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Bias Minimization in Construction Project Dispute Resolution

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Abstract : Incorporation of alternative dispute resolution (ADR) mechanism has been the main feature of current trend of construction project dispute resolution (CPDR). ADR approaches have been identified as efficient mechanisms and are suitable alternatives to litigation and arbitration. Moreover, the use of ADR in this multi-tiered dispute resolution process often leads to repeated evaluations of a same dispute. Multi-tiered CPDR may become a breeding ground for cognitive biases. When completed knowledge is not available at the early tier of construction dispute resolution, disputing parties may form preconception of the dispute matter or the counterpart. This preconception would influence their information processing in the subsequent tier. Disputing parties tend to search and interpret further information in a self-defensive way to confirm their early positions. Their imbalanced information collection would boost their confidence in the held assessments. Their attitudes would be hardened and difficult to compromise. The occurrence of cognitive bias, therefore, impedes efficient dispute settlement. This study aims to explore ways to minimize bias in CPDR. Based on a comprehensive literature review, three types of bias minimizing approaches were collected: strategy-based, attitude-based and process-based. These approaches were further operationalized into bias minimizing measures. To verify the usefulness and practicability of these bias minimizing measures, semi-structured interviews were conducted with ten CPDR third party neutral professionals. All of the interviewees have at least twenty years of experience in facilitating settlement of construction dispute. The usefulness, as well as the implications of the bias minimizing measures, were validated and suggested by these experts. There are few studies on cognitive bias in construction management in general and in CPDR in particular. This study would be the first of its type to enhance the efficiency of construction dispute resolution by highlighting strategies to minimize the biases therein.

Keywords : bias, construction project dispute resolution, minimization, multi-tiered, semi-structured interview
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