

## RECONCEPTUALIZING ALTERNATIVE DISPUTE RESOLUTION ECOSYSTEM IN THE DIGITAL ERA: SAUDI ARABIA'S ONLINE TRANSACTIONAL ENGAGEMENTS<sup>1</sup>

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The Covid-19 pandemic has exposed societal underbelly in its inadequate institutional, infrastructural, and legal regimes to promote continuous international trade policies in the midst of external disruptions. International trade forms part of global events that promotes cross-border socio-political developmental growth, which discourages arms conflict among nations. Political stability of nation states and international trade among nations intersect inevitably in contemporary times. However, the transactional processes of international trade rely on alternative dispute resolutions (ADR) as one of its imbedded features to resolve disputes within commercial transactions. The ADR are in various forms like arbitration, mediation and negotiation. Contract law and policy principally powers the ADR system. The traditional contract model of *consensus ad idem*, where parties bargain within their physical presence until a resolution or settlement of the dispute is achieved has become inadequate in the digital era. Covid-19 has made such physical and in-person bargaining impossible because of its fatal nature. This paper seeks to analyze the significance of adapting the preexisting and recognized digital era contract doctrines like wrap, smart and other types of contract of adhesion in the ADR ecosystem. Currently, the Kingdom of Saudi Arabia does not have specific legal regimes that recognizes the digital era transactional formations. For example, contemporary contract now becomes enforceable with just a click of the mouse or a finger-touch on the digital surface of a device or mere browsing of a website when visiting such site. In some cases, within a blockchain system a transactional activity is recorded and becomes difficult to change after parties have agreed to be

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bound digitally. The paper will conclude by setting out prescriptions that Saudi Arabian Law Schools should conceptualize its curriculum to adapt to the evolving digital era transactional jurisprudence and promote the updating of the laws of the Kingdom to reflect the current realities.

*Keywords:* Alternative Dispute Resolution, Online Dispute Resolution System, Wrap Contract, Smart Contract, Arbitral Awards, Arbitral Enforcement, International Trade, Saudi Arabia Arbitration law

## Introduction

Contract and consensual legal regimes mostly control Alternative Dispute Resolution (ADR).<sup>2</sup> ADR formations and engagements have become an acceptable norm and culture in settling disputes within commercial and political situations.<sup>3</sup> ADR includes arbitration, negotiation, conciliation, and settlement methods.<sup>4</sup> The formation of contract generally is done by consensus ad idem, which ordinary require parties to meet in person and bargain until they reach a certain degree of agreement.<sup>5</sup> The digital era interrupted methods of contract formation through the infrastructure of information and communication technology (ICT), which the Internet powered. In the early 1990s the digital era spurred commerce and social media transactions by the means of contract of adhesion on the Internet and several technological platforms.<sup>6</sup> Within the ADR global space, parties conducted business principally by meeting around agreed commercial centers of the world to settle disputes.<sup>7</sup>

ADR plays a major role in promoting international trade among nation states.<sup>8</sup> The United Nations Commission on International Trade Law (UNCITRAL) and the United Nations Convention on the Recognition and Enforcement of Foreign Arbitral Awards (New York Convention, NYC) are two regimes that this paper will analyze within the context of the emerging behavioral and jurisprudential construct in settling disputes.<sup>9</sup> These ADR institutions and regimes emerged prior to the digital era transactional interventions.<sup>10</sup> Therefore, these regimes, policies and practices have not captured the digital era regimes of contract of adhesion nor recognized arbitral awards that emerged from such practices.<sup>11</sup>

<sup>2</sup> Wing, Leah, et al. 2021. "Designing Ethical Online Dispute Resolution: The Rise of the Fourth Party." *Negotiation Journal*. <https://doi.org/10.1111/nej.12350>. Accessed 2022-04-08.

<sup>3</sup> Shipman, Shirley, et al. 2019. *Brown and Marriott's ADR Principle and Practice*. Thomas Reuters London. 1-10.

