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APPLICATION OF EARLY NEGOTIATION AS A DISPUTE AVOIDANCE MECHANISM IN SRI LANKAN ROAD CONSTRUCTION PROJECTS

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Tittagalla Gamage Saman Susantha Gamage

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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

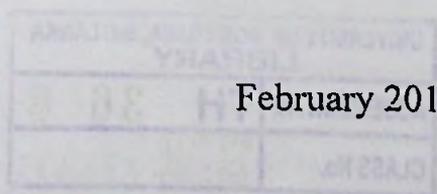


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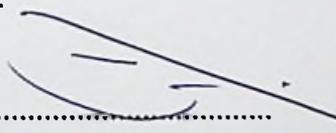
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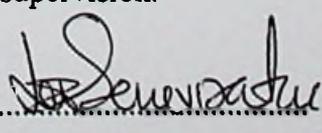


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Department of Building Economics
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University of Moratuwa
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DEDICATION

To my
Mother & Father...

ACKNOWLEDGEMENT

Great assistance was received in various ways from many professionals and organisations for the successful completion of this research study so that I take this opportunity to express my gratitude towards all of them.

First of all, I would like to convey my heartfelt thanks to my supervisor Ch. QS. Indunil Seneviratne the Senior Lecturer, for guiding, supervising, encouraging and corrective advising me on this study, up to the final outcome of this work.

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ABSTRACT

Conflicts are very common in construction industry, mainly due to the different objectives of the parties which are intended to be acquired through the project. The parties to construction projects should take all reasonable efforts to resolve their conflicts without letting those developing into disputes because unattended conflicts possibly grow fast, spread and create unpalatable side-effects which are not easy to handle. Out of many dispute avoidance mechanisms, early negotiation has identified as an important reactive measure to be used due to many advantages inborn.

Purpose of this research was to improve the effectiveness of early negotiation practice as a disputes avoidance mechanism in Sri Lankan construction industry. A literature review and pilot survey were carried out to identify the factors influencing on negotiation failures at conflict stage. The most significant factors causing failure in early negotiation were identified via questionnaire survey and data analysis. Recommendations to overcome such barriers were identified via interview survey and contents analysis.

The findings of the study reveal that (a) unawareness in contract/legal terms and interpretations, (b) poor skills in dealing with the people, handling negotiation deadlocks and using negotiation tactics, (c) insufficient level of authority for party representatives, and (d) attitude of contractor representatives that “we can easily deal with the Employer are the highly influencing failure factors of early negotiation.

It is concluded that “early negotiation as dispute avoidance mechanism” has to develop in respect of all aspects such as awareness, skills, attitudes and practice. However most important area to be concerned is concluded as “skills” of professionals who plays major role in negotiation table.

Key words: Conflicts, Dispute avoidance, Early negotiations, Road construction projects

TABLE OF CONTENTS

DECLARATION, COPYRIGHT STATEMENT AND THE STATEMENT OF THE SUPERVISOR	i
DEDICATION	ii
ACKNOWLEDGEMENT	iii
ABSTRACT	iv
TABLE OF CONTENTS	v
LIST OF FIGURES	ix
LIST OF TABLES	x
LIST OF ABBREVIATIONS	xi
LIST OF APPENDICES	xii
CHAPTER 01	1
INTRODUCTION	1
1.1 Background	1
1.2 Research problem	3
1.3 Aim	3
1.4 Objectives	3
1.5 Scope and limitations	4
1.6 Research methodology	4
1.7 Chapter breakdown	5
CHAPTER 02	6
NEGOTIATION AS A DISPUTE AVOIDANCE MECHANISM	6
2.1 Introduction	6
2.2 Conflicts in construction projects	6
2.3 Construction disputes and its effects	8
2.4 Construction dispute avoidance	9
2.4.1 Early consideration and allocation of project risks	10
2.4.2 Communication of potential problems at the earliest opportunity	10

2.4.3	Realistic assessment of the value and impact of a claim.....	11
2.4.4	Appropriate attitude and commitment.....	11
2.4.5	Education	11
2.4.6	Early negotiations.....	11
2.4.7	“Thinking outside the box”	12
2.5	Early negotiation as a dispute avoidance mechanism.....	12
2.6	Negotiation	13
2.7	Negotiation styles	13
2.7.1	Integrating	14
2.7.2	Avoiding.....	14
2.7.3	Obliging	14
2.7.4	Dominating.....	15
2.7.5	Compromising.....	15
2.8	Negotiation strategies	15
2.9	Negotiation process	17
2.10	Prerequisites for a successful negotiation.....	18
2.10.1	Awareness on benefits of avoiding dispute using negotiation	18
2.10.2	Awareness on drawbacks of developing dispute.....	19
2.10.3	Awareness on contractual and legal provisions	19
2.10.4	Awareness on negotiation tactics	20
2.10.5	Awareness on handling negotiation deadlocks	22
2.10.6	Skills of dealing with the people.....	23
2.10.7	Skills of using negotiation tactics	25
2.10.8	Skills of handling negotiation deadlocks	25
2.10.9	Representative level of authority.....	26
2.10.10	Focus on both interest and positions	26
2.10.11	Generate variety of possibilities.....	26
2.10.12	Use of objective criteria	27
2.11	Summary.....	27
CHAPTER 03		29
METHODOLOGY.....		29
3.1	Introduction.....	29

