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# Applying Arbitration to Settle Disputes in Administrative Contracts Under the New Saudi Government Tenders and Procurement Law

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# Applying Arbitration to Settle Disputes in Administrative Contracts Under the New Saudi Government Tenders and Procurement Law

by

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Abstract

Significant changes to the Kingdom’s legal system have been made in alignment with the Saudi vision 2030 to diversify the economy. One of the changes is the 2019 Government Tenders and Procurement (GTP) law that allows arbitration as a dispute resolution approach in administrative contracts. The research problem of focus was the limited understanding of Saudi Arabian legal professionals' perception of arbitration as a dispute resolution approach in administrative contracts under the GTP law. The purpose of this qualitative case study was to understand the perception of legal professionals in Saudi Arabia towards arbitration as a dispute resolution approach in administrative contracts under the GTP Saudi law. Luhmann's system theory provided the study with a scholarly underpinning. The study was conducted using a qualitative methodology and a case study design. A purposefully participants selection technique was applied to recruit 15 participants. Seven themes, namely, (a) positive, (b) progressive, (c) efficacious, (d) internationalization, (e) questionable fairness, (f) unconventional outcomes, and (g) procedural modifications were identified. Saudi Arabian legal professionals perceive arbitration reforms in the new GTP law as positive and progressive changes that could promote internationalization because of their effectiveness. Conversely, arbitration could result in questionable fairness and unconventional outcomes making is essential to consider the public’s interest before selecting the approach.

*Keywords:* Arbitration, administrative contract, GTP Saudi Law, legal professionals, Luhmann's system theory

# Chapter 1: Introduction to the Study

Arbitration is a fundamental dispute resolution approach, especially with the increasing international administrative contracts attributed to globalization and the proliferation of partnerships between parastatals and private companies. The statement is applicable in Saudi Arabia because the Kingdom's legal system in 2019 made changes to support the adoption of a workable arbitration (Alanzi, 2021; Ministry of Finance [MOF], 2019). In 2019, the MOF's resolution No. 1242 on 21/3/1441H (November 19, 2019) was enacted, replacing the old Government Tenders and Procurement (GTP) Law implemented by Royal Decree M/58 on 4/9/1427H (September 27, 2006) (MOF, 2019). The need for the new GTP Law, enacted by Royal Decree M/128 on 13/11/1440H (July 16, 2019) modified a 56-year-old practice that prohibited Saudi Governmental Agencies and Bodies from having recourse to alternative dispute resolution strategies such as arbitration (Amit, 2020; MOF, 2019). Thus, the topic of study was, *Applying Arbitration to Settle Disputes in Administrative Contracts Under the New Saudi Government Tenders and Procurement Law.*

The GTP law was implemented to (a) ensure the effective allocation and management of Saudi Arabia's financial resources, which is a key goal in the Kingdom's Vision 2030, (b) increase transparency and efficacy, and (c) decrease the influence of personal interest that negatively affect the bidding process (MOF, 2019). There was a need to conduct the study because, when writing this chapter, there did not exist a qualitative study assessing the perception of legal professionals in Saudi Arabia towards arbitration and the new GTP law. Most of the published literature was focused on assessing the professionals' perception of the Saudi Arabian procurement and contract systems (Alanzi, 2021; Alofi et al., 2017a, 2018; Al-Yahya & Panuwatwanich, 2018).

Another need to conduct the study was to understand how the new GTP law influence administrative contracts. Although the contracts allow governments to access investment from international providers, the process is associated with disputes (Ceil, 2015). Understanding the influence of arbitration in settling disputes in administrative contracts was essential because the Kingdom spends approximately 28% to 38% of the government's public budget on procurement. According to the 2019 and 2020 budgets, Saudi Arabia spent approximately Saudi riyal (SAR) 300 billion annually, 13% of the Kingdom's gross domestic product, on government procurement (GOV.SA, 2021a).

Tendering is one of the fairest approaches of awarding government contracts, especially because it has been supported to be one of the most likely means to result in favorable outcomes due to the public money spent (Al-Yahya & Panuwatwanich, 2018). Thus, the dissertation had potential social implications. Conducting the study was anticipated to help understand whether arbitration as a dispute resolution approach can save time and cost, mitigating the adverse outcomes associated with litigation. The litigation process is costly and takes longer, which is a disadvantage, especially if the administrative contract was to provide essential goods or services. This chapter contains the background of the study, problem statement, purpose of the study, research questions, theoretical foundation, conceptual framework, nature of the study, definitions, assumptions, scope and delimitations, limitations, summary, and transition to the second chapter.

## Background of the Study

A government enters contracts on the public's behalf, which creates a significant difference between state agreements and others. An increase in the number of private organizations and individuals entering into legally binding agreements with the government has

supported the reforms in public or administrative contracts (Alanzi, 2021). The study was focused on understanding the legal professionals' perception of applying arbitration to settle disputes in administrative contracts under the new Saudi GTP law. The study's focus on Saudi's GTP law was supported by the lack of adequate literature on the topic and the limited understanding of the legal professionals' perception of the impact of arbitration on the time and cost of litigation, traditions, social values, and globalization in administrative contracts.

**Saudi Vision 2030 and Reforms**

Saudi Arabia has natural resources and cultural, geographical, social, and economic advantages that the Kingdom has leveraged to become one of the leading economies in the world (Saudi Vision 2030, 2019). In 2016, the Saudi Arabian government developed a strategic document to enhance the Kingdom's vibrance and economic prosperity. One of the Saudi Vision 2030 themes is to develop a transparent, effective, accountable, empowering, and high-performing government (Saudi Vision 2030, 2019). The strategic document that was developed to decrease the Kingdom's dependency on oil has resulted in policies and legal reforms (Moshashai et al., 2020). In addition, the reforms aimed at economic diversification and transitioning Saudi Arabia from a rentier state have included the reformulation of the public budgeting and financial management system (Moshashai et al., 2020).

In pursuit of becoming a knowledge-based economy, the Kingdom has increased its spending on education, innovation, human capital, and information communication technology (Nurunnabi, 2017). According to Saudi Arabia's electronic government procurement system, there were approximately 81,646 purchases and tenders in the first quarter of 2020 (GOV.SA, 2021b). In 2020, the total value of contracts and payment orders were more than 167 billion and 474 billion, respectively (GOV.SA, 2021b). Like Saudi Arabia, the United States (US)

government spends a significant amount on public procurement. For example, in 2017, federal contracts worth $655 billion were awarded by the US government (Hebous & Zimmermann, 2020).

The increased spending has proliferated the number of contracts between the Kingdom and international or local private organizations and individuals (Hebous & Zimmermann, 2020; Nurunnabi, 2017). In addition, a proliferation in administrative contracts has increased disputes. However, there are limited current studies on the impact of the reforms introduced to support Saudi's vision 2030. It was expected that conducting this qualitative study could increase an understanding of one of the reforms, the arbitration provision in the GTP law.

**Administrative Contracts, Arbitration, and Saudi Government Tenders and Procurement Law**

Saudi Arabia adheres to the administrative law for administrative contracts developed by France's legal system (Alanzi, 2021). Before 2012, arbitration in Saudi Arabia was guided by the Board of Grievances' 1982 Statute (Ceil, 2015). The 1982 Statute mandated the Board of Grievances to mitigate any dispute involving the Government or parastatals as parties to a contract. Contrastingly, on July 9, 2012, a new Arbitration Law 1443H (2012G) was enacted after the vide Royal Decree No. M/34 was passed. The 2012 arbitration law had been a signatory since 1994 and was enacted because of the increasing need for the Kingdom's laws to comply with regional, bilateral, and international agreements (Aldhafeeri, 2020).

Although administrative contracts were not defined in the 1982 or 2012 law, judicial jurisprudence can be applied. Thus, an administrative contract exists when one of the contracting parties is the government's administrative unit (Ceil, 2015). According to the Board's jurisprudence, the core distinction between administrative and non-administrative contracts is

that the former is established to serve the public's welfare and interest, which supersedes those of the other parties involved (Al-Jarbou, 2011).

In Saudi law, contracts are considered as administrative if (a) an administrative authority is one of the parties, (b) the contract is conducted in the public's interests, and the legally binding agreement contains clauses that are not in private law contracts (Alanzi, 2021; Al-Jarbou, 2011). When the Saudi Arabia legal system adopted the 2012 arbitration law, the goal was to instill new jurisprudence in arbitration by replacing the redundant 1983 statute. The reform was underpinned by the need for the Gulf countries to modernize their arbitral laws to increase the region's appeal to foreign businesses. However, the 2012 Arbitration law had some limitations, such as it did not comply with international standards, limiting the contracting parties' autonomy (Ceil, 2015).

The Saudi government has taken initiatives to modernize the Kingdom's laws and regulations to accommodate the increasing contracts with foreign and international corporations (Aldhafeeri, 2020, 2021). The GTP law has mandated the introduction of significant changes that affect contracting methods, processes, and principles (Alanzi, 2021; MOF, 2019). One of the contractual principles introduced is arbitration as a dispute resolution approach. Under Saudi's 2021 arbitration law, the alternative dispute resolution approach is allowed with permission from the Council of Ministers. Specifically, public authorities in the Kingdom are not authorized to engage in the arbitration to resolve administrative contract disputes, except in exceptional cases that the government decides based on the maximum welfare doctrine.

Conversely, the GTP law contains new provisions that allow government agencies to use arbitration as a dispute resolution approach. Arbitration is applied in agreements that exceed SAR 100 million. Unless the other party in an administrative contract is a foreigner, Saudi law

does not permit international arbitration agencies outside the Kingdom to conduct the process (Alanzi, 2021; MOF, 2019).

Assessing the published literature helped identify the lack of qualitative studies conducted to understand Saudi's legal professionals' perception about arbitration as a dispute resolution approach under the GTP law. The lack of literature on the topic created a gap in knowledge on how the arbitration provision in the GTP law impacts dispute resolution between the government and local or international private organizations or individuals. The study was needed to increase an understanding of the legal professionals' perception of the impact of the GTP law on the time and cost of litigation, Saudi traditions, social values, and globalization.

## Problem Statement

The research problem of focus was the limited understanding of Saudi Arabian legal professionals' perception of arbitration as a dispute resolution approach in administrative contracts under the GTP law. In the published literature, various researchers have supported arbitration as a suitable alternative dispute resolution approach in different scenarios and jurisdictions because of its advantages (Aldhafeeri, 2020, 2021; Faulkes, 2018; Noll, 2017; Portocarrero, 2020). The first advantage that supports arbitration as a suitable alternative dispute resolution approach is the simplicity and rapidity of the procedure. Arbitration is a simple and expeditious process because the parties involved usually determine the date when the decision should be issued, which is different from the judicial approach associated with complex and lengthy procedures, especially in administrative contracts (Aldhafeeri, 2021; Noll, 2017).

The second advantage is that arbitration is a cost-effective approach when compared to the judicial process (Aldhafeeri, 2020, 2021; Faulkes, 2018; Noll, 2017; Portocarrero, 2020). Third, arbitration is a suitable approach, particularly with the increasing globalization that has

resulted in a proliferation in administrative contracts between foreign parties. Arbitration helps support the parties' non-preference to judge each other, mitigating an exacerbation of the issue. Fourth, arbitration promotes confidentiality during dispute resolution that cannot be accorded by the judicial process (Aldhafeeri, 2020, 2021; Faulkes, 2018; Noll, 2017; Portocarrero, 2020).

Despite the advantages of arbitration, public authorities in Saudi Arabia are not allowed to engage in arbitration as an alternative dispute resolution approach in an administrative contract without the MOF's authorization (Alanzi, 2021). A reason for limiting the public authorities' participation in arbitration is that the administrative judiciary has certain jurisdiction to resolve disputes concordant with the administrative law. The limitation helps mitigate a scenario where arbitrators ignore the jurisdictions, resulting in a violation of common ideologies of the law. Another reason is that a foreign law might be implemented on a local problem during arbitration, affecting national sovereignty and violating the national jurisdiction (Alanzi, 2021).

The limitations imposed by the Saudi government on the extent that administrative contracts are subject to arbitration could limit foreign investment, decreasing economic development because the parties perceive that they are not adequately protected (Alanzi, 2021). Scholars who support the need for arbitration in international administrative contracts argue that the public authority has judicial immunity. Thus, arbitration provides a solution to the issues and protects foreign parties' investments and rights (Cabrera et al., 2016; Figueroa, 2018).

Saudi's vision 2030 supports' the Kingdoms initiative to transition from a rentier state to a knowledge-based economy has supported the revolution in legislation and laws to attract foreign investment (Alanzi, 2021; Aldhafeeri, 2020, 2021). Although reforms such as the 2012 arbitration law and GTP law have been enacted, the changes are not congruent with foreign investors' expectations because the state has an advantage in administrative contracts

(Aldhafeeri, 2021). Nonetheless, the changes seem to have had a positive impact because, in the fourth quarter of 2020, foreign direct investment (FDI) in the Kingdom increased by $1,871 million (Saudi Arabian Monetary Agency [SAMA], 2021). The foreign direct investment significantly impacts Saudi's economy because it improves the Kingdom's underdeveloped industrial sectors, promoting growth (BinSaeed, 2021).

Though Alanzi (2021) and Aldhafeeri (2021) have discussed arbitration, administrative contracts, and Saudi law, the publications are not based on primary data. Aldhafeeri (2020) conducted a primary study, but the researcher focused on the underrepresentation of women in international commercial arbitration from a Saudi law perspective. However, when this study was being conducted, there did not exist qualitative research assessing the perception of legal professionals in Saudi Arabia about arbitration as a dispute resolution approach under the GTP law. The study was anticipated to eliminate the significant gap in the current research literature, supporting the comprehensive understanding of arbitration under the GTP law in Saudi Arabia.

## Purpose of the Study

The 21st century's economic activities have increased the government's role in supporting the achievement of the public's interests (Alanzi, 2021). Arbitration as an alternative dispute resolution approach is essential, especially in Saudi Arabia, with the Kingdom's focus being to decrease its dependency on oil (Aldhafeeri, 2020, 2021; Nurunnabi, 2017). The modernization of arbitration in administrative contracts to ensure the practice is congruent with international trends is essential because it creates an environment suitable for investment, supporting the state's progression towards becoming a knowledge-based economy (Aldhafeeri, 2020). Before 2016, the FDI had been decreasing because of reducing oil prices and political factors. However, the trend started to reverse because of the ongoing economic diversification and reforms in the legal

system. Between 2018 and 2019, a 7% increase in FDI from $4,247 million to $4,562 million occurred (SAMA, 2021). Similarly, in the third quarter of 2020, FDI in the Kingdom increased by $1,034 million (SAMA, 2021). In 2019, Saudi Arabia was ranked as the 62nd on the World Bank's ease of doing business scale, which is an improvement from the previous 92nd position (World Bank, 2021).

Aldhafeeri (2021) argued that despite the experienced changes, there is a need for Saudi Arabia to modify the arbitration and GTP law to support the permissibility of alternative dispute resolution approaches in administrative contracts. Thus, the purpose of this qualitative case study was to understand the perception of legal professionals in Saudi Arabia towards arbitration as a dispute resolution approach in administrative contracts under the GTP Saudi law. Arbitration was generally defined as a dispute resolution approach in administrative contracts. Understanding the Saudi Arabian legal professionals' perception helped provide recommendations on the additional legal reforms required to facilitate arbitration in administrative contracts.

## Research Questions

Adequately formulated research questions are essential because they help assess existing uncertainties in focus areas (Ratan et al., 2019). The focus was the limited understanding of Saudi Arabian legal professionals' perception of arbitration as a dispute resolution approach in administrative contracts under the GTP law. In a qualitative study, the research questions begin with a *what* or *how* (Creswell & Creswell, 2018). When developing the research questions, the principal investigator (PI) ensured that each contained three core attributes (Ratan et al., 2019).

First, the PI ensured that the research questions were feasible and congruent with the study’s scope. Second, the PI made the research questions interesting by basing them on

arbitration, administrative contract, and Saudi law, which were concepts that contained intellectual and academic debates. Third, the research questions were founded on the study's purpose to understand the perception of legal professionals in Saudi Arabia towards arbitration as a dispute resolution approach in administrative contracts under the GTP law. Additionally, it was expected that the research questions helped collect adequate data to achieve the study's purpose, reducing the existing gap in knowledge and literature (Ratan et al., 2019).

Creswell and Creswell (2018) recommended that a qualitative study should be guided by one or two central questions and not more than five to seven sub-questions. Accordingly, the study was guided by the following central question and three sub-questions.

**Central Research Question:** What are Saudi Arabian legal professionals' perspectives of the need for arbitration in administrative contracts?

**Sub Question 1:** What is Saudi Arabian legal professionals' perception of the impact of the arbitration provision in the GTP law?

**Sub Question 2:** What issues do Saudi Arabian legal professionals believe could arise from the reforms to Saudi arbitration law?

**Sub Question 3:** What changes do Saudi Arabian legal professionals believe should be made to the arbitration GTP law?

## Theoretical Foundation

Luhmann's system theory guided the study. According to Luhmann, societies are divided into separated sub-systems and autopoietic (Mattheis, 2012). The subdivisions include the legal, political, economic, and educational systems that support actions. The theory's elements are communication, autopoiesis, differentiation, and structural couplings. There are numerous meaningful communications in social systems that help explain the changes in the law, political,

or economic system (Albert, 2019; Mattheis, 2012). The second element, autopoiesis, are self-contained and autonomous regimes that are based on concrete structures. The third element, differentiation, supports that a system is distinguished based on operations and functionality. Fourth, structural couplings are things that can be in one or two systems. For instance, the property is affected by legal and economic systems (Albert, 2019; Mattheis, 2012).

According to Luhmann, the legal system is a differentiated and autopoietic sub-system in the society that supports communication (Albert, 2019; Mattheis, 2012). The events are communicated in Acts based on the code of legal, illegal, right, or wrong. The codes support the meaningfulness of the law. The legal society is operationally self-determined and functionally differentiated. The legal system's differentiation is based on cognitive and normative expectations. Normative expectations are supported by legal norms and do not change (Albert, 2019; Mattheis, 2012).

Conversely, cognitive expectations change, supporting the legal system's ability to adapt to political and economic systems modifications. Luhmann posits that legal rules are based on the principle of variation. Thus, the law has unchangeable, unavailable, and invariant meaning and constitutes reliable constants beyond access. Also, the legal system is sufficiently variable, meaning that the structures are subject to change (Albert, 2019; Mattheis, 2012).

In the study, three assumptions of Luhmann's system theory were applicable (Albert, 2019; Mattheis, 2012). One assumption was that social systems are not stagnant structures because they contain multiple events that change. A second assumption was that legal rules are set by decisions that can be repealed. Conversely, the law is complex and can only be changed by modifying the existing order. The third assumption was that the legal system learns and reacts to the changing environment. The changes and adaptations are limited by operational and

normative closure to prevent the legal system's dissolution into the environment (Albert, 2019; Mattheis, 2012).

Applying the systems theory helped understand the factors that influenced arbitration law and administrative contracts in Saudi Arabia (Albert, 2019; Mattheis, 2012). Specifically, the theory underpinned in interpreting the Saudi legal professionals' responses on how arbitration law in administrative contracts has changed and adapted to the environment, systems, procedures, and criteria. The theory was selected because it explains how the law, political, or economic systems are interconnected and influenced by the change. The theory supports the argument that a body of law is based on the enacted or imperative and habitual or traditional elements. The imperative or enacted is the modern and predominant element. The habitual or traditional is the historical element that underpins the law's juristic development (Albert, 2019; Mattheis, 2012; Subrt, 2019).

## Nature of the Study

The study was conducted using a qualitative methodology and case study design. A qualitative methodology was selected for six reasons (Creswell & Creswell, 2018; Creswell & Poth, 2017). First, the methodology enabled the PI to collect data from Saudi Arabia legal professionals using a semi-structured interview protocol, underpinning the collection of adequate information to answer the research questions. Second, the qualitative methodology allowed the PI to be a core data collection instrument. Third, the methodology supported the purposefully participants selection technique to recruit respondents who have the knowledge and experience to provide accurate and insightful responses, adequate for answering the research questions (Creswell & Creswell, 2018; Creswell & Poth, 2017).

Fourth, a qualitative methodology was a suitable approach for the study because it allowed the use of inductive logic to assess the data for themes that can be applied to answer the research questions. Fifth, the approach enabled the PI to derive meaning from the participants' data and support the information with the published literature helping address the problem statement. Sixth, the non-numerical data collected using the approach is considered to be unique. The data was unique because the Saudi legal professionals provided their perception of arbitration to settle disputes in administrative contracts under the GTP Saudi law, supporting a comprehensive understanding of the problem (Creswell & Creswell, 2018; Creswell & Poth, 2017).

Quantitative and mixed-methods methodologies were not selected because the approaches were not concordant with the study's purpose and research questions (Creswell & Creswell, 2018; Creswell & Poth, 2017). Specifically, a qualitative methodology required collecting numerical data that are statistically analyzed to determine the causal impact of one variable on others. Thus, a quantitative methodology would only have been applicable if the purpose was to quantify the impact of arbitration of disputes in administrative contracts. A mixed-methods methodology was not selected because of its quantitative aspect. Also, the approach requires more time and resources that would have hindered the study's feasibility (Creswell & Creswell, 2018; Creswell & Poth, 2017).

A case study design was selected because of two reasons. First, the approach was suitable for gaining a comprehensive understanding of a phenomenon (Creswell & Poth, 2017; Rashid et al., 2019; Yin, 2017). It was expected that applying the approach would help gain an in-depth understanding of Saudi Arabia's legal professionals' perception of arbitration in settling disputes under the GTP law. Second, applying the approach would help collect data using a semi-

structured open-ended interview protocol. The PI purposefully recruited Saudi Arabian legal professionals who were interviewed individually. Purposefully participants selection helped select Saudi Arabian legal professionals who (a) understood the arbitration, administrative contracts, and the GTP law, (b) possessed five years of experience, (c) were knowledgeable in Saudi law, and (d) willing to participate in the study (Queiros et al., 2017).

Other research designs such as narrative, phenomenology, grounded theory, and ethnographic research approaches were not selected because they were not congruent with the study's purpose (Creswell & Poth, 2017). For instance, a narrative research design was not selected because the approach involves collecting stories about the individuals' lived experiences. The approach would only have been appropriate if the purpose was to understand the Saudi Arabian legal professionals' experiences with arbitration and the law. A phenomenological research approach was unsuitable for application in the study because it would involve deriving meaning from the participants' lived human experiences (Creswell & Poth, 2017). A grounded theory research approach was not selected because the design is more relevant if the purpose was to generate or discover a theory to a concept with limited understanding. Additionally, ethnographic research was not used because the design did not align with the study's purpose. An ethnographic approach was suitable for assessing shared patterns in a cultural-sharing cohort (Creswell & Poth, 2017).

The phenomenon investigated in the study was arbitration as an alternative dispute resolution approach in administrative contracts under GTP Saudi law. Applying a qualitative methodology and case study design was anticipated to support collecting data that would help understand Saudi Arabian legal professionals' perception of the arbitration-related reforms introduced in administrative contracts. In qualitative studies, the sample size is usually small

compared to the one used in quantitative and mixed-methods methodologies. Although there lacks consensus on the most suitable sample size, various leaders in qualitative methodology have provided recommendations. For example, Creswell and Creswell (2018) recommended a sample of six to eight respondents as adequate in a qualitative study where data are collected using interviews.

Additionally, the sample size selected was influenced by replication and data saturation (Yin, 2017). Thus, it was anticipated that a sample of 10 to 15 legal professionals would be involved in the study (Vasileiou et al., 2018). The respondents were required to sign an informed consent that showed their willingness to participate in the study and understanding of the activities involved.

Thematic analysis of the collected data was conducted on NVivo. NVivo, a Computer Assisted Qualitative Data Analysis Software (CAQDAS), aided the analysis (Maher et al., 2018). The software was used as a data management package to support the PI during the data analysis process instead of performing the activities without the CAQDAS because of four reasons. First, the CAQDAS was supported to expedite the thematic data analysis process and enhance accuracy (Maher et al., 2018; Robins & Eisen, 2017). Second, NVivo enabled the PI to analyze the 10 to 15 interview transcripts in one central project. Third, the software helped the PI visualize the data supporting the analysis. Fourth, NVivo was anticipated to enhance the rigor of the qualitative analysis process because enabled the PI to comprehensively assess the collected data (Maher et al., 2018).

