

The Potential of Project Managers Taking Roles in Conflict Settlement and Dispute Resolution

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DOI: <https://dx.doi.org/10.47772/IJRISS.2025.90400022>

Received: 14 March 2025; Accepted: 18 March 2025; Published: 26 April 2025

ABSTRACT

To prevent disputes in construction, it is essential to appoint experienced professionals like Project Managers with the necessary skills and knowledge. Project Managers ought to be knowledgeable about alternative dispute resolution (ADR) techniques, identify the causes and impacts of disputes, and be able to provide professional judgment, technical expertise, and specialized advice on various building project-related topics. This explore the potential roles and skills necessary for construction Project Managers in conflict settlement and dispute resolution. Two objectives have been framed in this research: (1) to identify the potential of Project Managers taking roles in conflict settlement and dispute resolution.; and (2) to identify the competency skills necessary for Project Managers taking roles in conflict settlement and dispute resolution. The study adopts qualitative approach and draws data from five in-depth semi-structured interviews with the selected Project Managers that possess knowledge and experience in taking roles and participating in ADR process. Content analysis reveals five potential roles can be taken by Project Manager during ADR process namely: expert witness; negotiator; mediator; adjudicator; and arbitrator. The study further proposed the skill necessary for Project Manager taking roles in ADR process namely: legal knowledge skills; communication skills; emotional intelligence; problem solving skills; critical thinking skills; creative thinking skills; language skills and case management skills. This preliminary study the potential roles and also the skills needed for Project Manager during ADR process in Malaysia.

Keywords: Construction, Project Manager, Skills, Dispute Resolution

BACKGROUND OF STUDY

Construction projects face numerous challenges such as delays, unanticipated demands, poor performance, cost overruns, structural failures, accidents, misinterpreted paperwork, and unforeseen events. They often cause delays, overspending, and strained contractual relationships [31]. According to the previous study, Alternative Dispute Resolution (ADR) is a contemporary idea that has been developed to settle disputes quickly and amicably, particularly those pertaining to business transactions or contracts [26].

In order to resolve conflicts in construction projects effectively and economically, alternative dispute resolution (ADR) techniques are becoming more and more crucial [16]. Negotiation, mediation, arbitration, and adjudication are examples of common alternative dispute resolution (ADR) methods [16]. These techniques provide benefits like relationship maintenance, confidentiality, and time and money savings [16]. Successful projects depend on efficient conflict resolution, and while choosing an ADR technique, Project Managers should take into account elements like budgetary limitations and regulatory restrictions [16].

Project practitioners would benefit from the examination of the ADR selection and usage variables, which would aid in decision-making and provide useful guidelines [11]. The Project Manager bears the task of establishing reasonable project boundaries that comply with the requirements. This is among the most crucial things a Project Manager can undertake to deal with unexpected events [49]. To enable development to proceed without interfering with the project's primary cycle activities, Project Managers need to possess both technical and non-technical (soft) abilities.

The effective approach that can be implemented to steer away from construction disputes is appointing well experienced construction professionals such as Project Managers with the required skills and knowledge to oversee the construction project effectively [44]. Project Managers need to know enough about alternative dispute resolution (ADR) techniques to be able to handle disagreements and comprehend how disputes may be prevented. According to Reference [40], Project Managers must possess the managerial abilities to resolve disputes as well as the capacity to identify the causes and impacts of conflicts. This is due to the fact that conflict management is essential to preventing a dispute from escalating [16].

Construction companies include intricate procedures that involve several areas and professions, thus it seems sense that effective conflict resolution would need drawing on a wide range of knowledge [25]. Project Managers can be useful expert witnesses in the alternative dispute resolution (ADR) process for construction disputes. Their responsibilities include offering professional judgement, technical know-how, and specialised knowledge on a range of building project-related topics. Similarly, having a strong sense of purpose in their aims might be necessary for someone to serve as an expert witness.

A Project Manager, often known as a dispute resolution specialist, is a crucial role in project management [38]. They take on the role of an impartial third party, encouraging candid dialogue and identifying win-win solutions. Project Managers in construction play a dynamic role that emerges through interactions with various tools and devices, acting as mediators or intermediaries depending on the situation [18].