<sup>4</sup> Katsh, Ethan and Leah Wing. 2006. "Ten Years of Online Dispute Resolution: Looking at the Past and Constructing the Future." *University of Toledo Law Review*. 38: 19.

<sup>5</sup> Gudinho, Akshay. 2017. "Consensus Ad Idem: A Plea for Objectivity in Telephonic Contracts" *Christ University Law Journal*. 6: 41-55.

<sup>6</sup> Zalesne, Deborah. 2005. "Enforcing the Contract at all (Social) Costs: The Boundary between Private Contract law and the Public Interest" *Texas Wesleyan Law Review*. 11: 579.

<sup>7</sup> Zalesne, "Enforcing the Contract."

<sup>8</sup> Zalesne, "Enforcing the Contract."

<sup>9</sup> UNCITRAL Arbitration Rules. 2013. <https://uncitral.un.org/en/texts/arbitration/contractualtexts/arbitration#:~:text=The%20UNCITRAL%20Arbitration%20Rules%20provide,as%20well%20as%20administered%20arbitrations>. Accessed 2022-04-08; United Nations Convention on the Recognition and Enforcement of Foreign Arbitral Awards (New York Convention). 1958. <https://www.newyorkconvention.org/english>. Accessed 2022-04-08.

<sup>10</sup> Leah, et al. "Designing Ethical Online Dispute Resolution."

<sup>11</sup> Leah, et al. "Designing Ethical Online Dispute Resolution."

However, within the current global ADR jurisprudence nation states could either update the current international arbitration legal system or agree among themselves to recognize binding practices, which will adopt contemporary transactional regimes.<sup>12</sup>

This paper evolves in Three Parts. In Part One, which includes this introductory section, it explores the historical and background of online dispute resolution (ODR) regimes.<sup>13</sup> This paper uses the term digital dispute resolution (DDR) because the digital ADR practices goes beyond the online architecture of the platforms where negotiations or engagements occur.<sup>14</sup> Technology has introduced new mediums like the Web3 and the metaverse ecosystem, which does not necessarily operate online but also offline.<sup>15</sup> Part Two analyzes how the ADR system can adapt the existing and recognize digital contract regimes into solving commercial, social and political disputes. Part Three discusses the Kingdom of Saudi Arabia's current ADR jurisprudence and practice and the need for its law schools to lead in conceptualizing an effective contemporary DDR norm. It concludes the paper with suggestions and recommendations on the laws in practice as against laws in the books.

### Wrap Contracts Template and Digital Dispute Resolution

ADR traditionally includes the arbitration, negotiation, and mediation methods of seeking amicable resolution of disputes within commercial and non-commercial human engagements.<sup>16</sup>

This paper will not focus on the definitional concepts of these methods because there are plethora of scholarly literature that have internationally provided a road map and overview of these concepts.<sup>17</sup> The UNCITRAL and New York Convention provide international guide for nation states to adopt procedural and substantive Rules in arbitration, mediation and other ADR regimes.<sup>18</sup> For example, the NYC law on formation and execution of arbitral agreements did not envisage the digital era recognition of contract of adhesion.<sup>19</sup> The wordings in Article II paragraph 2 of the NYC states that '*agreement in writing... shall include an arbitral clause in a contract or an arbitration agreement signed by parties indicate non recognition of digital era transactional methods.*'<sup>20</sup> The closest that NYC captured the absence of the physical presence of parties for purposes of bargaining for consensus is the recognition of '*...exchange of letters or telegrams (NYC, article II:2).*'<sup>21</sup>

<sup>12</sup> Leah, et al. "Designing Ethical Online Dispute Resolution."

<sup>13</sup> Katsh and Wing, "Ten Years of Online Dispute Resolution."

<sup>14</sup> Leah, et al. "Designing Ethical Online Dispute Resolution."

<sup>15</sup> Garon, Jon. 2022. "Legal Implications of a Ubiquitous Metaverse and a Web3 Future." <https://ssrn.com/abstract=4002551>. Accessed 2022-04-08.