## Definitions

*Administrative contract*: Also referred to as a government contract, it is an agreement where one party is a public authority, and it is related to public service (Alanzi, 2021). As held in

Case No. 281 of 1433 (Hijri), a contract is considered as administrative if (a) one of the parties is a public authority, (b) the performance of the contract is related to the public's benefit and interest, and (c) the public authority enters in the legally binding agreement as a powerful and sovereign entity (*Board of Grievances*, 2012). Additional attributes are that the agreement should contain a condition of an onerous clause, be categorized as an administrative contract, and it should be subject to the administrative judiciary authority when a dispute occurs (Alanzi, 2021).

*Arbitration*: The process is a private means for settling a dispute. The parties involved in a contract agree that one or several neutral individuals can decide after both sides have provided evidence and arguments on the contentious issue (American Bar Association, 2021).

*GTP law*: It is an administrative regulation enacted on December 1, 2018, by Saudi's MOF (MOF, 2019). The GTP that applies to the Kingdom's projects resulted in numerous reforms, one of which was supporting arbitration as a dispute resolution approach in administrative contracts. The reform supports that parties may agree to use arbitration to mitigate a dispute after receiving approval from the MOF in an administrative contract. The conditions are that arbitration is only applicable (a) in high-value contracts that exceed SAR 100 million, but the MOF can reduce the figure, (b) Saudi's local laws apply, (c) an agreement to use arbitration must be in the original contract, and (d) the dispute resolution can only be referred to an international arbitration organization located outside Saudi Arabia if one of the party is a foreigner (Alanzi, 2021; MOF, 2019).

## Assumptions

The study contained assumptions related to the methodology, design, and sample. The qualitative methodology is more subjective than the quantitative and mixed methods approach (Creswell & Creswell, 2018). The first assumption was that the purposively sampled participants

provided accurate and honest responses to the interview questions based on their knowledge and experience. A second assumption was that the case study design helped collect a descriptive record of the legal professionals' understanding of arbitration as a dispute resolution approach in administrative contracts under the GTP Saudi law. In qualitative studies, it is challenging to determine the finding's validity and reliability (Korstjens & Moser, 2018). Conversely, a qualitative researcher can enhance the findings' trustworthiness and methodological rigor. The third assumption is that performing member checking, transcription verification, audit trails, and providing detailed descriptions enhanced the study's trustworthiness (Korstjens & Moser, 2018).

A purposive participants selection technique helped researchers select participants congruent with the study's purpose, improving the rigor and trustworthiness of the results and data (Campbell et al., 2020). The fourth assumption was that the participants selection technique helped recruit adequate participants, supporting collecting sufficient responses to achieve data saturation. It was expected that collecting data up to saturation helped accurately respond to the research questions. The study was conducted using a self-developed interview protocol, was limited in terms of validity and reliability compared to an established instrument. The fifth assumption was that the experts selected to review the interview protocol helped develop a useful instrument, underpinning adequate data collection. It was anticipated that the collected data helped understand the perception of legal professionals in Saudi Arabia towards arbitration as a dispute resolution approach in administrative contracts under the GTP law.

## Scope and Delimitations

The study was focused on understanding the perception of legal professionals in Saudi Arabia towards arbitration as a dispute resolution approach in administrative contracts under the GTP Saudi law. The population of focus was legal professionals in the Kingdom because they

possess an adequate understanding of Saudi law, making them the most suitable individuals to respond to the research questions. Data were collected via Zoom and transcribed into Microsoft Word documents to support the thematic analysis process. The study findings were presented in themes and sub-themes supported by verbatim extracts from the participants' responses. The participants' recruitment process and data collection were anticipated to take two and three weeks, respectively. The thematic analysis was anticipated to be conducted in one week. Thus, in the study, (1) only legal professionals in Saudi Arabia were recruited, (2) the participants were sampled from different organizations and firms in the Kingdom, and (3) participants from other countries or states were not selected.

The qualitative study was based on two delimitations. The first delimitation was associated with the selected purposeful participants selection technique. Although purposefully participants selection participants were anticipated to help select the most appropriate participants, using other approaches would have resulted in better outcomes. For instance, using a probabilistic approach such as simple random participants selection would have helped eliminate any research bias (Sharma, 2017). However, the approach was not used because it would have hindered selecting a suitable sample, limiting data collection and achievement of the study purpose. The second delimitation was that arbitration as a dispute-settling approach in administrative contracts under GTP Saudi law could be understood by collecting data from other individuals such as professionals from organizations that are parties in the legally binding agreements. However, individuals from firms that are parties in administrative contracts were not sampled because of the 15-sample size constraint.

## Limitations

The first limitation was related to the qualitative methodology, specifically the approaches' generalizability, replicability, and subjectivity compared to other techniques (Creswell & Creswell, 2018). Although the methodology was suitable for gaining an in-depth understanding of a phenomenon, the findings are limited in generalizability, especially because of the small sample size used in the approach. The limitation was mitigated by collecting data up to the point of saturation. Another issue associated with the selected methodology was the approach's limited replicability. The issue was mitigated by providing a detailed description of the participants and the entire research process in the study. Though all research contains some limitations, the qualitative methodology is perceived to be more subjective than the quantitative and mixed methods approaches, specifically because the findings are presented in words or phrases that are difficult to verify. The issue was decreased by supporting the findings with credible literature and ensuring that the study was founded on Luhmann's systems theory.

The second limitation was the purposeful participants selection technique (Creswell & Creswell, 2018). The non-probabilistic participants selection technique was prone to researcher bias (Sharma, 2017). The limitation was decreased in the study using inclusion-exclusion criteria to ensure that the participants recruited possessed similar characteristics. The third limitation is that the PI had access to limited legal professionals. Specifically, it was anticipated that most of the respondents would be associates and lawyers. The limited range of legal professionals limited understanding the phenomenon of focus from a broad perspective.

## Summary and Transition

Saudi Arabia has made significant reforms to the legal system to become a knowledge-based economy. One significant change is the 2019 GTP law that allows governmental agencies

to use arbitration as a dispute resolution approach after receiving approval from the MOF. The research problem of focus was the limited understanding of Saudi Arabian legal professionals' perception of arbitration as a dispute resolution approach in administrative contracts under the GTP law. It was unknown how legal professionals in Saudi Arabia perceive arbitration, administrative contracts, and the changes to the GTP Saudi law. The purpose of this qualitative case study was to understand the perception of legal professionals in Saudi Arabia towards arbitration as a dispute resolution approach in administrative contracts under the GTP Saudi law. The research questions that were answered are (1) what are Saudi Arabian legal professionals' perspectives of the need for arbitration in administrative contracts? (2) What is Saudi Arabian legal professionals' perception of the impact of the arbitration provision in the GTP law? (3) What issues do Saudi Arabian legal professionals believe could arise from the reforms to Saudi arbitration law? (4) What changes do Saudi Arabian legal professionals believe should be made to the arbitration GTP law?

The study was founded on Luhmann's system theory, which helped understand Saudi's unique legal system. The project was qualitative and conducted using a case study design. The methodology and design were selected because they were concordant with the study's purpose and research questions. A purposeful participants selection technique was applied, which was helped recruit 15 participants. The sample selected was determined by data saturation. An interview protocol was used to collect data that was managed using NVivo. A thematic analysis of the collected data helped answer the research questions, achieving the study's purpose. The sampled participants and selected methodology supported the completion of the study, significantly impacting the practice, theory, and social change.

Chapter 2 contains a discussion on Luhmann's system theory and its applicability in the study. The second chapter also contains a detailed literature review on arbitration, administrative contracts, and GTP Saudi law. In Chapter 3, discussions on the research design, researcher's role, methodology, and data analysis plan were included. Chapter 4 contains the study findings. The final section, Chapter 5, contains an interpretation of the findings, limitations, implications, recommendations, and implications.

# Chapter 2: Literature Review

The research problem of focus in the study was the limited understanding of Saudi Arabian legal professionals' perception of arbitration as a dispute resolution approach in administrative contracts under the GTP law. The purpose of this case study was to understand the perception of legal professionals in Saudi Arabia towards arbitration as a dispute resolution approach in administrative contracts under the GTP Saudi law. The need to study the legal professionals' perception of the GTP Saudi law was supported by the lack of an understanding of the reform's impact and the issues that could arise as a result of the changes (Alanzi, 2021; Aldhafeeri, 2020, 2021). In current literature, researchers have supported the need for additional reforms to Saudi's arbitration law. Although the researchers support their arguments with credible literature, the authors did not collect qualitative or qualitative data to support their recommendations (Alanzi, 2021; Aldhafeeri, 2020, 2021). When this literature review was being conducted, no qualitative case study assessing the legal professionals' perception of arbitration in administrative contracts under the new GTP law had been conducted. The study was anticipated to advance scholarship by decreasing the gap in the literature.

This chapter contains four major sub-sections. The first subsection is the literature search that contains a discussion on the databases searched, keywords used, and the inclusion-exclusion criteria applied. In the second sub-section, the theoretical framework, a discussion on Luhmann's system theory relevance for application in the study was included. The third subsection is the literature review that contains a comprehensive discussion founded on published literature relevant to the study's purpose, scope, research question, and methodology. Fourth is a compelling summary of the second chapter and a transition to the subsequent section on research methodology.

## Literature Search Strategy

Developing a literature search strategy supports the consistent and structured identification of relevant and applicable published literature (Bramer et al., 2018). A search strategy was included to help the reader determine the quality, credibility, and methodology of the literature retrieved. Charles Sturt University (2021) assert that to come up with a literature search strategy, researchers are required to write down and define their study questions, identify and a have a record of key phrases, words, and terms, recognize keyword synonyms (Charles Sturt University, 2021). Scholars should also determine their research timeline, consider the kind of material to include, and identify credible and reliable sources of relevant information (Charles Sturt University (2021). The detailed and explicit description of the literature search underpins the replication of the process by other researchers (Vindrola-Padros & Johnson, 2020). Cooper et al. (2018) indicated that a comprehensive literature search should be conducted on at least three electronic databases. Thus, the databases searched are Science Direct, EBSCOHost, Hein Online, and Social Science Research Network. The databases were selected because they enable researchers to limit the articles yielded by year, apply Boolean operators helping expand the search, and access full-text articles. A search on Google Scholar was conducted to ensure that the study was exhaustive. Additionally, the principal investigator (PI) reviewed the reference lists of the retrieved articles and grey literature, specifically other dissertations, to ensure that the literature review was founded on adequate studies.

The literature search process involved retrieving keywords from the topic and research questions, identifying subject headings and controlled vocabulary, combining the search phrases using Boolean operator AND/OR, and refining the yielded literature using the inclusion-exclusion criteria. The keywords applied that helped broaden the results are *arbitration*,

*administrative contracts, arbitration law, Saudi government tenders and procurement law, GTP law, Saudi Vision 2030, reforms,* and *Saudi law*. The keywords were combined using Boolean operators AND/OR to formulate search phrases. The search phrases applied included *arbitration* AND *administrative contracts, arbitration* AND *administrative contracts* OR *arbitration law* AND *Saudi law, arbitration* AND *administrative contracts* AND *Saudi government tenders and procurement law* OR *GTP law*, and *arbitration* AND *Saudi Vision 2030* AND *reforms.*

The iterative process involved searching for literature on each of the four databases and Google Scholar using each of the search phrases at a time. For instance, on Science Direct, four different searches were conducted using each phrase. The process was repeated on EBSCOHost, Hein Online, and Social Science Research Network. The need to include grey literature such as doctorate dissertations was supported by the limited articles on arbitration as a dispute resolution approach in administrative contracts under Saudi GTP law. Articles were considered eligible for inclusion in the literature review if they were (a) written in English or Arabic, (b) published between 2015 and 2021, (c) peer-reviewed, and (d) relevant to the topic, purpose, and methodology of the study. The studies that fulfilled the inclusion criteria were excluded if (a) not available in full text, (b) duplicates of the yielded studies, and (c) published in predatory journals. The literature search was conducted between July 5, 2021, and July 9, 2021.

## Theoretical Foundation

Luhmann's system theory guided the study (Albert, 2019; Mattheis, 2012; Niklas, 1970, 2018). Niklas (1970) indicated that society is divided into systems and autopoietic in the seminal source. The different systems include legal, educational, political, and economic. In this study, the focus was the theory's legal system. The theorist perceived the legal system as a differentiated autopoietic within the society (Niklas, 1970, 2018). Contrary to the common belief

among sociologists or lawyers that the core elements of the system are organizations, legal norms, and actors, Luhmann's perceive communication as the basic unit (Mattheis, 2012; Niklas, 1970, 2018).

In a legal system that is reproducing and self-establishing, events are communicated in acts and events that can change the structures. Niklas (1970, 2018) defines the law as a social system structure based on normative behavioral expectations generalization. Laws make behavioral expectations compulsory and contain counterfactual attributes that foster validity. The legal rule's validity is not subject to doubt irrespective of whether expectations are fulfilled or not. The system contains right/wrong and legal/illegal codes that underpin the creation of the law. Laws can only be implemented practically if concordant programming for its application is available. If law-specified programming is not available, the codes are meaningless and insignificant (Mattheis, 2012; Niklas, 1970, 2018).

The first, Luhmann's system theory's major proposition is that the law is respected because it is founded on specific rules and competent decisions (Mattheis, 2012; Niklas, 1970, 2018). Thus, the proposition applies because Sharia principles underpin Saudi law. A second proposition is that law is complex, meaning that modifications can only be made by changing the existing order. For instance, the Royal Decree M/128 on 13/11/1440H (July 16, 2019) modified the old GTP law that the Royal Decree M/58 implemented on 4/9/1427H (September 27, 2006) (MOF, 2019). The modification resulted in a 56-year-old practice change that limited public authorities from seeking recourse using arbitration (Amit, 2020; MOF, 2019). The third proposition is that the law learns, adapts, reacts to the changing environment, but only according to the procedures and specific criteria to prevent the legal system's dissolution. In Saudi Arabia, reforms such as the arbitration and GTP law have occurred as a response to Saudi's Vision 2030

and aim for the Kingdom to transition from a rentier state to a knowledge-based economy (Mattheis, 2012; Niklas, 1970, 2018).

Rapp and Corral-Granados (2021) and Valentinov (2017) applied Luhmann's system theory to provide their study with a theoretical underpinning. Similarly, the theory was applied to provide this study an academic foundation and guide the analysis of arbitration as an alternative dispute resolution approach. In their study, Chengfeng (2021) applied Luhmann's system theory to explain the legal system. The researchers indicated that that law can be dynamic and is often influenced by the political system. In the study, the theory was applied to understand how political and economic factors have influenced reforms in the legal system.

Luhmann's system theory was chosen because of two reasons. First, Luhmann is considered the most prominent system theorist by different researchers (Mahdavi & Bagheri, 2019; Subrt, 2019). Second, the theory is suitable for explaining how Saudi's legal system is influenced by economic and political factors (Chengfeng, 2021). Additionally, the third sub-question relates to Luhmann's system theory. The query focuses on understanding Saudi Arabian legal professionals' perception of the arbitration and GTP law that ought to be conducted. The sub-question advances the theory because it is anticipated to help understand how Saudi's arbitration and GTP law should adapt and change to the existing environment.

## Literature Review

A literature review is essential because it helps researchers provide foundational knowledge on a topic, identify inconsistencies that support the need for additional research, and justify the essence to study a phenomenon further based on the context of published evidence (Snyder, 2019). Any researcher can use the literature review to join the conversation as it provides context, informs methodology, identifies innovation, minimizes duplicative studies, and

ensures that scholars meet professional standards (Maggio et al., 2016). Also, comprehending the current literature promotes scholarship by contributing to five of the six standards used in evaluating academic work (Maggio et al., 2016). The review specifically assists scholars to articulate clear goals, show adequate preparation evidence, chose appropriate techniques, communicate relevant findings, and participate in reflective critique (Maggio et al., 2016). Applying the inclusion-exclusion criteria and reviewing the yielded articles' titles and abstracts helped retrieve 47 studies. The studies were included in the literature review section. The articles contain existing knowledge that was discussed in 13 themes, namely (a) the legal system of Saudi Arabia; (b) the legislative authority; (c) the history of arbitration; (d) Saudi procurement system; (e) the Saudi judicial system; (f) Saudi Vision 2030, legal system reforms, and public-private partnerships; (g) justification for resorting to arbitration; administrative contracts in the international context; (h) administrative contracts in Saudi Arabia; (i) arbitration in administrative contracts in the international context; (j) arbitration in Saudi Arabia; (k) Saudi government tenders and procurement law and system and (l) arbitration and conflict resolution.

## The Legal System of Saudi Arabia

The Kingdom of Saudi Arabia (KSA) is grounded on the monarchy, and therefore, the Council of Ministers has legislative and executive authorities (Aleisa, 2016; Alrashidi, 2017). In Saudi Arabia, Kings have the final powers concerning the legislative, judicial, and executive authorities (Alrashidi, 2017). The following are discussions of the legal system sources and the nature of the executive as well as the legislative authorities.

### Saudi Legal System Foundations

The source of the legal system of the KSA is Islamic Sharia Law (Aleisa, 2016). Sharia, which is regarded as the basic legislation source, controls all legal procedure aspects (Aleisa,

2016; Alrashidi, 2017). This is grounded on the Basic Law (1992)'s Article one, which explains the foundation of the KSA constitution as "Sunnah" (Traditions) of His Messenger (PBUH) and the Book of God [Quran] (Aleisa, 2016). Also, the Basic Law's Article seven emphasizes that the KSA governance derives its power from the Book of God and the Sunnar His Messenger (Aleisa, 2016). The "Hanafi", "Hanbali", "Maliki", and "Shafi'I" are the four key "Sunni" schools of the Islamic Sharia Law (Aleisa, 2016; Alrashidi, 2017). However, because the schools differ in terms of the place and time of the founding, each one has its own Sharia Law interpretation (Aleisa, 2016). In case a controversy arises concerning a certain opinion among the schools, the Saudi Courts apply the "Hanbali" as the core school interpretation (Aleisa, 2016; Alrashidi, 2017). When compared to other schools, the "Hanbali" is regarded as the conservative one.

**The Islamic Sharia Law**

The Islamic Sharia Law depends on two types of sources namely primary and secondary sources (Aleisa, 2016; Alrashidi, 2017). Sunna and the Quran are the primary sources, while the secondary ones are many including Consensus "Ijmaa", juristic preference "Istihsan", analogy "Qiyas", local custom "Urf", and presumption of continuity "Istis'hab" (Aleisa, 2016; Alrashidi, 2017). KSA courts issue case judgments grounded on sources of Islamic Sharia and their interpretations (Alrashidi, 2017). The sources are utilized by lawyers, judges, and legislatures to support their arguments, decisions, and regulations (Aleisa, 2016; Alrashidi, 2017). One challenge that can be encountered is the huge legal problems of diversity and the corresponding different opinions number (Aleisa, 2016). Also, sometimes there is a lack of agreement on the dominant opinion (Aleisa, 2016; Alrashidi, 2017).

## KSA Regulations

Legislatures of KSA have used the word "Nizam" whose meaning is regulation, rather than the term "Qanun" which means an act or law in other Arab nations (Aleisa, 2016; Alrashidi, 2017). The reason for this is that it is only God who can legislate hence, in Saudi Arabia the term Qanun is not used (Aleisa, 2016; Alrashidi, 2017). Instead of Qanun, which represents temporal or secular law and is, therefore, forbidden by the Sharia, KSA employs the term nizam which means regulation (Aleisa, 2016). As for the creation of KSA legal instruments, Ansari explains that it is done via regulations, ministerial decisions, Royal Decrees, codes, explanatory and circular memoranda, rules, lists, procedures, and documents (Aleisa, 2016; Alrashidi, 2017). Also, in Saudi Arabia, the King has the power to issue laws through the utilization of Royal Orders (Alrashidi, 2017). Through such a King legislative authority numerous constitutional or basic laws had been issued including the 1992 basic law of governance, the Council of Ministers law, provinces law, and the succession commission law. The French legal system influences that of KSA (Alrashidi, 2017).

## The Legislative Authority

To ensure that law in KSA does not contravene the Islamic Sharia law provisions as a public policy and constitution Act, the procedure of enacting legislation will be authorized by the Senior Scholars Council "Ulama" and the consultative Council (Aleisa, 2016). The legislative authority includes the "ulama"- council of senior scholars and the consultative council (Aleisa, 2016). The following are discussions of the two councils.

### "Ulama": The Council of Senior Scholars (Majlis hay'at kibar al-ulama)

The council of senior schools' last formation was in 2008 on King AbdullaBin Abdul-Aziz's orders as an aspect of various judicial and legislative reforms (Aleisa, 2016). The

members of the council were from the four schools “mathahib” of Sunni Islam (Aleisa, 2016). The council led to more flexibility in KSA legal system, and therefore affecting arbitration law development (Aleisa, 2016; Alrashidi, 2017). The council of senior scholars is regarded as the uppermost religious authority (Aleisa, 2016). The council has the official authority in terms of Fatwa in KSA (Aleisa, 2016; Alrashidi, 2017). According to Article 45 of the Basic Law, the source for religious legal opinion (Fatwa) in the KSA will be the Book of God and the Sunnah his Messenger (PBUH)( Aleisa, 2016). The legislation shall set forth the jurisdiction and hierarchy of the senior scholars board Ulama and the religious research department Fatwa (Aleisa, 2016).

**The Consultative Council (Majlis AL-Shura)**

The Consultative Council is one section of the process of legislation, in addition to the King of Saudi Arabia and the Council of ministers, as emphasized in the Governance Basic Law, Article 67 (Aleisa, 2016; Alrashidi, 2017). The Shura Council has 150 members appointed by the King to serve for four years (Aleisa, 2016). Women in the Consultative Council occupy 30 seats (Aleisa, 2016). According to the Shura Council Law Article 18, laws, concessions, global conventions, and treaties shall be modified and issued by Royal Decrees after the Shura Council reviews them (Aleisa, 2016). According to Abbadi (2018) and Aleisa (2016), the Consultative Council shall review any Act enacted by Royal Decree, and worldwide treaties and conventions. Also, the Council has the power to suggest concerning new laws grounded on the community needs (Aleisa, 2016).

**The Executive Authority**

In KSA, the executive authority relies on different bodies, which include the King, quasi-public agencies, Council of ministers, public agencies, and ministries (Aleisa, 2016). The King

controls both executive and legislative authorities, and he is the Council of Ministers Chairman (Abbadi, 2018; Aleisa, 2016). The Council of Ministers has the responsibility of discussing modifications or draft laws. The two roles of the Council of Ministers are the executive and legislative functions. In KSA, the council has direct executive authority (Aleisa, 2016). Ministers Council exercises jurisdictive power via the Council of Ministers Bureau of Experts (Aleisa, 2016). From the previous description, one can realize an overlap between Saudi Arabias executive and legislature authorities.

**The History of Arbitration**

The youth (1932-2021) of the modern legal system of Saudi Arabia implies that practice and laws are still evolving. According to Abbadi (2018), Arab elderly wise people and chiefs with more than 65 years old used to administer tribal justice before the country's oil resources enabled the country to occupy its present prominent position in the contemporary global economy. Arbitration was strengthened by the arrival of Islam as the preferred adjudication method (Abbadi, 2018). The present legal developments make arbitration a significant feature in both investments and business environment (Abbadi, 2018).

**Arbitration in Pre-Islam Era**

Arabian life's primitive nature before the Islam emergence meant that the kinds of adjudication that were developed by tribal Arabs did not have organized judicial power (Abbadi, 2018). During the pre-Islamic era, Arabs had the freedom of applying contemporary arbitration terminology when choosing arbiters (Abbadi, 2018). Arbitrators had the authority to refuse dispute settlement and accept others grounded on their personal facts' interpretations, irrespective of the reasons for their decisions (Abbadi, 2018). Oaths that were taken when arbitral proceedings were going on had particular significance in dispute settlement because

participants frequently swore them in the name of Hobal, the most important idol, which was kept in the Qaaba (Abbadi, 2018). The idea of endless freedom, the elimination of regulations and rules from the lives of persons, was profound in the culture of pre-Islamic Arabic (Abbadi, 2018).

Ancient Saudi Arabia did not have governments to regulate their affairs (Abbadi, 2018). Arbitration grounded on agreements of the parties was, therefore, the best and maybe, apart from bloodshed, the only method of settling individual and tribal differences (Abbadi, 2018). In the pre-Islamic period, arbitration was a voluntary process that commenced only if there was mutual consent from the parties to arbitrate the conflict and agree on a particular person to serve as an arbiter (Abbadi, 2018). Hakam's or arbitrators were appointed when parties were unable to resolve differences concerning property, torts, or succession by negotiation (Abbadi, 2018). Any male with high personal qualities, favorable reputation in the society, and who came from a family well-known for dispute settlement competence qualified to ba Hakam (Abbadi, 2018). Even though the decisions of the arbitrator were final, the enforcement was not. Abbadi (2018) adds that the security that was submitted by the parties at the outset ensured that the loser would conform to the decisions of the arbitrator. Also, arbitration was used as a technique for deciding literature competition winners in the pre-Islamic era (Abbadi, 2018).

