

# **Causes of Disputes between the General Contractor and Subcontractor in the Construction Industry of Pakistan**

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**ABSTRACT:** *Disputes have detrimental effects on project leading to cost overruns, delays, poor quality of work and intangible losses to working relationship among the project participants. Subcontracting constituting a major portion of construction works needs attention as the dispute taking place between the general contractor and subcontractor may jeopardize the success of the whole project. This study identifies the causes of disputes between the contractor and subcontractor through a survey conducted in the Pakistani construction industry and determines that delays in payment, unfair risk allocation, delays in work, incompetent subcontractor and negative attitude of parties are the top five causes of disputes. This paper will be helpful to both contractor and subcontractor in assessing that where their relationship could take a sharp turn and take remedial measures beforehand.*

**Keywords:** *charismatic leadership, visionary leadership, trustworthy leadership, institutional performance*

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Disputes and conflicts are used synonymously by some authors in their research like Mitkus and Mitkus (2014). Likewise, many other authors state that conflicts, claims and disputes are used interchangeably but their meanings are different (Love, Davis, London, & Jasper, 2008). Conflicts take place between two parties that compete over scarce resources, unharmonious goals and interfere with one another (Love et al., 2008). They also occur when the parties involved in the project reach a point where they become incompatible on the priorities and objectives. This creates an environment of frustration due to lack of cooperation among the parties (Acharya, Dai Lee, & Man Im, 2006). The unrealistic expectations, interpersonal relations, administrative procedure, tradeoffs between technical and performance issues are also a cause of conflicts (Li, Ng, & Skitmore, 2012) and more specifically in the construction industry (Dada, 2013). Conflicts can be external or internal. Internal conflicts emerge due to issues among the project participants. External conflicts are due to political and weather risks, and other external agents. Similarly, the conflicts can either be functional or dysfunctional. Functional conflicts aide in progress of the project while dysfunctional ones hamper it (Gould, 1999). In construction industry it is impossible to achieve a conflict-free environment. Though completely eliminating them is not possible, efforts should be made to keep them under control (Younis, Wood, & Malak, 2008). Conflicts can be and should be managed so that they do not lead to disputes.

Disputes are “*matters or controversies outside the scope of jobsite management that must be settled*” (Diekmann & Girard, 1995). They are regarded as disagreement by some authors while others argue that a dispute cannot take place until a claim has been put up by one party and the other party rejects it. The party initiating the claim tends to refuse the rejection of their claim, giving rise to a dispute (Chynoweth, Reid, & Ellis, 2007). Difference of anticipated response against a particular claim between the two parties is at the core of disputes. It is a conflict that needs a resolution (Mustill, 1995). The parties in the construction projects watch out for their own interests. During the dispute resolution, if one party tends to compromise or show flexibility on the matter in hand, then the dispute has more chances of getting settled. The organizations should find the ways of resolving them as early as possible before they cause serious damage. The conflicts should be managed at their earliest so that they do not turn into disputes.

The disputes are often resolved by the involvement of third parties in the process of litigation and arbitration (Frey, 2002).

In construction industry occurrence of disputes among the project participants is widely reported and it has been observed that they may take during any phase of the project (Hall, 2002). It has been reported that the amount spent in resolving disputes through litigation is US \$5 billion annually in the United States (Ng, Peña-Mora, & Tamaki, 2007). In addition it has been reported to be the major cause of increase in project costs (Brockman, 2013). The philosophy behind occurrence of disputes in the construction industry has been studied by various authors. Some owe it to interaction of multiple parties i.e. client, consultant, contractor, subcontractor, material suppliers etc., each having their own set of interests (Cakmak & Cakmak, 2014). Others consider that the uniqueness of each and every construction project and lack of presence of any standardized format leads to disputes (Cheung & Suen, 2002). Adversity among the parties of a project lead to disputes between them and this is true in the case of general contractor and subcontractor as well (Greenwood, 2001). There is an increase in the percentage of works subcontracted in the construction industry. The subcontracting may even account to 85% of the total construction works as per Mbachu (2008). This in turn indicates that the performance of a project is directly dependent upon the success of general contractor's and subcontractor's relationship.

What will be the status of project in case disputes take place between the general contractor and subcontractor? This question is alarming for the construction industry. When the proportion of works assigned to the subcontractor are significantly large, any dispute between them will have a triggering impact on overall success of the project. While studying the general contractor and subcontractor relationship authors reported that subcontractor complain about the unfair risk allocation. Construction contracts that serve as a tool to distribute risks in the project are based upon the wishes of the general contractor in Pakistan and the standardized conditions are missing (Choudhry, Hinze, Arshad, & Gabriel, 2012). So an animosity is created between the parties when the project is at its infancy stage i.e. when the contracts are being executed. The contractor tend to focus on their own profit and select the subcontractor on the basis of lowest bid. After selection they squeeze the subcontractors further paving the way for disputes

([Kale & Ardit, 2001](#)). Contractors also have certain complaints like the subcontractors bring inadequate workers on site and lack the basic scheduling required for a seamless execution of project particularly the critical activities ([Akintan & Morledge, 2013](#); [Johansen & Porter, 2003](#)). Blame culture is pretty common between the parties and misconceptions lead to erosion of trust. All these factors lead to laying foundations of sour relationship between the contractor and subcontractor that can overall lead to drastic impacts on the project. Therefore this study focusses on identifying the causes of disputes between the contractor and the subcontractor in the construction industry of Pakistan so that parties may have a fair idea that which areas need improvement. This will eventually lead to better performance of project and achievement of project objectives.