Project Managers in the construction industry require a diverse set of skills to effectively manage projects and ensure successful outcomes. Conflict management, negotiation, and effective communication are essential leadership competencies for Project Managers in increasingly complex organizational environments [23]. As a communication technique, active listening helps control emotions and encourages continued conversation instead of aggressive behavior [37]. Active listening skills are essential for understanding all sides of an issue, allowing for well-informed decisions.

Recent research emphasizes the importance of emotional intelligence, technical expertise, and interpersonal relationship skills in achieving project goals [35]. Emotionally intelligent decision-makers can understand the viewpoints, feelings, and underlying issues of all parties involved, empathizing with them, creating a space for a peaceful conclusion [2]. Creative thinking is essential for making decisions based on facts, evidence, rules, and regulations, ensuring mutually beneficial outcomes. Patience and critical thinking are essential for reaching a fair solution among emotionally charged parties, planning practical fixes, and reducing miscommunications.

These positions and skills demonstrate how Project Managers may contribute to the ADR process in ways that go beyond those of standard expert witnesses or ADR practitioners. Their capacity for comprehending intricate project dynamics and proficiently communicating renders them invaluable resources in settling conflicts and guaranteeing more seamless project completions.

This study explores the potential and skills needed for Project Managers in conflict settlement and dispute resolution, specifically in the Alternative Dispute Resolution (ADR) process. It identifies disputes in the Malaysian construction industry and provides insights for future researchers and Project Managers. The first objective is to identify the potential of Project Managers taking roles in conflict settlement and dispute resolution. The second objective is to identify the competency skills necessary for Project Managers taking roles in conflict settlement and dispute resolution.

LITERATURE REVIEW

Dispute in Construction

Construction projects are prone to disputes due to their complex nature and inherent risks [28]. Disputes arise from various factors, including incompatibility of interests, poor teamwork, and economic issues [50]. Disputes have been recognized as one of the building industry's plagues. Numerous studies have discovered that important reasons of disputes include risks, uncertainty, poor contract documentation, and

behavioral issues. There have been several accounts of disagreements on the topic. Although this strategy is practical, no conceptualization has resulted from it as of yet. Construction disputes fall into two categories: contractual and technical [10].

Contractual Dispute

Although they are legally binding contracts, construction contracts are not always accurate. Just like any other document, a construction contract may include mistakes and omissions due to inexperience or sincere mistakes. Payment disputes, scope modifications, delays, contract breaches, and contract terminations are examples of contractual disputes. As per the Arcadis Global Construction Dispute Report 2022, the primary reason for construction disputes in 2021 was incomplete or poorly prepared claims that lacked supporting evidence. One of the major causes for the year 2022 was errors and/or omissions in the contract paperwork. In 2020, nothing of these made the top three lists. This data unequivocally demonstrates that contractual disputes are the most frequent type of disagreement to arise in the construction sector.

The construction industry faces potential issues due to contractor inability to receive regular and timely payment, leading to project delays and decreased profitability. This can negatively impact subcontractors, suppliers, hirers, and the entire value chain. Down the contract chain, a major cash flow problem at the top might lead to a series of problems. According to Reference [21], the primary source of disagreements has always been payment and it is not surprising. If the disagreement is not resolved, it is expected to worsen and turn into a dispute, which may potentially result in late or non-payment. Factors contributing to late or non-payment include parties' disagreements, client trust, and understanding of client requirements.

Construction project scope changes can significantly impact schedule delays, costs, and quality performance ([19], [42]). These changes can ripple across other project disciplines and can lead to contract disputes and project failure if not managed properly. The complexity of scope modifications in construction projects is often underappreciated, despite being an inherent characteristic [4]. Contractual conflicts can arise due to the impact on costs and the need to re-evaluate job statements. Additionally, scope changes can result in project delays and conflicts with the predetermined schedule. To address these issues, it is essential to manage expectations and obligations within the contractual framework, using clauses or provisions to outline processes for addressing scope changes.

Construction projects frequently encounter delays, leading to disputes that can significantly impact timelines and costs [43]. Reference [7] emphasizes the importance of understanding causation in delay claims, highlighting the need for thorough planning and legal considerations during dispute resolution processes. Construction project delays are a worldwide occurrence [45]. According to Reference [29], two of the most frequent occurrences in the construction sector are time delays and cost overruns. Delays in building projects have an impact on a nation's economy as a whole in addition to the construction sector. On-time project completion is a sign of efficiency, however there are a lot of unforeseen and variable circumstances that arise throughout construction [3].