**Arbitration in the Islamic Era**

After Islam emergence, arbitration remained the common method of dispute resolution. The people such as Prophet Muhammad used arbitration to settle differences (Abbadi, 2018). The arbitration Prophet Muhammad carried out, before his prophecy, between the Quraysh tribe branches during the Kaaba renovation played a significant role in Islam history and the Shariah development (Abbadi, 2018). The disagreement was about the right to reinsert and place the

Black Stone in the Kaaba once it is renovated (Abbadi, 2018). Through prophet Muhamad's successful arbitration of such dispute, a potential war between the Quraysh tribes was prevented (Abbadi, 2018). Both parties agreed that the first individual to enter the Mosque through a specific door would adjudicate the conflict about which tribe was supposed to place the Stone (Abbadi, 2018). Because Prophet Muhamad entered from that door, he arbitrated the dispute and achieved his mandate by putting a cloak beneath the stone and placing the Black Stone with the assistance of the representatives (Abbadi, 2018).

After immigrating to Madinah, the Prophet also introduced the signing of the first treaty among the Muslim community in history (Abbadi, 2018). The Charter or Treaty of Medina required Muslims to resolve disputes with other residents via arbitration. Also, the Prophet arbitrated a conflict between the Bani Qurayzah and Arab tribes in which the parties decided to submit their differences to arbitration (Abbadi, 2018). The arbitration of family matters is allowed by the Quran. Arbitration played a significant role in the Islamic era politics; the most well-known adjudication proceedings in the history of Islamic occurred in 658 to solve a political difference between the Fourth Caliph and the Governor of Syria (Abbadi, 2018). The arbitration emerged from a written contract that contained provisions about the arbitrators' nomination, applicable laws, a deadline for rendering awards, and reference terms (Abbadi, 2018).

In the Arab world, arbitration has a rich and long history as a mechanism of dispute resolution. Parties have utilized the method to solve commercial, family, and political differences (Abbadi, 2018). Arbitration served as a technique for resolving and adjudicating issues where there is no centralized and established justice system (Abbadi, 2018). Arbitration remains an effective strategy for resolving disputes through the Islamic period to Arabs contemporary life (Abbadi, 2018).

**Saudi Procurement System**

A study was conducted on 207 engineering projects in the construction sector to investigate the Saudi procurement system (Mosley & Bubshait, 2017). In the cost analysis, the researchers compared the design-bid-build (DBB) and the design-build (DE). The authors confirmed that Saudi's DB was more cost-effective compared to the DBB system and was stable in terms of altering orders in pricing and selection procurement procedures (Mosley & Bubshait, 2017). In another study that was conducted in 2010 to discuss the function of DBB value management in the Saudi Arabia's government sector criticized DBB because of the project stakeholders' separation and disintegration (Alanzi, 2021). For the optimal strategic decision and verification of the viewpoints of the project parties as per the work objectives, the authors proposed the use of value management. Therefore, value management would assist in the projects and their parties' requirements. Islam et al. (2017) state that Saudi Arabia is shifting to a public-private partnership (PPP) in sustainable procurement per its goals of sustainable development. The researchers investigated the obstacles at the organization level for a smooth PPP partnership in the procurement processes. Islam et al. (2017) discovered that in both private and public organizations, the procedures of procurement were not sustainable. According to the authors, the key reasons for such unsustainable procedures included top managements behavior and organizational structures. Another study was carried out in 2014 to determine the effects of after-sale services and benchmarking on the contractors' success in selling supplies in Saudi Arabia (Alanzi, 2021). The researchers found that sales can be enhanced by benchmarking after-sales services and benchmarking procurement plans (Alanzi, 2021).

**The Saudi Judicial System**

There are three sections in the Saudi judicial system. These sections include sharia courts, the administrative courts of the board of grievances, and quasi-judicial committees. To non-practitioners, the KSA judicial system is unclear and complex because of the number of quasi-judicial committees. Also, what is practiced differs from Saudi legal texts. In addition, there is a probability of jurisdiction disputes among the quasi-judicial committees and the courts. Since 1981, the KSA Government has issued regulations for the recognition of quasi-judicial committees in terms of the unification of judiciary tasks and commercial courts. However, the impact of such Law is not readily apparent, making the non-specialists perceive the judicial system as ambiguous. To clarify such ambiguity among non-spoecialists, it is essential to specify the position of the KSA judicial system. According to Basic Law Article 46, the judiciary is supposed to be an independent power and there should be no authority over judges in their roles apart from the power of Islamic Sharia.

**Sharia Courts**

The initial law that enabled the Sharia Courts establishment was in 1975. The Act was through the legislation of the judiciary that was issued on 12 July 1975 by Royal Decree Number M/78and which was changed in 1981 for the judiciary tasks unification. Though, the step is perceived as the first contemporary administrative organization of the KSA Courts. The judiciary new Act that contained 85 Articles was issued in 2007 by Royal Decree Number M/78 on 1/10. 2007. According to the Article of the judicial legislation, the Sharia Courts components include the Supreme Court, the Courts of Appeal, the first instance Courts. The first instance Courts consist of the labor, general, commercial, penal criminal, and family personal status Courts.

**Board of Grievances**

Board of grievances (BOG) in terms of the new legislation is assumed to be insignificant in Saudi Arabia's arbitration process. The new legislation of the BOG was issued with twenty-six articles by Royal Decree Number M/78 of 1st October 2007. The law supersedes the previous Act, which was issued by Royal Decree Number M/51 on 10th May 1982. According to article one of the BOG Law, BOG is a self-governing administrative judicial body that reports directly to the king and its seat is in the city of Riyadh. According to article eight of the BOG Law, the following are the BOG components:

**The Administrative Courts**

The new law institutes at least one administrative court. According to Aleisa (2016), the administrative courts have the authority to decide cases such as the following:

Cases associated with rights offered in military and civil service as well as retirement laws for government employees and staff in entities that have independent corporate personalities (Aleisa**,** 2016).

- Cases to revoke ultimate administrative decisions that are issued by people concerned, if the appeal is grounded on lack of jurisdiction, fault in cause or form, mistakes in interpretation or application thereof, regulation and laws violation, power abuse including disciplinary decisions (Aleisa, 2016). The authority's rejection or refusal to make the required choices as per the regulations and laws will be considered administrative decisions **(**Aleisa, 2016).
- Tort cases started by individuals who are concerned against actions or decisions of the administrative authority (Aleisa, 2016).

- Cases that are related to agreements to which one party is the administrative authority **(**Aleisa, 2016).
- Requests for the arbitral awards and foreign judgments execution **(**Aleisa, 2016).
- Disciplinary cases that are filed by the partners with competent authority **(**Aleisa, 2016).

**The Administrative Courts of Appeal**

Apart from revealing and considering the decision objections issued by the administrative courts, the courts of appeal make judgment after hearing the litigants as per the legal procedures **(**Aleisa, 2016). Now, in the 21st century, if the arbitration subject matter is associated with international trade or commercial relationships, the court of appeal in the BOG should have the authority to hear nullity actions **(**Aleisa, 2016). As a rule, in respect of article eight, the power to hear claims or statements related to business arbitration is given to the BOG, however, this section of the Act does not have clarity and requires elaboration **(**Aleisa, 2016).

**The Supreme Administrative Court**

The seat of the supreme court is Riyadh City, and the naming of the Chief Judge is performed by Royal Order **(**Aleisa, 2016). The supreme administrative court reviews and considers the decision objections issued by the Courts of Appeal concerning cases such as the following:

- Violation of laws or Sharia provisions that are not consistent therewith or a mistake in interpretation or application thereof, including breach of a decision made after a judgment offered by the Supreme Court **(**Aleisa, 2016).
- Jurisdiction conflict among the BOG courts **(**Aleisa, 2016).
- Being provided by courts that are not competent **(**Aleisa, 2016).

- Deciding a conflict in contradiction with a previous court decision that was offered in connection with the complainants **(**Aleisa, 2016).
- Being provided by courts that are not constituted as per the Law. A mistake describing or characterizing the happening **(**Aleisa, 2016).

**Saudi Vision 2030, Legal System Reforms, and Public-Private Partnerships**

The objective of Saudi Vision 2030 is to improve KSA's business environment by changing the laws concerning (Alanzi, 2021). Also, digital services are offered to boost bureaucracy speed and raise government contracting transparency (Alanzi, 2021). In addition, there are government services whose goal is to privatize to enhance the diversification concept in the KSA in sectors such as healthcare, municipal services, energy, housing, finance, and education. Alanzi (2021) also argues that the mining industry is under consideration to enhance private sector investments in creating excellence centers, exploration, spending in infrastructure, and licensing extraction. In Saudi Arabia, international partnerships are encouraged to boost the national companies' productivity (Alanzi, 2021). Also, offices of project management are introduced in government agencies to implement the chief delivery unit (Alanzi, 2021). According to Saudi Vision 2030, the government of KSA favors small and medium enterprises (SMEs) for public projects bidding and procurement of goods and services, especially in the domain of boosting productive families and small businesses (Alanzi, 2021). A unique criterion is utilized in legal relation to differentiating between private and government contracts. Therefore, it appears pertinent to examine the procurement system of KSA.

Alanzi (2021) argues that Saudi authorities prefer the public tendering to be done by the local privately-owned firms to promote the PPP in Government Tenders and Procurement Law (GTPL). Also, the public limited businesses that are listed with Tadawal are favored over the rest

to encourage local private organizations' role in the process of tendering. In addition, KSA SMEs are also chosen to promote SMEs in PPPs. Al-Yahya and Panuwatwanich (2018) discovered that the Saudi bidding system minimizes the cost of tender application to encourage small business involvement in public procurement. In KSA, no concessions are offered to private enterprises in public projects that are provided in local bids only (Al-Yahya & Panuwatwanich, 2018). The GTPL of Saudi is geared to control favoritism and corruption in all tendering processes (Alanzi, 2021). In case any contracting regulation is violated, the tender is canceled with no right of appeal. Also, corruption and fraudulent-related activities in all contracting processes can disqualify the supplier and the agreement would be canceled (Alanzi, 2021). For the tendering processes to be free from malpractice, each procedure is conducted on the portal, ensuring equal vendor treatment, corruption control, and the competition doctrine (Alanzi, 2021).

In the existing literature, researchers have attributed the legal system reforms occurring in Saudi Arabia to the Kingdom's Vision 2030 (Aldhafeeri, 2021; Alfatta, 2019; Biygautane et al., 2018; Sabry, 2015). Aldhafeeri (2020) acknowledged that Saudi's legislators had adopted significant initiatives to ensure that the Kingdom's legal system is concurrent with international standards. Conversely, the court's interpretation of Saudi law without a comprehensive overview affects some practices such as arbitration and administrative contracts (Aldhafeeri, 2020). Alfatta (2019) assessed the impact of Sharia on FDI and arbitration in Saudi Arabia regarding Vision 2030. The researchers aimed to assess whether the Saudi government can develop an equilibrium between promoting the Kingdom's Islamic heritage and protecting foreign investors according to Vision 2030. A review of existing literature helped the researchers identify that the government has not achieved a balance because of rigid interpretation of Sharia by anti-international and traditionalist doctrine scholars who oppose independent reasoning. The researchers applied a

mixed-methods approach that helped identify that Sharia's conservative and rigid interpretation is an obstacle in gaining the needed FDI to achieve Saudi's Vision 2030, which supports the need for a flexible interpretation to facilitate arbitration. The flexibility could be more advantageous to Saudi Arabia because it would enable the most editable solutions to mitigate disputes (Alfatta, 2019).

In their recently published piece of literature, Aldhafeeri (2021) posits that the prevalent changes in Saudi's laws and legislation are congruent with the Kingdom's vision 2030. The reforms in the laws are to attract foreign investment as the Kingdom strives to become a knowledge-based economy. Aldhafeeri (2021) assessed the extent to which administrative contracts are affected by arbitration. In the study, the researcher used evidence from other published literature to support their arguments. The researcher concluded that although Saudi Arabia has made some significant reforms that align with Vision 2030, it is challenging to use arbitration as an alternative dispute resolution approach in administrative contracts. Aldhafeeri (2021) recommended the need for additional reforms, specifically to the law governing administrative contracts. The core aim of the Saudi Vision 2030 is to promote the Kingdom's economic growth, which requires partnerships between public and private companies. Den Hartog et al. (2017) supported the statement by indicating that public-private partnerships are one of the strategies that the Saudi government can adopt to mitigate the budget deficits caused by the decline in oil prices. Conversely, legislation issues hider the process.

Biygautane et al. (2018) and Sabry (2015) advanced the above findings by conducting a detailed assessment of the suitability of public-private partnerships in promoting Saudi Vision 2030. Biygautane et al. (2018) assessed the issues that hinder public-private partnerships, derailing the Kingdom's transition to a knowledge-based economy. Biygautane et al. (2018)

assessed the issues in Saudi Arabia, Qatar, and Kuwait. The authors provide a concise explanation of how the decline in oil prices has resulted in fiscal deficits in the rentier state. The researchers indicated that public and private partnerships are suitable strategic policy options that Saudi Arabia, Qatar, and Kuwait can adopt to fiscal deficits. Conversely, the authors argue that various administrative, governance, and regulatory-related issues hider the partnerships in the Gulf Cooperate Council (GCC) nations. For example, similar to other GCC nations such as Kuwait, the King appoints Sharia-trained judges who maintain Islamic jurisdiction within the legal system (Biygautane et al., 2018).

Saudi's Arbitration law favors litigation because public authorities cannot use it as an alternative dispute resolution approach until approval is received from the MOF (Biygautane et al., 2018). Also, the Board of Grievances that oversees the arbitration process introduces bureaucracy, affecting dispute resolution (Biygautane et al., 2018). The authors assessed three different countries, which provides adequate evidence on the impact of laws on dispute resolution. Although Biygautane et al. (2018) based their arguments on secondary data, the GCC states' recommendation to mitigate the prevalent economic, institutional, bureaucratic, and cultural constraints that hinder partnerships between public and private organizations is congruent with those of other researchers. Specifically, in a study, Sabry (2015) supported the need for nations to mitigate any bureaucratic inefficiencies and regulatory limitations that hinder partnerships between parastatals and private entities. In the study, the researcher empirically and theoretically assessed the factors that affect public-private partnerships that are a core determinant of economic growth, supporting the reliability of the findings. It was found that the regulatory quality, independence, and bureaucratic efficacy significantly influence agreements between private and public entities. Biygautane et al.'s (2018) and Sabry's (2015) findings are

congruent because the researchers emphasize the need for reforms to mitigate the issues that hinder public-private agreements.

After conducting a comprehensive literature review, no primary study was identified assessing Saudi Arabian legal professionals' perception of the association between the legal reforms and Saudi's Vision 2030. In the identified literature, the researchers support the need for Saudi Arabia and other GCC countries to adopt reforms that mitigate the economic, institutional, bureaucratic, and cultural constraint's that result in administrative, governance, and regulatory-related barriers (Biygautane et al., 2018; Sabry, 2015). The lack of reforms with the overall reduction in oil prices could limit foreign investments, exacerbating the states' fiscal benefits (Biygautane et al., 2018). In addition to mitigating the aforementioned issues, a need for flexibility in Sharia has been supported to facilitate arbitration (Alfatta, 2019). Therefore, there is a need to conduct the project to decrease the gap in the literature by providing primary data on how Saudi's Vision 2030 has influenced legal reforms in the Kingdom. When this literature review was being conducted, no qualitative study was identified assessing legal professionals' perception of the association between legal system reforms and Saudi Vision 2030.

**Justifications for Resorting to Arbitration**

Arbitration is associated with the benefits that it can bring to the parties involved (Aldhafeeri, 2021; Noll, 2017). First, the method of resolving disputes is distinguished by its speed of procedures and simplicity because the litigation parties usually determine the procedures as well as the issuance dates (Aldhafeeri, 2021). This is contrary to the judiciary, which is surrounded by complex and long processes that result in the prolongation of the differences if they are related to administrative contracts, which verify the practical fact the courts take long to make (Noll, 2017). Secondly, for some, arbitration is associated with low

costs compared to the charges litigants incur when they seek help from the judiciary because it requires payment of fees. However, others believe that arbitration is expensive than the national judiciary as it involves paying arbiters exorbitant fees (Aldhafeeri 2020). The technique of dispute resolution offers confidentiality in settling differences, which is essential in global trade, as big organizations try to maintain the technologies and information confidentiality (Aldhafeeri, 2020; Noll, 2017).

**Justification for Arbitration in Administrative Contracts**

An issue to consider in terms of the administrative contracts is whether the agreements are subject to arbitration (Aldhafeeri, 2021). To respond to such a question, it is important to state that there was a substantial debate about the issue among scholars. However, like other topics with controversies, an argument of arbitration in administrative contracts has two diverse sides, those agreeing that others are against (Aldhafeeri, 2020). The justifications for choosing arbitration in IACs can be confirmed by the foreign investors' fear of the state's compliance with judicial immunity (Aldhafeeri, 2021). The KSA, with its independence and sovereignty, gives it an equal chance with other countries. Arbitration prevents the dangers that arise from the state's conformance to its judicial immunity in case the foreign party in the contract raises its claim against the country, resulting in wasting the rights of investors in respect of such immunity. Therefore, foreign investors try to include their agreements with the public and state authority's arbitration clause to safeguard their investments and rights (Aleisa, 2016). Similarly, a lack of a judicial body with international authority to resolve conflicts in administrative contracts has heightened the justifications for the overseas parties in agreements to abide by choosing arbitration as another option of dispute resolution (Alanzi, 2021). Also, to achieve the countries' desire to inspire investment and get foreign capital required for funding economic development,

sufficient protection has to be offered to secure the overseas parties' investments (Aldhafeeri, 2020).

**Administrative Contracts in the International Context**

Abu Helw and Ezeldin (2020) conducted a comparative assessment of administrative contracts and the respective laws in Middle Eastern and European nations. The researchers predominantly focused on arbitration and termination. A comparison of administrative contracts in the United Kingdom, Kuwait, Saudi Arabia, France, and Egypt was conducted. In the article, the researchers indicated that administrative contracts vary. For example, in France, procurement contracts are subject to general administrative law principles and regulations in the public contract act. Administrative contracts in France are not subject to civil law's general rules. The distinctiveness creates advantages for the public authorities over the private contract parties. In the United Kingdom, the Public Contracts Regulations (PCR) 2015 is based on the European Public Sector Directive 2014/24/EU (Abu Helw & Ezeldin, 2020).

The researchers explained that administrative law in Kuwait exists through legislation and judicial decisions (Abu Helw & Ezeldin, 2020). The distinction between public-private and private contracts considered by Kuwait's domestic courts allows the administration to enjoy privileges in terms of the public provision contracts. Like Kuwait, Egypt's administrative courts have complete jurisdiction to solve disputes arising from contrast involving one or more parties are public authorities, the legal agreement is related to a public utility, and the indenture contains special provisions (Abu Helw & Ezeldin, 2020). Egypt adopted a new Public Contract Law No. 182 in 2018, replacing the 1998 Bids and Tender Law No. 89 enacted in 1998. The new Public Contract Law aims to increase the transparency of the bidding process, enhance equitable execution of contracts, foster innovation, and create an environment for small and medium-sized

organizations to flourish, congruent with Saudi's 2019 GTP law. Abu Helw and Ezeldin (2020) posit that there is a need to mitigate the weaknesses in Egyptian law in terms of arbitration.

In a different study from Abu Helw and Ezeldin (2020), Wontner et al. (2020) conducted qualitative-based research to assess the issues that could hinder implementing a sustainable public procurement policy in Wales. The policy's purpose was to ensure that the local community experiences positive economic and social outcomes whenever public money is spent on services, works, and goods. Data were collected using focus groups and interviews from public sector suppliers and buyers, which helped retrieve in-depth information on the topic of study. The researchers also applied the resource dependency theory, providing the study with a scholarly underpinning. Wontner et al. (2020) identified that although public procurement policy is associated with improved social and economic outcomes, it results in challenges for public organizations. The challenges include competing government policies, varying procurement objectives, and contending demands. Wontner et al. (2020) recommended the need for effective communication during the creation of administrative contracts. The findings support Luhmann's system theory concept that supports the importance of communication in the sub-systems (Albert, 2019; Mattheis, 2012; Niklas, 1970, 2018).

Abu Helw and Ezeldin (2020) provide a comprehensive comparison of administrative laws in different countries. However, the limited availability of primary studies on the concept limits the comprehensive understanding of how legal professionals perceive administrative contracts. Abu Helw and Ezeldin (2020) supported the need for additional research on administrative contracts to help understand the facets that should be amended to promote balanced, equitable, and fair agreements. Only one qualitative methodology-based research study was identified, which supports the need for additional literature to understand the concept of

administrative contracts (Wontner et al., 2020). There is a need for governments to improve the legal systems to eliminate the weaknesses that hinder efficacy. Additional primary research is needed to mitigate the gap in the literature.

Mosley and Bubshait's (2019) empirical analysis compared the DBB and DB in the international contracts' context in Saudi Arabia's construction industry. According to Mosley and Bubshait (2019), DB put together the project design and construction functions in one contract, while DBB split it into at least one contract. In their study, the researchers discovered that DB is superior to the DBB when testing the procurement methods effects (Mosley & Bubshait, 2019). Most agreements in foreign investments are multilateral or bilateral and relate to commercial activities (Chaisse et al., 2017). In developing countries, overseas contracts are hindered by social and economic development due to such arrangements. Alanzi (2021), therefore, recommends putting into consideration such barriers in the process of international administrative contracts and public bidding. The international administrative contract (IAC) may comprise the legal systems of at least one country, and therefore, it requires arbitration (Alanzi, 2021). In the case of IAC, arbitration is permitted due to its distinctive features.

**Administrative Contracts in Saudi Arabia**

Researchers in published literature have discussed how the Kingdom has made reforms to laws that guide administrative contracts (Abu Helw & Ezeldin, 2020; Alanzi, 2021; El-Adaway et al., 201). Saudi's legal system is based on an Islamic foundation that supports the Kingdom's commitment to promote administrative justice and enhance equity under contract law, consistent with Sharia (Abu Helw & Ezeldin, 2020). In Saudi Arabia, the 1982 statute did not define administrative contracts (Abu Helw & Ezeldin, 2020). However, the statute's explanatory note and the Board of Grievances' jurisprudence provide the differences between administrative and

non-administrative contracts. The difference is that administrative contracts aim is to promote public welfare and interest. Also, the public interests supersede that of the other party. Non-administrative contracts are focused differently on private interests. As a result of the lack of a specific and concise definition of the administrative contract and standards, the Board of Grievances distinguishes other countries such as France and Egypt (Abu Helw & Ezeldin, 2020). Though Abu Helw and Ezeldin (2020) provide a comprehensive comparison of administrative contracts in European and Middle East countries, the information is based on secondary data published in articles that contain weaknesses of their own.

In a different study, El-Adaway et al. (2018) conducted a detailed analysis of administrative contracts in Saudi Arabia and the United States. The researchers argued that international construction is associated with contractual and cultural perils that occur as a result of the differences in the legal and social outlooks. The perils often result in disputes, making it essential for the contracting parties to understand the law that governs administrative contracts. El-Adaway et al. (2018) conducted a comparative assessment of Saudi's public works contract and the United States Federal Acquisition Regulation (FAR). The researcher found that the administration of a merger contract significantly increases contractual risks. In a similar study, Alanzi (2021) assessed Saudi's procurement system in local and international administrative contracts. The authors explained that administrative law underpins government contracts and the procurement system. Alanzi (2021) posits that Saudi's GTP law is comprehensive, organized, and contains all essential jurisdiction concepts associated with administrative contracts.

Before the legal reforms, the lack of a functional arbitration system in the Kingdom created a challenge for international investors. Ashmawi et al. (2018) assessed Saudi's administrative contracts for peril sharing by assessing the contractors' and owners' proposals and

perceptions. In the quantitative study involving 20 contractors and 22 owners, data were collected using a 70-item survey questionnaire. Even though the researchers used a different methodology from the qualitative approach applied in this study, the author's findings are congruent with the scope. The authors identified that the law places more burden on the contractors. It was identified that the contractors have 52 risks, while the owners have nine. Unbalanced peril sharing increases the risk of disputes and claims. Ashmawi et al. (2018) recommended the need for Saudi Arabia's MOF to compare unified contracts for public works (UCPW) with internationally accepted standards in other parts of the world to facilitate modifications and foster equitable risk-sharing decreasing disputes and claims.

