of 1907, and included two special conventions on peaceful means of settlement of disputes between States.

It also provided for good offices Manila Declaration on the Peaceful Settlement of International Disputes of 1982 good offices have been placed on an equal footing with other methods of peaceful settlement, By stipulating in paragraph 5 thereof, and otherwise, The Charter of the United Nations does not specifically mention good offices in Article 33 as one of the peaceful means of settling disputes between States. however, they are implicitly covered by the addition of the words "or other peaceful means of their choice". Al-Anani, ,(2013). if a dispute arises and the disputing parties do not agree to resolve it through negotiations, a third State, another party or an international organization may act amicably; In order to create a space for understanding between the two disputing States, through so-called good offices, to induce them to enter into negotiations by bringing the parties' views closer together, alleviating tension in their relations and creating conditions for them to enter into negotiations, good offices are therefore an important means of resolving international disputes and conflicts by peaceful means; This is based on the concept of good offices aimed at enlisting disputing States to enter into negotiations.

In recent years, the Secretary-General of the United Nations has undertaken good offices to resolve many conflicts around the world, including the Cyprus issue, the situation in Western Sahara and the Comoros, and the Security Council's request on 13 September 1990 to the Secretary-General to use his good offices for the arrival of foodstuffs in Iraq and Kuwait prior to the Gulf war. we conclude from the foregoing that good offices sometimes precede and pave the way for negotiations, and sometimes come after negotiations have failed and become impossible.

The mission of good offices is summarized in several roles that can be summarized as follows:

- Avoiding an armed conflict between the two disputing States by limiting the causes of the conflict and minimizing its effects. The causes of war often arise from a conflict, which may be simple and can be settled by peaceful means, leaving the conflict unresolved and potentially escalating into a severe conflict that leads States to resort to war.

The temporary cessation of hostilities, or the total cessation of the state of war, if there is a conflict between States and the war between them, the effects of the war are eloquent and the risks are high, each party often contemplates victory over the other and does not contemplate ending the conflict and therefore; Intervention by external parties is sometimes necessary to eliminate the state of war and congestion, persuade the belligerents, whether to pause the fighting and enter into a temporary truce; for humanitarian purposes, or to persuade them to engage in serious negotiations to end the conflict, stop the fighting, in both cases good offices are necessary to achieve this. Al-Majzoub ,(2021).

Negotiations and their role in the resolution of international disputes:

The negotiations will establish direct contact between two or between the disputing States, if they are willing and convinced of the need for understanding and the importance of an exchange of views; with a view to resolving their dispute.

Negotiations can be "directly between the parties to the conflict, either bilaterally or multilaterally". Or within the framework of an international conference, or an international organization, or indirect; Through third-party mediation, negotiations have become the core of the activities of international organizations and conferences; which aims to assist States in resolving their disputes, through diplomatic negotiations, where formal representatives of persons of international law who engage in diplomatic activity usually take over the negotiations Abu Hiv,. (1990).

Negotiation is therefore a means of resolving the dispute that exists through direct dialogue between the parties or parties to the dispute, in an effort to resolve the dispute, but it should be noted that not every dispute is negotiable, for example, certain crimes under international law are non-negotiable, and it is difficult to negotiate if the conflict reaches a high degree of tension and conflict.

The International Court of Justice endorsed negotiations within the framework of an international organization, as in the South African case, when South Africa claimed that negotiations within the framework of the United Nations General Assembly did not constitute sufficient diplomatic negotiations between the parties concerned (Liberia, Ethiopia and South Africa). the Court did not accept South Africa's view in its report, stating that what was important was not the form of negotiations, but the position and views of the parties concerned on the substantive aspects of the contested issue. The International Court of Justice endorsed the principle underlying the negotiations. Sabah, (2023).

The principle of customary rules of international law, which must be undertaken before resorting to force, has become a prerequisite before resorting to arbitration or the International Court of Justice Abu Hiv, (1990).

Chapter VI of the Charter of the United Nations provides for the peaceful resolution of disputes by resorting to negotiations. Article 33 stipulates that:

1. The parties to any dispute whose continuation would endanger the maintenance of international peace and security must first seek resolution through negotiation, investigation, mediation, conciliation, arbitration and judicial settlement; or resort to regional agencies and organizations or other peaceful means of their choice.