### Literature review

In the past a myriad of researches exist on topic of “Disputes in construction industry”. However a very few have focussed particularly on the causes of disputes between the contractor and subcontractor. Out of the many research papers found on the subject topic, only 2 are based on the construction industry of Pakistan.

According to [Farooqui, Umer, and Azhar \(2014\)](#), lack of supervision skills, high expectations of the client, poor subcontractor selection, reluctance to seek clarification, lack of resourcefulness, unprofessional attitude of the project parties, lack of competency of the project team members, tender pricing, unfair risk allocation, escalation of material prices, changes in exchange rate of dollar, project participants default, financial instability, delays in payment, construction schedule very optimistic, unforeseen circumstances not catered for in the schedule, poor risk management, lack of communication and coordination, lack of contractual administration, poor procurement practices, payment plans not appropriate, lack of proper construction management, improper contract selection, unrealistic tender price, exaggerated claims, unjust and untimely presentation of claims, failure to follow the contract by either party, conditions of contract unclear, indemnification clauses and interpretation of contract clauses to be among the causes of disputes. Also [Khahro and Ali \(2014\)](#) studied the same topic and identified direct and indirect causes of conflicts. The direct causes of conflicts included delays in payment, contractual claims, public interruption,

poor communication, differing site conditions, variations, errors in contract documents, design errors, difference in evaluations, multiple meaning of specifications and cultural differences. The indirect causes arise due to above mentioned factors.

Among the few researches focused primarily on the subject of “Disputes between contractor and subcontractor”, 3 research papers were found that include those written by [Al-Hammad \(1993\)](#), [Enshassi, Arain, and Tayeh \(2012\)](#) and a recent by [Okunlola \(2015\)](#). In Pakistan no research has been carried on the subject topic. A total of 31 causes of disputes have been identified through the literature that have been used in this study.

### Methodology

Since very few researches have concluded the causes of disputes between the contractor and subcontractor, all dispute causing factors identified through literature i.e. the overall factors behind disputes in the construction industry were discussed with the experts during the pilot survey to narrow down those which impact the general contractor’s and subcontractor’s relationship in Pakistan. [Hill \(1998\)](#) has suggested 10-30 participants to be adequate for such survey. After the scrutiny of these factors and based upon the suggestions of the experts a detailed questionnaire was developed. It consisted of two parts. In the first portion the respondents were asked to give details of the type of organization to which they belong, their position in the organization and their experience in number of years. In the second portion the respondents were asked to rate the probability and impact of dispute causing factors on Likert scale ranging from 0 to 5. Here 0 meant no impact/no chance of occurrence while 5 mean very high impact/ very high chance of occurrence. The survey was distributed to the professionals of the construction industry primarily targeting contractors and subcontractors. The bench mark for sample size was based on the recommendations of [Dillman \(2000\)](#) that suggests that at 10% confidence interval and for a population size >30,000 a sample of 96 respondents will suffice.

The probability and impact of the factors as indicated by the respondents were multiplied to determine a cumulative effect. A similar methodology has been applied by authors like [Assaf and Al-Hejji \(2006\)](#) and many others while ranking the causes of delay in construction industry. The data obtained through the survey was analyzed using SPSS software for its reliability. Cronbach’s alpha was determined for which any value above 0.8

depicts that the data is reliable ([Gliem & Gliem, 2003](#)). Afterwards the factors were ranked using the famous method of Relative importance index utilized in various researches in construction management. The relative importance of the factors was determined using the formula given in Equation (1) used by [Agrawal \(2011\)](#), [Muhwezi, Acai, and Otim \(2014\)](#), [Assaf and Al-Hejji \(2006\)](#) and in many more similar studies.

where W is the weight given to each factor by the respondents and ranges from 0 to 5, A is the highest weight (i.e. 5 in this case) and N is the total number of respondents.

