Introduction: More so than any other sector of project management, construction/engineering projects are vulnerable to – and affected by – conflicts and disputes. These can at the very least delay the project, and sometimes, after legal action is taken, even terminate it. Conflicts can arise due to contract disagreements between sponsor and contractor, or over unhappiness with the detail of project risk management or building specifications – indeed, in any phase of the project. Internal conflict can also arise within the project team that can have an adverse effect on the project outcome, and cause further repercussions with the client down the line as a result. This selection of papers looks at construction conflicts and disputes, and where possible provides methods for addressing these conflicts. See also the existing bibliographies on Legal Issues, and Contract Management - An Overview.

   Keywords: construction; negotiation; legal; credit; payment; WA; dispute resolution.
   Abstract: There is little point in incorporating alternative dispute resolution (ADR) clauses into contracts if they are struck down or otherwise bound to be ineffective. Careful attention to the right form of ADR procedure is an effective investment for contracting parties.

   Keywords: disputes; construction; negotiation; legal; settlement.
   Abstract: A particularly fertile ground for disputes in business and commerce is the engineering and construction industry. The structured nature of the engineering industry has resulted, perhaps not surprisingly, in a variety of structured methods of dealing with, negotiating and resolving disputes.

   Keywords: fees; disputes; construction; negotiation; legal; contractors.
   Abstract: The construction industry has traditionally been typified by costly and lengthy disputes concerning completion, variations, defects, technical specifications and risk allocation. These disputes often result in deductions from, or withholding of, payments otherwise due from a owner to a contractor, or a contractor to a subcontractor, or a sub-contractor to a sub-subcontractor.

   Keywords: Collaboration; Case study; partnerships; alliances; conflict; relationship management; relational competence.
   Abstract: The paper aims at exploring how collaboration between clients and major contractors can be improved in situations where tension is challenging relationship continuation. Relationship conflict is reduced through the identification of conflictual events and analysis of differences in both parties' perceptions. By addressing these events it is possible to reveal the underlying dimensions of tension and reluctance for relationship commitment and trust. In order to improve the level of collaboration a process is tested on a Norwegian construction project. The managerial implications of the process are that tension between the contractor and the client can be educed to a level where the relationship can survive, and even grow stronger than prior to undertaking the process.

   Keywords: Hong Kong; partnering; Project success; construction; case study.
   Abstract: The use of a partnering approach to deliver construction projects seeks to avoid the confrontational setting where energy is used in a non-productive manner. Partnering calls for concerted effort from the project participants and aligns their often different and conflicting objectives. Reported partnering success stories are mostly descriptive. This paper reports a case study of a successful partnering venture in Hong Kong. The case study provides valuable information on how partnering was implemented by MTR Corporation Ltd, one of the pioneers in introducing partnering in the Hong Kong construction industry. Through interviews with the key contract participants and data collected throughout the contract period, the effective partnering tools were identified. It was found that the monthly parenting review meetings and the use of incentivisation underpinned the partnering success on the Tseung Kwan O Extension Contact 604.

   Keywords: alternative dispute resolution; arbitration; ADR; conflict resolution.
   Abstract: In project management, alternative dispute resolution (ADR) should perform its usual role to help parties and the project manager avoid or resolve disputes.
7. Ingebretsen, M. *Taming the Beast: Political infighting, cost overruns and faulty designs characterize many large projects. With a little project ingenuity and know-how, project managers can prevent these headaches.* PM Network 17(7), 30-35. 2003.
Keywords: dispute resolution; problem solving.
**Abstract:** Mega-projects are notoriously difficult to manage. One recent study found that 90 percent of mega-projects undertaken in 20 countries had cost overruns that typically averaged 28 percent over budget. This article explores several ways that such projects can be run more effectively. When many stakeholders are involved, dispute resolution tactics can be built into the overall project plan. Mediators and arbitration can help, but these steps must be timed carefully to avoid parties feeling disenfranchised.
Dispute resolutions can be negotiated more quickly through the use of 'charettes' or intensive multi-day planning sessions. Safety engineering can be integrated with dispute resolution to avoid disconnected goals. Political concerns can be addressed up-front, and private funding solutions can be better utilized. Simulations can serve as virtual prototypes, and reveal problems early.

Keywords: communication; conflict resolution; negotiation skills; mediation.
**Abstract:** Project management obviously requires highly developed organisation skills. Perhaps less obviously, it also requires highly developed negotiation skills.

Keywords: conflict resolution; arbitration; ADR; dispute resolution; communication.
**Abstract:** Any civil dispute that escalates past direct party negotiation has a very uncertain outcome. The author looks at the different types of dispute resolution processes, arbitration and the arbitration process.