2. The Security Council calls upon the parties to the conflict to resolve the conflict in such ways if they deem it necessary, <https://www.un.org/ar/about-us/un-charter/chapter-6>

Indeed, negotiations have played a significant role in resolving many disputes, as many wars and conflicts have emerged from which belligerents or parties to conflict have emerged only through negotiations.

In the view of some, negotiations are the most appropriate means of settling international disputes; Because the parties concerned feel proud and self-satisfied by their sense that the settlement of the conflict has been done with their direct efforts Sabah, (2023).

Negotiations and good offices play a significant role in the resolution of international disputes, so States recognize the importance of negotiations and mediation, adopt them as a means of conducting their foreign policy and a tool for solving many of the problems and difficulties they face; It believes that resorting to such negotiations avoids many difficulties and provides it with time and effort, as an acceptable alternative to conflict resolution, maintaining relations and building trust between the parties concerned.

Mediation and its role in the resolution of international disputes:

Mediation is one of the effective peaceful means of resolving international disputes, as stipulated in Article 33 of the Charter of the United Nations. Many international and regional organizations stipulate in the Charter that mediation is one of the peaceful means of resolving disputes between States.

Mediation is one of the dispute resolution mechanisms, namely, that a neutral person other than the nationality of the parties to the dispute, or as an intermediary representative -- from the parties' choice of dispute -- makes a friendly effort to advance negotiation between the parties to the dispute; To reach a settlement of the dispute between them Sabah,(2023).

Mediation is an effort that can be undertaken by a State, or by a third party, independent of the parties to the conflict, which is neutral; with a view to resolving a dispute between two States, two parties or several parties, an advanced degree of endeavour by non-parties to the dispute

The mediator's participation in the negotiation process with the parties to the conflict is its role in providing the right climate, encouraging dialogue, dispelling the causes of hostility between the parties, encouraging them to negotiate, reducing tension and proposing ways and solutions for a settlement Daham,.(2017).

The mediator plays an important role in the resolution of international disputes, and his role is similar to that of a good offices provider, but his role is more positive, as he can provide solutions and suggestions to the parties to the conflict, and since the mediator is an active participant in negotiations between the conflicting parties, he has broad powers, must abide by certain obligations, and may participate in negotiations.

Mediation is an important means of settling disputes at the domestic and international levels, a form of negotiations mixed with external assistance by an agreed third party, accepted by adversaries to help them identify the problem and to find an agreement acceptable to all Abu Hiv,.(1990).

Mediation has been explicitly reflected in the Charter of the United Nations, the Organization of African Unity (OAU), the African Union and the League of Arab States, and in the charters of some other international and regional organizations. Some States' constitutions provide for the legitimacy of recourse to mediation for the settlement of disputes between individuals and State institutions. as provided for in domestic laws for the settlement of disputes between individuals, and there are chambers of commercial mediation in many States, which settle business disputes between companies or between individuals in different fields and the settlement of collective disputes at work is conducted through an intermediary intervention with broad powers to gather full information about the dispute, and proposes a solution in the form of a reasoned recommendation subject to endorsement by the company's partners Al-Majzoub ,(2021).

Mediation takes different forms and forms: simple mediation approaches the conciliation regime, with someone seeking to bring the conflicts closer together, and mediation taking the form of a mock judiciary, in which a body headed by the mediator, comprising agents of the parties to the dispute, is formed to reach a mutually acceptable solution. Al-Sarhan ,(2013).

There is advisory mediation, in which the parties to the dispute request a lawyer or expert to consult him on the subject of the dispute, and then request mediator intervention to resolve the dispute. Sabah,(2023).

Through mediation, the following benefits are available:

- Assures the parties to the conflict that their case is being deliberated by an experienced person or persons.
- Mediation provides for the preservation of confidentiality.
- Ensure that the friendly relationship between the parties to the conflict is maintained.
- The interests of both parties are realized, in a friendly way away from the courts and litigation degrees.
- Their results are often satisfactory to both parties, offering an amicable approach to resolving differences.