Failure to carry out a contractual duty in its entirety constitutes a complete violation of the agreement and constitutes a breach of contract. A partial breach occurs when a contract is only partially violated. A party acknowledges breach of contract if he gives notice of his clear reluctance or incapacity to fulfil before the deadline. In this scenario, the violation is known as an anticipatory breach. Sometimes a party wilfully incapacitates another party, makes it difficult for him to carry out his obligations under the contract, or interferes in such a way as to make the other party's performance impossible. These actions also amount to a breach of contract.

Technical Dispute

Technical conflicts are mostly over the project's engineering, design, construction techniques, materials utilized, adherence to standards and specifications, and general technical issues. These conflicts frequently centre on differences about inconsistent designs, structural integrity, high-quality work, unanticipated site circumstances, standard compliance, and performance-related matters. Technical execution problems, such as

design errors, construction defects, quality difficulties, or unanticipated technical obstacles, are typically the root cause of technical conflicts.

Design flaws in building are unavoidable issues, often resulting from human errors and time constraints. According to Reference [27], it is clear that disputes are inevitable and for instance, some of these similar disputes include design deficiency. These flaws can impact the building and design processes, causing inadequate accuracy, inconsistent measurement, and deviation from real values [41]. Technical disagreements often arise when apportioning blame for design faults, which can be attributed to the design team, architects, engineers, or construction crew. These flaws can cause errors, defects, or inconsistencies in design plans, affecting the building process and causing differences between planned and actual construction.

Construction laws in a country are becoming less beneficial due to compliance issues, which can threaten the built environment's resilience, especially in seismic-prone regions. Implementing building codes can be challenging due to lack of technical expertise and training [39]. Inconsistencies with the building code can result in unanticipated losses to the built environment. Construction standards and compliance concerns can trigger technical construction conflicts, as disagreements over how to apply standards can arise from different people's perceptions. It is essential to abide with construction rules, zoning laws, safety requirements, and industry-specific laws to avoid disputes.

Tort and Negligence

Construction law focuses on tort law and general contract law, which are fundamental areas of the law. Torts are civil wrongs caused by someone wrongfully causing pain or loss to another person, and they can lead to legal remedies such as monetary compensation or an injunction. According to Reference [12], negligence, on the other hand, is a broad category of tort liability, categorized into "unintended harms" and "absolute liability." In construction, damages can be physical or economical, and if multiple parties are involved, damages may be distributed based on each party's culpability.

When a project disregards building codes and standards of care, it becomes a construction negligence and tort [33]. Negligence and tort can jeopardize the integrity of a structure and the safety of its inhabitants. Construction neglect can occur at any stage of a project, and construction projects are often delayed due to negligence. Economic losses are treated differently from personal injury or physical damage, as they are self-limiting and can be costly to investigate. In conclusion, serious financial losses can arise from carelessness or tortious behaviour, such as poor construction quality or careless property damage, which can result in compensation claims, project completion delays, overspending, or disagreements about who is responsible for necessary repairs.

Alternative Dispute Resolution

Alternative dispute resolution (ADR) is a collection of methods used to privately resolve conflicts and disputes, rather than reaching resolutions in public courts. ADR methods can be binding (formal) or non-binding (informal), and can be cheaper and faster than traditional approaches. However, there is a risk of one party not accepting the resolution, leading to a more hostile and binding process like arbitration or litigation.

Dispute resolution can be divided into public and private categories. Public dispute resolution focuses on the fair implications of private interactions but is open to the public, while private dispute resolution emphasizes parties' autonomy and confidentiality. In Malaysia, there are three private dispute resolution methods: arbitration, mediation, and adjudication. This paper discusses the application of mediation in the Malaysian construction industry and how to improve the private dispute resolution method.

Negotiation

Negotiations are crucial in project management, involving formal or non-formal methods to resolve conflicts before they escalate into disputes. They aim to achieve an agreement through discussion and compromise,

potentially avoiding court issues and saving costs. Negotiation studies have shown that people's thinking habits, language arts, and psychological needs influence their negotiation goals [32]. However, conflicting goals can lead to delays in negotiations and emotional responses. Factors such as cultural differences, cognitive, affective, and motivated psychosocial barriers, and individual beliefs about the position, stability, and controllability of the basis can also influence conflict resolution [30].