<sup>16</sup> 16 Davies, Harry. 1985. "Alternative Dispute Resolution: Panacea or Anathema." *Harvard Law Review*. 99: 668.

<sup>17</sup> Shipman, et al. "*Brown and Marriott's ADR*": Blake, Susan and Sime, Stuart. 2018. *A Practical Approach to Alternative Dispute Resolution*. London: Oxford University Press. 1.

<sup>18</sup> UNCITRAL "Arbitration Rules." Article. 1: 4.

<sup>19</sup> 19 *New York Convention*. Article. II: 2.

<sup>20</sup> *New York Convention*. Article. II: 2.

<sup>21</sup> *New York Convention*. Article. II: 2.

The Kingdom of Saudi Arabia (KSA) Arbitration law seem to have captured the recognition of the DDR system.<sup>22</sup> The drafting of the Article 9 of its Arbitration law expands the definition of a similar clause in the NYC by adding the following phrase after the word ‘Telegrams’ ‘...telegrams, or other means of electronic communication, or written.’(KSA Arbitration Law, article 9:3).<sup>23</sup> The implication of the ‘other means of electronic communication...’ is that legally recognized forms of contract within the digital space like the wrap<sup>24</sup> and smart contract<sup>25</sup> (which are contract formed with the aid of software, artificial intelligence and codes within a blockchain ledger platform without human bargaining intervention) may be binding in KSA.<sup>26</sup>

The Term of Service (TOS) or Term of Use (TOU) of the digital commercial platforms like iTunes, Netflix, YouTube, Google and many others generally have arbitral, choice of law and IP provisions. These clauses define the rights of owners of the website or platform, and set out guidelines to users on acceptable conduct permitted. At the beginning of this millennium the US courts have enforced and recognized such contract using the traditional contract formation jurisprudence to define this digital transactional behavior or custom.<sup>27</sup> Professor Nancy Kim defined wrap contracts as the formation processes related to commercial activities on the Internet and for software installations.<sup>28</sup> Professor Kim also referred to browsewrap, clickwrap, or shrinkwrap contract formation processes as *wrap contracts*.<sup>29</sup> The term wrap contract means ‘a blanket term to refer to a unilaterally imposed set of conditions which the drafter purports to be legally binding when presented to the non-drafting party in a nontraditional for.’<sup>30</sup> (Kim, 53-71). Wrap contracts take the form of a traditional contract but constitute a legally recognized ‘coercive contracting environment.’<sup>31</sup>(Kim, 53-71).

The wrap contract regimes have evolved into different categories in the United States due to the increase in contractual commercial activities in the cyberspace. The courts in the United States have defined the various types of wrap contracts.<sup>32</sup> Wrap contracts

<sup>22</sup> KSA. 2012. *Law of Arbitration*. Article. 9 :3.

<sup>23</sup> KSA “*Law of Arbitration*” Article. 9 :3.

<sup>24</sup> Kim, Nancy S. 2013. *Wrap Contracts: Foundations and Ramifications*. New York: Oxford University Press. 1: 51-71.

<sup>25</sup> Kim, “*Wrap Contracts*.” 51-71.

<sup>26</sup> Raskin, Max. 2017. “The Law and Legality of Smart Contracts.” *Georgetown Law Technology Review*. 1: 305; Bonsu Adjei-Arthur, Bonsu. 2022. “A Blockchain Adaptive Contractual Approach for Multi-Contracting Organizational Entities” *Future Generation Computer Systems*. 132: 92-107; Cong, Lin William and Zhiguo He “Blockchain Disruption and Smart Contracts.” <https://ssrn.com/abstract=2985764>. Accessed 2022-04-09, Thibault Schrepel. 2019. “Collusion by Blockchain and Smart Contracts.” *Harvard Journal of Law and Technology*. 33: 117.

<sup>27</sup> Rustad, Michael. 1997. “Commercial Law Infrastructure for the Age of Information.” *Marshall J. Computer & Info*. 16: 255- 300.

