

# Ineffective Use of Expert Evidence in Construction Arbitration

**Dubai Arbitration Week 2020**

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Presented by

**Professor Doug Jones AO**

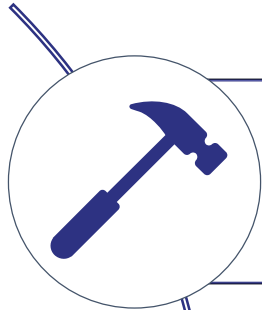
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DUBAI  
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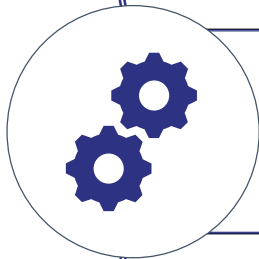
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# Overview

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**What is the role of experts in construction arbitration?**



**What are the challenges involved?**



**What are the solutions?**

# The role of the expert witness



Provide opinions based on witness evidence and documents

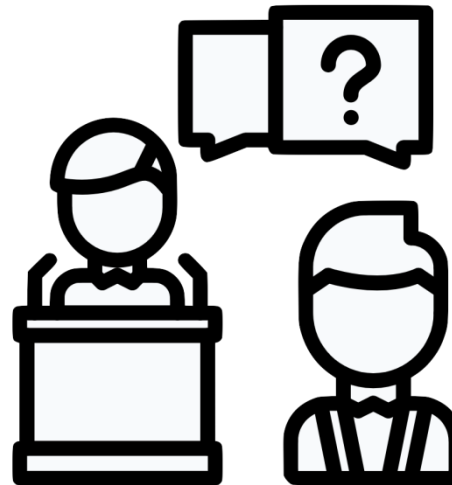


Assist Tribunals in a field of unique complexity

# The role of the expert witness

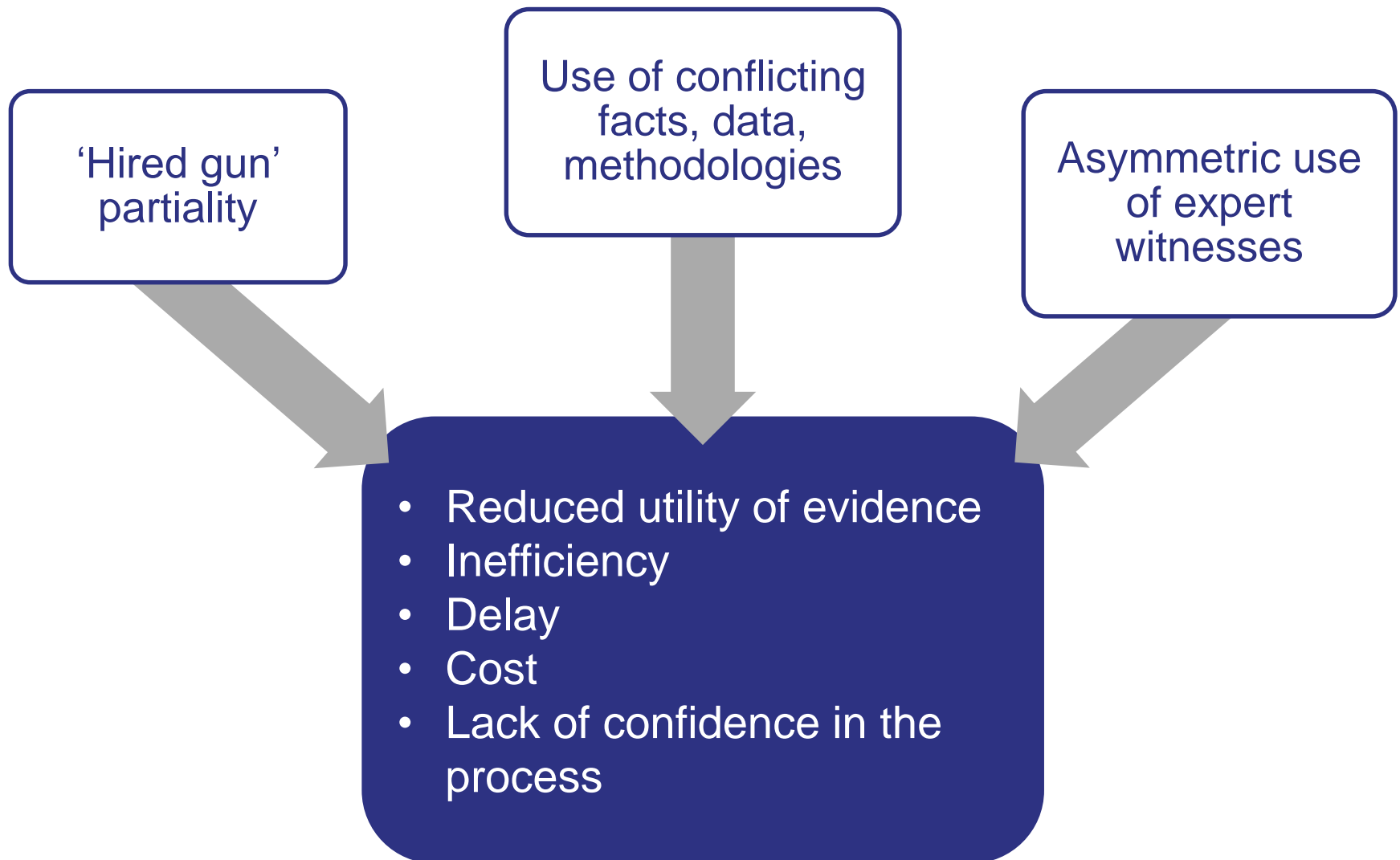


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# What are the challenges?



