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A REVIEW PAPER ON CONSTRUCTION DISPUTES

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ABSTRACT

The Indian government is investing millions of Rupees every year in new facilities to improve the infrastructure of the country. Construction projects are complex, uncertain, have long construction periods, involve many parties, and require the integration of different work (Civil, Mechanical and Electrical) to work together as a single unit. The projects require highly expert designs, detailed plans and specifications, high-risk construction methods, successful management, skill full administration, and close coordination. Thus, disputes are common in such projects. Today, construction projects are the subject of more disputes than in any other industry. Disputes appear to delay the completion of construction and cause delays in delivering projects. These disputes are unwanted because they require significant time and resources to resolve, and because they cause adversarial relationships among the parties involved. It is therefore in the common interest of all involved parties to prevent them, reduce them, or resolve them as kindly as possible. Identifying common dispute types and their causes is essential in devising ways and means to reduce and hopefully avoid them in future projects. This research presents the results of a pilot study of the types and causes of construction disputes in the Construction industry. The recommendations to prevent/reduce disputes in construction projects are then presented. It is expected that the findings of this research will help construction industries avoid the main causes of disputes and accordingly, reduce delays and cost overruns in construction projects.

KEYWORDS: Disputes, Causes, Types, Construction.

INTRODUCTION

Construction Disputes can be defined as a request by either party to the contract, usually the Contractor, for compensation for damages caused by failure of the other party to fulfill his part of obligation as specified in the contract. The compensation is usually in the form of the additional payment or an extension of time (EOT). Construction disputes are measured by many project participants to be one of the most worrying and unlikable events of a project. The high competition has forced contractors to submit projects with minimum profits in order to stay in business. In addition to their mutual nature, projects are becoming more complex and risky. This has placed an additional load on contractors to construct gradually complicated and risky projects with less resources and profits. Under these situation, it is not shocking that the number of disputes within the construction industry continuously increase. Knowledge of the different construction dispute types allows owners to recognize possible dispute situations. This recognition can defend the owners from incurring losses and assist in recovering compensation. In this research paper the Construction disputes types are divided into mainly 13 different types, most of the dispute types discussed are interconnected, normally occurring and most of them may relate to a particular situation.

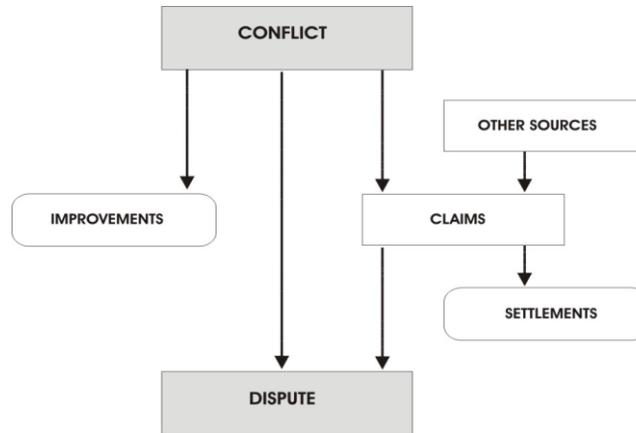


Figure 1

Causes of Disputes

There are many kind of conflicts happen in construction industry between the parties which is mostly converts into the disputes. After taking the opinion of experts like experienced or professional Designers, Arbitrator, contractor, client, Professors of the construction sector as well as after reviewing the research papers related to construction disputes I have listed down the following causes of disputes.