<sup>28</sup> Kim, “*Wrap Contracts*.” 51-71.

<sup>29</sup> Kim, “*Wrap Contracts*.” 51-71.

<sup>30</sup> Kim, “*Wrap Contracts*.” 51-71.

<sup>31</sup> Kim, “*Wrap Contracts*.” 51-71.

<sup>32</sup> *Register.com, Inc. v. Verio, Inc.*, 356 F.3d 393, 429 (2d Cir. 2004) ( holding that essentially, under a clickwrap arrangement, potential licensees are presented with the proposed license terms and forced to expressly and unambiguously manifest either assent or rejection prior to being given access to the product); *Appistry, Inc. v. Amazon.com, Inc.*, 2:2015cv00311 (W.D. Wash. 2015) (enforcing clickwrap agreement where website user had reasonable notice of the terms and manifested

are standard form which denies the non-drafter the negotiating opportunities in contract formation.<sup>33</sup> The U.S. courts have affirmed shrinkwrap, clickwrap, browsewrap and scrollwrap or sign-in as wrap contracts.<sup>34</sup> This paper recommends clickwrap (*clickaction*) contract for the purpose of the digital transactional aspect of ADR. Clickwrap will satisfy the requirement of adequate notice to parties who enter into alternative dispute agreement through the agency of technology. Parties by clicking a clause that contains detail contractual statements about their rights within the subject matter and become aware of such responsibility may be bound in agreement through the *click-action*.

The digital transactional regime with the support of national courts and digital era business models now form part of this global culture and norm.<sup>35</sup> For example, Video-on-Demand enterprises like Netflix with their arbitration clause creates a binding contract with any user of its website who agrees to the TOS either by browsing or clicking on the digital contract menu embedded on the platform.<sup>36</sup>

Therefore, transferring this digital norm and culture into the DDR mainstream will not be a strange or abstract concept.

However, nation states would have to negotiate an amendment of the international legal framework for ADR to include these new digital transactional methods in the NYC, UNCITRAL and perhaps other Treaties. Apart from a formal legal recognition for DDR systems, legal concepts such as the adequacy of notice to enter into agreement online, strengthening infrastructures like bandwidth, and increased Internet accessibility are important factors in the effective adoption of DDR.<sup>37</sup>

DDR may be an efficient tool in the era of pandemics like the Covid-19 when nation states have restricted movement in and out of their countries. ADR is part of the international trade system and a disruption in the process of settling commercial disputes negatively impacts the overall global economy.<sup>38</sup> Commercial parties would have been denied opportunities to settlement or mediation or arbitration proceedings because party's physical presence may be impossible.

In political ADR like mediation, physical presence becomes necessary and significant because in the event of high tension and conflict between nation states that could lead to

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assent to the agreement by clicking agreement to Amazon's customer agreement); *Bassett v. Elec. Arts, Inc.*, 2015 U.S. Dist. LEXIS 36175 (E.D. N.Y. Feb. 9, 2015) (upholding clickwrap where user had opportunity to review terms and manifested assent by clicking agreement).

<sup>33</sup> *UNCITA* § 10 :61.

<sup>34</sup> *Serrano v. Cablevision Sys. Corp.*, 863 F. Supp. 2d 157, 164 (E.D.N.Y. 2012) (holding that click-wrap contracts are enforced under New York law as long as the consumer is given a sufficient opportunity to read the end-user license agreement, and assents thereto after being provided with an unambiguous method of accepting or declining the offer); *Bassett v. Elec. Arts, Inc.*, 2015 U.S. Dist. LEXIS 36175 (E.D. N.Y. Feb. 9, 2015) (upholding clickwrap where user had opportunity to review terms and manifested assent by clicking agreement).

<sup>35</sup> *Cooley*, 2015. "New York District Court Articulates New Test for Assessing the Validity and Enforceability of Online Agreements." <https://www.cooley.com/news/insight/2015/new-york-district-court-articulates-new-test-for-assessing-the-validity-and-enforceability-of-online-agreements>. Accessed 2022-04-08.

