

**WIN-WIN SETTLEMENT: APPLICABILITY OF
NEGOTIATION PRINCIPLES FOR DISPUTE
NEGOTIATIONS IN CONSTRUCTION PROJECTS**

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Thesis/Dissertation submitted in partial fulfillment of the requirements for the degree
Master of Science in Construction Law and Dispute Resolution

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DEDICATION

To my
Mother & Father...

ACKNOWLEDGEMENTS

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ABSTRACT

Negotiation is identified as most appropriate dispute resolution mechanism for achieve settlement to construction disputes. As well as, negotiation is the most preferred dispute resolution mechanism selected by parties to construction contracts. However, it is experienced that parties continuously failing to reach settlements in an effective and efficient manner. Although many researches and authors write on how to carryout negotiations successfully those concepts hardly adopted in claims based dispute negotiations in construction projects. Construction dispute negotiations are different to other business negotiations due to some unique features inherited such as complexity, regulated by very sophisticatedly prepared conditions of contract, and tendency of discouraging claims. Therefore, it is identified that new theories and principles need to be developed and applied in claims based dispute negotiations. Thus, the study was focused on improvement of fundamental principles of negotiation to address characteristics of claim based disputes in construction projects.

The study was approached through a multiple case study and in-depth study was carried out on two selected cases which claims based dispute negotiation successfully concluded. Success factors of claims based dispute negotiation identified through literature review compared with actual setting of selected cases. Further, identified how parties have addressed special characteristics of claims based disputes in construction projects in conducting negotiations.

Analysis reveals that, how far theory can be explained through research findings and which theory should be extended based on knowledge explored in respect of claims based dispute negotiation in construction projects. Accordingly conceptual framework has developed and it is concluded that the negotiation process shall be merged with characteristics of construction disputes in order to achieve win-win settlement through negotiation. Major deviation from existing theory when applying to claims based dispute negotiation is negotiation shall be based on both position and interest of the parties.

Key words: Claims, Dispute resolution, Negotiation, Win-win settlement, Road projects

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LIST OF ABBREVIATIONS

ADR	-	Alternative Dispute Resolution
CBSL	-	Central Bank of Sri Lanka
DCS	-	Department of Census and Statistics
FIDIC	-	International Federation of Consulting Engineers
GDP	-	Gross Domestic Product
ICTAD	-	Institute for Construction Training and Development
MDB	-	Multilateral Development Bank
MFP	-	Ministry of Finance Planning
PMI	-	Project Management Institute
RDA	-	Road Development Authority
SWOT	-	Strengths, Weaknesses, Opportunities and Threats
UNCITRAL	-	United Nations Commission on International Trade Law
ZOPA	-	Zone of Possible Agreement