Conciliation and Its Role in the Resolution Of International Disputes:

Reconciliation is a modern means of peaceful settlement. It is a common means of political settlement and means of judicial settlement. It is a mixed system that combines the two; due to legal procedures for conciliation and investigation, but its decisions are not binding on the disputing parties Ibrahim., (2018).

Many international instruments have provided for the realization of conciliation in international disputes, in the absence of a settlement by diplomatic and political means referred to above, through the establishment of special conciliation committees consisting of five members. Each of the parties to the dispute has the right to appoint one of the members of the Commission, whether a national of the Commission or a national of another State, the remaining three are selected by agreement between the parties to the dispute, provided that they are nationals of a foreign State, as provided for in article 3, paragraph 6, of Chapter I of the Geneva Charter. Ibrahim.,(2018). if arbitration as a convention instrument for achieving justice enjoys immunity and strength, it is the most effective and widespread means of settling international trade disputes, especially under the European system, friendly methods of dispute settlement, such as negotiations, conciliation, mediation and reconciliation, called friendly methods of dispute settlement its role in the settlement of international trade disputes under the European system remains limited and insufficient, albeit with interest under the American system, and even plays a positive role in the settlement of disputes. Mamdouh.,(2018).

However, after the United Nations Commission on International Law (UNCITRAL) established conciliation rules on 4 December 1980, international conciliation began to work its way into the settlement of commercial disputes, recognizing the value of conciliation as a method of friendly settlement of disputes within an international commercial relationship, the 1965 Washington Convention on the Settlement of Disputes Arising from Investment between States and Nationals of Other States also included conciliation procedures from the submission of the application, through the formation of the conciliation commission, to the conduct of the conciliation process, and many Arab States, including Egypt, have acceded to this agreement. In 1998, the International Chamber of Commerce in Paris established a reconciliation system aimed at the optional conciliation of international trade disputes Sabah.,(2023).

Chapter VI of the Charter of the United Nations provides for the peaceful resolution of disputes by recourse to conciliation. Article 33 stipulates that:

The parties to any dispute that would continue to endanger the maintenance of international peace and security must first seek resolution through negotiation, investigation, mediation, conciliation, arbitration and judicial settlement, or resort to regional agencies and organizations or other peaceful means of their choice.

The Security Council calls upon the parties to the conflict to resolve the conflict in such ways if they deem it necessary. • <https://www.un.org/ar/about-us/un-charter/chapter-6>

V. International arbitration and its role in the settlement of international disputes:

International arbitration is one of the integrated dispute resolution systems that arise because of international relations and bonds, which acquire an independent privacy and subjectivity, and require confronting their effects in accordance with the rules established by the international system. this is what exists in the arbitration system, where the jurisdiction to adjudicate such disputes is vested in persons who have engaged in such activity, have sufficient experience and full knowledge of the arbitration rules, and deal with cases raised by problems arising from international relations.

Concept of International Arbitration:

The definition of arbitration offers language and terminology in missed research and arbitration in legal terminology a way of resolving a dispute, depending on the parties' choice of their judges, rather than on judicial regulation.

It was called international arbitration, because the subject matter of the dispute took on the international character; for being concerned with the interests of international trade

Also if the arbitration is due to the procedure followed and takes the status of application of an international arbitral tribunal's system, or of an international convention, and besides international arbitration there is institutional arbitration, which is assisted by a permanent arbitration organization (Misfiq, Bourse, Commerce, International Chamber of Commerce, Permanent Court of The Hague to Resolve Inter-State Disputes) At the disposal of the disagreement groups, a regulation of governors, an arbitration system, a physical regulation (secretariat of secret, places, etc.) and services are established to inform the regulations, for example. Korno ,(1998).

International arbitration has three phases:

Phase I:

Agreement on arbitration as a way to resolve the dispute instead of recourse to the judiciary, and this agreement takes place before or after the dispute occurs.

Phase II:

The agreement between the litigants and the person who will adjudicate the dispute, which is the stage of granting the authority to adjudicate the dispute.

Phase III:

The adjudication phase of the dispute, beginning with a procedure and ending with a verdict, says D. Mohsen Shafiq: "Arbitration is actually a mixed system, starting with an agreement, then becoming a procedure, and then ending with a judiciary. Shafiq,. (1997).