<sup>36</sup> *Cooley*, *New York District Court*.

<sup>37</sup> Ebner, Noam. "Trust-Building in E-Negotiation." <http://ssrn.com/abstract=1722065>. Accessed 2022-03-07.

<sup>38</sup> Wing, al. "Designing Ethical Online Dispute Resolution."

war, personal and close contact bargaining may be more effective.<sup>39</sup> Where delegations cannot travel because of a pandemic, an internationally recognized DDR system with inbuilt integrity assurances for parties anchored on a Treaty could strengthen global peace and economic tranquility.

### **Consensus, Trust and Adequate Notice in the Digital Dispute Resolution System**

The settling of disputes in human engagement of a commercial, domestic and political nature outside the traditional litigious court system creates an alternative approach that is less confrontational.<sup>40</sup> The US courts mostly anchor its recognition of contract of adhesion on the Internet and other digital platform upon the level of notice the offeror gave to the offeree, such notice must be adequate.<sup>41</sup> Therefore, adopting and updating the ADR international regimes to recognize formal online, offline and digital culture among parties could instill trust among disputing party to rely less on dangerous traveling especially in times of pandemic like Covid-19. Experience from the Covid-19 pandemic showed that global trade and political activities did not grind to a total halt because nation states leveraged the capacities of digital technology to perform official engagements.<sup>42</sup> However, in Saudi Arabia, the existing ADR law creates a conducive environment to encourage DDR in the ADR ecosystem.<sup>43</sup>

## **Political Conflicts and Disputes Resolution Digitally**

### **1. ADR in Political Conflicts**

Political disputes among nations are time sensitive and need quick resolution to prevent escalation to arms conflict or serious economic consequences for parties involved. The ease and accessibility to digital tools like the Internet makes activation of mediation, negotiation or arbitration among nation states in dispute possible. The time sensitivity is more germane because certain conflict may disrupt the Internet accessibility when a conflict segues into war and infrastructures fails because of damages resulting from exchange of missiles. Important infrastructures like electricity and bandwidth are ineffective during warfare because cyber connectivity will be adversely impacted.

Political ADR principally is not for purposes of avoiding litigation in a judicial or quasi-judicial forum but to diffuse and prevent socio-political disruptions in the international arena. Apart from settling and resolving political conflicts, a nation can deploy a reformed

<sup>39</sup> Wing, al. "Designing Ethical Online Dispute Resolution."

<sup>40</sup> 40 Shipman, et al. "*Brown and Marriott's ADR Principle*."

<sup>41</sup> Lemley, Mark A. 2006. "Terms of Use." *Minnesota Law Review*. 19: 459-477 (noting that courts may be willing to overlook the utter absence of assent only when there are reasons to believe that the [website user] is aware of the [website owner's] terms); Erin Canino, Erin. 2016. "The Electronic Sign-In-Wrap Contract: Issues of Notice and Assent, the Average Internet User Standard and Unconscionability" *University of California Davies Law Review*. 50: 535.

<sup>42</sup> Andrews, Samuel Samiai. 2022. "Developing a Copyright Curriculum for Nigerian Universities for the Creative Digital Space" *GRUR International*. 71(4): 322-334.

<sup>43</sup> Andrews, "Developing a Copyright Curriculum."

digital transactional ADR regime for commercial and trade disputes that most often evolve into hydra headed political complications.<sup>44</sup> In political ADR, mediation seems to be the most preferred option not just to resolve conflict but conflict transformation.<sup>45</sup> It assists parties to go through with their decision making.<sup>46</sup>

The Kingdom of Saudi Arabia has woven alternative dispute resolution amicably into its sociocultural and political system.<sup>47</sup> From its founding era, Sharia recognized ADR in its indigenous and traditional form.<sup>48</sup> The Treaty of Hudaibiyah was a classic ADR, which implicated mediation and negotiation method in a complicated conflict.<sup>49</sup> It was a practical reality in a traditional society's dispute resolution methods that have near similarities with contemporary ADR incidences. The current KSA laws recognizes that its arbitration system must not conflict with Sharia system.<sup>50</sup> Therefore, KSA ADR regime currently in the books are Sharia compliant.