Keywords: communication; dispute resolution; cultural differences; mediation.
**Abstract:** Smart tactics can nip project disagreements in the bud long before they eat into precious project time.

Keywords: conflict management; conflict resolution; negotiation facilitation.
**Abstract:** Longer hours, greater stress and shorter tempers all increase conflict. Expect increased clashes during these troubled times and be prepared to intervene when necessary.

Keywords: Arbitration; Dispute Resolution; Conflict; Negotiation; Construction.
**Abstract:** Arbitration in the early 70s was a popular alternative dispute resolution mechanism, particularly for construction matters, offering the parties the opportunity to have disputes determined by industry peers in a less-rigid but binding way.

Keywords: construction management; construction delays; contractors; surveys.
**Abstract:** Many projects experience extensive delays and thereby exceed initial time and cost estimates. In addition to impairing the economic feasibility of capital projects, extensive delays provide a fertile ground for costly disputes and claims. This paper presents the findings of a survey aimed at identifying the most important causes of delays in construction projects with traditional type contracts from the viewpoint of construction contractors and consultants. Results of the survey indicate that contractors and consultants agreed that owner interface, inadequate contractor experience, financing and payments, labor productivity, slow decision making, improper planning and subcontractors are among the top ten most important factors.
It is hoped that these findings will guide efforts to improve the performance of the construction industry and will be useful to international engineering and construction firms seeking a share in the Jordanian and the regional markets.

Keywords: arbitration; construction contract; contract clauses; final and binding power.
**Abstract:** Most Indian construction contracts while specifying the role and responsibilities of parties in the contracts also specify certain extraordinary powers to a particular person whose decisions are final and binding to both the parties. These decisions are administrative in nature and they are neither open to arbitration nor to any court of law. They are meant to prevent disputes and are taken in the overall interests of the project.
However in practice the disputes arise due to varied interpretations of certain technical terms in a contract, unclear domain of final and binding power or owners intentions in giving decisions under final and binding power and thereby preventing contractors from referring the matter to an arbitrator. Based on a legal case study primary guidelines are formulated to evaluate the applicability and acceptability of decisions under final and binding power.
Keywords: innovation; competence; contracts; arbitration; conflict management; project controlling.
Call Number: CON 39
Abstract: In the case of large-sized complex building projects, German clients more and more tend to conclude construction contracts on the basis of a functional specification. A tender procedure and order placing to a total contractor on the basis of a functional specification offers the client possibilities to reduce the project duration and costs and may lead to an earlier cost and schedule security. Due to the complex contractual situation, new risks arise for the client. To ensure his quality demands and other interests, a project controlling has to be established by the client as well as an aim-oriented arbitration procedure.

Keywords: innovation; competence; legal issues; contracts; conflict resolution; litigation.
Call Number: CON 39
Notes: PowerPoint Presentation
Abstract: After a brief overview of the legal principles involved, the paper considers what problems may arise to trap the unwary Project Manager. Issues of professional negligence are cited as well as problems that can arise during the tendering, the raising of a contract and during the execution of a project. Finally the paper examines the overall issue of disputation and conflict resolution during a project and what steps a Project Manager might take to try to ensure that conflict is resolved and that it does not get to the stage of argument before the court, an expensive option in both time and cost.

Keywords: change control; simulation.
Abstract: In large, complex projects, the only constant is change. Increasing scope, changing requirements and schedule movements are common, often pervasive. While these changes may be manageable individually, taken together they can cause projects to spiral out of control. Too often, the result is a contract dispute, of which "disruption" is frequently the biggest, but most amorphous piece. Dynamic Simulation Modeling is an approach that addresses this problem exactly. The authors have developed a simulation model of programs that has at its core an explanation of productivity and rework. The model was first developed to analyze program performance and to explain cost growth on a large shipbuilding effort at Litton in the 1970s. After this effort resulted in an unprecedented award for Litton, the model has since been applied to over 100 large projects in aerospace, defense, and construction, and it has facilitated resolution of dozens of large, contentious disputes.

Keywords: Sport; Leisure; Risk; Dispute; Mediation; Conflict.
Abstract: During the 1990’s a major construction project at Jersey Airport ended in arbitration. The Jersey States Government was determined that the next major project at the airport would be trouble free. This article explains how ResoLex and its methods of dispute resolution, Contracted Mediation, are being used to help.

Keywords: Contractors; Subcontractors; Delayed Payments; Construction.
Call Number: ART 107
Abstract: Looks at the legislation introduced into NSW after extensive investigation to address the perennial source of dispute of non-payment of delayed payment of amounts due to contractors and subcontractors.