# Existing solutions in international arbitration

1

## Institutional Guidelines

- IBA Rules on Taking of Evidence 2010
- CIArb Protocol 2007
- Expert Codes of Conduct

2

## Expert Witness Conferencing

- Also known as 'hot-tubbing'
- Experts engage in a simultaneous forum-like discussion about differences in their conclusions

3

## Tribunal Appointed Experts

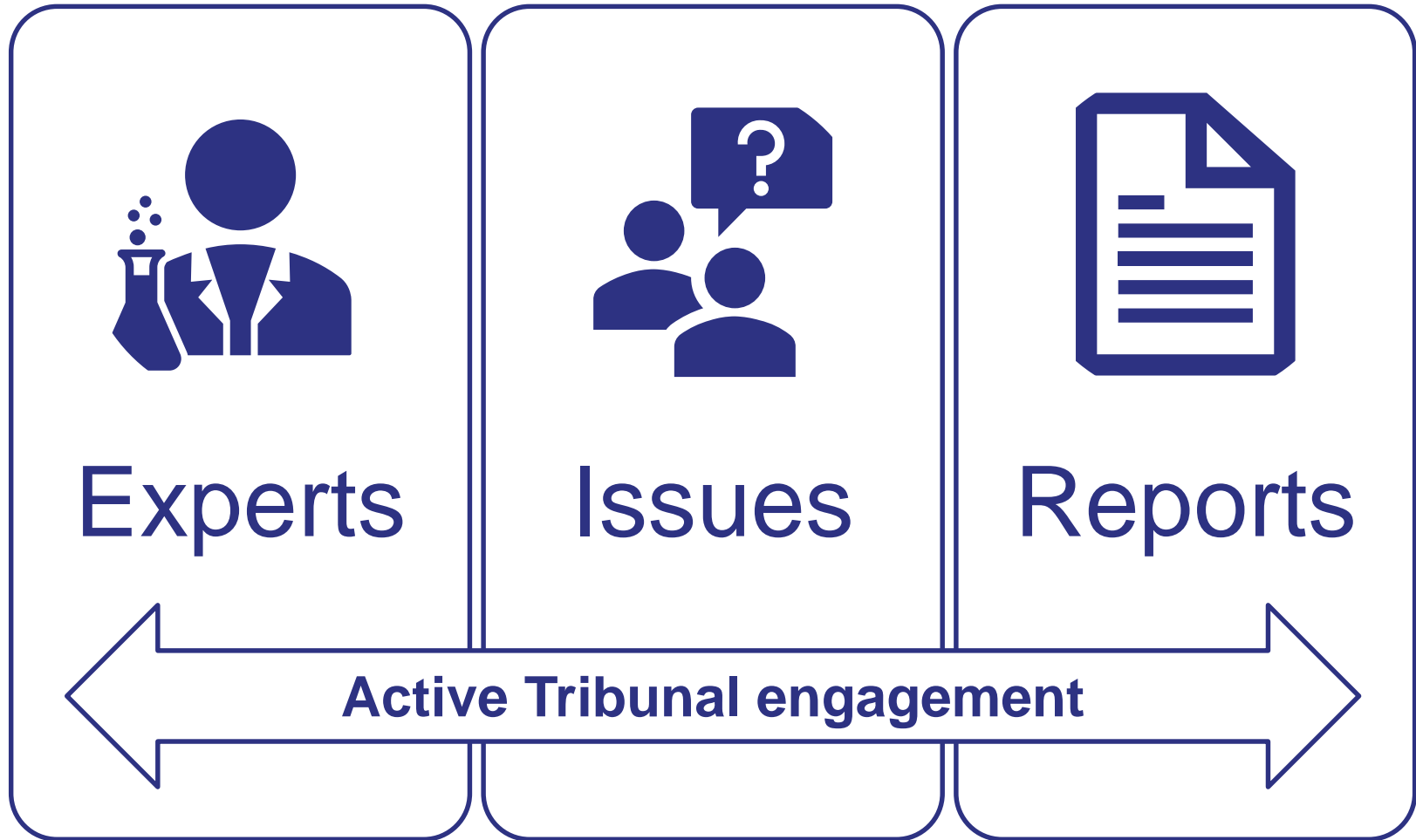
- Prague Rules
- Less perceived bias from parties
- Nevertheless disadvantages

# What can be done better?

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1. Early identification of disciplines and experts
2. Common list of questions
3. Deferral of expert reports until factual evidence is available
4. Common data set
5. First - joint expert reports identifying areas of agreement and disagreement
6. Then - individual expert reports on areas on disagreement only
7. Experts providing alternative views on the other's assumptions and methodologies

# Proactive case management





# Use of experts for calculations



## Delivering the experts to the Tribunal *after* the hearing





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