Abu Helw and Ezeldin (2020), Alanzi (2021), and Ashmawi et al. (2018) provide an understanding of the arbitration law in Saudi Arabia. Conversely, there is limited literature conducted using a qualitative methodology assessing legal professionals' perception of administrative law and its impact on the Kingdom. As a result, there was a need to conduct the study to avail literature that could be used to understand arbitration law in Saudi Arabia from the legal professionals' perspective.

**Arbitration in Administrative Contracts in the International Context**

In France, public authorities had been limited from using arbitration as a dispute resolution approach from 1803 to 1957 (Abu Helw & Ezeldin, 2020). A policy shift occurred in 1957, and courts started accepting arbitration in administrative contracts, specifically if an international party is involved. The French Court of Cassation posits that arbitration should not be prohibited in disputes involving public administration and state if the issues are associated with international relations. Conversely, not-withstanding the changes, in the case of *Institut National de la Sante et de la Recherche Medicale (INSERM) v. Fondation Letten F Saugstad*, it

was identified that arbitration awards involving public-private bodies should be subject to administrative laws (Abu Helw & Ezeldin, 2020).

In the United Kingdom, the collapse of the non-arbitrability doctrine increased arbitration's role in contracts involving the public authorities (Abu Helw & Ezeldin, 2020). Through recourse to arbitration to mitigate disputes between a private entity and public authority is prevalent, the English law does not differentiate between public-private and private arbitrations. The 1996 Arbitration Act requires English courts to use a noninterventionist strategy. Thus, the court only has a role in the dispute resolution process after the arbitral tribunal has issued an award. Consequently, a party may challenge the award rendered by the arbitration tribunal based on significant irregularities associated with the proceedings, award, tribunal, or question of law. An example of a case is a dispute involving the Secretary of State of the Home Department and Raytheon Systems Limited. In 2010, the Home Office terminated the contract enacted in 2007 based on delays in the process. Raytheon commenced arbitration on the basis that the termination was unlawful and resulted in significant damages. After the process, Raytheon was awarded approximately £228 million. The award raised concerns for the British government, and the Home Office challenged the award based on irregularities. The High Court determined that the dispute should be referred to a different panel of arbitrators (Abu Helw & Ezeldin, 2020).

Different from France and the United Kingdom, but like Saudi Arabia, Kuwait's Cabinet prohibits parastatals, ministries, and government agencies from using arbitration as a dispute resolution approach in contracts with legal persons and individuals (Abu Helw & Ezeldin, 2020). Decision No. 11/88, issued on Merch 13, 1988, mandates that all administrative disputes should be settled by Kuwait courts where the state's laws apply. Conversely, Law No. 11 of 1995 was

adopted to support arbitration and encourage foreign investment. Egypt's new Public Contracts Law No. 182 differs from that adopted in France, the United Kingdom, and Kuwait because the state allows disputes in administrative contracts to be settled through arbitration or litigation, based on the conditions included in the contract. Conversely, like Saudi Arabia, Article 1-2 of the Egyptian Arbitration Law No. 27 of 1994 recognizes that adopting arbitration as a dispute resolution approach requires approval from the official in charge or minister. Article 1-2 aims to help create an equilibrium between the arbitration agreement and enhance the public's interest (Abu Helw & Ezeldin, 2020).

In a different article, Tooly et al. (2021) conducted a comparative study of Iraqi's arbitration law. It was identified that Iraqi law has some deficiencies in regulating international arbitration. The deficiency was that the law did not regulate international arbitration provisions. Tooly et al. (2021) recommended the need to codify the country's international legal legislation associated with administrative contracts. Also, the researcher's emphasized to need to amend the 1928 Foreign Judgments Execution Law No. (30) to incorporate arbitration awards. The need for Iraqi to join the New York and Washington Conventions was supported to facilitate the modernization of the country's international arbitration law. The development of a comprehensive Iraqi arbitration law could help the country update its legislation, ensuring that the legal system is congruent with the Arab and international world (Tooly et al., 2021)

Similar to Tooly et al. (2021), Wahab and bin Omar (2020) conducted a comprehensive analysis. The difference is that the latter researchers focused only on Iraqi, while the former assessed Saudi Arabia's and Malaysia's arbitration systems. The researchers selected the countries because they are both anticipated to experience significant economic development in the private and public sectors, increasing the probability of disputes that ought to be mitigated

timely and effectively. In addition, both Saudi's and Malaysian arbitration law systems are based on the United Nations Commission on International Trade Law (UNCITRAL) model law. Applying an analytical approach helped the researchers identify that arbitration laws in Saudi Arabia and Malaysia acknowledge international control decisions. Conversely, Wahab and bin Omar (2020) recommended additional research focused on the arbitration procedures to increase an understanding of the process. Also, the researchers acknowledged the need for both countries to create lists of arbitrators, categorized according to the disputes that each can handle and their competencies in law and Sharia (Wahab & bin Omar, 2020).

In the assessed literature, it has been supported that the increased international administrative contracts have resulted in the need for alternative dispute resolution approaches such as arbitration (Abu Helw & Ezeldin, 2020; Tooly et al., 2021; Wahab & bin Omar, 2020). Globally, arbitration is a preferred alternative dispute resolution approach to litigation because it offers businesses and investors access to justice. Therefore, arbitration is a suitable approach, especially with increasing court cases, litigation proceedings technical obscurity, and proceedings lengthiness. Conversely, assessing published literature helped identify a lack of consensus on the application of arbitration in administrative contracts (Abu Helw & Ezeldin, 2020; Tooly et al., 2021; Wahab & bin Omar, 2020). Also, there is limited current primary literature on arbitration, which supports the need for additional research.

**Arbitration in Saudi Arabia**

Arbitration in Saudi Arabia has undergone five critical stages that relate to the five important legislation pieces (Aleisa**,** 2016). The Acts include the 1931 Law of Commercial Court, the 1969 Labour and Labourers Law, the 1980 Chamber of Commerce and Industry Law,

the 1983 Sadi Arbitration Law, and the 2012 New Saudi Arbitration Law (Aleisa**,** 2016). The following are the explanations of these important stages of arbitration in KSA.

**The First Stage: The Commercial Court Law**

The initial phase of arbitration in Saudi Arabia was in 1931, through the Commercial Court Law in articles 493 to 497(Aleisa**,** 2016). The five articles have fulfilled important KSA Government needs in dealing with foreign oil organizations. The first phase is regarded as ad hoc business or commercial arbitration (Aleisa**,** 2016). Subsequently, the famous "Saudi Arabia Government versus Arabian American Oil Co. (ARAMCO)" is considered the first arbitration application in Saudi Arabia (Aleisa**,** 2016). According to the ARAMCO case, KSA's position in relation to the governments capacity to resort to arbitration has been altered (Aleisa**,** 2016). In the ARAMCO case, the values of Sharia Law were not given any consideration by the arbitration tribunal because they did not have the necessary knowledge of Sharia Law and its commercial transactions principles known as "Fiqh al-Muamalat" (Aleisa**,** 2016). As a result, the Saudi Government started having doubts concerning international arbitration. During the initial stage, it was believed that the international arbitration process was a beneficial tool that favored overseas firms (Aleisa**,** 2016). Consequently, KSA Government adopted a position about arbitration. The position became ostensible through the Council of Ministers Resolution's Royal Decree Number M/58 in 1963(Aleisa**,** 2016). The Royal Decree stipulated that government bodies and their agencies shall not use arbitration to resolve their disputes unless they obtain approval from the Council of Ministers President (Aleisa**,** 2016). Such attitude is portrayed in the old Saudi Arbitration Law (SAL) 1983, its rules 1985, and the new SAL 2012 (Aleisa**,** 2016).

**The Second Stage: The 1969 Labor and Laborers Law**

The second phase was through the 1969 labor and laborers Law (Aleisa**,** 2016). The Labor Laws Article 183 regulated labour arbitration (Aleisa**,** 2016). The legislation stated that in every case, the parties in conflict, by common agreement, can appoint one or more arbitrators for each of them to resolve the dispute, instead of the committees (Aleisa**,** 2016).

**The Third Stage: The 1980 Chamber of Commerce and Industry Law**

Article five (h) of the legislation provided that the chambers of industry and commerce have the competence in matters such as taking verdicts about industrial and commercial differences through arbitration (Aleisa**,** 2016). However, this is possible if the disputing parties decide to render their case to the chamber (Aleisa**,** 2016). The law was the initial attempt to develop institutional arbitration in KSA and under the Saudi Commercial Chambers (Aleisa**,** 2016).

**The Fourth Stage: The 1983 Saudi Arbitration Law**

The first three stages consider the developmental phases and appearance of arbitration in KSA with no adjudication law (Aleisa**,** 2016). The stage began in 1983 after the issue of the first SAL (Aleisa**,** 2016). The SAL of 1983 had 25 articles and the publication of its implementation rules was done in 1985 (Aleisa**,** 2016). The rules contained 48 articles for describing and providing information about the Law (Aleisa**,** 2016). The 1983 legislation received much criticism, mostly about the issue of the arbitration methods effectiveness and the arbitral awards' enforcement in KSA (Aleisa**,** 2016).

**The Fifth Stage: The 2012 New Saudi Arbitration Law**

After the KSA Government joined the World Trade Organization (WTO), the need to modernize the country's system to keep pace with other contemporary legal systems in the globe

increased (Aleisa**,** 2016). Arbitration Law is among the areas that require reforms (Aleisa**,** 2016). As a result, Saudi Arabia lawmakers have tried to introduce new arbitration legislation by improving and reviewing the SAL 1983 to modify it so that it can meet the needs of disagreeing parties irrespective of whether they are international or domestic (Aleisa**,** 2016). The new SAL of 2012 applies a contemporary approach to Sharia law and international practice harmonization (Aleisa**,** 2016). The Consultative Council, "MajlisAl-Shura"approved the new SAL on 15th January 2012 (Aleisa**,** 2016). The new law, which was published on 8th June 2012, contains 58 Articles, and is mostly grounded on UNCITRAL Model Law (Aleisa**,** 2016).

Abbadi (2018), Abu Helw and Ezeldin (2020), Aldhafeeri (2021), and Alanzi (2021) confirm that arbitration practices and related law in Saudi Arabia have undergone significant reforms since 1963. Precisely, arbitration in Saudi Arabia is based on the Arbitration Law of 2012, replacing the Board of Grievances' Statute of 1982 (Abu Helw & Ezeldin, 2020). The Arbitration Law of 2012 was created to provide the Kingdom's arbitration with new jurisprudence congruent with the GCC countries' initiative to reform the alternative dispute resolution approach and maximize its impact in contracts involving the public authorities and a foreign entity. Although Saudi Arabia based its arbitration law on the UNCITRAL model law, modifications were made to ensure that the reform did not violate Sharia. Thus, arbitration is an acceptable dispute resolution approach. However, the law contains clauses and provisions that provide the public authority with an advantage, resulting in authoritarianism (Abu Helw & Ezeldin, 2020).

Badawi (2017) interviewed academic lawyers, arbitrators, and judiciary members to assess their perception of Saudi's arbitration law. The need to conduct the study was supported by the different interpretations of the Arbitration law that exist, specifically because it conforms

with the principles of Sharia. The varying interpretations can be attributed to the different schools of legal philosophy. In the study, the interviewed individuals indicated that they prefer traditional dispute resolution approaches and are reluctant to an international organization in administrative contracts to use arbitration. Badawi (2017) recommended that willingness to adopt the arbitration law would increase if an international arbitration center was established and Sharia law was codified to reduce the divergence in interpretations.

Similarly, Abbadi (2018) assessed arbitration in Saudi Arabia, with a unique focus on how the Kingdom has incorporated international standards into court practices and local laws. The researchers also assessed how Saudi's social values and traditions had influenced the arbitration practices and law in the Kingdom. The researcher did not collect any primary data in the study but based their arguments on published literature. The literature used was credible, and the researcher included direct quotes from legal articles to underpin the discussions' accuracy. Abbadi (2018) found that Saudi law treats arbitration claims, whether subjective or objective, favorably. The court ought to develop an equilibrium between domestic law and promote the parties' autonomy involved in the arbitration. The Kingdom's social values significantly influence Saudi's law and traditions, making it essential for increased advances in arbitration practices and laws (Abbadi, 2018). In addition, Altawyan (2018) acknowledged that Saudi Arabia had taken significant initiatives towards modernizing the law and making the Kingdom a suitable place for doing business without contravening the Islamic faith and heritage. The researchers added that when negotiating international contracts, the parties should consider the governing law because it could help prevent issues that could arise during arbitration (Altawyan, 2018).

In their earlier works, Altawyan (2017) had explained the importance for arbitration parties to consider the governing law when negotiating carefully. The selected law could result in challenges that hinder the process, making it indispensable for foreign investors to be familiar with the laws and legislation in Muslim countries such as Saudi Arabia. In another study, Alanzi (2021) assessed the arbitrators' views and roles in administrative contract disputes involving international parties. The researchers assessed published literature and found that arbitration is indispensable in international administrative contract disputes because of the variance in legal systems. Conversely, arbitration in Saudi Arabia is restricted because of national sovereignty reasons. Therefore, Alanzi (2021) recommended the need for arbitration in international administrative contracts to be compulsory. The researcher's recommendation is based on a comprehensive assessment of the advantages and disadvantages of arbitration as a dispute resolution approach in administrative contracts (Alanzi, 2021). The great significance of arbitration in encouraging and promoting the appropriate investment environment in the KSA has made legislators make key steps towards modernizing this form of dispute resolution provisions in line with the updated international trends (Aldhafeeri 2020). A Saudi legislator revised the regulation that was issued in 1983, replacing it with the 2012 new arbitration law. The new arbitration act along with its implantation law came as a response to the legislative and economic developments in the KSA, especially after assenting to the WTO. Also, Saudi Arabia worked to revise various legal systems and substitute them with improved regulations, which fit with the country's new crucial era (Aleisa, 2016). According to Article 10 of the new Saudi Arbitration Law that was issued in 2012, government agencies might not opt for arbitration to solve disputes with others unless there is approval from the Prime Minister (Miller et al., 2019). In literature, it has been discussed those foreign investors in Saudi Arabia experience challenges

using arbitration as a dispute resolution approach in the Kingdom despite the modifications to the law (Abu Helw & Ezeldin, 2020). The challenges arise because Saudi's arbitration law is based on the UNICITRAL model law but enacted under Sharia law, which results in limitations. Arbitration law's limited autonomy resulting from the closure requiring that the MOF must approve the process is well understood and discussed in the literature (Abu Helw & Ezeldin, 2020). Conversely, there is limited understanding of the legal professionals' perception of the arbitration reforms in Saudi Arabia. It is well understood that arbitration is important in international administrative contracts because of the variance in the legal systems, despite its impact on national sovereignty.

However, no qualitative study was identified assessing the legal professionals' beliefs on whether there is a need for additional reforms to the arbitration law. Additionally, the scarcity of literature on Saudi court cases makes it challenging to determine if the courts might consider some statutory claims as arbitrary (Abbadi, 2018). Although Badawi (2017) assessed how the 2012 arbitration law is perceived by arbitrators, academicians, and the Saudi Arabian judiciary, the study is grey literature. Specifically, the study is a doctorate thesis, which does not contain similar credibility to a journal article. No study was conducted assessing the perception of Saudi Arabian legal professionals about the arbitration law, especially as an article under the 2019 GTP law, which made it important to conduct the qualitative study to decrease the gap in the literature and advance the practice.

**Saudi Government Tenders and Procurement Law and System**

In Saudi Arabia, issues about the inefficacy of the procurement system have been reported (Alofi & Alhammadi, 2015; Alofi et al., 2017; Pi, 2021). Alofi and Alhammadi (2015) based their study on the problem that approximately 70% of Saudi Arabia's public projects were

delayed, attributed to the Kingdom's procurement system. Assessing the data collected from 157 engineers, 33 consultants, 28 architects, 13 academicians, nine owners, and five contractors helped the researchers identify that the professionals believe that the government should upgrade the procurement system to improve efficiency. Alofi et al. (2017) advanced Alofi and Alhammadi's (2015) findings by conducting a survey involving 1,396 buyers, engineers, contractors, scholars, consultants, and architects to assess their perception of Saudi Arabia's procurement system. The researchers' purpose was to validate the claims that Saudi's procurement system is ineffective. Alofi et al. (2017) found that Saudi's procurement system was associated with risks that negatively affected projects and needed to be improved. In a different study, Islam et al. (2017) conducted an empirical investigation to assess the sustainability of Saudi Arabia's procurement practices in public and private organizations. Data were collected using structured questionnaire surveys with 202 senior procurement managers. Multiple and multivariate regression techniques were applied, which helped identify that the procurement procedures in the private and public organizations are unsustainable, specifically because of the firm's structure (Islam et al., 2017).

Alofi et al. (2018) conducted a study in response to the identified issues in the public procurement system. Data collected from participants with more than 25 years of experience helped the researchers develop recommendations of the changes that should be made to the procurement system. The recommended process included adopting a new procedure that involves requesting proposals, vendors selection, illustration, and execution. Alofi et al. (2018) indicated that the changes could be applied to mitigate the delays and losses associated with the procurement system. Congruent to Alofi et al. (2017, 2018), Bahaddad et al. (2018) supported that Saudi Arabia should adopt an e-procurement system. The recommendation was based on the

data collected using quantitative surveys involving 381 participants. The authors argued that e-procurement is an efficient and effective approach to perform public purchases. Al-Yahya and Panuwatwanich (2018) supported the findings in the studies mentioned above by indicating that the increasing complexity of the procurement process supports the need for e-tendering. The researchers used 52 questionnaires and conducted 10 interviews and a focus group. The data collected helped the researchers develop an e-tendering model to improve the efficacy of the government contracts (Al-Yahya & Panuwatwanich, 2018).

Alofi et al. (2017, 2018), Al-Yahya and Panuwatwanich (2018), and Bahaddad et al. (2018) arguments justify why Saudi Arabia made reforms to the GTP law and adopted an e-procurement system. In Saudi Arabia, the Unified Procurement Agency (UPA) is responsible for strategic procurement in the Kingdom. The process is governed by the GTP law (MOF, 2019). Mosley and Bubshait (2017) assessed project performance in Saudi Arabia. The researchers' purpose was to increase an understanding of design-build (DB) and design-bid-build (DBB). A cost analysis of the two systems by analyzing data from 207 engineering projects helped the researchers identify that DB is more cost-effective than the DBB systems. Similarly, in their recent study, Mosley and Bubshait (2019) compared DB and DBB procurement methods in Saudi Arabia. The researchers collected objective and subjective performance indicators from 292 projects in Saudi Arabia. The objective data collected included time, cost, and order rate. The subjective data were management, loss prevention, and workmanship. Analyzing the data helped the researchers identify that change order rate and cost growth were lower in DB projects (Mosley & Bubshait, 2019).

In their study, Pi (2021) assessed the concept of favoritism and corruption in public procurement. The researcher developed a model assessing two scenarios involving a government

agency. In the first scenario, the contract was issued to a low-cost firm. In the second, the agreement was with a high-cost organization. After performing comparative analysis, the researcher indicated a trade-off between cost and efficacy (Pi, 2021). In another study, Alanzi (2021) assessed Saudi's procurement system in local and international administrative contracts. In addition to basing their arguments on current literature, the researchers developed a strength, weaknesses, opportunity, and threats (SWOT) analysis of the procurement system to assess the administrative contract legal and executory efficacies.

According to the SWOT analysis, the strengths include well-developed information technology (IT) infrastructure that supports transparency in the process of procurement, and e-procurement and e-auction systems that minimize the cost and enhance transparency. Also, Saudi's procurement system is a unified procurement agency (UPA) participation in improving feasibility, decreasing project cost, and ensuring the pre-qualification of contractors. Fair competition in the process of bidding ensures equality, fairness, and qualified contractors in tendering. Another strength associated with Saudi's procurement system is lesser corruption chances due to regulations of contract termination at any stage because of identification of any corruption-related or illegal activities. In addition, UPA ensures unified procedures of procurement. The weaknesses of the KSA procurement system include lack of competition when direct purchases are made, decreased legal control in case of IAC due to overseas legislation system and local skilled professionals' shortage. Another weakness is that arbitration in an IAC reduces national sovereignty and weakens the local legal enforcement. Also, local contractors' low investment capacity makes it difficult for them to win big contracts. According to Alanzi (2021), the opportunities of the KSA procurement system include the Arabic language that enables the local bidders to understand the information related to the procurement and bidding

process and a complaint system, which ensures there is transparency in contract awarding. Also, an equal project-related information distribution through the portal ensures fair competition in the procurement process. The other opportunities are the encouragement of SMEs to participate in procurement, therefore, offering support to both local small and medium-sized enterprises and preferring domestic listed companies, hence promoting the local business environment. According to Alanzi (2021), the threats of the KSA procurement system include inflation that lengthens the gap between the actual and projected budget of any project. Small contractors experience a threat of heavy penalties when the projects are not executed (Alanzi, 2021). Also, local contractors face foreign competition from overseas parties. Alanzi (2021) also argues that fear of project cancelation in case of malpractice is a threat to Saudi's procurement system.

Aldhafeeri (2021) discovered that the new GTPL encourages foreign investment and promotes economic development by preventing abuse of power, stimulating equality, and increasing transparency (Aldhafeeri 2020). One of the objectives of the GTPL is to ensure effective management and allocation of the monetary resources of the KSA. Also, the law seeks to promote the country's economy by prioritizing local SMEs in the bidding procedure and providing them with various advantages (Miller et al. 2019). However, concerning the administrative contracts, the new GTPL went further by specifying more requirements for subjecting the administrative contracts to arbitration. The laws of the KSA are applied to the dispute's subject matter and accepting arbitration with international panels outside the country is not permissible (Alrashidi 2017). Therefore, it can be concluded that the investors from overseas sought arbitration law, new GTPL, and the reforms failed to achieve what the foreign investors hoped and sought. KSA maintains upper hand in administrative contracts that will have a significant impact on the confidence of the investors. Based on the assessed literature, there is

adequate evidence supporting why Saudi Arabia adopted the GTP law and e-procurement system. Conversely, there is limited qualitative evidence on the legal professionals' perception of the changes. Thus, there was a need to conduct the study to understand Saudi Arabian legal professionals' perception of the impact of the arbitration provision in the GTP law and comprehend the issues that could arise from the reforms.

**Arbitration in the Conflict Resolution**

Arbitration has been adequately supported in the published literature as an effective alternative conflict resolution approach (Balzer & Schneider, 2021). In their study, Balzer and Schneider (2021) indicated that arbitration as a conflict resolution strategy is not only an optimal approach to achieve settlement but also avoids costly antagonistic hearing. However, because Saudi Arabia is ruled by Islamic law, which derives its premise on *Sunnah, ijmah, qiyas,* and the Holy Qu'ran limits the application of arbitration (Hassan, 2020). Generally, commercial activities, such as government contracts are affected by laws decreed by the Saudi Council of Ministers. Notably, the enacted administrative regulation, for instance, those related to arbitration, supplement and conform to Shari'a (Hassan, 2020). Moreover, in Saudi Arabia, there has been a comprehensive revolution in legislation and laws to attract foreign investment (Aldhafeeri, 2021). Conversely, the application of arbitration in conflict resolution is problematic because although investors are in search of a fair judicial environment, the Saudi government seeks to have an advantage if disputes emerge.

Although arbitration can result in effective, efficient, confidential, and timely conflict resolution, the application of the approach is limited (Aldhafeeri, 2020, 2021; Faulkes, 2018; Hassan, 2020; Noll, 2017; Portocarrero, 2020). Arbitration as a conflict resolution approach supports a non-adversarial process and creates an opportunity to mitigate the challenges

associated with formal dispute resolution techniques such as litigation. Consequently, consistent amendments are needed to arbitration, and procurement laws should be implemented, supporting the dispute resolution approach when conflict arises (Aldhafeeri, 2021; Hassan, 2020). Arbitration, conflict resolution, and administrative contracts are essential constructs in Saudi law that need consistent assessment to ensure their congruence with the nation's needs and the evolving legal environment.