Negotiations begin with a preparatory phase, followed by six stages: preparatory, preliminary, informative, distributive, closing, and cooperative [5]. Negotiators' perceptions and biases, divided into motivational, learning, and unconscious biases, affect their ability to reach agreements [6]. Lawyers should categorize client goals into important, desired, and required. Setting ambitious but doable objectives is crucial for a fruitful negotiation [5]. Building positive rapport with opposing negotiators and discussing common interests can reduce tension. The best-case scenario's Best Alternative to a Negotiated Agreement (BATNA) should be considered and the conversation should be concluded when it is reached [9].

Negotiators should focus on options that could be advantageous to both parties and work together to generate win-win scenarios. Two-party negotiations often result in win-lose, lose-lose, or win-win outcomes. Win-lose situations involve one party gaining at the expense of the other, often due to bargaining against their own interests or ignorance of alternative possibilities. A win-win approach aims to create solutions that benefit all stakeholders, acknowledging subjective opinions and justice. A lose-lose strategy can result in disappointing outcomes, as it focuses on inflexible views and ignores cooperative options. Lose-lose situations can occur when discussions end without an agreement, often due to faltering communication and teamwork. Effective negotiators aim to reach agreements that meet both parties' demands and opposing viewpoints, considering various factors such as techniques, power dynamics, information, and individual objectives.

Mediation

Mediation is a process where an unbiased third party assists parties in reaching a settlement by expressing feelings, reaching agreements, and exchanging viewpoints [47]. The mediator does not represent either party but works together to reach a mutually agreeable conclusion. In Malaysia, the first mediators received training in building industry mediation. Many agreements and contracts allow mediation, such as the Standard Agreement and Conditions of PAM Contract 2018 (Without Quantities) and the Construction Industry Development Board (CIDB) Standard Conditions of Contract for Building Works (2000). Mediation can only occur with the agreement of both parties and depends on their counsel. Mediation is often encouraged when financial imbalances or mistrust reach a tipping point, making amicable solutions impossible.

The mediation process involves three phases: pre-mediation, mediation, and post-mediation. The Malaysia Mediation Centre (MMC) has several pre-mediation procedures, including joint submissions, requests for mediation, and appointment of a mediator. The mediator's duty is to prepare for the mediation, draft a formal settlement agreement, and adhere to the conditions of the Agreement to Mediate and the Code of Conduct. In conclusion, the mediation process is a collaborative effort between parties, with the mediator serving as a communication facilitator. The process is designed to be effective, efficient, and respectful, ultimately leading to amicable and permanent resolution of conflicts.

Adjudication

Adjudication is a legal procedure that expedites and delivers a court's decision on a dispute between two parties, often involving disagreements over money or nonviolent offenses. It can be used to settle financial disputes, including contractual disputes, between companies, and financial organizations. Adjudication can also be used to resolve insurance policy disputes, including coverage questions, claim denials, and policy interpretation.

The CIPAA process involves the initiating party delivering a notice defining relevant laws and facts in disagreement, followed by a Payment Claim and Payment Response phase. The defending party receives notice of the appointment of an adjudicator and replies to the plaintiff's claim of adjudication. Adjudicators,

who are independent third parties, make decisions based on the evidence presented, which are temporarily binding until resolved through litigation or arbitration [13]. The process emphasizes the principles of natural justice, although courts enforce adjudicator decisions even if errors occur. The adjudicator renders a decision, similar to an arbitrator at an arbitration hearing. Parties have ten working days to agree on the nomination of an adjudicator, and if unable to reach a consensus, either party may request an adjudicator from the Director of AIAC. The terms of appointment can be discussed and decided upon within ten working days. The adjudication claim and answer must be submitted within ten working days of an adjudication appointment.

Parties may choose to represent themselves or designate a representative, including solicitors, under CIPAA Section 8. Adjudication is a final, enforced decision that parties must abide by, unlike mediation which results in voluntary agreements. Court-based adjudication allows for challenges and appeals, allowing for overturning unjust verdicts and renegotiating agreements. It is institutionalized, allowing parties to file lawsuits without consent, and is supported by the government. The goal of adjudication is to settle legal disputes fairly and reasonably by applying the relevant legal framework and principles, influenced by the case's particulars, legal framework, evidence, arguments, and adjudicator's discretion.

