

THE ROLES AND
LIABILITIES OF THE
PROJECT MANAGER
IN CONSTRUCTION

BY
SELVA RAJA LETCHUMANAN

THE ROLES AND LIABILITIES OF THE PROJECT MANAGER IN CONSTRUCTION.

submitted by

SELVA RAJA LETCHUMANAN

in part Fulfilment of the Requirement
for the Degree of Master of Science in
Construction Management (Project
Management), Department of Building
HERIOT-WATT UNIVERSITY , EDINBURGH.

September 1987.

THE ROLES AND LIABILITIES OF THE
PROJECT MANAGER IN CONSTRUCTION.

TABLE OF CONTENTS

Page No

A.	Table of Contents.	i
B.	List of Figures.	iv
C.	List of Appendices.	v
D.	Acknowledgements.	vi

CHAPTER 1.0 : INTRODUCTION

1.1	Preamble.	1
1.2	Aim of Study.	2
1.3	Scope and Methodology.	2

CHAPTER 2.0 : DEFINING PROJECT MANAGEMENT

2.1	Preamble	5
2.2	The UK Construction Project Management : Background.	5
2.3	Objectives of Project Management.	7
2.4	Definition and Concept of Project Management	8

CHAPTER 3.0 : TYPES OF PROJECT MANAGEMENT
(STRUCTURES).

3.1	Preamble.	10
3.2	Organisation Structure.	10
3.2.1	Authority and Organisation Structure.	11
3.2.2	Duties and Organisation Structure.	12
3.2.3	Accountability and Organisation Structure.	12
3.2.4	The Duties, Authority and Accountability : Relationship and Relevance.	12
3.3	Types of Project Management Authority Structures.	17

CHAPTER 4.0 : THE FUNCTIONS AND DUTIES OFTHE PROJECT MANAGER.

4.1.	Preamble.	21
4.1.1	Management : Definition	21
4.1.2	The Manager's Work	21
4.2	Management Functions and Project Management.	22
4.2.1	The Project Environment	22
4.2.2	Departures from Traditional Management	23
4.2.3	Functions of the Project Manager.	24
4.3	Duties of the Project Manager.	29

CHAPTER 5.0 : THE LAW OF LIABILITY GENERALLY.

5.1	Preamble.	30
5.2	Liability in Contract.	31
5.2.1	Express Terms.	31
5.2.2	Implied Terms.	32
5.2.3	Privity of Contract.	34
5.3	Liability and The Law of Agency.	35
5.3.1	Liability of Agent.	36
5.3.2	Agent's Authority.	37
5.3.3	Acting Without Authority.	38
5.3.4	Termination of Agency.	38
5.4	Liability in Tort	39
5.4.1	Duty of Care.	39
5.4.2	Breach of Duty of Care.	41
5.4.3	Damage.	43

CHAPTER 6.0 : LEGAL IMPLICATIONS OF PROJECT
MANAGEMENT.

6.1	Preamble.	44
6.2	The Legal Status of the Project Manager.	44
6.3	The Basis of the Project Manager's Liability	46
6.3.1	Liability to the Owner.	46
6.3.2	Liability to Third Parties.	47
6.4	Sources of Potential Liability.	50
6.4.1	Design.	50
6.4.2	Scheduling and Co-ordinating.	53
6.4.3	Selection, Recommendation and Awarding of Work Contractors.	54
6.4.4	Architect/Engineer Selection.	55
6.4.5	Supervision and Inspection.	56
6.4.6	Certification.	57
6.4.7	Delays and Damages.	57
6.4.8	Cost Overruns.	58
6.4.9	Job Safety and Indemnification.	59
6.4.10	General Administration.	61
6.4.11	Quasi-judicial Role.	61

CHAPTER 7.0 : SUMMARY AND CONCLUSIONS.

63

APPENDICES. 67

ABBREVIATIONS. 81

REFERENCES. 83

BIBLIOGRAPHY

1.1 Preamble

There is probably a greater potential for confusion in the study of project management than of any other contemporary issues facing the construction industry. Not only are there problems of terminology, but also of emphasis and bias caused by the large number of people and organisations attempting to enter the field, and claiming proprietary rights in the subject.

The 'management' that is given so much prominence in project management is nothing new. In fact 'management' and the use of management techniques to accomplish a given task existed in all other procurement concepts, including the traditional system.

The difference in project management however, lies in the separation of the design and the management functions to different participants, instead of the traditional amalgamation of these two functions under the care of the design leader, the Architect (or the Engineer, as in the case of large engineering projects.)

The objective of project management then, is to provide an individual or an institution within the building team in which the project manager (PM), takes full responsibility for the management of the project; one who would be impartial to the common constraints inherent in the design and the construction function. This is thought to enable the PM to stand back and view the total process and the interaction of the various functions impartially (1). The PM provides only management expertise and no construction or design services directly and therefore, without any conflict of interest.