- Delay provisional payment from client
- Extension of time
- Inadequate scope definition
- Incomplete drawings and specification
- Poorly written contracts clauses
- Inaccurate estimating
- Error of pricing or costing
- Quality of technical specifications
- Planning errors accelerations
- Change in Work Orders
- Inappropriate contractor selection
- Inadequate risk identification/allocation
- Contradictory and erroneous information in the mass of documents
- Cooperation and communication nature among project team
- Conflicting goals & objectives of project parties.
- No trust between the parties
- Negotiations lacked experience
- Lack of team work spirit
- Site limitation, considering storage, access.
- Changes in environmental regulations
- Late supply of equipment and materials
- Poor labour productivity
- Variation in quantities
- Inadequate site Condition
- Contractual Dispute

Most Frequent Caused

From the list of above disputes, most of the disputes frequently settled down between the parties by their common understanding as well as by Negotiation but some of the disputes which are frequently occurs and which

may not settle and generate the disputes between the parties are listed and explained below.

Delay Interim Payment form Client

In the construction industry; most of disputes arise for the not payment or delayed payment of running bills, Last bills, unreasonably deduction of money from bills without any durable reason, delay in payment of security deposit, maintenance deposit etc.

Change in work Order

Extra work is any work that is ordered by the owner after construction has in progress that was not included in the actual contract. The extra work being performed by the contractor is a result of a explaining of the contract documents. However, the contractor believes that he is performing extra work, while the owner believes the work was part of original contract.

Contractual Disputes

Contractual disputes concern matters with concern to the contract itself. This includes any disagreement on the responsibility or liability of some parts that are not included in the documents. The main reason of these types of dispute is poorly written contracts.

Inadequate Site Conditions

A change condition refers to some physical aspect of the project or its site that differs materially from the specified by the contract documents or that is of an unusual and differs materially from the conditions ordinarily encountered.

Disputes Settlement Methods

When the contractor discovers the problem, they should try to remove or avoid it. If they cannot do so, then they should write a letter to the owner to make a formal claim. The problem is approached during regular meetings, or a special meeting may be arranged to settle or discuss this dispute. If all that did not succeed, then mediation could be friendly way for settling the dispute. Otherwise, arbitration or litigation could be other ways to solve the disputes. These methods could be as under:

LITERATURE REVIEW

In order to carry out the work a number of literature are study so as to study the construction risk management and quality assurance. The study mainly related to construction risk management and quality assurance in India point of views.

Some of the literature reviews are listed below:-

Jannadia et al. (2000) the contract administration methods for dispute avoidance and resolution (DAR) covered in this study is: Allocating Fair Contract Risk, Drafting Dispute Clauses, Team structure, Provision of a Neutral Arbitrator, and Binding Arbitration.

Sinha and Wayal (2009) disputes can occur causing schedule delays, lead to claims that require litigation proceedings for resolution. In this paper, a chain of models are developed to display the interdependency between key variables that contribute to disputes. The developed models are used to recognize a number of strategies that can be adopted to decrease the immediate incidence of disputes in construction.

Mohamed et al. (2014) claims are identify through four stages. In the first stage, identifying factors that causing disputable claims. In the second stage, a brainstorming was used to reduce the number of factors. In the third stage, these factors are divided into three categories: contractual, behavioral and operational. In the forth stage, identify the

most 8 important causes. Which are identify as follows: 1) delay payment from client, 2) ability of team work, 3) addition of time, 4) imperfect drawings and specification, 5) Poorly written contracts clauses, 6) change orders, 7) cooperation and communication nature among project team, 8) delay to supply of equipment and materials.

Shrestha et al. (2014), this study is based on analysis of the Delay Claim in the Construction Industry. Descriptive statistics method was used to analysis the data. The results shows that, analysis of schedules and contract documents was a major resource. The top three delay claims are concrete, earthwork, and steel.

Pawar and Patil (2014) conflicts considered in three levels; intrapersonal conflict, interpersonal conflict, Intra-group conflict. The main focus is to minimize their impact of conflicts in construction project. In construction projects, an effective and supporting project team owner, contractor, and consultant can reduce the effects of large complex problems.

Salunkhe and Patil (2014) the research clear that how 'Time and Cost' effect the overall project. About 57% of Indian construction projects are experiencing time overrun. The study highlights the type of construction delays due to which project suffer time and cost overrun.