Types of arbitration:

1. Optional arbitration and compulsory arbitration:

Arbitration is optional if it is not imposed on the opponents, but they resort to it voluntarily. This is the original of the arbitration, Ashraf El-Rifai says, "This type of arbitration is based on two pillars: the self-will of the opponents, and the lawmaker's acknowledgement of this will El-Rifai,(2003). it is compulsory if it is legalized by the State, made compulsory as in labour disputes under French law, and made compulsory by some States in public sector disputes and collective labour disputes; regulated by the Egyptian legislature by Law No. 137 of 1981, act No. 203 of 1991 authorized the agreement to arbitrate disputes between companies subject to its provisions or between them and public legal persons or legal persons of the private sector or individuals, whether national or foreign. " El-Rifai,(2003).

2. Arbitration of Justice and Arbitration of Peace:

Arbitration shall be by judgement, in which the arbitrator has jurisdiction in the dispute before it, and shall be subject to substantive law.

It may be an arbitration of reconciliation, in which the arbitrator does not abide by the rules of substantive law and his judgement is not subject to challenge, as the dispute is governed in such a manner as he deems fair and appropriate to the parties' interests, regardless of his or her consent to the rules of substantive law.

3. National arbitration and international arbitration: arbitration shall be national if it is subject to special domestic law, and arbitration shall be international if it is subject to international laws in force.

4. Institutional arbitration and free arbitration:

The basis for this division is that institutional arbitration is conducted by international or national bodies and organizations, in accordance with specific rules and procedures, determined by international conventions and decisions establishing such conventions. Institutional arbitration has become the norm in the field of international trade. free arbitration is arbitration carried out by an arbitrator or arbitrators chosen by the litigants and in accordance with the rules and procedures established by them.

Arbitration position in international law:

The Charter of the United Nations, in Chapter VI, provides for the peaceful resolution of disputes through arbitration and judicial settlement. Article 33 stipulates that:

1. The parties to any dispute whose continuation would endanger the maintenance of international peace and security must first seek resolution through negotiation, investigation, mediation, conciliation, arbitration and judicial settlement; or resort to regional agencies and organizations or other peaceful means of their choice.

2. The Security Council calls upon the parties to the conflict to resolve the conflict in such ways if they deem it necessary. <https://www.un.org/ar/about-us/un-charter/chapter-6>

Conclusion: Contains Conclusions and Recommendations.

Results:

1. Alternative means are optimal ways to resolve disputes, eliminate disputes, and address problems.

Disputes can be resolved by peaceful means; away from the courts, if there is will on the part of the parties to the dispute.

The judiciary is not the only means of resolving disputes, resolving litigations, but there are other alternative means of resolving the dispute, the most important of which is negotiation, mediation, reconciliation and arbitration.

4. To prevent any conflict we must begin to understand the causes of the conflict; To make it easier for us to tackle his causes.

5. Alternative means, such as old ones, which are still effective. People have recourse to them to resolve their differences, notably peace, arbitration, mediation and negotiation. These include modern methods that have proven their effectiveness in resolving disputes, notably international arbitration, the International Court of Justice and mediation in their modern manner.

6. Alternative means of conflict resolution, such as Oman's conciliation and reconciliation commissions, have proved successful and effective; Under the Omani Civil and Commercial Procedure Code.

Recommendations:

1. Alternative means must be used as an alternative to the judiciary to resolve disputes and resolve disputes; in order to alleviate the burden on the judiciary, preserve relations and reach a satisfactory outcome for the parties to the conflict.

2. Enact laws and legislation governing alternative means; To ensure their proper application, streamline their procedures and make the resulting agreements mandatory; To find reassurance for those who resort to these means.

3. Legislation should be enacted requiring adversaries to resort to such alternative means, before going to court litigation, so that the judiciary is the last to be resorted to.

4. The need to establish centres and bodies specialized in the application of alternative means, such as arbitration centres; in order to encourage the use of alternative means to resolve the dispute, and to provide advice in the field of contested cases, before going to the judicial courts.
5. To frame and screen the work of alternative means in terms of the appropriate areas for their application to contested cases, for example the adoption of a family arbitration method, which is applicable to the handling of family issues before recourse to justice.
6. Raise awareness among members of society and civil society institutions of the importance of alternative means, the need to resort to them for conflict resolution and their use as an alternative to justice.
7. Use of various visual, reading and audio media; To urge individuals to use alternative means to resolve the conflict.
8. Conducting scientific studies to measure the effectiveness of alternative means in resolving disputes under the Omani Civil and Commercial Procedure Law, the Arbitration Law and the laws in force in the Sultanate of Oman.