Arbitration

Commercial arbitration is a widely used alternative dispute resolution (ADR) in Malaysia, particularly in the construction industry. It is a voluntary process that requires consent from both parties to be accepted. The main benefits of arbitration include procedural flexibility, confidentiality, and the ability to select arbitrators with a variety of specializations. However, arbitration has drawbacks, such as the inability to force a third party unfamiliar with the arbitration agreement to participate, which is against the basic consent principle. Additionally, only parties to the arbitration agreement have the authority to file an appeal, and arbitration verdicts are usually conclusive and legally binding. Section 4 of the Arbitration Act 2005 allows for a broad interpretation of what can be arbitrated, but it is important to note that arbitration can resolve disputes unless the agreement is against public policy or the subject matter cannot be resolved by arbitration under Malaysian law.

Arbitration is a dispute resolution method that involves reaching a binding agreement, often involving an award from an arbitrator. According to Reference [8], the arbitral award, governed by presumptions of enforceability, legality, and *res judicata*, may be enforceable or non-enforceable depending on the parties' agreement. Arbitration rulings may also involve monetary compensation, with the arbitrator entitled to payment for legal services and related costs. The arbitration agreement, rules, legislation, and dispute details influence decisions. Arbitration offers a more flexible and private resolution method, with rulings globally recognized and enforced through treaties and conventions.

The Potential Role of Project Manager in Conflict Settlement and Dispute Resolution

The duties and obligations of a Project manager may change based on the particular undertaking. In fact, it may even change based on the organization's size and industry. To guarantee that all projects are finished on time, within budget, and within the designated scope, a Project Manager is necessary [24]. They also supervise a project's design and start-up and ensure its technical viability, resource availability, and distribution. In order to guarantee that projects are carried out properly, a Project Manager's responsibilities also encompass managing relationships with clients and stakeholders and collaborating with both internal and external parties. Project Managers must also do risk management studies and create and maintain comprehensive project documentation in order to reduce project risks [24].

According to Reference [34], projects involve conflicts, and Project Managers are responsible for managing those conflicts. Managing the conflict will not only ensure project success, but will ensure that the resources, costs, and efforts for projects are used efficient and effectively. In managing project conflict, negotiation and mediation were deemed as the most commonly adopted solutions by Project Managers [51]. The disputes covered in this construction projects; consequently, they required arbitrators and adjudicators with construction backgrounds [1].

Skill Needed in Alternative Dispute Resolution Process

The most popular methods for settling disputes outside of official court proceedings are arbitration, mediation, and negotiation. In these types of conflict resolutions, impartiality, a thorough understanding of the subject matter, the ability to ask probing questions and listen carefully, and patience are all necessary [36]. Legal Knowledge Skill is one of the appropriate technical skills required throughout the ADR procedure. This ability is also highly important in the ADR process, particularly in binding decision processes like arbitration and adjudication [14].

Next, it's crucial to develop interpersonal abilities like emotional intelligence and communication. Good leadership, group interaction control, and communication skills are necessary for good management [15]. By recognizing each style, a project team can improve their emotional intelligence and interactions to support the site's progress [46].

A process focused on solving a problem by obtaining a settlement. Cooperative problem solvers try to create a comfortable negotiating environment to achieve a mutually beneficial agreement that will satisfy both parties [5]. Cooperative problem solvers achieve more efficient combined results for both parties. Making decisions is greatly impacted by critical thinking. This demonstrates that more decisions will be made in response to improved critical thinking [20]. For the language skill, Reference [52] state that the ability to utilize language freely during negotiations and other dispute resolution process can have the unexpected impact of helping to solve the disputes.

Based on The Compendium of Arbitration Practice (2017) defines a "stronger" arbitrator as one who actively manages the case, is ready to identify dependent issues and provide tough decisions early in the proceedings, and is not overly hampered by due process anxiety. These skills are very crucial in ADR process in order to manage conflict settlement and dispute resolution.

RESEARCH METHODOLOGY

The research methodology employed in this study follows a qualitative approach through in-depth semi-structured interviews to gather insights from Project Managers involved in Alternative Dispute Resolution (ADR) processes. The purpose of this study was to ascertain whether Project Managers could actually take roles in ADR and what are the skills they would need to be successful in such roles. The research was structured to ensure alignment with the research objectives, and it followed a qualitative method as it allows respondents to freely express their opinions and share their experiences [48]. Due to the exploratory nature of the study, the qualitative method proved more appropriate than a quantitative approach because there is a lack of empirical research on the abilities of Project Managers in ADR. Instead of depending only on statistical analysis, this method enabled the researcher to gather comprehensive, experience-based insights [17].