Mitkus and Mitkus (2014) the main cause of conflict in the construction industry is unsuccessful communication between the client and the contractor. Also unfair behaviour of the parties to a construction contract agreement.

Khekaleand and Futane (2015) this paper provides an introduction to the claim management and dispute resolution techniques. Better training in the area of contract management to the professionals can be help to reduce the construction claim and disputes. The development of dispute resolution processes has lead to the development of alternative dispute resolution opportunities.

CONCLUSION

1. Delays in payment is the most important cause of dispute because it creates a financial problem and disputes between the owner and the contractor.
2. Documents are a very vital part in the contract. At the time of writing the Agreement, all is usually acceptable for all parties, but the problem come during the last part of the project, when they cannot make any variations to the contract.
3. Owners usually try to deduct from the last payment and the reason they give is; That the quality of work is not good or there are some faults in execution. Such execution mistakes or quality depend on skilled the labors and
4. One of the major dispute factors is that both owner and contractor do not put good plan before starting a project. The owner usually does not know what he wants exactly. Also, contractor do not use any type of scheduling which may result in delay.
7. The economic impact and shortage of money in recent years has resulted in an increased number of disputes. Profit margins have decreased and may become harder to maintain.

REFERENCES

1. Jannadia, M. Osama, Assaf, Sadi, Bubshait, A. A., and Naji, Allam (2000). "Contractual method for dispute avoidance and resolution (DAR)." *International Journal of Project Management*, 18 (2000) 41-49.
2. Sinha, Manvendra, and Wayal, A. S. (2009). "Dispute Causation In Construction Projects." *IOSR Journal of Mechanical & Civil Engineering (IOSR-JMCE)*, ISSN: 2278-1-684, PP: 54-58.
3. Younis, Grace, Wood, Gerard, and Malak, M. Asem Abdul (N/A). "Minimizing construction disputes: the relationship between risk allocation and behavioural attitudes." *Innovative Solutions for Compliance and Research Management*.

4. Faylizadeh, Mohammad Reza, Bagherpour, Morteza, Sharifi, Masoud Mohammad, and Sharifi, Alireza Mohammad (2013). "The effect of calim on construction cash flow." *Technical Journal of Engineering and Applied Sciences*, TJEAS Journal-2013-3-S/3835-3838.
5. Cakmak, Emre, and Cakmak, Pinar Irlayici (2014). "An analysis of causes of disputes in the construction industry using analytical network process." *Procedia – Social and Behavioral Sciences*, 109 (2014) 183-187. [ELSEVIER]
6. Mohamed, Hossam H., Ibrahim, Ahmed H., and Soliman, Asmaa A. (2014). "Reducing Construction Disputes through Effective Claim Management." *American Journal of Civil Engineering and Architecture*, 2014, Vol. 2, No. 6, 186-196.
7. Shrestha, Pramen P., Shrestha, Kishor, and Meyer, Nicholas W. (2014). "Delay Claim Analysis in the Construction Industry" 50th ASC International Conference Proceedings.
8. Pawar, Omkar Ashok, and Patil, Rahul S. (2014). "Conflicts & Disputes in Construction Projects" *International Journal of Innovations in Engineering and Technology*, Vol. 3, Issue 3,48-53.
9. Salunkhe, Ashwini Arun, and Patil, Rahul S. (2014). "Effect of Construction Delays on Project Time Overrun: Indian Scenario" *IJRET: International Journal of Research in Engineering and Technology*, Vol.: 03, Issue: 01
10. Mitkus, Sigitas, and Mitkus, Tomas (2014). "Causes of Conflicts in a construction industry: a communicational approach." *Procedia – Social and Behavioral Sciences*, 110 (2014) 777-786. [ELSEVIER]
11. Khakale, Chaitanya, and Futane, Nityanand (2015). "Management of Claims and Disputes in Construction Industry." *International Journal of Science and Research (IJSR)*, Vol. 5, Issue 5.