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

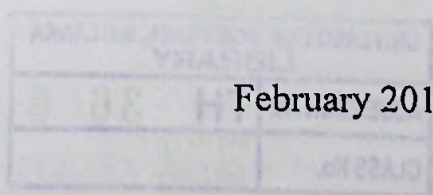


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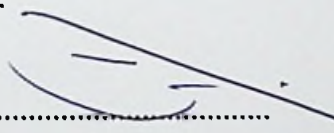
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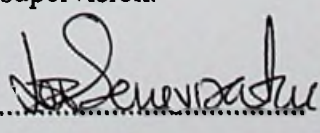


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DEDICATION

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

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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

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CHAPTER 01
INTRODUCTION