

EFFICACY OF ADJUDICATION AS A DISPUTE
RESOLUTION MECHANISM: THE CASE OF ROAD
PROJECTS IN SRI LANKA

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Degree of Master of Science

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ABSTRACT

Disputes are unavoidable in construction projects due to their complex nature and could happen at any time. Unresolved disputes may prevent project from completing on time, within the budget and to the desired quality and lead ultimately to project failure. Arbitration has been used as the alternative dispute resolution mechanisms for many years in construction industry. However, over the years, since it is identified that even arbitration has become more time taking and disruptive to work progress, there was a necessity for a quicker dispute resolution mechanism, which helps to flow the work without getting disturbed.

Fulfilling the above need, adjudication has been introduced and incorporated to the construction contracts as interim means of resolving disputes. Although, many researchers and authors identified several steps in order to conduct adjudication successfully, in Sri Lankan context it is experienced that adjudication continuously fail in achieving its objectives.

Therefore, the study was focused on exploring how to enhance effectiveness of adjudication practice and identify the steps to be taken to adopting adjudication as an interim mechanism of dispute resolution in Sri Lankan context.

The study was conducted through a multiple case study. In-depth study was carried out on four selected cases, representing both adjudication successfully and unsuccessfully concluded cases. Case study results were discussed in relation to the steps identified through literature review.

Accordingly, (1) selecting dispute to adjudicate, (2) selecting adjudicators, (3) fair time to be fix, (4) establishing right to review and (5) establishing right to enforce and enforcement procedure of the adjudication process has been identified as failure points of conducting adjudication. Several issues as failure factors of adjudication has been identified in the aforesaid steps which are need to be address to achieve objectives of the adjudication. Identified failure factors were referred to three experts who involved in adjudication and got suggestions to overcome those failure facts.

It is concluded that, in order to achieve the objectives of the adjudication in Sri Lankan construction industry, it is required to adopt full-term/stand-by dispute adjudication board from the commencement of projects, while providing better contractual provision when drafting the contract and establish proper mechanisms by the regulating authorities where it is necessary to address the identified issues.

Key words: Adjudication, Interim dispute resolution mechanism, Road projects

DEDICATION

To those who love smooth running projects....

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LIST OF ABBREVIATIONS

AAA	-	American Arbitration Association
ADR	-	Alternative Dispute Resolution
ANA	-	Authorised Nominating Authorities
BCISPA	-	Building and Construction Industry Security of Payment Act
CBSL	-	Central Bank of Sri Lanka [
CIDA	-	Construction Industry Development Authority
CPD	-	Continuous Professional Development
CUBATG	-	Construction Umbrella Bodies Adjudication Task Group
DAB	-	Dispute Adjudication Board
DAAB	-	Dispute Avoidance/ Adjudication Board
DB	-	Dispute Board
EOT	-	Extension of Time
FIDIC	-	Federation Internationale Des Ingenieurs Conseils
GDP	-	Gross Domestic Product
HGCRA	-	Housing Grants Construction and Regeneration Act
ICTAD	-	Institute for Construction Training and Development
MDB	-	Multilateral Development Bank
MFP	-	Ministry of Finance Planning
NOD	-	Notice of Dissatisfaction
RDA	-	Road Development Authority
UK	-	United Kingdom