Keywords: decision making - psychological aspects.
Abstract: Mental functions are the foundation of information processing, which is the basis of project management. When combined with the psychological, emotional and spiritual functions of perception, fantasy, creative play, memory and ritual, the situation gets messy. Explore how these “doors of perception” can lead to new project insights, with examples from core and facilitating processes in the 5 project phases:

1) Perceptions that inform decision making in the initiating phase.
2) Fantasies that inform scope definition in the planning phase.
3) Creative play that informs team building in the executing phase.
4) Memories that inform conflict resolution in the controlling phase.
5) Rituals that inform stakeholder/sponsor management in the closing phase.

PERCEPTION
How we look at things often falls into habitual patterns, such as the habit of weekly project meetings with standing agenda. Following the agenda trains the team members to regularly review relevant issues. But this habit can also limit seeing links between project issues. Changing the order of agenda items from week to week can lead to seeing new connections. This is why artists look at their drawings upside down. The missing or out-of-place element jumps out immediately, thanks to the new perspective. Turning the project world upside down can yield similar dramatic results. Changing our habits of information review will lead to new insights.
The doors of perception for project managers contd...

The psychologist Piaget formalized adaptive mechanisms of accommodation and assimilation. He describes accommodation as our response to external stimuli and the progressive extension of our understanding. Assimilation is the effect of these stimuli on the ongoing cognitive system, the relation of the parts to the whole of consciousness.

To bring this back to the project manager’s world, consider making a decision to initiate a project. Typically senior management initiates projects based on business needs. But in special cases the project manager takes the first step in recognizing the need for a new project, based on her evolving understanding of a current project. As the project manager “accommodates” new project information, she may realize that some of it may qualify as a trigger for a new project. This can occur due to cost, time, geographic or functional impact to the organization. Or a new scope request may simply go beyond the charter of the current project. In any case, the project manager must realize when this moment comes, and through “assimilation”, decide to notify stakeholders and sponsors. This kicks the process back to the top for needs analysis and authorization.

The "perceptions of the soul" can inform the act of deciding to initiate a project in several ways:
- Open (fearless) analysis supporting the decision.
- Value judgements related to the decision.
- Acceptance of the decision, whether or not one’s preferred outcome is selected.....

The perception section finishes with a series of questions. The four other mind/soul process are explored in similar fashion. The paper concludes with reflections on the relationship between work and the soul, inspired by the writings of Thomas Moore.

21. Fisher PR. All you need to know about mediation but didn’t know to ask - a parachute for parties in litigation. 2001:7.
   Keywords: Project Management; Litigation; Legal; Mediation; Dispute Resolution.
   Call Number: ART 105

   Keywords: mediation; litigation; construction projects.
   Abstract: Talks about the Supreme Court order to refer litigation to mediation in the case of Idoport v NAB and others 23/5/01. The case is a precedent which may impact on other construction disputes.

   Keywords: new engineering contract; project control; contracting strategy.
   Abstract: The engineering and construction industry has become infamous for the level of claims and disputes which result in poor project performance by objective measures.

   Keywords: Construction - Law - Alternative dispute resolution.

   Keywords: design; procurement; construction; contracts; conflict management; team development; matrix organisation.
   Abstract: Typically, construction contracts are bilateral agreements between a Principal and a Contractor. However, this $45 million (US$22.5 million) construction project in Auckland, New Zealand had a series of construction, leasing and funding related contracts amongst the key stakeholders, mainly due to the cross functional responsibilities and objectives of the stakeholders. The result was an interesting mix of different types of contracts. This paper looks at the behavior of the different teams and individuals under a complex array of contracts.

In total there were six contracts, as follows:
- A construction contract (for the building structure only) between the landowner (Principal) and the constructor (Guaranteed Maximum Price contract).
- A construction contract between the tenant and the constructor for the Essential Fitout work (HVAC, carpets, ceiling, access flooring etc - approximately 25% of building value) on a cost plus margin arrangement.
- A construction contract for the discretionary fitout (furniture, finishes, fitout of kitchen, internal partitions etc.) between the tenant and the constructor on a cost plus margin.
- An agreement to lease between the land owner and the tenant.
- A guarantee from the tenant to the funder of the base building works that the essential fitout items (without which the project would not be completed) will be completed.
- A quad party agreement between the landowner (Principal), the tenant, the funder and the constructor ensuring that the default of one party was not grounds for termination by the others.

It was agreed by all parties that the Project and Construction Management company, who was the key facilitator of the project, provided Project and Construction Management services for the entire project and act as the constructor.

