

**FRAMEWORK FOR EFFECTIVE ARBITRATION
PRACTICES IN ROAD CONSTRUCTION PROJECTS IN
SRI LANKA**

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Degree of Master of Science

Department of Building Economics

University of Moratuwa

Sri Lanka

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Thesis/Dissertation submitted in partial fulfilment of the requirements for the degree
Master of Science in Construction Law and Dispute Resolution

Department of Building Economics

University of Moratuwa
Sri Lanka

July 2023

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.

Further, I acknowledge the intellectual contribution of my research supervisor Dr K.A.K. Devapriya for successfully completing this research dissertation. I affirm that I will not make any publication from this research without the name(s) of my research supervisor(s) as contributing author(s) unless otherwise, I have obtained written consent from my research supervisor(s).

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Date

The above candidate has carried out research for the Master's dissertation under my supervision.

.....

20.07.2023

Dr. K.A.K. Devapriya

Date

Dissertation Supervisor

DEDICATION

May this work be
A dedication to
My beloved parents
&
all who wish for my success

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ABSTRACT

Framework for Effective Arbitration Practices in Road Construction Projects in Sri Lanka

With the introduction of significant road construction projects, Sri Lanka's infrastructure sector is developing quickly. This development primarily results in unfavourable circumstances for projects that build roads. Therefore, given the Sri Lankan environment, problems are bound to arise in constructing these roads. As a result, rather than resorting to litigation to settle their differences, the parties adopted alternative dispute resolution (ADR) techniques. The most popular ADR technique in this sector is arbitration, which occurs outside a courtroom. Thus, preparing for arbitration beforehand would save money and time. It has acknowledged that the arbitration practises used in Sri Lankan Road construction projects have benefits and drawbacks. Therefore, there is a need to study the efficiency of arbitration practices in Sri Lankan Road construction projects. However, while there is a wealth of material on the general topic of resolving construction conflicts, more literature needs explicitly to address disputes in Sri Lankan Road construction projects as a result of earlier studies. Therefore, this study intends to close the research gap by creating a framework for using arbitration efficiently in Sri Lankan Road construction projects. A questionnaire survey of 55 specialists followed a detailed literature study. Subsequently, semi-structured interviews have carried out with eight professionals from the industry who possessed prior experience in executing road construction projects in Sri Lanka and had participated in arbitration proceedings. The data that have collected were subjected to manual content analysis.

Even though arbitration is a valuable tool for resolving disputes in road construction projects, the research found that most construction professionals in Sri Lanka needed more satisfaction with the country's current arbitration practices. Accordingly, 17 significant issues have been found, which impacted not only the contractor but also the client and consultant. The research also included mitigation plans for the issues already mentioned. The strategies that were identified encompassed the incorporation of qualified arbitrators and the engagement of construction industry experts as arbitrators, holding the arbitration on a full-day basis, using inexpensive conference rooms, changing the attitude of the arbitrators, founding the Society for Construction Arbitrators or any other comparable authorised institute, modifying the arbitration clause following the project characteristics, and implementing awareness campaigns. In light of this, a framework was created after mapping the issues against the solutions. It combines all the empirical data. The findings of this study allowed us to grasp the significance of the current arbitration better practice and to recommend ways to make improvements in the Sri Lankan Road building business.

Keywords: Arbitration, Alternative Dispute Resolution, Disputes, Road Construction Projects Sri Lanka

TABLE OF CONTENTS

DECLARATION.....	i
DEDICATION.....	ii
ACKNOWLEDGEMENTS.....	iii
ABSTRACT	iv
TABLE OF CONTENTS.....	v
LIST OF FIGURES	ix
LIST OF TABLES	x
LIST OF ABBREVIATIONS	xi
CHAPTER 1	1
1. INTRODUCTION.....	1
1.1 Background	1
1.2 Problem Statement	4
1.3 Aim and Objectives.....	5
1.4 Research Methodology.....	5
1.4.1 Literature Review.....	5
1.4.2 Questionnaire Survey	6
1.4.3 Semi- Structured Interviews with Experts	6
1.5 Scope and limitation.....	6
1.6 Chapter Breakdown.....	7
1.7 Chapter Summary.....	8
CHAPTER 2	9
2. LITERATURE REVIEW.....	9
2.1 Introduction	9
2.2 Construction Industry	9