The position occupied by the PM can command considerable power amongst the building team. Critics argue that his role is not clearly defined, that his powers to shape the project can be great and his fees can be high, without carrying much responsibilities under the contract (2).

Proponents (of project management) on the other hand, argue that in the extreme case of 'Total' project management, the PM affords a single point contact and responsibility to design; construction; the management and the complete delivery of the project as the owner requires (3).

one begins to wonder how such conflicting arguments are successfully sustained by so many speakers and writers.

It is suspected that the critics and the proponents of project management are infact referring to different forms of project management (structures) and different arrangements of roles and responsibilities (4), at times deliberately done in order to sustain their arguments.

These different forms, new terms and types of organisation have often created confusion about liabilities, relationships, and responsibilities of the project parties (5).

1.2 Aim of this study

The aim of this study can be outlined as follows :-

- (a) To study the functions of the PM, and against this project management background develop the spectrum of duties and responsibilities to be undertaken during the management of a construction project.
- (b) To describe the different organisational forms (structures) of project management, that relates to the establishment of authority and duties and the location of the PM's level within the hierarchy of the organisation.
- (c) The PM's exposure to potential liabilities in general and to investigate the liability of the PM under different or varying types of project management organisational forms (structures).

1.3 The Scope and Methodology

This study seeks to explore the potential liability of the PM. Liability arises out of legal relationship with one another. The degree of liability will be dependent upon the roles and duties allocated to (or expected of) each party and the scope of authority provided to facilitate the discharge of the allocated (or expected) duty. The scope of authority must be commensurate with the duties allocated (or expected of) such as to bring about a successful completion of the project (6).

This study therefore uses three (3) variables, namely :-

- (a) The roles and duties allocated (or expected of) ;
- (b) The authority provided and ;
- (c) The law of liability applicable ,

as its major cornerstones in the study of potential liability of the PM.

Illustrated diagrammatically it will be thus :-

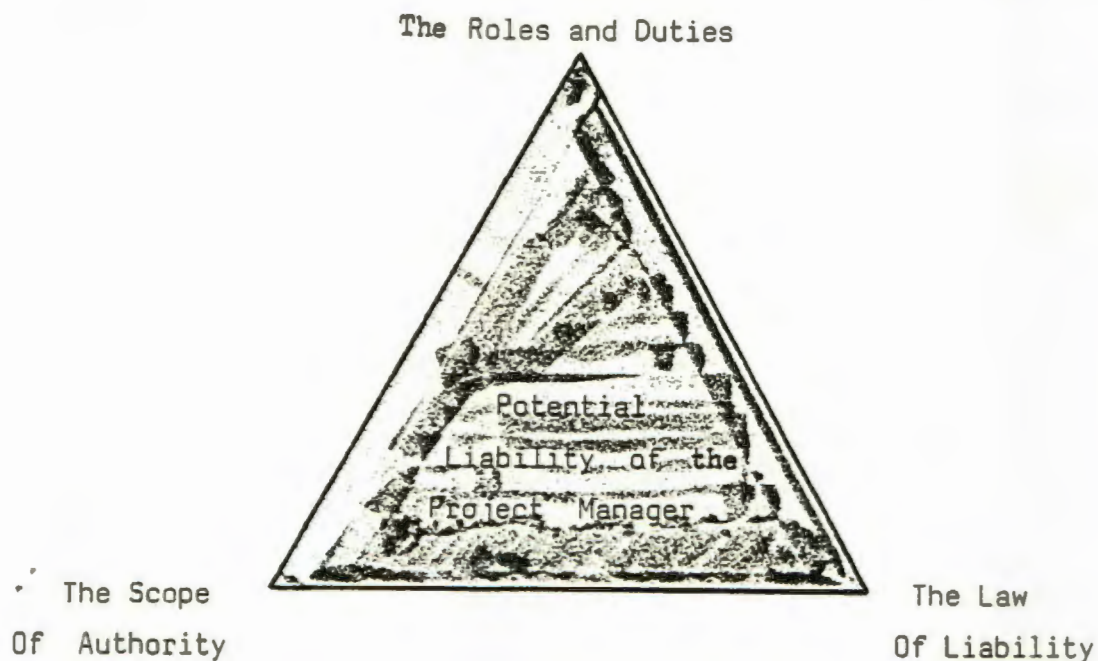


Figure 1.1 : Potential Liability Cornerstones

A change/movement in any one of these variable is likely to affect the others and will shift the area of potential liability of the PM.

Throughout this study, only the English law that relates to the discussion will be looked into. However, as there is no reported decision in the UK courts dealing directly with the question of liability of the PM, much of the discussion then, whenever a vacuum exist, will be built from analogies drawn from liabilities which have been imposed to the traditional parties in the construction industry and around the United States of America (USA) established principles. The reason is based on the fact that the project management concept has it's roots in the USA and that, much of the principles that are being practised so far in the UK are those adopted albeit modifications of those from the USA (7). It is also based on the belief that the courts in England, will in the absence of any UK precedence, apply these (USA) principles when dealing with actions involving project management.