$$RII = \sum W/A * N \quad (0 \leq RII \leq 1) \quad \text{Equation (1)}$$

### Analysis and Results

Pilot survey was conducted with 13 professionals of the construction industry out of which 11 had an experience of more than 15 years. The professionals were satisfied with the overall factors considered for the study. As a result of this survey 21 factors were narrowed down for further research.. A detailed questionnaire was developed and distributed all over the country in all four provinces of Pakistan through emails and direct visits to the site on the basis of recommendations made in pilot survey. It was deemed necessary that in order to have reliability of data only project managers or above stature of professionals should be contacted for answering the survey. A total of 98 responses were obtained out of which 30% respondents belonged to contractor organization, 25% subcontractors, 24% consultants and 21% clients. It was the target of the survey that mostly contractors and subcontractors should be involved. However on actual ground, when responses were obtained these two prime parties corresponded to 55% of the respondents. But there is not much difference between the number of contractors and subcontractors hence the data is not subjected to biasness by any particular party. Moreover since clients and consultants are also an integral part of the projects, therefore there observation and experience of these parties regarding this matter also counts. Moreover they do not have any biasness towards any of the two subject parties. Out of these respondents 77% have more than 20 years of experience and they are mainly construction and project managers, contract managers, project directors and owners. It can be therefore assumed that the data is very authenticated and based on actual ground facts.

The data was arranged in spread sheets and their probability and impact was multiplied. These numbers were exported to SPSS software to determine the overall reliability of data using Cronbach's alpha method. The value of alpha came out to be 0.867 which indicates that the data is quiet reliable. Afterwards the factors were ranked using RII, whose results are shown in Table 1.

The findings are somewhat in agreement with the earlier studies on causes of disputes in the Pakistani construction industry. According to [Khahro and Ali \(2014\)](#) delays in payments is the most significant cause of dispute in Pakistan industry. When it comes to the general contractor and subcontractor the situation is not different and delays in payment occur in Pakistan resulting in disputes weather it is an owner-general contractor relationship or general contractor-subcontractor relationship. The agreement of contractor, subcontractor and the owner that it is the major cause of dispute agree with the findings of the researches carried out earlier on. Unfair risk allocation is the second most significant cause of dispute. However contractor does not agree with it and have placed it on the 12<sup>th</sup> position. But it is in perfect agreement with the findings of [Choudhry et al. \(2012\)](#) that there are no standard contract conditions for the subcontract in Pakistan and owner imposes onerous conditions on the subcontractor. This leads to unfair risk allocation. FIDIC should therefore be applied to the contractor subcontractor relationship as well. Delays in work has been ranked 3<sup>rd</sup> position but contractors have placed it on the 11<sup>th</sup> position. This is also evident in the research carried out by [Farooqui et al. \(2014\)](#) in which this factor was not considered while assessing causes of disputes from contractors perspective. This points out towards an important aspect that contractors are not much bothered about the delays in work in the Pakistani construction industry. An awareness regarding its downfalls should be communicated to the contractors of Pakistan. Incompetent subcontractor has been ranked 4<sup>th</sup> most significant cause of dispute. Around 83% of contractors are selected on the basis of lowest bid in Pakistan ([Khan & Abdul Qadir Khan, 2015](#)). This may lead to selection of an incompetent subcontractor that leads to disputes at later stages. Owing to the low bid practice, incompetent contractor selection is a significant dispute in Pakistani industry. A new factor made it to the top 5 list i.e. Negative attitude of parties. This is due to the adversity in the relationship of contractor and subcontractor as indicated by [Greenwood \(2001\)](#)

### Conclusion

This analysis identifies the most important root causes of disputes between the contractor and subcontractor in the construction industry of Pakistan that include *delays in payment, unfair risk allocation, delays in work, incompetent subcontractor and negative attitude of parties*. An attention towards these factors can put off the strain in the contractor subcontractor relationship. This will in turn bring fruitful results for the project. A study to determine a framework/ methodology to avoid these disputes or mitigating them once they occur is recommended.

Table about here

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### Appendix

**Table 1: Causes of disputes between the contractor and subcontractor**

Description	Contractor	Subcontractor	Consultant	Client	Mean
	Rank	Rank	Rank	Rank	Rank
Delays in Payments	1	1	4	1	1
Unfair risk allocation	12	2	2	2	2
Delays in work	11	3	1	1	3
Incompetent subcontractor	10	5	3	4	4
Negative attitude of parties	9	4	8	7	5
Poor quality of works	4	7	7	14	6
Lack of proper supervision by the subcontractor	5	11	6	9	7
Exaggerated claims by the subcontractor	3	12	9	15	8
Change orders	6	14	12	11	9
Estimation errors in bill of quantities	2	17	16	12	10
Either delays or poor quality of contractor provided material	16	10	11	8	11
Lack of communication	14	15	10	5	12
Absence of general contractor from site	15	9	5	19	13
Errors in drawings and specifications	7	19	15	10	14
Avoiding instructions given by general contractor	18	6	19	13	15
Acceleration/ suspension of work by the general contractor	8	20	13	17	16
Delay in reply to queries by either party	13	15	17	16	17
Extra works	20	8	20	6	18
Changed conditions	17	18	14	18	19
Assigning part of subcontracted works by general contractor to some other subcontractor	19	12	18	20	20
Absence of subcontractor from site	21	21	21	21	21