References

- Abdulrahman,.(2023). *Alternative Means of Resolving Administrative Contract Disputes. (Comparative Study) Egypt: by, National Centre for Legal Issuances, First Edition.*
- Al-Razi,.(2011). *Mukhtar al-Sahah, ,Lebanon: investigation: Ahmed Ibrahim Zahou, Arab Book House, Beirut.*
- Al-Majzoub ,.(2021). *The Brief on the Settlement of International Disputes (International Justice Model),Lebanon ,Publication of Halabi Rights Publications, 2nd Edition*
- Alsyed ,.(2020). *Peaceful Means of Resolving International Disputes, National Center for Legal Issuances, First Edition.*
- Algawhary, ,(1974). *Alseehah in Language and Science, Preparation and Classification of Nadeem Marshli, Osama Marshli, Lebanon:, Arab House of Civilization, Beirut, First Edition. Volume 2.*
- Al-Anani ,(2013). *Settlement of International River Conflicts (Model Nile River), Avaq journal, vol. 11, No. 39.*
- Abu Hiv, (1990).*Public International Law, Egypt: Al-Ma a'raf Facility, Alexandria.*
- Al-Sarhan ,(2013). *Mediation in Jordanian Law, National Criminal Journal, Vol. 66, No. 2, July 2023, p. 71-103.*
- Al Farsi, ,(2010). *Oman Law Arbitration Agreement, Oman: Sultan Qaboos Academy of Police Sciences, First Edition, Muscat.*
- Daham,.(2017). *Alternative Means of Justice (reconciliation-Arbitration-Conciliation-Mediation) Egypt: National Centre for Legal Issuances, First Edition.*
- El-Rifai,.(2003). *Arbitration Agreement and Practical and Legal Problems in International Private Relations, Egypt: Dar al-fiakr, First Edition. Alexandria.https://www.un.org/ar/about-us/un-charter/chapter-6 https://qanoon.om/p/2002/rd2002029/https://www.icj-cij.org/ar*
- Ibn Manzoor, ,(1956). *Tongue of Arabs, ,Lebanon: vol. 15, Publisher: Dar Sadr Beirut, 4th Edition.*
- Ibrahim,.(2018). *International Dispute Resolution by Political and Judicial Means, Master's Thesis in Political Science, Libya:Libyan Academy Misrata Branch.*
- Intermediate Lexicon ,(1972). , *Arabic Language Complex, Preparation and Classification Alzayat&Alnajar, Egypt: Part I, Second Edition, Cairo.*
- Khalid ,(2004). *International Commercial Arbitration Priorities, , Egypt: Dar al-Thakr University, Alexandria.*
- Korno ,(1998). *Dictionary of Legal Terminology, University Institution of Studies, Lebanon: Publishing and Distribution, first edition. Beirut*
- Makhlouf, ,(2000). *Arbitration Agreement as a Method of Settlement of International Trade Contract Disputes, Egypt: Doctoral Thesis, Cairo University,.*
- Mohammed,(2013). *Legal System of Arbitration Agreement, Egypt:New University House, Alexandria.*
- Mamdouh,(2018). *Electronic Arbitration in International Trade Contracts, , Egypt: Dar al-fiakr ALgamee, Alexandria, First Edition.*
- Omar,.(2008). *Dictionary of Contemporary Arabic Language, Egypt: World of Books, Cairo, First Edition.*
- Omani Arbitration act. (2024).
- Sabah,(2023). *Alternative Means of Settling Administrative Contract Disputes (Comparative Study), Publisher: National Center for Legal Issuances, First Edition.*
- Shafiq,.(1997). *International Commercial Arbitration, Egypt: Arab Nahda House, Cairo.*
- The Holy Qur'aan.
- Waly,(2007). *Arbitration Law in Theory and Practice, Egypt: First Edition, Al-Ma 'raf Facility, Alexandria.*