## Summary

According to Luhmann's system theory, which guided the study, the society is split into systems and autopoietic in the seminal source. In this study, Luhmann's system theory was applied to offer the research and academic foundation as well as guide the analysis of arbitration as an alternative dispute resolution method. There were two main reasons for choosing Luhmann's system theory. First, Luhmann is regarded as the most prominent system theorist by different scholars and researchers. Second, Luhmann's system theory was suitable for explaining how political and economic factors influence the legal system of Saudi Arabia. Also, the third sub-question of the study related to Luhmann's system theory. The focus of the query was on understanding Saudi Arabian legal professionals' perception of the arbitration and GTP law that should be carried out. The sub-question improves the theory because it helped comprehend how Saudi's GTP law and arbitration should change and adapt to the existing environment.

The difficulty for arbitration to be used as an alternative dispute resolution approach in Saudi Arabia could limit foreign investment, which is a significant component in underpinning the Kingdom's transition from a rentier state to a knowledge-based economy. Although Saudi Arabia has made significant changes to the Kingdom's legal systems, the rigid interpretation of Sharia by anti-international and traditionalist doctrine scholars has hindered the adoption of

modern arbitration reforms, which has limited FDI (Alfatta, 2019). As a result, it is challenging to use arbitration in dispute resolution in the Kingdom, which supports the need for additional reforms that underpin Saudi's Vision 2030 achievement (Aldhafeeri, 2021; Alfatta, 2019; Biygautane et al., 2018; Sabry, 2015). Abitration can foster effective conflict resolution, but the restrictive laws in the kingdom are a problem (Aldhafeeri, 2021; Hassan, 2020). Additionally, the public-private partnerships in Saudi Arabia are hindered by various administrative, governance, and regulatory-related issues that favor litigation over arbitration (Biygautane et al., 2018; Sabry, 2015).

Administrative contracts vary across the countries, even if there is a universally accepted definition of the term (Abu Helw & Ezeldin, 2020). In France, government contracts are subject to general administrative law principles and regulations in the public contract act. Different from France, the United Kingdom's administrative contracts are governed by the PCR 2015 that is based on the European Public Sector Directive 2014/24/EU (Abu Helw & Ezeldin, 2020). Kuwait and Egypt have similar administrative laws because the court has complete authority to mitigate issues that emerge from public contracts. In addition, Egypt's new Public Contract Law No. 182 of 2018 is congruent with Saudi Arabia's 2019 GTP law aimed at promoting the public procurement process transparency.

Different researchers have assessed the reforms that Saudi Arabia legislatures have adopted to ensure that the Kingdom supports the enactment of administrative contracts (Abu Helw & Ezeldin, 2020; Alanzi, 2021; El-Adaway et al., 201). Disputes in administrative contracts are a prevalent issue, making it essential for Saudi law to be comprehensive and clear. Saudi's GTP law has been supported to be comprehensive, organized, and contain all essential jurisdiction concepts associated with administrative contracts that support foreign investment.

Internationally, arbitration is an accepted dispute resolution approach in administrative contracts (Abu Helw & Ezeldin, 2020). Countries such as the United Kingdom and France allow arbitration in administrative contracts without some of the restrictions imposed in GCC states such as Saudi Arabia and Egypt. In Egypt and Saudi Arabia, arbitration is only used after receiving approval from the respective ministries (Abbadi, 2018; Abu Helw & Ezeldin, 2020; Alanzi, 2021; Aldhafeeri, 2021).

The need for an e-procurement system and reform of the GTP law was associated with the increased delay of projects in Saudi Arabia (Alofi & Alhammadi, 2015; Alofi et al., 2017; Pi, 2021). Reforms in law and the procurement system have occurred in the Kingdom, but there is limited literature, specifically because the changes have been in effect in less than three years. Thus, the gap in the literature supported the need to conduct the study focused on understanding the perception of legal professionals in Saudi Arabia towards arbitration as a dispute resolution approach in administrative contracts under the GTP Saudi law. The next chapter contains a discussion of the qualitative methodology and case study design that guided the study.

# Chapter 3: Research Method

The purpose of this qualitative case study was to understand the perception of legal professionals in Saudi Arabia towards arbitration as a dispute resolution approach in administrative contracts under the GTP Saudi law. In this section, a detailed and comprehensive discussion of the qualitative methodology that guided this study was provided. The major sections discussed are the research design and rationale, the role of the researcher, methodology, issues of trustworthiness, and the summary. In the first section, research design and rationale, a justification for the selected case-study design was provided. The role of the researcher as an observer was discussed in the second section. In the third section, the methodology, a discussion of the qualitative methodology applied was included. The additional concepts discussed under the methodology include the participants' selection criteria, instrumentation, participant recruitment, data collection, and data analysis plan. The fourth section contains a discussion on how trustworthiness in this qualitative study was enhanced, supporting the applicability of the study findings. The fifth and final section was the summary that contains an overview of the core concepts and transitions to the findings chapter.

## Research Design and Rationale

This qualitative case study was conducted to answer one research question and three sub-questions.

**Central Research Question:** What are Saudi Arabian legal professionals' perspectives of the need for arbitration in administrative contracts?

**Sub Question 1:** What is Saudi Arabian legal professionals' perception of the impact of the arbitration provision in the GTP law?

**Sub Question 2:** What issues do Saudi Arabian legal professionals believe could arise from the reforms to Saudi arbitration law?

**Sub Question 3:** What changes do Saudi Arabian legal professionals believe should be made to the arbitration GTP law?

The central concept focused on in this qualitative study was arbitration that was defined as a dispute resolution approach in administrative contracts (American Bar Association, 2021). Specifically, the core focus in this study was arbitration as an alternative dispute resolution strategy in administrative contracts under the GTP Saudi law. Therefore, it was expected that collecting qualitative data from Saudi Arabian legal professionals would help gain an in-depth understanding of the central concept.

According to Creswell and Poth (2017), a qualitative methodology contains five core approaches: Narrative research, phenomenology, grounded theory, ethnography, and case study. In this study, a qualitative case study was selected because of five reasons. First, the design enabled in identifying a case that can be a concrete entity, such as a small group bounded by place parameters (Creswell & Poth, 2017; Yin, 2017). Specifically, applying the case study design helped identify legal professionals in Saudi Arabia who can provide accurate information on arbitration, administrative contracts, and the Kingdom's GTP law. Second, the methodology helped the researcher perform an in-depth analysis of a phenomenon over time by collecting data from various individuals (Creswell & Poth, 2017; Rashid et al., 2019; Yin, 2017). The methodology was appropriate because it helped understand the legal professionals' perception of arbitration despite the settling approach in Saudi Arabia's administrative contracts.

Third, the case study design enabled the researcher to approach data analysis by assessing various units within the case (Creswell & Poth, 2017; Gammelgaard, 2017). Applying the

methodology helped the PI collect data from different legal professionals working at various Saudi Arabia legal organizations. Fourth, the design enabled researchers to identify themes from the collected case-study data. Analyzing the collected qualitative data was anticipated to aid identify themes to answer the research questions, helping achieve the study's purpose. Fifth, the case study design was expected to help the researcher create explanations from the collected data enabling the development of conclusions (Creswell & Poth, 2017; Rashid et al., 2019; Yin, 2017).

Although like other qualitative research designs where a real-time central problem is assessed within a natural setting, the approaches would be less effective because their application is not congruent with the purpose, the problem of focus, and research questions (Rashid et al., 2019; Yin, 2017). For instance, a narrative research design was not selected because it was more suitable for understanding the experiences through lived and told stories. Narrative research would only have been appropriate if the purpose was to collect stories from legal professionals in Saudi Arabia to understand their chronological experiences when practicing law in the Kingdom. Thus, using the approach would have required a change in the research problem, scope, and purpose to align with the methodology (Creswell & Poth, 2017).

Like narrative research, a phenomenology design was not selected because it was more suitable for understanding common meaning from various individuals' lived experiences of a phenomenon (Creswell & Poth, 2017). For example, the design would have been applicable if the goal was to describe those legal professionals in Saudi Arabia have in common about the GTP law. Conversely, the scenario mentioned above was not the purpose, eliminating the phenomenological design from being selected. A grounded theory is suitable for developing a general explanation or an action, process, or interaction based on the perceptions, views, and

opinions of many participants. Although the design would have enabled the researcher to move beyond providing a description and formulate a theory, there were adequate and comprehensive frameworks that explain the concept of arbitration in administrative contracts. Also, a grounded theory design requires a large sample size that would have limited this study's feasibility (Creswell & Poth, 2017).

An ethnography design was not selected because it was more relevant for identifying shared patterns of language, behavior, and beliefs among 20 or more individuals from a culture-sharing group (Creswell & Poth, 2017; Queiros et al., 2017; Yin, 2017). This qualitative case study's purpose was to understand the perception of legal professionals in Saudi Arabia towards arbitration as a dispute resolution approach in administrative contracts under the GTP Saudi law and not the meaning of language, behavior, and interaction among the experts. Thus, a case-study design was identified as the most suitable approach for answering the research questions (Creswell & Poth, 2017; Yin, 2017).

Additionally, the suitability of a case-study design in helping gain an in-depth understanding of a concept was supported in published literature (Ebneyamini & Moghadam, 2018; Harrison et al., 2017). Harrison et al. (2017) indicated that the substantial methodological developments that have occurred in the past 40 years made case-study design a flexible and pragmatic technique for gaining an in-depth understanding of various issues in different disciplines. In another study, Ebneyamini and Moghadam (2018) acknowledge that a case study design is among the most powerful techniques that can be applied to fulfill theoretical and practical aims. The design can be applied to advance an understanding of a concept (Ridder, 2017). Also, a case study offers a level of flexibility that is not provided by other designs such as phenomenology and grounded theory (Ebneyamini & Moghadam, 2018; Queiros et al., 2017).

## Role of the Researcher

In the study, the PI adopted the role of an observer. The targeted population was legal professionals in Saudi Arabia, and the researcher did not have any supervisory or instructor authority over the participants. The lack of instructor or supervisory relations between the researcher and the participants eliminated the possibility of researcher bias and autonomy issues that could have emerged from having power over potential participants. Also, the targeted legal professionals worked in different firms in Saudi Arabia, meaning that the study was not conducted in the researcher's work environment. Consequently, this study was not associated with any ethical issues that could have emerged from conducting the study in the researcher's work environment or power differentials. Participation in the study was voluntary, and the respondents were not provided with any form of compensation.

The researcher had six core roles in the study. The first role was obtaining approval from the Institutional Review Board (IRB) to conduct the study. The researcher performed all the required preliminary activities to seek approval from Nova Southeastern University's IRB. The activities included completing the proposal, filling the IRB application form, and submitting the document. The study was conducted in compliance with all the ethical considerations. The second role involved developing the interview protocols and performing field tests to determine the questions' relevance and suitability for collecting appropriate data for answering the research queries. The third responsibility involved developing the participants' recruitment email and sent it to prospective participants. The researcher responded to all the participants who showed interest, assessed their eligibility, gained their consent, and scheduled the interviews. Prospective participants were identified from Linked-in. Also, the researcher emailed legal professionals in Saudi Arabia whose contact information was publicly available.

The fourth role was interviewing each sampled respondent until a data saturation point was achieved. It was anticipated that data saturation would be achieved at 15 participants. During the interviews conducted and recorded via Zoom, the researcher expounded on the questions and engage the participants to gain a comprehensive response. The fifth role was transcribing the data, sending the documents to the respective respondents for verification, and performing data analysis. Data analysis were conducted using NVivo, a CAQDAS that supported the analysis. The sixth role involved keeping a reflective journal and an audit trail of the activities to enhance the study's trustworthiness.

## Methodology

The study was conducted using a qualitative methodology. A qualitative methodology was selected as the most suitable approach in this study because of five reasons. First, a qualitative methodology allowed for the up-close gathering of information by talking directly to the sampled participants (Creswell & Creswell, 2018; Queiros et al., 2017). Although data collection was not conducted using a face-to-face approach because of the participants' and researcher's geographical location and the COVID-19 concerns, conducting the activity via Zoom was an equally appropriate technique. Second, in the qualitative methodology, the researcher was a core instrument in the data collection process. The approach allowed the qualitative researcher to use the developed interview protocol when collecting data and asked follow-up questions to gain additional information that supported an in-depth understanding of arbitration, administrative contracts, and Saudi GTP law (Creswell & Creswell, 2018; Mohajan, 2018).

Third, a qualitative methodology was selected because it allowed collecting data using interview protocols (Creswell & Creswell, 2018). Qualitative researchers can develop interview

protocols for collecting data, especially if the existing instruments are not suitable or relevant for the study. In this study, the qualitative researcher created a 10-item interview protocol because there did not exist a validated instrument suitable for collecting data relevant for answering the research questions. Fourth, a qualitative methodology allowed identifying themes from the collected data facilitating in answering research questions (Creswell & Creswell, 2018; Queiros et al., 2017). In this study, the researcher applied inductive reasoning when assessing the collected data facilitating the development of a comprehensive set of themes relevant to mitigating the gap in practice.

Fifth, applying a qualitative methodology facilitates collecting data from the most appropriate participants, helping derive meaning from the responses (Creswell & Creswell, 2018; Mohajan, 2018). It was expected that reading the transcribed data helped understand how legal professionals in Saudi Arabia perceive arbitration as an alternative dispute resolution approach in administrative contracts. The participants' responses were anticipated to help gain a comprehensive understanding of the central concept assessed. Thus, a qualitative methodology was the most suitable approach because it was congruent with the purpose and research questions (Mohajan, 2018).

Other methodologies, specifically the quantitative and mixed-methods approach, were not selected because of various reasons. A quantitative methodology was not selected because of four reasons. First, a quantitative methodology was more suitable for determining the causal impact of one variable on another (Creswell & Creswell, 2018). In the study, determining the impact of an independent variable on a dependent outcome was not possible. If a quantitative methodology were selected, the study's purpose would have to be changed to assessing the impact of arbitration on administrative contracts effectiveness. The effectiveness would have to

be a practice such as costs that could be quantified. Consequently, that methodology was not selected because it was not concordant with the topic, research purpose, and research question.

Second, a quantitative methodology was not selected because it involves collecting numerical data that is analyzed using a statistical test (Creswell & Creswell, 2018). The purpose of statistical tests is to verify explanations or theories about a concept. In this study, the collection of quantitative data would not have helped fulfill the research purpose. Qualitative data from the legal professionals in Saudi Arabia were more suitable for understanding the identified issue. Third, in a quantitative methodology, data are usually collected using validated surveys or questionnaires (Basias & Pollalis, 2018). Applying the methodology would not have been feasible because no validated tools for assessing arbitration and administrative contracts exist. A qualitative methodology was selected because it enabled the researcher to develop (Basias & Pollalis, 2018; Creswell & Creswell, 2018).

Similarly, a mixed methods was not used because of two core reasons. The first was that although the approach would have helped overcome the limitations of using either a quantitative or qualitative technique, the methodology requires more time to conduct (Creswell & Creswell, 2018). Meaning that if a mixed-methods methodology were used, it would have affected the project's timely completion. Second, the mixed-method methodology was not used because the approach has a quantitative aspect that was not applied because of the five reasons mentioned above (Creswell & Creswell, 2018).

Overall, a qualitative methodology was selected over the quantitative and mixed methods approaches because it helped gain an in-depth understanding of arbitration and administrative contracts under the GTP Saudi law (Basias & Pollalis, 2018; Creswell & Creswell, 2018). Although the methodology was considered more subjective than a quantitative and mixed-

methods approach, it was the most suitable research tradition for this study. It was expected that conducting this study using the methodology would help understand the perception of legal professionals in Saudi Arabia towards arbitration as a dispute resolution approach in administrative contracts under the GTP Saudi law.

## Participant Selection Logic

The target population for the study was legal professionals in Saudi Arabia. The population was selected because it was identified as the most appropriate individuals for providing their perception of arbitration as an alternative dispute resolution technique in administrative contracts under the GTP Saudi law. In addition, it was expected that collecting data from the population would help gather comprehensively in-depth responses on the topic. In qualitative research, the sample size is usually small to support the feasibility of the data collection process that involves retrieving in-depth information from the participants (Farrugia 2019).

When selecting a participants selection approach, qualitative researchers consider the questions to be answered and the participants' availability (Farrugia 2019; Moser & Korstjens, 2018). A purposive participants selection technique was identified as the most suitable data collection approach because of four reasons. First, the technique allowed the researcher to select a knowledgeable sample about the concept of focus purposefully and deliberately, supporting adequate data collection to answer the research questions (Farrugia 2019). Applying the purposive participants selection technique would helped recruit legal professionals in Saudi Arabia who were knowledgeable about arbitration in administrative contracts under the GTP Saudi law. Second, the approach was selected because it helped the researcher select participants who fulfill the inclusion criteria (Farrugia 2019; Moser & Korstjens, 2018). The researcher

intended to collect data only from legal professionals in Saudi Arabia who understand arbitration, administrative contracts, and the GTP law.

Third, the technique was less expensive, required minimal time, and was not effort-intensive compared to other probabilistic participants selection approaches (Farrugia 2019). The advantages made the approach the most suitable because of the limited resources, specifically the time constraint to complete the study within the academic calendar. Fourth, the purposeful participants selection technique aligned with the saturation approach used to determine the most suitable sample size (van Rijnsoever, 2017). Two purposeful participants selection techniques, specifically critical case and snowball were used (Creswell & Creswell, 2018; Farrugia 2019). Critical case participants selection enabled the researcher to collect information from a cohort of legal professionals in Saudi Arabia, enhancing the understandability of the focus topic. Applying snowball participants selection involved recruiting participants based on the recommendation of the initially sampled participants. Combining the critical case and snowball approaches of purposeful participants selection helped recruit an adequate number of participants.

Other approaches that were used in qualitative research were not selected because of their limitations. Specifically, convenience participants selection was not selected because it was the least rigorous approach, affecting the quality of the data collected (Farrugia 2019). Similarly, theoretical participants selection techniques were not used because was more appropriate in studies conducted using the grounded theory design. Although using a probability participants selection technique would have helped decrease selection bias, the approaches were not suitable in this project because of the qualitative methodology applied (Bhardwaj, 2019). Also, probability participants selection techniques were not selected because they require more work, limiting their applicability in this study (Bhardwaj, 2019).

Legal professions were considered eligible to participate in the study if they were (a) older than 25 years; (b) knowledgeable about arbitration, administrative contracts, and GTP Saudi law; (c) willingly agreed to participate in the study; and (d) had at least a two-year work experience. Participants who fulfilled the inclusion criteria were excluded from the study if they were not available during data collection and do not understand English. In addition, if the anticipated sample size was not achieved, the two-year experience inclusion limit would have been decreased to one.

There is a debate on how a suitable sample size in qualitative research should be determined (Sim et al., 2018). Some researchers posit that the number of respondents involved in a sample size should be based on a prior. Approaches such as using statistical formulae, conceptual models, rules of thumb, and saturation or numerical guidelines retrieved from empirical findings have been supported. Although selecting a sample size in qualitative research is a problem, there exist different recommendations. According to the rules of thumb recommendation, a case study should contain between four and 30 participants. A limitation of the approach is that there lacks a clear rationale for how the figure was determined (Sim et al., 2018). Determining the sample size using conceptual models involves considering the study's purpose, theoretical framework, and analysis. For instance, studies with a broad scope should have a larger sample size. Differently, studies conducted to collect quality and in-depth data need a smaller sample size (Sim et al., 2018).

The statistical formulae approach involves recruiting participants until a predetermined confidence level is achieved or calculating the prevalence of a certain theme emerging a given number of times (Sim et al., 2018). A limitation of the statistical formulae approach is that it is more appropriate in quantitative methodology studies. Guest et al. (2017) and Hennink et al.

(2017) supported the efficacy of the numerical guidelines or saturation approach in helping determine appropriate sample size. Saturation requires qualitative researchers to collect data up to where new codes or themes emerge from the transcripts (van Rijnsoever, 2017). Consequently, in this study, the participants were interviewed up to the point of saturation. Data saturation was achieved at 15 participants in the conducted qualitative case-study.

The participants were identified, contacted, and recruited in a six-step process. First, the researcher composed a message informing the participants about the study's purpose and their eligibility. The message also contained information on how interested participants could contact the researcher (see Appendix A). Second, the researcher identified potential legal professionals on LinkedIn and listing websites. The researcher also identified prospective participants from the personal network. Third, the participants mentioned above' recruitment message was sent to the participants. Fourth, individuals interested in participating in the project were contacted and provided with adequate information about the project. Informed consent was also be sent to the participants, who were required to sign electronically and send the document back to the researcher. Fifth, participants who signed the informed consent were requested to indicate the most appropriate time when they would be available for a 45 minute interview. If data saturation would not have been achieved, the researcher would have requested the interviewed participants to recommend other legal professionals in Saudi Arabia who could provide insightful information. Sixth, the fourth, and fifth steps were repeated. It was anticipated that collecting data 15 participants would help answer the research questions and address the problem statement.

## Instrumentation

Data to answer the research questions were collected using a 10-item semi-structured interview protocol (see Appendix B). A researcher-developed interview protocol was used because there did not exist a published instrument that could have helped collect adequate information to answer the questions. The 10-item semi-structured interview protocol contained questions on arbitration, administrative contracts, and GTP. Also, the protocol contained questions on the participants' demographics, specifically their gender, age, profession, and years of experience. A semi-structured interview protocol was identified as the most suitable data collection instrument because of five reasons. First, semi-structured interview protocols support collecting quality, in-depth data on the concept of focus (Yeong et al., 2018). It was expected that the instrument would help collect adequate and in-depth data that was used to understand the perception of legal professionals in Saudi Arabia towards arbitration as a dispute resolution approach in administrative contracts under the GTP Saudi law.

Second, a researcher-developed semi-structured interview protocol allows for an individual to ask follow-up questions that result in inadequate information that can be used to provide a description (Mahat-Shamir et al., 2019). It was anticipated that the instrument would help collect adequate information, facilitating the development of themes relevant for addressing the research problem by gaining in-depth understanding from the professional lawyers' perspective. Third, the semi-structured interview protocol provided the participants with the flexibility to respond based on their knowledge, facilitating sufficient data collection. Semi-structured interviews are suitable for collecting meaningful information that helps qualitative researchers achieve their purpose (Mahat-Shamir et al., 2019; Yeong et al., 2018). Fourth, using semi-structured interviews provided the data collection process with a systematic flow

underpinning the collection of open and in-anticipated responses. Fifth, the semi-structured nature of the interview protocol supported the collection of data using various formats ranging from technologies face-to-face to electronic (e) interviewing (Brown & Danaher, 2017). In this study, data were collected using e-interviewing, specifically Zoom, because of the geographical differences between the researcher and participants.

## Field Test

The interview protocol questions were based on published literature and developed to support collecting adequate information to answer the research questions. Two qualitative research experts established the questions' content validity. The experts also determine the sufficiency of the data collection instrument in fulfilling the study's purpose of understanding the perception of legal professionals in Saudi Arabia towards arbitration as an alternative dispute resolution approach in administrative contracts under the GTP Saudi law. The experts' responses helped modify the interview protocol, ensuring content validity. A pilot study was not conducted, making the review by the two experts essential in establishing the data collection tool's validity. The lack of qualitative studies on arbitration, administrative contracts, GTP Saudi law supported the need for the researcher to develop an interview protocol. There lacked a semi-structured interview protocol that could have helped achieve the study purpose. Thus, creating a 10-item semi-structured interview protocol provided the researcher with the flexibility to collect data suitable to addressing the problem and gap in the literature.

## Procedures for Recruitment, Participation, and Data Collection

Qualitative data from legal professionals in Saudi Arabia were collected via Zoom. The legal professionals were recruited through LinkedIn, personal network, and snowballing. An email message containing information about the study and participation was sent to prospective

participants (see Appendix A). Participation in the study was voluntary, and the respondents' confidentiality was assured. Additionally, the researcher contacted each participant via Zoom for approximately two minutes to explain the study and the data collection process. The researcher used the opportunity to respond to any of the participants' concerns. The session helped ensure that the scheduled data collection period only focused on the semi-structured interview questions, preventing the extension of the process beyond the allocated period. The conducted study was not associated with any risk, but the respondents were informed that participating required them to sacrifice approximately 45 minutes of their personal time, which would be inconvenient.

Rashid et al. (2019) indicated that conducting a case study can be confusing, making it imperative to use a systematic process, enhancing the clarity and operationalization of the process. In this study, data were collected by the researcher. The researcher collected data from each participant during a one-on-one Zoom interview session. The researcher anticipated conducting approximately 10 to 15 interviews, which were to last for about 45 minutes each. The number of participants interviewed was determined by the respondents' availability and the point where data saturation was achieved.

