

**SUITABILITY OF ALTERNATIVE DISPUTE
RESOLUTION METHODS BASED ON RISK FACTORS
TO THE SRI LANKAN CONSTRUCTION INDUSTRY**

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**Degree of Master of Science in Construction Law and Dispute
Resolution**

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DECLARATION

I declare that this is my own work, and this dissertation does not incorporate without acknowledgement any material previously submitted for a Degree or Diploma in any other University or institute of higher learning and to the best of my knowledge and belief it does not contain any material previously published or written by another person except where the acknowledgement is made in the text.

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Dissertation Supervisor

ABSTRACT

Suitability of alternative dispute resolution methods based on risk factors to the Sri Lankan construction industry

Disputes within the construction industry seem to be very common. To resolve such disputes, the practice is to go for litigation. However, due to excessive time and cost incurred in litigation, nowadays parties use new innovative dispute resolution methods which are commonly known as Alternative Dispute Resolution (ADR). Negotiation, conciliation, facilitation, mediation, adjudication, arbitration and hybrid models such as Mediation-Arbitration are available in the global context as ADR methods. Out of such ADR methods, negotiation, mediation, conciliation, dispute adjudication board and arbitration are common in Sri Lankan industry practice. It is a common question in the construction industry how a suitable ADR method(s) can be selected. However, most of the research studies conducted in the Sri Lankan context are relevant to the applicability, enforceability, and effectiveness of ADR method(s). Further, it can be noted that research studies are lacking on the choice of ADR method(s) in the local context. Additionally, literature proves risk as a common phenomenon in construction projects can be used as a criterion to select ADR methods. Addressing these research gaps, this research investigates the suitable Alternative Dispute Resolution method(s) based on risk factors for successful dispute resolution in construction projects in Sri Lanka.

A comprehensive literature review was performed on ADR methods and risk factors of construction projects. The data collection of the study was designed under two stages, an expert survey and a questionnaire survey. An expert survey was executed with five experts who have expertise in ADR and risk management in the construction industry. Thus, the expert survey is performed to filter the risk factors under the criteria for the choice of ADR methods. The impacts of filtered risk factors were also gathered. 10 risk factors out of 15 risk factors were taken forward to design the questionnaire survey, the second stage of data collection. Subsequently, a structured questionnaire was developed and distributed among 40 respondents under the purposive sampling method who has expertise in ADR and risks in construction. 34 out of 40 questionnaires were received and data were analysed through the Relative Importance Index (RII) technique. ADR methods were ranked based on RII values against risk factors and designed a matrix to select ADR method(s) based on risk factors of the construction projects in Sri Lanka. The result proves negotiation is the best ADR method while ranking conciliation, mediation, dispute adjudication and arbitration areas suitable respectively.

Keywords: Alternative Dispute Resolution; Choice of Alternative Dispute Resolutions; Risk Factors; Construction Industry

DEDICATION

*I dedicate this dissertation to my beloved
parents for the immense love, care, support,
and encouragement conveyed to me at all
times...*

ACKNOWLEDGEMENT

It is a great pleasure for me to state my sincere compliment to those who greatly assist me to make the Dissertation a success.

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LIST OF ABBREVIATIONS

- ADR - Alternative Dispute Resolution
- DR - Dispute Resolution