2.2.1	Road Construction Projects.....	10
2.3	Contractual Disputes in Construction Industry	13
2.4	Disputes in Road Construction Projects.....	15
2.5	Causes of Disputes in Road Construction Projects	16
2.6	Dispute Resolution in Construction Industry	22
2.7	Alternative Dispute Resolution Methods	23
2.7.1	Available ADR Techniques in Construction Industry	25
2.7.2	Comparison of the methods	33
2.8	Arbitration as an Alternative Dispute Resolution Method.....	33
2.8.1	Arbitration Practices in Sri Lanka.....	34
2.8.2	Arbitration Procedure Relating to the Arbitration Act No 11 of 1995 in Sri Lanka	36
2.8.3	Steps in Arbitration Process relating to the Arbitration Act No, 11 of 1995 in Sri Lanka	36
2.8.4	Element of the Arbitration Act of Sri Lanka.....	39
2.9	Benefits of Arbitration process in road construction projects.....	40
2.10	Problems of the Arbitration Process in Construction projects	44
2.11	Strategies to improve Arbitration Process in Road Construction Projects	47
2.12	Chapter Summary.....	50
CHAPTER 3		51
3. RESEARCH METHODOLOGY		51
3.1	Introduction	51
3.2	Research process	51
3.2.1	Identify Research Problem.....	52
3.2.2	Literature Review.....	53

3.2.3	Research Approach	53
3.2.4	Data Collection.....	54
3.3	Sampling Technique and Sample Sizing	56
3.4	Data analysis techniques	56
3.5	Writing-up	57
3.6	Chapter Summary.....	57
CHAPTER 4		58
4.	ANALYSIS AND FINDINGS	58
4.1	Introduction	58
4.2	Data collection – Questionnaire Survey.....	58
4.2.1	Causes of disputes in road construction projects in Sri Lanka	60
4.2.2	Effectiveness of ADR methods in road construction projects	62
4.2.3	Level of satisfaction of arbitration practices in road construction projects 63	
4.2.4	Benefits of arbitration process in road construction projects.....	64
4.2.5	Problems in current arbitration practices in road construction projects.	69
4.3	Data collection – Expert Interviews.....	72
4.3.1	Profile of the Experts	72
4.3.2	Strategies to minimise the problems in arbitration process of the road construction projects in Sri Lanka.....	74
4.4	Framework for effective Arbitration practices in road construction projects in Sri Lanka	81
4.5	Summary of the Chapter	85
CHAPTER 5		86
5.	CONCLUSIONS & RECOMMENDATIONS	86

5.1	Introduction	86
5.2	Conclusions under the research objectives	86
5.3	Recommendations	89
5.4	Research Limitations.....	90
5.5	Further Research Directions.....	90
REFERENCES.....		91
APPENDIX A: QUESTIONNAIRE SURVEY		106
APPENDIX B: INTERVIEW GUIDELINES		115

LIST OF FIGURES

<i>Figure 1.1: Chapter Breakdown.....</i>	<i>7</i>
<i>Figure 2. 1: Risk Clarification Framework</i>	<i>13</i>
<i>Figure 2. 2: Risk, Conflict, Claim and Dispute</i>	<i>14</i>
<i>Figure 2. 3: Causes of construction disputes in road projects</i>	<i>17</i>
<i>Figure 2. 4: Conflicts, Claims and Disputes.....</i>	<i>23</i>
<i>Figure 2. 5: Stair step model for Dispute Resolution Process in Construction</i>	<i>24</i>
<i>Figure 2. 6: Cost of Resolution and Degree of Hostility</i>	<i>25</i>
<i>Figure 2. 7: Steps in Arbitration Process</i>	<i>38</i>
<i>Figure 3. 1: Methodological framework for research.....</i>	<i>52</i>
<i>Figure 4. 1: Respondents categorisation</i>	<i>59</i>
<i>Figure 4. 2: ADR methods considering their Effectiveness.....</i>	<i>62</i>
<i>Figure 4.3: The satisfaction of present arbitration practice.....</i>	<i>64</i>
<i>Figure 4. 4: Benefits of arbitration process in road construction projects</i>	<i>65</i>
<i>Figure 4. 5: Developed Framework</i>	<i>83</i>

LIST OF TABLES

Table 2. 1: Problems of road construction projects.....	10
Table 2. 2: Causes of Disputes.....	18
Table 2. 3: Essential Elements of Arbitration	39
Table 2. 4: Benefits of Arbitration	41
Table 2. 5: Problems in the Arbitration Process	45
Table 2. 6: Suggestions and recommended factors to the arbitration	49
Table 3. 1: Common Differences between Quantitative and Qualitative Research.....	54
Table 4. 1: Composition of respondents	59
Table 4. 2: Rank of the Causes of disputes in road construction projects in Sri Lanka.....	60
Table 4. 3: Problems identified in arbitration practice.....	69
Table 4. 4: Profile of interviewees of the expert interviews	73

LIST OF ABBREVIATIONS

ADR	Alternative Dispute Resolution
BOQ	Bill of Quantities
CIDA	Construction Industry Development Authority
CHPB	Centre for Housing Planning and Building
FIDIC	Fédération Internationale Des Ingénieurs-Conseils
ICTAD	Institute for Construction Training and Development
ICLP	Institute for the Development of Commercial Law and Practice
ICC	International Chamber of Commerce
RDA	Road Development Authority
SL	Sri Lanka
SLNAC	Sri Lanka National Arbitration Centre
SBD	Standard Bidding Document
SIAC	Singapore International Arbitration Centre
UNCITRAL	United Nations Commission on International Trade Law