Gray et al. (2020) posit that video conferencing tools provide qualitative researchers with a unique opportunity to generate and record data. The collected data were recorded via Zoom. The researcher preferred to use the Zoom platform to collect and record data because of five reasons. First, the platform was cost-effective (Archibald et al., 2019; Gray et al., 2020; & Lobe et al., 2020). The qualitative researcher was in the United States, while the participants were in Saudi Arabia. If a face-to-face interview approach had been selected, the researcher would have to travel from the United States to the participants' preferred location in Saudi Arabia that would

have been costly. Conversely, using Zoom supported international or long-distance communication, which will enable the researcher to interview the participants irrespective of the geographical location, saving on the time and money that would have been used when traveling from one place to another. The features needed to conduct the semi-structured interviews are available for free; thus, only internet-related cost was be incurred (Gray et al., 2020).

Second, Zoom was selected because it promoted convenience. The prevailing COVID-19 pandemic supported the need to limit international travel (Archibald et al., 2019; Gray et al., 2020; & Lobe et al., 2020). In addition, some countries required all individuals coming into the country to quarantine themselves for 14 days, which would inconvenience the researcher if a face-to-face interview approach was used. Using Zoom allowed the researcher to perform the data collection conveniently while avoiding the restrictions implemented because of the COVID-19 (Gray et al., 2020).

Third, Zoom was selected because of its features that enable individuals to securely record communication and schedule meetings (Zoom Video Communications, 2021). The Zoom platform has an end-to-end encryption feature that promoted the security of the collected data. The feature assured the participants that their responses were confidential and accessible only by the researcher. Also, Zoom was password-protected, meaning that only the researcher could access the audio recordings stored on the platform before the content was transcribed. Zoom's in-built scheduling feature helped the researcher send invites to the participants on the agreed-upon date, enhancing the data collection efficacy (Zoom Video Communications, 2021).

Fourth, Zoom was accessible over the phone, a tablet, or a personal computer (Gray et al., 2020). The platform's accessibility supported the data collection process because the participants used the device available to them. Thus, no eligible respondent was limited from participating in

the study because of the lack of access to a device that supported the Zoom application. Fifth, using Zoom promoted the participants' autonomy. Specifically, it was easier for participants to express their desire to leave the platform, which was less intimidating than exiting an in-person interview (Archibald et al., 2019; Gray et al., 2020; & Lobe et al., 2020). Although disadvantages such as internet disruptions and technological failure affected the clarity of the collected data, the advantages associated with using Zoom superseded the demerits. In their studies, Archibald et al. (2019) and Lobe et al. (2020) supported the efficacy of Zoom as a suitable platform for collecting qualitative data.

Thus, data in the study were recorded using Zoom. If the recruitment plan resulted in fewer participants than expected, the researcher would have repeated the process with an adjusted inclusion-exclusion criterion. Participants would have been considered eligible for inclusion in the study if they were (a) older than 18 years, (b) knowledgeable about the GTP Saudi law, (c) willingly agreed to participate in the study, (d) had at least a one-year work experience, and (e) understand either English or Arabic. In addition, legal professionals who would have fulfilled the inclusion criteria would only have been excluded if they were not available during the scheduled data collection period. It was anticipated that the readjusted inclusion-exclusion criteria would have helped recruit the anticipated 10 to 15 participants.

After the interviewees respond to the last question, the researcher applied a debriefing procedure. The procedure involved performing six activities. The first was thanking the interviewees for their time and responses. Second, the interviewees were provided with an opportunity to ask a question or provide a response. Third, after the researcher answered the participants' concerns, the respondents were informed how the collected data would be transcribed. Fourth, the participants were informed that the researcher might schedule another

session to seek clarification on a response or re-do the interview if the audio cannot be transcribed because of background noise or other interferences. Fifth, the participants were informed that they would be sent the transcripts to verify whether the content accurately represented their responses. Sixth, the researcher informed the legal professionals that they would be sent a link to the finalized manuscript via email.

## Data Analysis Plan

In this project, data were collected using one semi-structured interview protocol. All the collected data were used to answer the central and sub-questions. A six-step data analysis process was adhered to in the study. First, the researcher transcribed each interview into a Microsoft Word document. The researcher had 15 interview transcripts. The transcripts were sent to the respective participants for them to confirm their accuracy. Once the transcription verification was conducted, the researcher organized and formatted the transcripts to facilitate the analysis (Creswell & Creswell, 2018).

The second step was reading the transcripts to gain a comprehensive idea of the content discussed by the respondents (Creswell & Creswell, 2018). Reading the interview transcripts was anticipated to help understand the depth and relevance of the response. The researcher recorded the ideas in a reflective journal. Third, the researcher started the coding process after importing the interview transcripts into NVivo. The coding process involved identifying similar chunks of texts and categorizing them using the actual language used by the participants. The coding process was conducted systematically, where the researcher reviewed one document at a time. The process helped the researcher identify similar patterns on the legal professionals' perceived meaning of arbitration as a dispute resolution strategy in administrative contracts under Saudi GTP law (Creswell & Creswell, 2018).

Fourth, the codes were combined to develop themes relevant to answering the research questions (Creswell & Creswell, 2018). The themes were defined and recorded on NVivo. Subsequently, the researcher assigned the respective content to the appropriate theme. The thematic analysis facilitated identifying patterns that helped understand the meaning of arbitration as a dispute resolution approach in administrative contracts under the GTP Saudi law from a legal professionals' perspective. Although the coding process can be performed manually, the researcher used NVivo because the CAQDAS is associated with various advantages. An advantage was that it enables a researcher to manage divergent transcripts as one project, enhancing efficacy and decreasing the cumbersomeness of the qualitative data analysis process. Another advantage was that NVivo helped the qualitative researchers analyze more data faster (Robins & Eisen, 2017).

In the published literature, Alam (2020), Robins and Eisen (2017), and Swygart-Hobaugh (2019) supported the effectiveness of using NVivo in analyzing qualitative data. Houghton et al. (2017) explained that using NVivo helps qualitative researchers systematically and rigorously assess study findings. Although NVivo does not comprehensively scaffold the analysis process, the software enhances excellent data management compared to the traditional approach involving colored pens and sticky notes (Maher et al., 2018). Fifth, visual representations, specifically tables, and figures were developed to represent the themes, facilitating interpretation. In chapter four, the themes developed were presented and supported by the participants' verbatim responses to enhance the findings' reliability. Sixth, the researcher interpreted the findings by associating the results to published literature and the theory in the final chapter of this study (Creswell & Creswell, 2018). The thematic analysis performed was congruent with the qualitative methodology.

## Issues of Trustworthiness

Contrary to quantitative research, where the findings' quality is determined using validity and reliability, the trustworthiness of qualitative research is determined using dependability, credibility, transferability, and confirmability (Daniel, 2018; Korstjens & Moser, 2018). Using reliability and validity in qualitative research to establish quality is considered incontestable (Daniel, 2018). In this study, trustworthiness was enhanced to support the value and strength of research (Alam, 2020; Korstjens & Moser, 2018). In this section, a discussion on how the researcher ensured that the findings had rigor by promoting credibility, transferability, dependability, and confirmability was included.

### Credibility

Credibility is associated it the truth-value aspect (Korstjens & Moser, 2018). In this study, credibility was enhanced through member checking and transcription verification. Transcription verification involved sending the transcribed documents to the respective respondent. The participants were provided with seven days to review the transcripts and provide feedback. It was assumed that participants who do not respond after seven days were contented with the transcribed content. Additionally, member checking, which involved sending the participants copies of the analyzed data, was conducted. The purpose of the member checking process was to rectify any misinterpretation that might have occurred during the data analysis process (Korstjens & Moser, 2018).

### Transferability

Transferability is associated with the applicability of the study's findings to the readers' context (Korstjens & Moser, 2018). Transferability judgment in this study was enhanced by providing a comprehensive description of the participants and the research process. It was

anticipated that the detailed description would help the reader determine whether the findings are transferable to their setting (Korstjens & Moser, 2018). Specifically, describing the Saudi legal professionals' experience and qualifications and how the data were analyzed can help readers from other Arab nations determine the findings' applicability to their context. Additionally, transferability was enhanced by collecting data up to the point of saturation (Alam, 2020; Korstjens & Moser, 2018).

**Dependability**

The dependability concept is related to consistency (Korstjens & Moser, 2018). Dependability in this study was enhanced by supporting the interpreted themes with verbatim responses (Korstjens & Moser, 2018). Including the respondents' verbatim responses supported that all the themes developed were retrieved from the collected data and not the researcher's imagination. Also, dependability was promoted by supporting the findings with Luhmann's system theory, providing the results with a theoretical underpinning (Korstjens & Moser, 2018).

**Confirmability**

The study's confirmability was enhanced using an audit trail and a reflective journal (Korstjens & Moser, 2018). The strategies mentioned above helped record comprehensive notes on all the decisions performed during interview protocol development, participants' recruitment, participants selection, and data management. Additionally, maintaining a reflective journal helped the researcher be self-aware during the data collection, analysis, and interpretation process, facilitating avoid the impact of any pre-conceived assumptions (Korstjens & Moser, 2018).

**Ethical Procedures**

The researcher was aware of the importance of ethical considerations in qualitative research. Thus, data collection commenced once the researcher received Nova Southeastern University IRB approval. Approval was sought via email. Once IRB approval was received, the researcher sent the recruitment emails to prospective participants who were legal professionals in Saudi Arabia. All the recruited participants were made aware of the study's purpose and the activities that would be performed. Additionally, the participants were made aware that the researcher would include some of their verbatim responses to support the findings' trustworthiness. Once the researcher provided the participants with adequate information, they were requested to sign an informed consent. Providing consent was one of the inclusion criteria because it signifies the participants' willingness to participate in the study and understand the purpose. Before providing consent, the researcher explicitly indicated that the data collection process might inconvenience them because it will be conducted during their personal time. Conversely, the issue was mitigated by scheduling the interviews based on the respondents' preferences to enhance convenience.

In this study, the participants were considered autonomous individuals. Specifically, the researcher requested them to provide verbal consent that they were comfortable being recorded. Also, the researcher explained to the interviewees that they were at liberty to refuse to respond to any question and were free to end the data collection process at any time without any consequences. The participants' confidentiality was enhanced by issuing the respondents pseudonyms. The interviewees were assigned pseudonyms ranging from *participant* (P1) to P15. Additionally, personal data that can be used to identify the participants were not collected. The

participants were discouraged from disclosing their names, social security numbers, or any other personally identifiable information.

The researcher used the collected data only to answer the research questions. After data were collected, all the soft copies were stored in a password-protected personal computer, used only by the researcher. A backup of the soft copies was stored in a password-protected external hard disk. All hard copies of the data were stored in a secure and lockable cabinet in the researcher's home office. Thus, only the researcher knew the real identity of the interviewed participants and had access to the interviewees' comprehensive responses. All the collected data will be destroyed five years after the study is completed. The hard copies will be shredded, while the soft copies will be permanently deleted from the stored devices.

## Summary

This chapter contains a discussion on the research methodology that guided the study. The purpose of this qualitative case study was to understand the perception of legal professionals in Saudi Arabia towards arbitration as a dispute resolution approach in administrative contracts under the GTP Saudi law. The four research questions that were answered are; (1) What are Saudi Arabian legal professionals' perspectives of the need for arbitration in administrative contracts? (2) What is Saudi Arabian legal professionals' perception of the impact of the arbitration provision in the GTP law? (3) What issues do Saudi Arabian legal professionals believe could arise from the reforms to Saudi arbitration law? (4) What changes do Saudi Arabian legal professionals believe should be made to the arbitration GTP law? A case-study design was applied because it allowed the researcher to collect in-depth information from the legal professionals about arbitration, administrative contracts, and the Saudi GTP law.

A qualitative methodology was selected because it helped the researcher understand the central concept's meaning from Saudi Arabian legal professionals. The researcher was responsible for conducting all the activities required to complete the study ranging from recruiting the participants to analyzing the data and developing the final manuscript. Purposeful participants selection, specifically critical case, and snowball approaches were applied to recruit 15 participants from LinkedIn and personal networks. Data were collected using a 10-item interview protocol via Zoom because of the participants' and researcher's geographical differences. A thematic analysis of the collected data was conducted using a six-step process. NVivo was used to facilitate the data analysis process. The researcher ensured the findings' trustworthiness through dependability, credibility, transferability, and confirmability and conducted in adherence to all the ethical considerations. Chapter four contains the study's results that were presented according to the research questions and themes developed.

# Chapter 4: Results

In Saudi Arabia, significant changes in the legal system have occurred to support the Saudi Vision 2030, a strategic plan for diversifying the economy. The purpose of this qualitative case study was to understand the perception of legal professionals in Saudi Arabia towards arbitration as a dispute resolution approach in administrative contracts under the GTP Saudi law. The central research question that guided the qualitative study was what are Saudi Arabian legal professionals' perspectives of the need for arbitration in administrative contracts? The sub-questions of focus were the following (a) what is Saudi Arabian legal professionals' perception of the impact of the arbitration provision in the GTP law? (b) What issues do Saudi Arabian legal professionals believe could arise from the reforms to Saudi arbitration law? (c) What changes do Saudi Arabian legal professionals believe should be made to the arbitration GTP law? The chapter’s content was discussed in seven sections: research setting, demographics, data collection, data analysis, evidence of trustworthiness, study results, and summary.

## Research Setting

The study involved recruiting legal professionals in Saudi Arabia; hence, the participants were not recruited from a specific setting. Additionally, the participants were not influenced by any organizational factors, personal conditions, or experiences that could affect the interpretation of the study findings. All the sampled participants were recruited through a purposeful technique, precisely, critical case and snowball approaches. The 15 participants were recruited from LinkedIn and personal networks.

## Demographics

Qualitative data were collected from 15 participants who were given pseudonyms P1, P2, P3, P4, P5, P6, P7, P8, P9, P10, P11, P12, P13, P14, and P15 to promote confidentiality (see

Table 1). P1 was a 32-year-old lawyer with a bachelor's degree and had practiced for seven years. P2 was a 28-year-old associate with a bachelor's degree as the highest education qualification and had practiced law in Saudi Arabia for two years. P3 was a lawyer aged 31 years old who had a bachelor's degree and six-year experience practicing law in the Kingdom. P4, a 29-year-old lawyer with four years of experience practicing law in Saudi Arabia, had a bachelor's degree. P5 was a 34-year-old lawyer, who had a master's degree, held the position of a partner at the law firm of employment, and had nine years of experience (see Table 1).

P6, a 28-year-old lawyer with a bachelor's degree, had practiced law in the Kingdom for four years (see Table 1). P7 was a partner who had a master's degree, was 33 years old, and had practiced law for eight years. P8, a 38 years-old junior partner, had a bachelor's degree and 10 years of work experience in Saudi Arabia. P9 had a bachelor's degree, was 36 years old, held the position of a lawyer, and had been practicing for six years. P10 was a 48-year-old senior partner with a master's degree and 15 years of experience practicing law in Saudi Arabia (see Table 1).

P11, a 42-year-old partner, had a master's degree and had practiced law in the Kingdom for 16 years (see Table 1). P12 had a bachelor's degree, was 35-year-old and a lawyer who had practiced for six years. P13, a 51-year-old senior partner, had a master's degree and had practice law for more than two decades, i.e., 22 years. P14, who had practiced law for nine years, had a bachelor's degree, was 36 years old, and was employed as a lawyer in the firm of practice. Finally, P15 was 50 years old, had a doctorate, practiced as a senior partner and lead counsel in the organization of employment, and had 23 years of experience in Saudi Arabia's legal system (see Table 1).

**Table 1**

*Participants' Demographic Attributes*

| Participant | Age | Highest Education Level | Professional Experience in Saudi Arabia | Job Position |
|---|---|---|---|---|
| P1 | 32 | Bachelor's degree | Lawyer | 7 |
| P2 | 28 | Bachelor's degree | Associate | 2 |
| P3 | 31 | Bachelor's degree | Lawyer | 6 |
| P4 | 29 | Bachelor's degree | Lawyer | 4 |
| P5 | 34 | Master's degree | Partner | 9 |
| P6 | 28 | Bachelor's degree | Lawyer | 4 |
| P7 | 33 | Master's degree | Partner | 8 |
| P8 | 38 | Bachelor's degree | Junior Partner | 10 |
| P9 | 36 | Bachelor's degree | Lawyer | 6 |
| P10 | 48 | Master's degree | Senior Partner | 15 |
| P11 | 43 | Master's degree | Partner | 16 |
| P12 | 35 | Bachelor's degree | Lawyer | 6 |
| P13 | 51 | Master's degree | Senior Partner | 22 |
| P14 | 36 | Bachelor's degree | Lawyer | 9 |
| P15 | 50 | Doctoral degree | Senior Partner and Lead Counsel | 23 |

## Data Collection

In the conducted qualitative case study, data were collected from 15 (P1-P15) legal professionals in Saudi Arabia. The researcher recruited 18 participants, but three individuals were not interviewed because saturation was achieved at 15 legal professionals. Data were collected using a 10-item interview guide that was sub-divided into two categories (see Appendix B). The first category contained four questions to collect the participants' demographic data. The second category contained six interview questions related to administrative contracts, arbitration, and the GTP law. The six interview questions helped collect the analyzed data to answer the research queries. The 15 interviews were conducted via Zoom because of the researcher's and participants' geographic differences and the COVID-19 social

distancing directive. As a result, the shortest interview lasted 12 minutes, while the longest was 31 minutes. On average, the interviews lasted 22.8 minutes (see Table 2).

The use of Zoom to perform data collection allowed recording the participants' responses with ease and in a secure approach. Each participant was interviewed individually and recorded separately. Once all the 15 participants were interviewed via the one-on-one interview sessions, the data were transcribed into different Microsoft Word documents. After all the interviews were transcribed into 15 different Word documents, the researcher sent the participants their transcripts for verification. Ten participants confirmed that the transcribed data accurately represented their responses. Despite follow-up via email, the other five participants did not respond; hence, the researcher assumed that the transcribed data were accurate.

The data collection performed was congruent with the one performed in Chapter 3. The only variance experienced was that, on average, the data collection process lasted approximately 23 minutes, while it was anticipated that each interview would be conducted in 45 minutes. The shorter data collection duration can be associated with participants' precise but comprehensive responses. Two challenges were experienced during the data collection process. The first challenge was a Zoom-related technical issue that occurred. Notably, the Zoom call with P7 ended abruptly on the $10^{th}$ minute, creating a need to repeat the interview. The second challenge was P12 rescheduled the interview two times because of unavoidable circumstances, precisely work-related interruptions.

**Table 2**

*Interview Duration in Minutes*

| Participant | Minutes |
|---|---|
| P1 | 28 |
| P2 | 15 |
| P3 | 12 |
| P4 | 31 |
| P5 | 20 |
| P6 | 25 |
| P7 | 23 |
| P8 | 29 |
| P9 | 26 |
| P10 | 18 |
| P11 | 23 |
| P12 | 25 |
| P13 | 21 |
| P14 | 26 |
| P15 | 20 |
| Average | 22.8 |

## Data Analysis

Creswell and Creswell's (2018) six-step thematic data analysis process were conducted as stipulated in Chapter 3. The initial step involved reading the 15 verified transcripts severally to gain a comprehensive understanding of participants' responses and identify the general ideas discussed. Second, the investigator re-read the transcripts identifying *in vivo* terms and recorded them in a journal. The identified terms were positive overview, effective, bias, unfair, processes, activities, unfavorable, no judge or jury, Saudi Vision 2030, internationalization, and costs. Third, the researcher combined the *in vivo* terms into seven themes. The seven themes were (a) positive, (b) progressive, (c) efficacious, (d) internationalization, (e) questionable fairness, (f) unconventional outcomes, and (g) procedural modifications (see Table 3). Fourth, the investigator imported the 15 interview transcripts into NVivo. The process for importing the transcripts involved (a) selecting the *External Data* tab, (b) clicking on documents, and (c)

selecting the transcripts from the folder on the personal computer. Fifth, the researcher developed the themes by (a) clicking *Create,* (b) selecting *Node,* and (c) filling the *New Node*. Processes b and c were repeated, helping create themes two, three, four, five, six, and seven.

**Table 3**

*Research Questions and Respective Themes*

| Research Questions | Themes |
|---|---|
| Central Research Question: What are Saudi Arabian legal professionals' perspectives of the need for arbitration in administrative contracts? | 1. Positive<br>2. Progressive |
| Sub Question 1: What is Saudi Arabian legal professionals' perception of the impact of the arbitration provision in the GTP law? | 3. Efficacious<br>4. Internationalization |
| Sub Question 2: What issues do Saudi Arabian legal professionals believe could arise from the reforms to Saudi arbitration law? | 5. Questionable fairness<br>6. Unconventional outcomes |
| Sub Question 3: What changes do Saudi Arabian legal professionals believe should be made to the arbitration GTP law? | 7. Procedural modifications |

Sixth, the investigator coded the participants' responses to the specific themes. The process involved the following activities (a) opening the first transcript in NVivo, (b) selecting the first theme *positive,* (c) highlighting the participants' responses related to the theme, and (d) coding the content to the respective Node. Process a to d was repeated for all the themes and participants. Applying NVivo in the qualitative data analysis process facilitated the effective organization of the transcripts as one project. In addition, researchers have supported that the application of CAQDAS increases a study's rigor by fostering data management (Maher et al., 2018; Wilk et al., 2019). Similarly, CAQDAS supports the coding process by providing the researcher with an efficient approach to categorizing the participants' responses into their

respective themes (Wilk et al., 2019). Applying NVivo facilitated the systematic analysis of the 15 transcripts, supporting audit trailing (Maher et al., 2018; Wilk et al., 2019).

## Evidence of Trustworthiness

In this study, trustworthiness was promoted through credibility, transferability, dependability, and confirmability (Alam, 2020; Korstjens & Moser, 2018). Promoting the trustworthiness of qualitative studies underpins the methodology's rigor and consequently the finding's robustness. As a result, providing evidence of trustworthiness proves the investigator's dedication to ensuring that the findings were truthful and accurate.

### Credibility

In Chapter 3, the investigator indicated that credibility would be promoted through prolonged engagement, transcription verification, and member checking (Korstjens & Moser, 2018). Conversely, prolonged engagement was not achieved because each interview lasted an average of 23 minutes. Even though the prolonged engagement was not achieved, the investigator collected adequate thematically analyzed data, helping answer the research questions. The researcher promoted credibility through transcription verification, which involved sending each participant their responses in a Microsoft Word document to assess the information's accuracy. Additionally, the investigator performed member checking by sending the participants the analyzed data to review the correctness of the findings. All the participants indicated that the results were congruent with their responses (Korstjens & Moser, 2018).

### Transferability

The investigator intended to promote transferability by providing a detailed description of the participants and the research process (Korstjens & Moser, 2018). In this chapter, the investigator provided a detailed description of the participants' demographic information,

precisely their age, occupation, job experience in years, and highest educational level. A comprehensive description was provided to help the readers determine how the findings apply to their situation. The detailed description of the research process provides the readers with an adequate understanding of the core activities, such as participants selection, which are essential in promoting transferability. Correspondingly, data were collected up to the point of saturation, ensuring that they were a comprehensive representation of the sampled participants' responses (Alam, 2020; Korstjens & Moser, 2018).

**Dependability**

In this qualitative case study, dependability was promoted by including the sampled participants' verbatim responses in the results section when discussing the themes and interpreting the findings based on Luhmann's system theory in Chapter 5 (Korstjens & Moser, 2018). Including the participants' exact responses support that the study findings were based on the sampled individuals' perception and not the researcher's imagination. Additionally, interpreting the findings in reference to Luhmann's system theory supported that the results were congruent with the concepts that are known to be correct (Korstjens & Moser, 2018).

**Confirmability**

The investigator promoted confirmability through audit trail and maintaining a reflective journal (Korstjens & Moser, 2018). The audit trail involved maintaining an accurate record of all the activities performed during interview guide development, participants selection, data collection and analysis, and interpretation stages. The audit trail enabled the researcher to ensure that the abovementioned activities were performed systematically. Also, maintaining a reflective journal helped decrease bias by promoting self-awareness, specifically during the data collection, interpretation, and analysis process (Korstjens & Moser, 2018).

