

Reviewing the Possibility of Incorporating Mediation Method for Settlement of Contractual Disputes in the Construction Industry of Sri Lanka

CH Waidyadasa[#], AARK Amaratunga¹ and M Elvitigala¹

¹Faculty of Built Environment and Spatial Sciences, General Sir John Kotelawala Defence University, Ratmalana, Sri Lanka

[#]36-q5-0011@kdu.ac.lk

Abstract

It is essential to have an effective Alternative Dispute Resolution (ADR) method in the construction sector since disputes adversely affect the performance of construction projects. Studies on ADR practices in Sri Lanka denote that Negotiation and Adjudication are the preferred and the initial ADR methods. Previous studies indicate that Arbitration is the most popular construction dispute resolution method despite of its disadvantages. This research study took a qualitative approach where data collection was conducted through 21 semi-structured, expert interviews, analysed via content data analysis. The findings indicate that Mediation is an effective ADR method because effective outcomes such as cost-effectiveness, time effectiveness, flexibility, and maintenance of relationships could be achieved. Hence, Mediation could be recommended as the most appropriate initiative as well as to be attempted throughout ADR rather than Adjudication or Arbitration. Mediation is recommended here as the most desirable approach to resolve disputes without affecting the relationship between the parties. This study revealed that a limited awareness of Mediation within the Sri Lankan construction industry has arisen due to the lack of detailed knowledge among Industry Stakeholders. This was due to a lack of emphasis on construction contracts and the disputant parties' attitude. This had a considerable impact on the limited use of Mediation in Sri Lanka. Researchers and practitioners can use the results of this study to understand Mediation practices and make suggestions on how to overcome the issues, to achieve effective mediation outcomes.

Keywords: *ADR, Construction Industry, Mediation*