

**The Study of the Application of Alternative Dispute
Resolution (ADR) methods for Settlement of Environmental
Disputes in Sri Lanka**

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Degree of Master of Science in Project Management

Department of Building Economics

University of Moratuwa

Sri Lanka

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Thesis/Dissertation submitted in partial fulfillment of the requirements for the
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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 to the best of my knowledge and belief it does not contain any material previously published written by another person except where the acknowledgment is made in the text.

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The above candidate has carried out research for the Masters Dissertation under my supervision.

Name of supervisor: Mr. Mahesh Abeynayake (Attorney-at-Law)

Signature:

Date:

Abstract

In Sri Lanka rapid development processes and accelerated development have caused environmental issues which have led to environmental disputes. Currently environmental disputes are resolved through Litigation. However, a majority of these cases are settled in Courts, creating an outcome of one party benefiting at the expense of other. Resorting litigation to resolve environmental disputes create a disadvantage for development due to the laws' delays and high costs. Globally, there is an increase in the use of Alternative Dispute Resolution (ADR) in settling environmental disputes. The primary objective of this research is to study the application of ADR methods in settling environmental disputes in Sri Lanka. The approaches chosen for this research were interpretivism and phenomenological and makes use of a combination of primary and secondary data sources as research method. Since this research requires scrutinizing of case law and juristic writings, secondary data sources were used along with primary data sources of interviews and questionnaires. The interviews were conducted with a number of individuals with extensive lived in experience with environmental dispute resolution and was complemented by a questionnaire which was distributed among a composition of individuals with similar experiences. Data from archival and secondary sources were analyzed as skimming, reading and interpretation. The results of the interviews and the questionnaire were analyzed manually, where the researcher aimed to distinguish common words and phrases, to be able to determine tendencies and predispositions in the answers of the respondents. The findings of the research confirmed the existence of environmental disputes and that the common dispute resolution method used in Sri Lanka is litigation. Also, there is evidence that ADR methods are used globally to successfully settle such disputes and there are no barriers to incorporating ADR method for environmental dispute resolution in Sri Lanka. Based on the findings it is recommended to propose the establishment of a Statutory Tribunal for the existing environmental disputes with a mandate to hear specifically environmental disputes and the incorporation of Environmental Mediation as an environmental dispute resolution method at the different stages of a project cycle of a development project in order to resolve environmental disputes at strategic points of the project cycle where both parties have a win-win situation, in safeguarding the environment as well as successfully implement development projects.

Keywords: *Environmental Disputes, Environmental Dispute Resolution, Alternative Dispute Resolution*

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