## Study Results

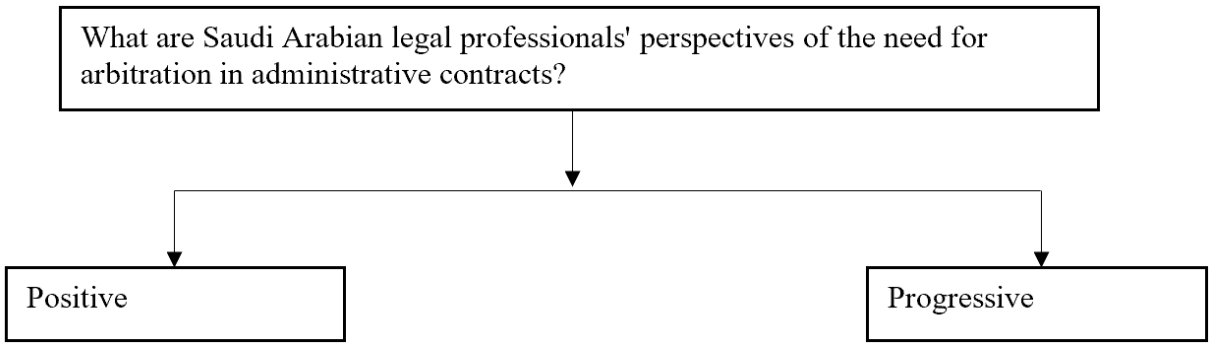
The thematic analysis of the participants' responses helped retrieve seven themes: Positive, progressive, internationalization, efficacious, questionable fairness, unconventional outcomes, and procedural modifications. The study results section was categorized according to the research questions and their respective themes. Additionally, figures and tables were included to support an interpretation of the study findings.

### Central Research Question

The central question that guided this qualitative case study is the following: what are Saudi Arabian legal professionals' perspectives of the need for arbitration in administrative contracts? The aim of the question was to understand how professionals perceive arbitration as a dispute resolution approach in administrative contracts. Data to answer the question were collected using the fifth interview query, an analysis of which helped retrieve two themes; positive and progressive (see Figure 1). The positive perception was associated with the expectation that the reforms being implemented in reference to arbitration will enhance the legal system's transparency and objectivity.

**Figure 1**

*Central Question Themes One and Two*



**Positive**

Twelve participants, specifically P1, P2, P3, P5, P6, P7, P8, P12, P13, and P14, indicated that they positively perceived the need for arbitration in administrative contracts (see Table 4). P13 directly stated that "the reforms have been positive." Another participant, P1, indicated that they positively perceive the application of arbitration in administrative contracts because it is congruent with Saudi's goal to diversify its economy. The lawyer indicated that "I perceive the legal reforms as positive because the laws are being implemented to support the Kingdom's Vision 2030." P2 added to the discussion by indicating that "there has been increased emphasis on diversifying the Kingdom's economy, which requires significant reforms that laws should support. As a result, I understand why the current reforms are occurring; hence, my positive perception towards the changes." Like P1 and P2, P3 responded that "I think the reforms will result in positive changes and support Saudi's Vision 2030." Correspondingly, P5 responded by indicating that "the legal reforms are positive because the changes are focused on improving the legal processes. The reforms will result in positive changes to the judicial system by increasing transparency, decreasing the bureaucracy associated with the system, and enhancing objectivity."

Congruent with P5's response, P8 expounded that, "I perceive the reforms as positive because they will improve the law by promoting certainty, clarity, and transparency in the system." In addition to improved clarity and transparency, P7 said that "the changes are positive because they are expected to promote uniformity and consistency, ensuring that similar cases result in the same decisions that are founded on precedence." P6's response concurred with the above perspectives by indicating that "the emerging modernization of the legal system is a positive concept, especially with the Kingdom's increasing economic diversification initiatives and industrialization." P12's responses supported the other participants' perspective because the

lawyer commented that “I believe that the reforms will improve efficiency, decrease vagueness, and enhance the consistency of rulings. P14 provided a detailed response on how the reforms in general and those related to arbitration will be positive. The lawyer explained that,

> I perceive the changes are positive because the legal framework currently founded on Islamic law is ineffective because judges base their ruling on interpreting religious-legal text associated with the cases. The process leads to inconsistencies and lengthy litigations that rulings and outcomes are not founded on codified laws or precedence. Although the reforms will be founded on the principles of Islamic laws, I believe that the changes will help improve the legal system.

**Progressive**

Eight participants, P1, P3, P4, P6, P7, P9, P10, and P13, perceived the legal reforms occurring in Saudi Arabia in reference to arbitration as progressive (see Table 4). P1 indicated that “the progressive laws continuously being adopted to decrease the nation’s dependence on oil will promote the reliability of procedures, which is essential in enhancing justice and fostering accountability, which are core factors in achieving growth.” P10 responded by saying that the “anticipated changes will decrease the variability in the judicial ruling by ensuring that they are founded on precedence.” P13’s response supported that the anticipated changes will advance the Kingdom’s legal system to ensure that laws are congruent with the international standards. The senior partner indicated that “the ongoing changes supported by the need for Saudi Arabia to be at par with other leading nations will result in numerous positive changes, some of which enhance the efficiency of the legal system.”

Additionally, P3 introduced the concept of modernization by indicating that “the reforms are appropriate because they modernize Saudi’s laws, ensuring that they align with international

norms." P4 advanced the concept of progressiveness by stating that "the modernization of traditional Islamic law is a positive concept because the changes promote the Kingdom's economic transformation." Similarly, P6 responded that "the reforms are congruent with the global best practices, especially transparency, which I believe will support the vision 2030 strategic goals." P9's response supported the concept of progressiveness and provided a unique perspective on how the reforms support an arbitration-friendly environment. The respondent remarked that "in addition, the consistent reforms supported by the Saudi Vision 2030 promote the government's commitment to developing a pro-arbitration environment with the long-term goal of promoting foreign investors' confidence to enter into administrative contracts focused on diversifying the economy." P7's response was unique because the participant provided how the progressive changes in arbitration influence the Saudi Vision and underpin the development of an environment where arbitration is permissible. The partner explained that,

> The new legal framework could support the achievement of the Saudi Vision 2030 you mentioned earlier because it signifies the government's commitment to promoting a pro-arbitration environment. I perceive the introduction of the 2012 Arbitration Law as the framework that has supported the continued changes, such as the increased use of alternative dispute solution approaches and the appointment of the first female arbitrator in the Kingdom.

**Table 4**

*Central Question Themes and Respondents*

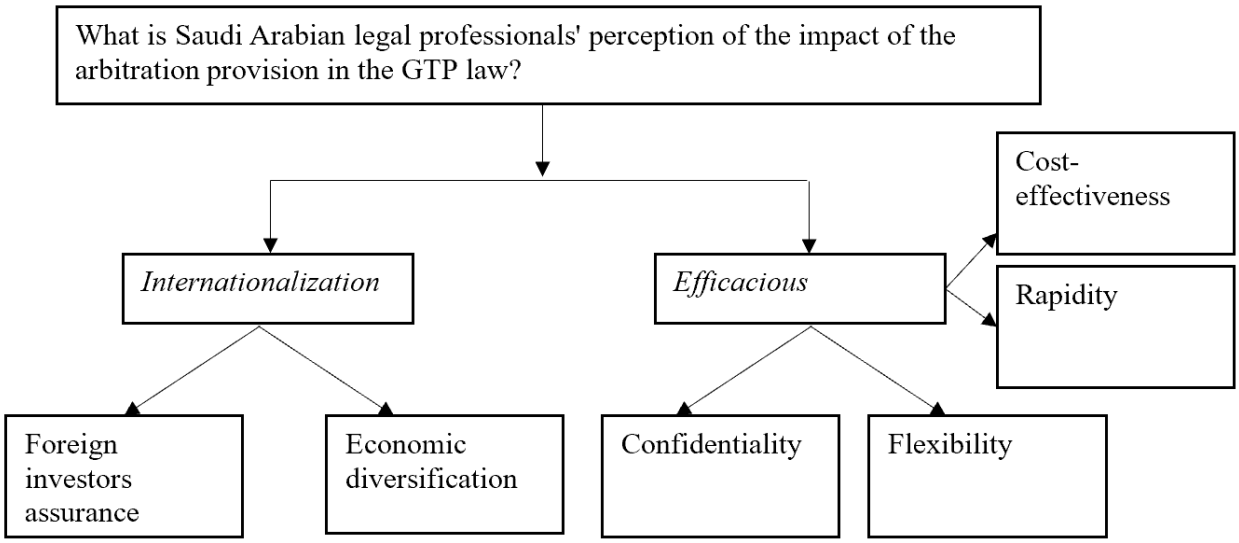
| Participants | Positive | Progressive |
|---|---|---|
| P1 | X | X |
| P2 | X | - |
| P3 | X | X |
| P4 | - | X |
| P5 | X | - |
| P6 | X | X |
| P7 | X | X |
| P8 | X | - |
| P9 | - | X |
| P10 | - | X |
| P11 | X | - |
| P12 | X | - |
| P13 | X | X |
| P14 | X | - |
| P15 | - | - |

## Sub Question One

The first sub-question that guided this study was the following; what is Saudi Arabian legal professionals' perception of the impact of the arbitration provision in the GTP law? The aim of the research question was to understand the legal professionals' perception of the impact of the new provision under the GTP law that allows government authorities to engage in arbitration. Based on the thematic analysis of the participants' responses in the sixth and seventh interviews questions, it was identified that legal professionals perceive that the reform underpins internationalization and promotes effectiveness because of the advantages associated with the arbitration approach (see Figure 2).

**Figure 2**

*Sub question One Themes Three and Four*




**Internationalization**

Eight participants, P2, P3, P8, P9, P10, P11, P14, and P15, indicated that the arbitration provision in the GTP law would promote internationalization because it provides foreign investors with an assurance that disputes will be mitigated on time (see Table 5). P10 explained that "arbitration as an alternative dispute resolution approach positively impacts administrative contracts because it assures investors, specifically foreigners, that if disputes occur, they will be resolved promptly." The participant added that "the availability of arbitration increases foreign investors' trust enhancing their propensity to enter into administrative contracts." Additionally, P11 emphasized how the Saudi government is increasingly dedicated to improving the Kingdom's ease of doing business with foreigners. The partner said that "the Saudi government's spending in health care, education, infrastructure, defense, and transport is expected to increase, meaning that administrative contracts will also rise, resulting in more disputes because of the complexity of the processes. Therefore, arbitration would promote effectiveness."

Like P10 and P11, P14 responded that “accepting arbitration as an alternative dispute resolution approach signifies positive developments in the Kingdom, promoting foreign investors’ confidence in the Kingdom’s diversifying economy.” The lawyer added to the response by stating that “the provision in the GTP law aligns with the Saudi Vision 2030 for economic diversification.” P15 explained how the application of arbitration increases foreign investors’ confidence in Saudi Arabia’s legal system. The senior partner and lead counsel argued that “Article 92 of the GTP law mitigates foreign investors unease because before its enactment disputes were handled by the Board of Grievances’ commercial courts, which resulted in delays and were associated with uncertainty.”

Likewise, P2 indicated that “arbitration could positively impact dispute resolution in administrative contracts because it increases the Kingdom’s compliance with bilateral and international agreements.” Congruent with P11’s response, P2 reiterated that “the introduction of arbitration under the new GTP law could increase foreign investors in transport, defense, and other industries, supporting the government’s intentions to diversify the economy.” P3 advances the previous arguments by arguing that “adopting arbitration in administrative contracts could improve foreign direct investments because that approach assures international organizations or individuals that it will be resolved efficiently and effectively if a dispute arises.” P8’s responded by providing an association of how the introduction of arbitration conforms with *Sharia* and the Kingdom’s interests. The junior partner argued that “legal reforms consistent with *Sharia* and Saudi’s interest are focused on promoting prosperity in the Kingdom and will support the internationalization of the legal system that will advance our practice.” P9’s response was congruent with the above-discussed concepts, but the lawyer provided the most comprehensive answer among the participant. P9 elucidated that,

> The reforms are essential because they will aid internationalize the legal system helping ensure that Saudi laws are consistent with the global norms. The changes will improve the Kingdom's appeal to the international communities by ensuring that Sharia-compliant laws are consistent with globally accepted norms. In addition, internationalizing the legislative process in its entirety will promote clarity and enhance the preciseness of procedures and subject matter laws. I perceive that the arbitration provision under the new GTP law could attract foreign investment to the Kingdom, supporting the diversification initiative.

**Efficacious**

All participants P1-P15 perceive that arbitration will promote effectiveness in administrative contracts precisely because of the advantages of the alternative dispute resolution approach (see Table 5). P1 argued that "the use of arbitration could positively improve how issues in administrative contracts are resolved. There are numerous advantages of arbitration, including confidentiality, flexibility, and cost-effectiveness." Also, P10 argued that "arbitration is inexpensive, and disputes can be resolved in as soon as seven months, preventing adverse outcomes. The approach is flexible as it allows parties to choose a representative and determine the permissible levels of oral argument." P11 responded that "arbitration is a fast and straightforward procedure because all the activities are determined by the individuals involved, which is different from the lengthy litigation processes that are influenced by numerous factors." The partner advanced the response by indicating that "arbitration's rapidity and the simplicity facilitate cost-saving because it does not take as long as litigation. In addition, the approach eliminates the likelihood of parties judging each other; hence, preventing the occurrence of hostility between a government entity and a foreign party."

P12 responded directly by saying that “confidentiality is a core advantage of arbitration because the involved parties determine the proceedings. In addition, arbitration is a simple, cost-effective, and expeditious process.” P3’s, P7’s, P8’s, P9’s P13’s, P14’s, and P15’s verbatim responses were related to the confidentiality, flexibility, cost-effectiveness, and rapidity that would be experienced after adopting arbitration to resolve disputes in administrative contracts. Hence, the participants’ verbatim responses were not included to prevent redundancy.

P2, P4, P5, and P6 provided unique perspectives on how the introduced reform under the new GTP law will improve the efficacy of the increasing administrative contracts. Precisely, P2 argued that “arbitration is independent because it is founded on objective rules that promote justice. For the same reason, arbitration helps mitigate the concerns of home biases when one party is an international supplier.” Another participant P4, explained that “arbitration has a positive impact on administrative contracts because disputes have a significant likelihood of occurring in complex contractual undertakings, making the approach core when it comes to dispute resolution.” P5 advanced P4’s response by arguing that “arbitration promotes equity and ensures that the public entity/ authority does not have the legal guarantee provided to it by law.” The partner advanced the response by saying that “arbitration is a vital dispute resolution in administrative contracts because the approach helps overcome issues such as the cost and lengthy processes associated with litigation.” P6 responded that “arbitration allows parties at the contractual stage and after the arbitration has begun to evaluate the scope and nature of discovery, process’s duration, and conduct of the hearing.”

**Table 5**

*Sub-Question One Themes and Respondents*

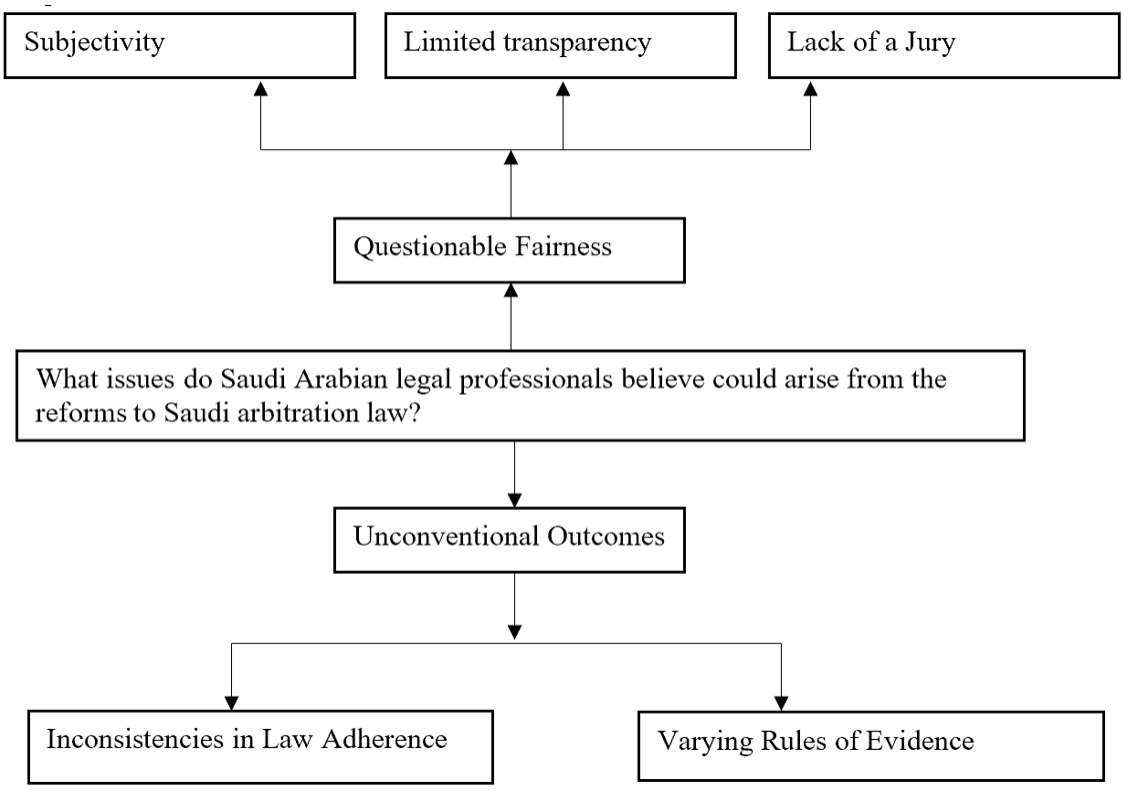
| Participants | Internationalization | Efficacious |
|---|---|---|
| P1 | - | X |
| P2 | X | X |
| P3 | X | X |
| P4 | - | X |
| P5 | - | X |
| P6 | - | X |
| P7 | - | X |
| P8 | X | X |
| P9 | X | X |
| P10 | X | X |
| P11 | X | X |
| P12 | - | X |
| P13 | - | X |
| P14 | X | X |
| P15 | X | X |

## Sub Question Two

The second research question that guided the study was what issues do Saudi Arabian legal professionals believe could arise from the reforms to Saudi arbitration law? The purpose of the research question was to understand the legal professionals' perception of the problems that could emerge from using arbitration as an alternative dispute resolution approach as mandated in the new GTP law. Analyzing the qualitative data collected from the participants' responses in the eighth interview query helped identify that the adverse results could be questionable fairness and unconventional outcomes (see Figure 3).

**Figure 3**

*Sub question Two Themes Five and Six*




**Questionable Fairness**

Thirteen participants; P1, P2, P3, P4, P6, P7, P8, P10, P11, P12, P13, P14, and P15, indicated that a concern is that arbitration is associated with questionable fairness that was attributed to subjectivity, lack of a jury, and limited transparency. P1 indicated that "an unfavorable outcome could be a lack of fairness, especially in the cases of mandatory arbitration. Also, the process of choosing an arbitrator is subjective, resulting in bias." P10 advanced that concept of unfairness by explaining that "an unfavorable outcome is that the arbitrators might consider apparent fairness during dispute resolution instead of strictly adhering to the law. When arbitrators base their decisions on the respective parties' positions, it affects the standardization of the process." The senior partner expounded that "arbitrators usually base their decisions on

equity, while judges adhere to the law. Overall, arbitration is a practical dispute resolution approach, but there is a need to carefully consider the process to determine its applicability in an emergent dispute."

Likewise, P11 provided associations among subjectivity, lack of a jury or judges, and fairness by arguing that "arbitrators can be subjective and provide a judgment in favor of one party. Unfairness could also arise because the decisions are only made by one arbitrator, unlike in litigation where a jury and judges make the judgment." P12 elaborated P11's response by stating that "in arbitration, decisions are made at the arbitrator's discretion. The arbitrator's decision is usually issued in an explanatory statement or opinion. Also, arbitrators issue their decisions in private that are infrequently reviewed by courts resulting in a lack of transparency." The respondent added that "in addition to confidentiality being the source of bias, the problem can also be attributed to one arbitrator making the decision." P6 stated that "unfairness can arise when the law is not comprehensively adhered to, resulting in inconsistencies."

Comparably, P7, P8, and P13 focused on the bias that might arise when selecting an arbitrator. P13's response incorporates P7's and P8's argument by stating that "there is a possibility that the chosen arbitrator could favor one party over another resulting in impartiality. The impartiality results in bias, making the arbitration process unpredictable because specific rules are not followed, unlike in courtroom trials." Similarly, P14 said that "in arbitration, unfairness can arise when the arbitrator's selection process is subjective, or decision is based on the concept of fairness instead of the law." In addition to the issue of subjectivity, P15 indicated that "the arbitrator selection process is not always objective, meaning that the individual selected could provide judgment in favor of one party over the other, causing impartiality and negatively affecting b justice." Another participant, P2 introduced a different perspective by indicating that

arbitration could hinder the achievement of the public's interest. The associate side that "in arbitration, it might be challenging to achieve the public's interest and welfare that are significant factors in the administrative contracts. The mentioned issue can arise if arbitration is associated with questionable fairness, specifically when choosing an arbitrator."

P3 explained how the arbitrator's unfairness could cause unfavorable outcomes. The lawyer responded that "the lack of a jury increases the possibility of bias in arbitration because it means that one person makes decisions." The participant added to the response by indicating that "the confidentiality of arbitration can be a disadvantage because the processes are held in private, which hinders transparency. The lack of transparency increases the likelihood of bias occurring." Congruent with P3, P4 elaborated on how confidentiality could be a negative concept. The lawyer said that "the primary negative outcome would probably be bias because one arbitrator makes the decisions in private. Therefore, the selected arbitrator could provide a subjective ruling, resulting in injustice." The respondent added that "in binding arbitration, both parties give up the right to an appeal. Hence, if one party perceived that the decision was erroneous, they have limited opportunities to seek a re-evaluation."

**Unconventional Outcomes**

Six participants, P1, P5, P7, P9, P13, and P14, indicated that unconventional outcome is a negative issue that could emerge from the application of arbitration (see Table 6). The unconventional outcomes can be associated with inconsistencies in how the law is adhered to and varying rules of evidence (see Figure 3). P1's, P7's, and P13's responses were related to inconsistencies in how the law is adhered to during decision making. P1 indicated that "although arbitrators must follow the law, the professionals may consider apparent fairness, causing an inconsistent adherence to the law." P13 expounded on P1's response by stating that "arbitrators

mainly focus on promoting equity, which might involve disregarding the law; hence, making the process unpredictable." In addition, P7 said that "arbitration rulings are unpredictable because the process does not adhere to the formal litigation rules, resulting in unconventional outcomes. The unusual solutions could affect the fairness that would have been achieved in the litigation process."

Differently, P5's, P9's, and P14's responses were related to varying rules of evidence. For instance, P14 stated that "arbitration can result in unexpected outcomes because evidence that would not have been considered in courts can be used, resulting in unpredictability." P5 provided a detailed response by indicating that,

> In litigation, rules of evidence prevent some information from being considered by the jury or a judge. Conversely, the limitation does not apply to arbitrators who may base their decisions on evidence that a jury or judge would not consider, damaging the cases. The issues could result in bias because an arbitrator may make rulings that would be inappropriate in court. The arbitrator may develop unconventional solutions that were unexpected by the parties, which could be advantageous or disadvantageous.

Similarly, P9 comprehensively explained that,

> The only negative outcome that could emerge from using arbitration is the process's unpredictability or unconventional outcomes that could occur, specifically if the arbitrator does not adhere to specific rules. For example, in the court systems, there are provisions such as rules of evidence that guide the proof of facts in the legal proceedings. The rules are essential because they determine evidence admissibility by ensuring only accurate and relevant evidence is used in legal proceedings. On the contrary, rules of evidence in arbitration are unadhered to, resulting in decisions founded on evidence that

could not have been used in a legal proceeding. Hence, arbitration's unpredictability is a significant problem that could limit the use of the approach in resolving disputes.

**Table 6**

*Sub-Question Two Themes and Respondents*

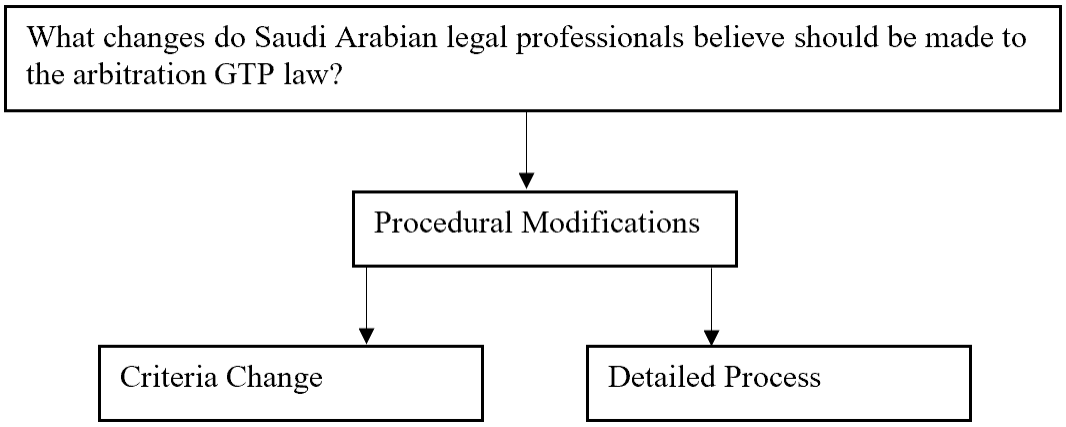
| Participants | Questionable Fairness | Unconventional Outcomes |
|---|---|---|
| P1 | X | X |
| P2 | X | - |
| P3 | X | - |
| P4 | - | - |
| P5 | - | X |
| P6 | X | - |
| P7 | X | X |
| P8 | X | - |
| P9 | - | X |
| P10 | X | - |
| P11 | X | - |
| P12 | X | - |
| P13 | X | X |
| P14 | X | X |
| P15 | X | - |

## Sub Question Three

The third research question that guided the study was what changes do Saudi Arabian legal professionals believe should be made to the arbitration GTP law? The question was developed to help understand the legal professionals' perception of the additional feasible changes introduced to promote change. In addition, an assessment of the participants' responses in the ninth and tenth interview queries helped identify one theme on the need for procedural modifications (see Figure 4).