Although, current KSA ADR law has not recognize the digital contract formation expressly, as earlier stated in this paper. It recognizes electronic means of engagements in arbitral proceeding.<sup>51</sup>

The KSA recognition of electronic communication focused on the definition and necessity for formality in arbitration agreements.<sup>52</sup> Until a clear provision is included in this law to recognize digital contract formation, the rules of legislative interpretation could extend its arm by extrapolation of similarities to cover DDR system. Further, the KSA law recognizes ADR proceedings conducted with foreign nations and done abroad.<sup>53</sup> Therefore, the KSA should either reform its law to affirmatively recognize online and other digital contract formations as related to ADR. The KSA could join other global advocates of a reformed ADR international regime that recognizes digital transactional mechanics of mediation, negotiation and arbitration.

## Conceptualizing KSA's Law Schools Curriculum for Effective DDR Outcomes

Transactional work especially in the field of commercial and political conflict resolution involves certain skill set and expertise. Acquiring a high level of expertise for practitioners

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<sup>44</sup> Stipanowich, Thomas (2010) "Arbitration: The New Litigation" *University of Illinois Law Review*. 2010: 1.

<sup>45</sup> Saul, Judith. 2012. "The Legal and Cultural Roots of Mediation in the United States." *Social Science Research Network*. <https://ssrn.com/abstract=2125440>. Accessed 2022-04-04.

<sup>46</sup> Saul, "The Legal and Cultural Roots."

<sup>47</sup> Hijazi, Abu Tariq. 2012. "Hudaibiyah: A Turning Point in the History of Islam." *Arab News*. <https://www.arabnews.com/hudaibiyah-turning-point-history-islam>. Accessed 2022-04-04.

<sup>47</sup> Hijazi, 2012. "Hudaibiyah."

<sup>48</sup> Hijazi, 2012. "Hudaibiyah."

<sup>49</sup> Hijazi, 2012. "Hudaibiyah."

<sup>50</sup> *Law of Arbitration*, KSA. Articles 4: 5: & 55: 2. B.

<sup>51</sup> KSA. *Law of Arbitration*. Article 9: 3 (stating "the arbitration agreement is considered written if it is included in a document issued by the parties of the arbitration, or if it is included in their exchanged documented correspondences, or telegrams, or other means of electronic communication, or written...").

<sup>52</sup> KSA. *Law of Arbitration*. Article 9: 3.

<sup>53</sup> KSA. *Law of Arbitration*. Article 4.

in this field starts from a proper and targeted teaching of subjects in schools that prepare ADR professionals for efficient service delivery. The law schools generally have capacity to teach both doctrinal and practical concepts of ADR. Therefore, the KSA law schools could become an agency for professionalizing the art of ADR and DDR. A combination of doctrinal and experiential pedagogical method of learning are efficient for professionalizing of DDR.

Physical contact and exchange of pleasantries in human transactional activities generally create a soft opener for a conducive atmosphere and ambience for discussion.<sup>54</sup> With technology evolving and disruptive in nature, the technical makeup of the medium of digital communication challenges the old methods of engagements politically and socially. For example, the effectiveness of an audio or video negotiation of a political nature conducted on a commercial or special purpose designed (SPD) video telephony platform requires expertise in the usage of various devices for effective outcomes.<sup>55</sup> The voice levels, background positioning, lightening systems of a video telephony may impact the outcome of a transaction if the user is put in bad light or emits lack of confidence to the other side.<sup>56</sup> Therefore, understanding and specializing in these skill-set may not come only from theoretical learning.