To collect data, semi-structured interviews were conducted with Project Managers who had experience in ADR processes, including negotiation, mediation, adjudication, and arbitration. Purposive sampling was used in the study, which involves selecting participants who fit particular requirements relevant to the investigation. The respondent pool was further increased by the use of the snowball sampling technique, as original participants suggested more people who fit the study's requirements. Since they were expected to have direct experience with conflict resolution in the construction industry, the targeted respondents were Project Managers working on Grade 7 construction projects in Malaysia. This sampling method ensured that the study collected rich, relevant, and varied viewpoints on the role of Project Managers in ADR.

The data collection process involved both physical and virtual interviews through platforms like Zoom and Google Meet, allowing for flexibility in participation. A structured interview guide was developed to ensure that each respondent was asked the same questions while still allowing room for open-ended discussions. The interview questions were divided into three sections: (1) Background Information, (2) Potential Roles of Project Managers in ADR, and (3) Required Skills for ADR Participation. The interviews were recorded, transcribed, and analysed to extract meaningful insights. The use of semi-structured interviews was justified as

they offer a balance between structured questioning and exploratory depth, allowing for a more comprehensive understanding of the research topic [22].

The study used content analysis, a systematic approach for extracting themes, patterns, and important conclusions from textual data, for data analysis. Three steps made up the content analysis process: (1) Coding, which involved classifying the data into pertinent themes; (2) Organisation, which involved structuring the themes according to their relevance to research objectives; and (3) Reporting, which involved analysing and interpreting the key themes. The author ensured methodological rigor by systematically classifying the data and categorizing themes related to Project Managers' roles in ADR and the skills they need. The study underlined how crucial thematic analysis is to comprehend complex social phenomena, especially when it comes to construction dispute settlement.

The three steps of the content analysis approach—preparation, organisation, and reporting—are utilised to analyse the data collected. The results and conclusions are compiled and concluded. Table 1.1 shows the research approach of the study.

Table 1.1 Research approach of the study

Research Objectives	Research Approach	Participants	Necessary Data	Data analysis
RO1: To identify the potential of Project Managers taking roles in conflict settlement and dispute resolution.	Qualitative: Semi-structured physical interview	Project Managers	Primary data: Potential of Project Managers taking roles in conflict settlement and dispute resolution.	Content Analysis
RO2: To identify the competency skills necessary for Project Managers taking roles in conflict settlement and dispute resolution	Qualitative: Semi-structured physical interview	Project Managers	Primary data: Competency skills necessary for Project Managers taking roles in conflict settlement and dispute resolution.	Content Analysis

DATA ANALYSIS AND DISCUSSION

This part analyses semi-structured interviews data, focusing on respondents' background, designation, and experience. It then discusses the potential of Project Managers in conflict settlement and dispute resolution, particularly in the ADR process, and the skills needed for such roles.

Sample Demographic

The research involved five interview sessions using video conferencing and purposive sampling to gather data on respondents' experience in the construction industry and their involvement in Alternative Dispute Resolution (ADR) processes. The majority of respondents (60%) had over ten years of experience, followed by two respondents (40%) with five to ten years. Based on Table 1.2, the respondents' experiences were categorized into Negotiation, Mediation, Adjudication, and Arbitration processes. All respondents had experience in negotiation and mediation, with one in adjudication and three in arbitration.

Table 1.2 Experience in taking roles or participating in ADR process

ADR process	R1	R2	R3	R4	R5	Total
Experience in taking roles or participating in negotiation.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	5
Experience in taking roles or participating in mediation.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	5
Experience in taking roles or participating adjudication.		<input type="checkbox"/>			<input type="checkbox"/>	2
Experience in taking roles or participating in arbitration.	<input type="checkbox"/>		<input type="checkbox"/>		<input type="checkbox"/>	3

The Potential of Project Managers Taking Roles in Conflict Settlement and Dispute Resolution

The study highlights the potential roles of Project Managers in conflict settlement and dispute resolution. Table 1.3 indicates that Project Managers can potentially serve as expert witnesses in conflict settlement and dispute resolution, particularly during the ADR process. They are also considered negotiators and mediators, but only four respondents agreed on their potential roles as adjudicators and arbitrators in the ADR process.