3.2	Research methodology.....	29
3.3	Research philosophy.....	30
3.4	Research approach.....	31
3.4.1	Literature review and pilot survey.....	32
3.5	Research technique.....	32
3.5.1	Data collection techniques.....	33
3.5.2	Data analysis techniques.....	34
3.6	Research process.....	36
3.7	Summary.....	37
CHAPTER 04	38
DATA ANALYSIS AND RESEARCH FINDINGS	38
4.1	Introduction.....	38
4.2	Questionnaire survey.....	38
4.2.1	Professional background of respondents.....	39
4.2.2	Qualifications and experience of respondents.....	41
4.2.3	Respondents' involvement in negotiation processes.....	43
4.3	Analysis and findings of questionnaire survey.....	44
4.3.1	Unawareness.....	45
4.3.2	Poor skills.....	45
4.3.3	Attitudes.....	46
4.3.4	Practice.....	47
4.3.5	Total RII ranking of negotiation failure factors.....	48
4.3.6	Other failure facts.....	49
4.4	Analysis and findings of interview survey.....	49
4.4.1	Unawareness of contract/legal terms and interpretations.....	50
4.4.2	Poor skills in dealing with the people, handling negotiation deadlocks and using negotiation tactics.....	51
4.4.3	Insufficient level of authority of party representatives.....	52
4.4.4	Attitude of "we can easily deal with the employer".....	52
4.5	Summary.....	53

CHAPTER 05	55
CONCLUSION AND RECOMMENDATIONS.....	55
5.1 Introduction.....	55
5.2 Summary of the study.....	55
5.3 Conclusion	57
5.4 Recommendations.....	57
5.4.1 Contribution to the knowledge.....	57
5.4.2 Implementations to the construction industry	57
5.5 Limitations of the study	58
5.6 Future research.....	58
REFERENCES.....	59
APPENDIX A: QUESTIONNAIRE FOR EXPERT SURVEY	65
APPENDIX B: INTERVIEW GUIDE FOR EXPERT SURVEY.....	68

LIST OF FIGURES

Figure 2.1	Application of negotiation as a dispute avoidance mechanism	6
Figure 3.2	'Nested' research methodology.....	30
Figure 3.5.2	Categories of factors cause for failures in negotiation.....	35
Figure 3.6	Research process	36
Figure 4.2.1	Professional background of respondents.....	40
Figure 4.2.2 (1)	Educational and professional qualifications of respondents	41
Figure 4.2.2 (2)	Total work experience of respondents	42
Figure 4.2.2 (3)	Respondents' experience in foreign funded road projects.....	43
Figure 4.3.1	Unawareness	45
Figure 4.3.2	Poor skills.....	46
Figure 4.3.3	Attitude	46
Figure 4.3.4	Practice	47

LIST OF TABLES

Table 2.8	Principled negotiation vs. soft and hard negotiation.....	15
Table 4.2	Failure factors in negotiation process	38
Table 4.2.1	Professional background of respondents.....	40
Table 4.2.2 (1)	Educational and professional qualifications of respondents	41
Table 4.2.2 (2)	Total work experience of respondents	42
Table 4.2.2 (3)	Respondents' experience in foreign funded road projects.....	43
Table 4.3	RII ranking of factors impact on negotiation failure.....	44
Table 4.3.5	Total RII ranking of negotiation failure factors	48
Table 4.4	Profile of the four experts who provide recommendations.....	50
Table 4.5	Summary of findings	54

LIST OF ABBREVIATIONS

ADR	-	Alternative Dispute Resolution
CoC	-	Conditions of Contract
CPD	-	Continuous Professional Development
DAB	-	Dispute Adjudication Board
FIDIC	-	International Federation of Consulting Engineers
RII	-	Relative Importance Index

LIST OF APPENDICES

Appendix - A	Questionnaire for expert survey	65
Appendix - B	Interview guide for expert survey	68

CHAPTER 01
INTRODUCTION