Most KSA law school's ADR curriculum currently adopt a doctrinal and theoretical teaching pedagogy.<sup>57</sup> Digital transactional activities include interface with technical devices and human interaction. A video telephony means of communication diminishes actual eye contact and proper body language comprehension, which are part of the cosmos of negotiation.<sup>58</sup> The need to specialize in the mechanics that impel the success of this method of communication in an DDR process is imperative.

An effective and efficient learning of DDR tradecraft requires an experiential learning by students in specialized educational institutions like the law school. Experienced ADR practitioners that have gone through actual real-life digital-online transactional engagements could teach these subjects in a practical sense. Encouraging students as part of their learning to take part either as intern, extern or subject matter clinic participants in actual DDR activities is an effective method of training professionals.

Digital transactional regimes are evolving globally, which require professional expertise in the field to guide policy makers and stakeholders. The KSA law schools stand at the

<sup>54</sup> Goman, Carol Kinsey. 2012. "How Savvy Negotiators Read Your Body Language." *Forbes*. <https://www.forbes.com/sites/carolkinseygoman/2012/09/04/how-savvy-negotiators-read-your-body-language/?sh=4f0f96637fe4>. Accessed 2022-04-09.

<sup>55</sup> Druckman, James N. 2003. "The Power of Television Images: The First Kennedy-Nixon Debate Revisited" *The Journal of Politics*. 65 (2): 559-571. <https://doi.org/10.1111/1468-2508.t01-1-00015>. Accessed 2022-4-06 (stating how poor visual impact of a communicator becomes a handicap to effective delivery of message and successful communication to one's audience); Purdue University, "Scholarly Analysis of the Kennedy-Nixon Debate" *Purdue University*. <https://cla.purdue.edu/academic/history/debate/kennedynixon/kennedynixonscholarly.html>. Accessed 2022-4-06.

<sup>56</sup> Naughtie, Andrew. 2020. "Did Nixon's Sweaty, Shifty Debate Performance Cost Him Presidency?" *Independent*. <https://www.independent.co.uk/news/world/americas/us-election/nixon-kennedy-debate-1960-election-trump-biden-b600180.html>. Accessed 2022-4-06.

<sup>57</sup> The Author of the paper conducted Online and Desktop Survey-Research among more than Ten KSA Universities with Law Schools and their ADR Curriculum-Syllabus. Transcript available with through author.

<sup>58</sup> Goman, "How Savvy Negotiators Read Your Body Language."

frontline of creating a specialize curriculum in experiential and doctrinal instruction for ADR subject matter particularly its intersection with digital transactional practices. Such curriculum will prepare and train upcoming professionals for this emerging area of the KSA expanding economy. These legal professionals will be properly positioned to drive the review and reform of the current ADR laws and other specialized laws to recognize the evolving incidences of this millennium and beyond.

This paper recommends developing a structured curriculum that includes student's subject matter clinics. Subject matter experts who are practicing professionals should teach and mentor the law students in DDR. Specialist DDR practitioners will introduce students not just to DDR in the books but in real life situations. The law student as part of their experiential training should be made to join active and real DDR teams in international engagements. The KSA law schools could become centers of excellence and hub for public service consultancy and advisory work to private and public institutions.

## **Conclusion**

The digital era technologies disrupted the traditional contract formation systems introducing non- bargaining elements into a legally enforceable contract. The new method of forming contract has become part of the global culture especially in the social media space and e-commerce platforms. This template if adopted in the ADR ecosystem could ameliorate the negative consequences of any disruptions that may prevent parties from traveling across countries to physically engage in any methods of ADR. The exigency of resolving political conflict sits well with digital dispute resolution methods because of the accessibility of audiovisual telephony devices and SPD. The DDR being a new and specialized subject area would require the KSA law schools to act as centers of excellence and hub in training the ADR professionals of the future and those that will efficiently provide public and private legal services including advisory law reform roles on this subject in the Kingdom. This paper recommends the click-action (clickwrap) contract formation for the DDR ADR system.