Table 1.3 The Potential of Project Managers Taking Roles in Conflict Settlement and Dispute Resolution

Code	Respondents	R1	R2	R3	R4	R5	Total
	Potential Roles						
PR1	Potential of Project Managers taking role as an expert witnesses.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	5
PR2	Potential of Project Managers taking role as a negotiator.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	5
PR3	Potential of Project Managers taking role as a mediator.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	5
PR4	Potential of Project Managers taking role as an adjudicator.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>	4
PR5	Potential of Project Managers taking role as an arbitrator.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>	4

According to the respondents, the potential roles of Project Managers as expert witnesses in conflict settlement and dispute resolution, particularly in the Arbitration and Adjudication (ADR) process. Respondents primarily focus on the role of an expert witness during the adjudication and arbitration processes, as they are crucial for decision-making. R1 and R2 opined that Project Managers can pass on knowledge and help the case by translating technical concepts into clear information. According to R3 and R5, Project Manager can also provide testimony, responding to inquiries from adjudicators and parties, and offer clarification. Selecting an expert with genuine expertise in the subject-matter is crucial for a thorough, objective, and reasonable report. Their Project Manager's experience can significantly contribute to the arbitration and adjudication process.

Project Managers in the construction industry have the potential to effectively resolve conflicts and disputes through negotiation. All respondents agreed that Project Manager has the potential to take role as a negotiator. Project Managers play a crucial role in resolving conflicts and disputes on site, ensuring timelines, cost control, and quality assurance. R2 and R3 also shared that, negotiation usually happen if the problem is not too serious. It is easier to get agreement between the parties. R1 also give an opinion where this is a good way to maintain relationship between parties without involving the third parties. By fostering mutually acceptable resolutions, Project Managers can avoid formalities and associated costs, fostering long-term partnerships and repeat business in the construction industry.

Based on the all respondent's most of them agree that Project Manager able to become a mediator in order to solve conflicts and disputes due to their knowledge and experiences. Project Managers typically oversee the planning, execution, and completion of projects, but resolving conflicts between contractors, employees, and other stakeholders is a component of their duties. R4 shared that Project Managers should undergo formal mediation training, such as the MIMC Training course and AIAC mediation programme, to develop effective conflict resolution, communication, and impasse handling skills. Professional mediators offer impartiality and experience in various sectors. This might give the best of both worlds by combining their in-depth project expertise with their specialised dispute resolution talents.

According to R1, R2, R3, and R5 have the similar stance that Project Manager can take role as an adjudicator or arbitrator, however, R4 opined that it requires specialized training and certifications. While adjudication and arbitration involve legal procedures, Project Managers with strong dispute resolution skills and technical expertise can be appointed to these roles. R4 mentioned that some Project Managers have obtained formal qualifications, such as the AIAC Certificate in Adjudication, to enhance their dispute resolution credentials. Unlike legal professionals, Project Managers bring practical experience in construction projects, making them well-suited for resolving disputes that require a deep understanding of contractual obligations, technical issues, and stakeholder management. Their ability to assess evidence, provide fair judgments, and ensure procedural fairness is critical in ADR processes.

The Skill Needed of Project Managers Taking Roles in Conflict Settlement and Dispute Resolution

According to Table 1.4, the analysis reveals the respondents' opinion on Project Manager's skills in conflict settlement and dispute resolution are essential. There are five (5) skills that are agreed upon by all the respondents which are communication skills, emotional intelligence skills, problem solving skills, critical thinking skills and creative thinking skills. In the other hand, 4 respondents agreed that case management skills are necessary for Project Manager who taking roles in ADR process. Only 3 out of 5 respondents agreed on legal knowledge skills. However, only 2 out of 5 respondents agreed on language skills.

Table 1.4 The Skill Needed of Project Managers Taking Roles in Conflict Settlement and Dispute Resolution

Code	Respondents	R1	R2	R3	R4	R5	Total
	The Skills Necessary for a Project Manager						
SN1	The needs of legal Knowledge skill in conflict settlement and dispute resolution.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	3
SN2	The needs of communication skill in conflict settlement and dispute resolution.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	5
SN3	The needs of emotional intelligence skill in conflict settlement and dispute resolution.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	5
SN4	The needs of problem solving skill in conflict settlement and dispute resolution.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	5
SN5	The needs of critical thinking skill in conflict settlement and dispute resolution.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	5
SN6	The needs of creative thinking skill in conflict settlement and dispute resolution.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	5
SN7	The needs of language skill in conflict settlement and dispute resolution.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	2
SN8	The needs of case management skill in conflict settlement and dispute resolution.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	4