This paper demonstrates how possible conflict of interest scenarios were overcome by creating individual team structures. Structures who were focused on their “patch” within the interests of their construction contract.
The overall coordination was provided by one senior Manager of the Project Management organization. The behavior of the team who were responsible for the GMP contract focused on costs and scope control aggressively. They were focused on delivering what was promised for the agreed costs. They achieved significant savings which were shared with the Client.

The teams that were working on a cost plus margin arrangement focused on looking for value for money solutions. They were looking for “options” all the time, not accepting the traditional solution. The result was innovative design features, converting what would have been a typical building into a "highly intelligent" building. The senior management of the project management organization focused their attention on the requirements of the overall project. They were directly accountable to the key stakeholder to deliver the intentions of the various contracts. Contrary to what could have been accepted as a conflict situation, the result was a focus on win-win solutions for the stakeholders at all times.

   Keywords: construction; building; disputes; mediation; review boards.
   **Abstract:** This paper has been written to raise awareness of the successful use of DRB’s in the construction industry and to compare the role of dispute resolution boards with that of mediation.

   Keywords: Alternative dispute resolution - Construction industry.

   Keywords: design; procurement; construction; network analysis.
   **Abstract:** The purpose of this paper is to discuss the use-and-abuse of But-For Schedules in today’s claims-oriented construction industry. The paper also discusses ways to analyze But-For Schedules when they are presented as "evidence" of either an excusable or a compensable delay. Finally, the paper discusses ways to defend against But-For Schedules should the reader need to do this in negotiation, litigation, or some alternative dispute resolution forum (e.g., mediation, arbitration, summary jury trial, and so on). But-For Schedules are a legitimate way to analyze and present delays and time extension requests. They are more reliable than several other delay analysis techniques. They are, however, subject to abuse and manipulation. Those faced with the task of analyzing such delay analyses need to be cautious. Reviewers must ascertain whether a But-For Schedule presented in support of a claim has not been abused so badly as to render it meaningless or dangerous. This paper discusses ways to do this.

   Keywords: Conflict resolution - Alternative dispute resolution - Studies.
   Notes: "A study of the scheme piloted by the Architectural Services Dept, Hong Kong Gov. Works Branch".

   Keywords: Construction; Design Procurement; Conflict; Dispute Resolution.

   Keywords: Construction - Crisis mitigation - Human resource management - Conflict resolution.

32. Orchiston CR. **The prediction and resolution of project disputes.** *Triumph Against the Odds;* 1998 Nov. 4-1998 Nov. 6; AIPM (CD-Rom). Wellington, New Zealand: Project Management Institute New Zealand Chapter Inc; 1998.
   Keywords: conflict management; dispute resolution; risk management.
   **Abstract:** Project management involves the attention to procedures in order that conflict and dispute can be avoided, minimised, or managed. Dispute is a frequent consequence of the manifestation of risk, and how that dispute is resolved may have a bearing on the perceived or actual "success" of a project. Unless there is some way of assessing the risks and matching them to the appropriate dispute resolution techniques, resources will continue to be wasted in needless documentation and / or disputes on projects for which "success" will be dependent on chance. This presentation will address the sources of risk and project failure in the construction industry, and methodologies to minimise them. It will then canvass various techniques for dispute settlement, and how they can be adapted to suit project circumstances.

33. Carmichael, D. G., Hovey, B., Rijsdijk, H., and Baccarini, D. **Project Management Directions : A special publication of the Australian Institute of Project Management.** 96. Sydney, NSW, AIPM.
   Keywords: Project management - Research - Construction (Planning - Risk - Integration - Technology - Quality assurance - Health - Infrastructure - IT - Dispute resolution - Strategic Alliances - Success measurement - Compression - Decision models).
   Call Number: MON 77 / MON 78 Notes: 2 copies plus loose leaf papers of pre print edition.
34. Bower DA. **Evaluating the indirect cost of change.** IPMA 96 World Congress on Project Management; 1996; AIPM. IPMA; 1996.

Keywords: engineering; contracts; influence curves; payment systems.

Call Number: TP4

**Abstract:** This paper presents the practical findings of a major research project in civil engineering construction. It addresses how the conflict that arises in the evaluation of the compensation due in the event of contractual change might be overcome by the use of Influence Curves. Much attention has been given to payment mechanisms that allow for the speedy and fair evaluation of payments due to a contractor, but the development of such systems, except in the case of cost-reimbursable contracts, has not addressed the problem of the evaluation of indirect costs associated with change. It has commonly been accepted that such costs are impossible to evaluate systematically and hence the parties to the contract have been left to argue over the cost and time effects of the change and the compensation due. The methodology proposed is speedy and equitable and reduces conflict between the parties, promoting efficient site management.

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