**Figure 4**

*Sub question Two Theme Seven*




**Procedural Modifications**

All respondents but P1 indicated that the procedure for obtaining approval for the Ministry of Finance to use arbitration as a dispute resolution approach should be introduced (see Table 7). The procedural modifications were related to changing the criteria used to determine when arbitration is applicable or clarifying the process for obtaining permission from the Minister of Finance. Consequently, the investigator sampled the detailed responses included in discussing the theme to prevent redundancy. P12 explained that "the reform that can be made to Article 92(2) of the GTP Law is adding procedures to guide individuals on obtaining approval from the Minister of Finance." The lawyer added that "a detailed description of the procedure would help parties understand the process of submitting a formal request to the Minister, the anticipated response period, and the required documents. Detailed procedures promote transparency and eliminate vagueness in the legal system." Similarly, P14 stated that "the possible change in the arbitration GTP law is the introduction of procedures on how parties are supposed to obtain permission to use arbitration. There is no explicit instruction on obtaining the required permission in the current GTP law."

P4 explained that "additional adjustments to the criteria on when arbitration is applicable can be made to promote the number of administrative contract disputes that can be resolved through the alternative dispute resolution approach." The lawyer expounded on the response by indicating that "the criteria should be changed, mainly because the process of seeking permission from the Minister of Finance to use arbitration as a dispute resolution approach is unclear." P5 advanced P4's explanation by stating that,

> Modifications could be made to the conditions that government bodies must fulfill to use arbitration as an alternative dispute resolution approach. The conditions such as the need for arbitration to first be approved by the Minister of Finance is vague because it is not comprehensively understood how individuals should obtain permission from the authorities. In addition, concise instructions were not included in the new GTP law, making it challenging for parties to use arbitration as an alternative dispute resolution. There is a need for changes to ensure that parties can readily access arbitration, improving the dispute resolution approach.

**Table 7**

*Sub-Question Three Themes and Respondents*

| Participants | Procedural Modifications |
|---|---|
| P1 | - |
| P2 | X |
| P3 | X |
| P4 | X |
| P5 | X |
| P6 | X |
| P7 | X |
| P8 | X |
| P9 | X |
| P10 | X |
| P11 | X |
| P12 | X |
| P13 | X |
| P14 | X |
| P15 | X |

## Summary

The purpose of this qualitative case study was to understand the perception of legal professionals in Saudi Arabia towards arbitration as a dispute resolution approach in administrative contracts under the GTP Saudi law. Data to answer the research questions were collected from 15 legal professionals in Saudi Arabia, using a 10-item interview protocol. The data were reported in aggregate in the study to protect the participants' confidentiality. Also, participants were issued pseudonyms P1 to P15 to promote confidentiality. The interviews, which on average lasted for 22 minutes, were recorded via Zoom and transcribed into 15 Microsoft Word documents. The investigator adhered to concepts of trustworthiness, such as transcript verification, detailed description, audit trail, and maintaining a reflective journal. The data collection procedure in the third chapter was adhered to without any modification. Conversely, the investigator experienced technical issues with Zoom and work-related interruptions during data collection, but the challenges were mitigated and did not significantly impact the process.

Data were collected using a six-step procedure involving reading the transcripts, identifying *in vivo* terms, developing the themes, importing the data sources into NVivo, creating the nodes, and coding. An analysis of the data helped retrieve seven themes, namely, (a) positive, (b) progressive, (c) efficacious, (d) internationalization, (e) questionable fairness, (f) unconventional outcomes, and (g) procedural modifications. Overall, it was identified that Saudi Arabian legal professionals perceive arbitration reforms in the new GTP law as positive and progressive changes that could promote internationalization because of their effectiveness. Conversely, arbitration is associated with questionable fairness and unconventional outcomes.

Additionally, procedural modification to the arbitration criteria and process for seeking permission from the Minister of Finance should be made to improve the GTP law's applicability.

# Chapter 5: Discussion, Conclusions, and Recommendations

The requirement for alternative dispute resolution approaches, specifically arbitration in Saudi Arabia, has been supported by the increasing need to diversify the economy (Alanzi, 2021). In efforts to achieve the economic diversification indicated in the Saudi Vision 2030, the government intends to increase its spending. For example, in the 2019/2020 fiscal year, the Saudi government spent SAR 300 billion, 13% of the nation's gross domestic product, on procurement (GOV.SA, 2021a). In addition, increasing the Kingdom's ease of doing business to attract foreign investors is one of Saudi Arabia's strategies to diversify its economy. Consequently, the government has been modernizing its legal system to increase the Kingdom's appeal to foreign investors (Aldhafeeri, 2020, 2021).

One of the changes in laws is the 56-year-old practice that prohibited government entities in the Kingdom from using arbitration as a dispute resolution approach (Amit, 2020; MOF, 2019). The new GTP law enacted by Royal Decree M/128 on 13/11/1440H (July 16, 2019) allows government bodies and agencies to use arbitration to resolve disputes in administrative contracts after receiving approval from the Minister of Finance. Conversely, the legal professionals' perception of the arbitration provision in the new GTP law was unknown. Thus, the purpose of this qualitative case study was to understand the perception of legal professionals in Saudi Arabia towards arbitration as a dispute resolution approach in administrative contracts under the GTP Saudi law. A qualitative case study was conducted to decrease the gap in the literature by interviewing legal professionals in Saudi Arabia to understand their perception of the arbitration provision under the new GTP law. The concepts discussed in this chapter were categorized into five sections (a) interpretation of findings, (b) limitation of the study, (c) recommendations, (d) implications, and (e) conclusions.

## Interpretation of Findings

Analyzing the collected data helped retrieve seven themes relevant for answering the research questions. The seven themes were (a) positive, (b) progressive, (c) efficacious, (d) internationalization, (e) questionable fairness, (f) unconventional outcomes, and (g) procedural modifications. The interpretation of the findings section was categorized according to the research questions to facilitate discussing each theme systematically.

### Central Research Question

The central question that guided this qualitative case study was the following: what are Saudi Arabian legal professionals' perspectives of the need for arbitration in administrative contracts? A thematic analysis of the participants' responses helped retrieve two themes: positive and progressive. Thus, it was interpreted that the legal professionals in Saudi Arabia perceive the need for arbitration in administrative contracts as positive and progressive.

### Positive

The findings that arbitration is perceived positively among legal professionals in Saudi Arabia advance the content in published literature. In their studies, Abu Helw and Ezeldin (2020), Alanzi (2021), and Ashmawi et al. (2018) provided detailed and current information to understand the concept of arbitration in the Kingdom. Conversely, when performing the literature search, the investigator did not identify any literature on the legal professionals' perception of arbitration as a dispute resolution approach in administrative contracts. As a result, this qualitative case study's findings increase an understanding of how legal professionals perceive arbitration.

### Progressive

It was also identified that Saudi legal professionals perceive the use of arbitration in administrative contracts as progressive. Abbadi (2018), Abu Helw and Ezeldin (2020), Aldhafeeri (2021), and Alanzi (2021) acknowledged that in Saudi Arabia, significant modifications had been made to the Kingdom's arbitration law to underpin the Kingdom's conformance with the changing times. Although the researchers did not assess the legal professionals' perception, the findings support the importance of arbitration, a concept that was advanced in this qualitative case study. The findings that the legal professionals perceive the changes in arbitration as progressive decrease the gap in the literature and lack of qualitative studies on the concept.

## Sub-Question One

The first sub-question was: What is Saudi Arabian legal professionals' perception of the impact of the arbitration provision in the GTP law? Analyzing the qualitative data helped the investigator retrieve two themes efficacious and internationalization. In essence, the legal professionals perceive that the application of arbitration under the new GTP law promotes effectiveness and underpins the Kingdom's internationalization initiative.

### Efficacious

The legal professionals indicated that arbitration is an effective alternative dispute resolution approach because it promotes confidentiality, is flexible, cost-effective, and allows the timely resolution of issues. The findings are concordant with those in published literature, where authors argue that arbitration is an approach that is associated with rapidity, simplicity, cost-effectiveness, sustainability, and confidentiality (Aldhafeeri, 2020, 2021; Faulkes, 2018; Noll,

2017; Portocarrero, 2020). Consequently, arbitration is perceived as a practical dispute resolution approach in administrative contracts because of its advantages.

**Internationalization**

The interviewed lawyers perceive that providing the GTP law allowing government agencies to engage in arbitration will promote internationalization. In their studies, Abu Helw and Ezeldin (2020), Tooly et al. (2021), and Wahab and bin Omar (2020) indicated that globalization has increased the number of administrative contracts and the need for arbitration because it is among the most effective alternatives dispute resolution approaches. Similarly, the changes in arbitration laws will increase the Kingdom's ease of doing business, supporting internationalization and transition towards a knowledge-based economy (Aldhafeeri, 2020).

Biygautane et al. (2018) indicated that Saudi Arabia's law favors litigation over arbitration, limiting partnerships between public and private organizations, which is necessary for promoting economic diversification. The legal professionals indicated that developing a pro-arbitration environment provides foreign investors with an assurance that if disputes emerge, they will be resolved on time. Also, the increased Kingdom's appeal to foreign investors will underpin economic diversification. The findings are congruent with Luhmann's system theory assumptions that changes in law influence the economic system (Mattheis, 2012; Niklas, 1970, 2018). Consequently, the findings in this qualitative study advance theoretical concepts and the published literature by providing results based on primary data from the legal professionals in the Kingdom.

## Sub-Question Two

The second sub-question was what issues do Saudi Arabian legal professionals believe could arise from the reforms to Saudi arbitration law? Two themes, questionable fairness, and

unconventional outcomes were identified from the participants' responses. Based on the thematic analysis, it was identified that the legal professionals are concerned that the use of arbitration to resolve administrative contracts will result in questionable fairness and unconventional outcomes.

**Questionable Fairness**

It was identified that questionable fairness attributed to arbitration's limited transparency, lack of a jury, and arbitrator's subjectivity are concerns that could emerge because of using a dispute resolution approach. The respondents indicated that although confidentiality is a significant advantage of using arbitration, the feature could be a disadvantage because it affects transparency. Additionally, the lack of a jury and arbitrator's subjectivity could result in bias, negatively impacting the process's fairness. The findings advance arguments in the published literature that significantly discuss the advantages of using arbitration (Aldhafeeri, 2020, 2021; Faulkes, 2018; Noll, 2017; Portocarrero, 2020). The conducted qualitative case study, to the researchers' knowledge, is the first to be conducted assessing the legal professionals' concerns of using arbitration in administrative contracts.

**Unconventional Outcomes**

The participants indicated that unconventional outcomes emerge because of inconsistencies in how arbitrators adhere to the law and the varying rules of evidence during the process. For example, it was identified that in litigation, the rules of evidence might limit the information that is considered when deciding. Conversely, the legal professionals explained that the rules of evidence in arbitration do not apply, meaning that the decision might be based on information that the jury or judges would not consider. Additionally, arbitrators base their decision on apparent fairness and focus on promoting equity instead of strictly adhering to the

law. The findings advance the published literature by discussing primary qualitative data collected from legal professionals in Saudi Arabia (Aldhafeeri, 2020, 2021; Faulkes, 2018; Noll, 2017; Portocarrero, 2020).

## Sub-Question Three

The third research question was: What changes do Saudi Arabian legal professionals believe should be made to the arbitration GTP law? One theme. The procedural modification was identified. The legal professionals indicated a need to adjust the criteria used to determine when arbitration is applicable and clarify the procedures for obtaining approval from the Minister of Finance.

### Procedural Modifications

It was identified that the criteria administrative contracts have to fulfill for arbitration to be applicable limits the application of the approach. Similarly, the lack of specific instructions for government entities on obtaining the Minister of Finance's permission to use arbitration creates vagueness and hinders transparency. Aldhafeeri (2021) argued for the need for procedural changes to increase the use of arbitration as a dispute resolution approach in administrative contracts. Differently, Alfatta (2019) recommended the need for the Saudi government to decrease its reliance on *Sharia* because it limits flexibility.

## Limitation of the Study

The limitations to trustworthiness that emerged when conducting this study are related to the qualitative methodology and case study applied. One limitation is that triangulation was not achieved because data were collected from one data source, interviews (Korstjens & Moser, 2018). The lack of triangulation is a limitation because it underpins data validation through cross verification. Another limitation is that applying the qualitative methodology and case-study

design is limited in assessing arbitration's causal impact on administrative contracts (Creswell & Creswell, 2018). In addition, the limitations of the methodological and design hinder the findings' generalizability because the results were based on qualitative responses rather than statistically significant data. The following limitation is that data were collected using a researcher-developed instrument. Although the instrument's content validity was determined using a field test and content founded on literature, the data collection tool has not been used in another study.

Additionally, using a 10-item researcher-developed interview protocol allowed the collection of qualitative data adequate for answering the research questions, but the responses cannot be verified. The qualitative data on perception collected from the participants may be affected by telescoping and exaggeration (Queiros et al., 2017). Telescoping, which is the effect associated with inaccurate perceptions of time, might have affected the legal professionals' responses to the reforms in the law that have been occurring over time. Additionally, the participants might have exaggerated their responses, impacting the relevance of the response (Queiros et al., 2017). Conversely, the limitation was mitigated by interpreting the findings based on the published literature.

## Recommendations

Three recommendations for future research that are based on the qualitative case study's strengths and published literature limitations were discussed in this section. The first recommendation is for future researchers to conduct additional qualitative studies to understand arbitration as a dispute resolution approach under the new GTP law. Although this qualitative study adds evidence on the concept, more research is needed to fill the gap in practice. A second recommendation is for future researchers to conduct a study using a mixed-methods

methodology (Creswell & Creswell, 2018). Applying a mixed-methods approach will help the researchers overcome the methodological limitations of conducting a study guided by a qualitative strategy. In addition, the quantitative aspect of the mixed-methods approach will help support the study findings' objectivity because the results can be presented in numerals that can be assessed for statistical significance (Creswell & Creswell, 2018).

The third recommendation is to conduct a study that supports the concept of triangulation. In the future, researchers can conduct a similar study, but instead of collecting data using interviews only, they can also use focus groups, observation, or review archival documents, which could help achieve method triangulation (Korstjens & Moser, 2018). Additionally, future researchers can achieve triangulation by collecting data on the study phenomenon from different professional groups such as arbitrators, lawmakers, and judges. Future researchers can achieve investigator triangulation by involving three or more individuals in the data analysis and interpretation process, underpinning the study's trustworthiness (Korstjens & Moser, 2018).

## Implications

The investigator identified that although the adoption of arbitration in administrative contracts is perceived positively and as a progressive initiative that promotes effectiveness and internationalization, issues, specifically questionable fairness, and unconventional outcomes could negatively affect the public's interest. In administrative contracts, the public's interest is essential, making it vital for the disputes that emerge during the process to be resolved promptly and founded on justice (Abu Helw & Ezeldin, 2020). Thus, before selecting arbitration as a dispute resolution approach, the parties should assess the risk of unconventional outcomes that can be attributed to unfairness from occurring. The findings also have implications for

government authorities who are core parties in the administrative contracts. Before using arbitration, the government agencies should assess the impact of arbitrators' subjectivity, limited transparency, lack of a jury, varying rules of evidence, and inconsistencies in law adherence to prevent the decisions made from negatively impacting the public's interest.

The qualitative methodology applied in the study helped assess the phenomenon of focus from the legal professionals' perspective. Consequently, the study has implications on the qualitative methodology because it supports that the approach is suitable for understanding a concept in-depth. Also, the study findings support the suitability of semi-structured interview protocols in facilitating the collection of adequate qualitative data that can be applied in answering the research questions.

Luhmann's system theory-guided and provided this qualitative case study with a scholarly underpinning. The study findings have implications for Luhmann's system theory because they support its application in understanding how the legal, political, and economic systems are interrelated. According to Albert (2019) and Mattheis (2012), legal rules are decisions that can be repealed, but the complexity of the law makes it essential for the changes to be systematic because they also influence the economic systems. Accordingly, in this qualitative study, applying the theory helped explain that the arbitration clause in the new GTP law allowing government agencies to use arbitration as a dispute resolution approach but only after receiving permission from the Minister of Finance could impact the economy. Expressly, the legal professionals indicated that the change could promote internationalization by increasing the foreign investors' trust and increasing the ease of doing business in the Kingdom. Hence, this qualitative case study has implications for Luhmann's system theory because the findings support the framework's assumptions mentioned above.

Additionally, this study has empirical implications because, to the researcher's knowledge, this is the first qualitative case study conducted assessing the legal professionals' perception of arbitration as a dispute resolution approach under the new GTP Saudi law. The study adds to the literature and empirical evidence by providing the legal professionals' perceptions and including recommendations on how the law can be improved to promote effectiveness. In the current literature, researchers discuss arbitration and the new GTP law using secondary data (Alanzi, 2021; Aldhafeeri, 2020, 2021). Thus, this qualitative case study impacts empirical evidence by being the first study to collect data from Saudi Arabia legal professionals focusing on arbitration, administrative contracts, and new GTP law.

The recommendation for practice is the need for lawmakers to include detailed instructions in the process for obtaining permission from the Minister of Finance. The lack of concise and clear instructions on how government entities should obtain permission to use arbitration as a dispute resolution approach creates vagueness in the law. The recommendation supports the need for continued improvements to the legal systems to ensure that government agencies can access arbitration as mandated in the law.

## Significance of the Study

Arbitration is a fundamental dispute resolution approach in international contracts and commercial transactions (Aldhafeeri, 2020, 2021). After ratifying the New York Convention, Saudi Arabia enacted an Arbitration law in 2012 to modernize some aspects of the legislation, eliminating limitations such as an arbitrator should be a Muslim (Alanzi, 2021; Aldhafeeri, 2020). A reform implemented in 2019 is the GTP law that allows arbitration in administrative contracts, which underpins the achievement of Saudi's Vision 2030. When the research was being conducted, no qualitative study had been performed to understand Saudi Arabian legal

professionals' perception of arbitration as a dispute resolution approach in administrative contracts. Thus, the study has significance to practice, theory, and social change.

**Significance to Practice**

Arbitration is considered one of the most applied alternative dispute resolution approaches (Aldhafeeri, 2020). Increasing an understanding of arbitration as an alternative dispute resolution approach in administrative contracts under the GTP Saudi law was anticipated to help determine if there was a need for additional reforms to the legal system. Specifically, the project had significance to practice because the findings increased comprehension of Saudi Arabian legal professionals' (a) perception of the impact of the arbitration provision in the GTP law, (b) understanding of the issues that could arise from the reforms, and (c) the changes that should be made to the arbitration process based on the Saudi Vision 2030 and international standards.

**Significance to Theory**

In their study, Alanzi (2021) assessed Saudi Arabia's administrative contracts regulation. Although the researchers explain arbitration in the context of administrative contracts, the authors did not collect primary data to support their discussions. Additionally, researchers did not support their arguments with concepts from theoretical frameworks (Alanzi, 2021; Aldhafeeri, 2020; Moshashai et al., 2020). The Kingdom of Saudi Arabia has a unique judiciary based on Islamic Sharia as the main source of legislation. Also, the judiciary is influenced by the prevailing civil law system in the neighboring countries. Although there lack specific legal provisions that limit a certain matter, the courts apply the relevant Sharia principles. One assumption in Luhmann's system theory is that law can only be changed by modifying the existing order.

In contrast, Saudi courts lack binding precedents but have persuasive value (Albert, 2019; Mattheis, 2012). The study was expected to have significance to Luhmann's system theory by advancing its application to understanding Saudi's legal system, specifically, the concepts of arbitration, administrative contracts, and the GTP law. Additionally, applying Luhmann's system theory provided the study with a scholarly underpinning, supporting the applicability of the concepts to understand Saudi's GTP legislation and its influence on the economic and political systems (Albert, 2019; Mattheis, 2012).

**Significance to Social Change**

Although Saudi's law was not congruent with the international standards, the Kingdom has reviewed and enacted numerous reforms such as the 2012 arbitration Act and 2019 GTP law in pursuant of Saudi's vision 2030. The reforms eliminated the restrictions that hindered public authorities from using arbitration as a recourse in administrative contracts. Saudi Arabia is a rentier state, making government contracts and projects a significant percentage of the Kingdom's expenditure (Aldhafeeri, 2020). The availability of a supportive legal environment that underpins arbitration as an alternative dispute resolution approach has increased the propensity of numerous local and international private organizations' interest in doing business with Saudi Arabia's government (GOV.SA, 2021b; SAMA, 2021). Administrative contracts are developed to support the delivery of services that benefit the public. Thus, increasing an understanding of arbitration as a dispute-settling approach in administrative contracts was expected to have significant social change because the findings provided an insight on how the legally binding agreements can be improved, enhancing the delivery of public service.

## Conclusion

Analyzing arbitration as a dispute resolution strategy in administrative contracts helped identify that legal professional in Saudi Arabia perceive the approach as positive and progressive. The legal professionals' perception can be associated with the expectation that arbitration permissible under the new GTP law will promote effectiveness and increase internationalization in the Kingdom. Conversely, the legal professionals are concerned that the alternative dispute approaches' unconventional outcomes and questionable fairness are some of the negative issues that could arise from the reforms to Saudi arbitration law. Overall, the legal professionals acknowledged the significant changes in the legal system and recommended the need for procedural modifications to be performed to promote effectiveness.

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# Appendix A: Participant's Recruitment Email

**The researcher's name:** Name

**Purpose of the study:** The purpose of this qualitative case study is to understand the perception of legal professionals in Saudi Arabia towards arbitration as a dispute resolution approach in administrative contracts under the GTP Saudi law.

**You are an eligible participant if you are** (a) older than 25 years; (b) knowledgeable about arbitration, administrative contracts, and GTP Saudi law; (c) willingly agree to participate in the study; and (d) have at least a two-year work experience.

**Interview Duration:** 30 to 45 minutes Zoom interview

**To enroll:** Contact (phone/email) for additional information Cell #: (000)000-0000

Participation is voluntary, and confidentiality is guaranteed.

# Appendix B: Interview Protocol

Pseudonym:……. Date……..

Hello, my name is Maryam Almutairi, from Nova Southeastern University. I wish to welcome and thank you for accepting to participate in this interview, which is part of my master's program. Participation in this interview is voluntary, and you will not be penalized if you decide to quit at any point. Your information will only be used for this study and will not be shared with any third parties. I wish to inform you that the interview will be recorded, and you must provide verbal consent before we start [Start interview if the participant agrees]. The purpose of this qualitative case study is to understand the perception of legal professionals in Saudi Arabia towards arbitration as a dispute resolution approach in administrative contracts under the GTP Saudi law. Do you understand the purpose of this study/ Do you consent to participate in this study?

1. What is your age?
2. What is your education level?
3. What position do you hold in your current organization?
4. How long have you practiced law in Saudi Arabia?

**Now we will transition to arbitration, administrative contracts, and GTP law questions.**

5. How do you perceive the current legal reforms that have been occurring in Saudi Arabia in response to the Kingdom's Vision 2030?
6. What do you perceive to be the impact of arbitration as an alternative dispute resolution approach in administrative contacts under the GTP law?
7. What do you think could be the advantages of using arbitration as an alternative dispute resolution approach in administrative contacts?

8. What do you perceive could be some of the negative outcomes of using arbitration as an alternative dispute resolution approach in administrative contacts?

9. Do you think the current Saudi Arabia administrative and arbitration laws are in line with the modern times. If yes or no why?

10. What additional changes can be made to the arbitration GTP law?