Project Managers need to have certain abilities that improve their ability to handle disputes in order to be successful in conflict resolution. Legal knowledge, communication skills, emotional intelligence, problem-solving abilities, and critical thinking were among the essential qualities highlighted by the study. Since Project Managers frequently deal with contracts, regulatory frameworks, and arbitration hearings, all respondents believed that legal knowledge is crucial. While R4 and R5 argued that technical expertise is more critical than legal knowledge, others emphasized that a balance between the two is necessary for managing complex disputes. Effective verbal and written communication is also essential for presenting cases, negotiating terms, and recording agreements in arbitration, adjudication, and mediation.

Project Managers must control conflict between parties and encourage constructive discussion, therefore emotional intelligence is essential in dispute settlement. According to the study, every respondent agreed that emotional intelligence is essential for ADR practitioners since it enables neutrality, decision-making, and conflict de-escalation. Moreover, problem-solving and critical thinking skills enable Project Managers to identify the root causes of disputes, assess potential solutions, and implement strategies that minimize project delays and financial risks.

Language skills are also essential for Project Managers in conflict settlement and dispute resolution, particularly in the construction industry. Mastery in Malay and English languages is crucial, as it facilitates understanding and communication in international contracts and legal contexts. Moreover, proficiency in multiple languages can help Project Managers interact more effectively with team members, reducing the risk of errors due to miscommunication. However, three respondents (R1, R4, and R5) argued that language skills are not necessary for conflict settlement and dispute resolution, especially during the ADR process. They suggested hiring a senior supervisor or superintendent who is fluent in their mother language and respectable, and using a foreign interpreter or translator if necessary. R1 highlighted the importance of wisdom in arranging strategies and ensuring clear information delivery and reception between parties. While basic English proficiency may suffice for some ADR roles in Malaysia, most respondents agreed that excellent language skills are not necessary for conflicts involving foreign workers, especially during negotiation and mediation.

The study found that Project Managers should have case management skills in conflict and dispute resolution, especially during the ADR process. These skills are crucial for binding decision resolution, such as arbitration and adjudication, which involve regulations and legal procedures. However, according to R4, for manageable conflicts, bargaining skills are sufficient. R2 opined that arbitration and adjudication often involve complex legal issues, extensive documentation, and formal procedural rules, making effective case management essential. In contrast, mediation and negotiation are more flexible and less structured, focusing on facilitating communication and finding mutually acceptable solutions. Project Managers must assess and evaluate disputes to deliver decisions to parties, and document and evidence management is also part of case management. In mediation and negotiation, case management skills are still essential, as mediators or negotiators must manage the process effectively.

These skills are particularly valuable in mediation and negotiation, where Project Managers must balance competing interests and propose mutually beneficial outcomes.

CONCLUSION

Project Managers have significant potential to contribute to conflict settlement and dispute resolution in the construction industry. Their roles extend beyond project execution to include negotiation, mediation, adjudication, and arbitration, depending on their expertise and training. The roles can be taken by Project Manager during conflict settlement and dispute resolution are as expert witness, negotiator and mediator. However, for adjudicator and arbitrator require a special training for a Project Manager to become one. Construction arbitration often involves engineers, architects, and quantity surveyors, but Project Managers can become arbitrators without special qualifications. Similar to mediators and adjudicators, they need specific training and certification from relevant bodies to enhance their qualifications. Overall, the study highlights the importance of Project Managers in conflict settlement and dispute resolution.

The essential skills for these roles—legal knowledge, communication, emotional intelligence, problem-solving, and critical thinking—enable them to manage disputes effectively and maintain project continuity. Overall, these skills are essential for Project Managers in conflict settlement and dispute resolution. By equipping themselves with specialized training and ADR certifications, Project Managers can enhance their ability to act as dispute resolution professionals, ultimately fostering a more collaborative and efficient construction industry.

Despite from the potential roles and skills of the construction Project Manager in ADR process, the study is limited by small sample size and lacks a diverse range of stakeholders. Future research should look into how Project Managers learn ADR competencies through official training, on-the-job training, or professional certifications; they should also involve contractors, legal experts, and clients; and they should increase the sample size. Analysing the points of view of these important stakeholders helps one to grasp the possibilities and difficulties related to Project Managers' involvement in conflict resolution.

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