



REACTIVE DEVALUATION AS A BARRIER AGAINST AMICABLE CONSTRUCTION DISPUTE SETTLEMENT

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Disputes are common in construction projects. Protracted unresolved dispute destroys contracting parties' desire to fulfil the project objectives. In this regard, promoting amicable and efficient construction project dispute resolution (CPDR) has been one of the key recommendations of almost every construction industry review. However, disputants' irrational behaviors would derail trajectory to settlement. Notable example of irrational decision is failing to seize settlement option that provides utility to both disputing parties. This can be the result of a deep-rooted psychological barrier called reactive devaluation (RD). RD describes the behavior of habitually devaluing the proposal raised by the counterpart. Disputants would reject a proposal irrespective of the quality and reasonableness of the proposal, just because it is raised by the counterpart. The occurrence of RD in CPDR would block proposal exchanges that are inevitable if a settlement is to be reached. This study aims to examine the application of RD in CPDR. Possible manifestations of RD in CPDR scenario were summarized and a conceptual framework of RD was proposed. Five types of RD were identified: reluctance to change, doubts about counterpart's ability, overconfidence, biased information processing, and mistrust of the counterpart. Furthermore, suggestions to alleviate RD were also discussed.

Keywords: Conceptual framework, Irrational decisions, Manifestations, Loss aversion, Attitude polarization, Naïve realism.

1 INTRODUCTION

Conflicts are inevitable in modern construction business, in particular where projects are increasingly complex with project team members coming from diversified background (Cheung and Yiu 2006). This diversity is conflict laden with the ultimate outcome of construction dispute. The happenings of construction dispute will hinder the project schedule and cause delay. Therefore, almost all construction industry reviews have called for efficient and amicable construction project dispute resolution (CPDR).

Facing the enormous cost of solving the dispute in court, many researchers and practitioners welcome the contractual use of cost-friendly alternative dispute resolution (ADR) methods. Nevertheless, barriers arising from one's cognition and self-perception hinder amicable settlement because these may lead to irrational decisions of not choosing the most economical and speedy solutions. In other words, irrational decisions are attributed to some deep-rooted psychological barriers against dispute settlement (Ross and Stilling 1991, Mnookin and Ross 1995). The topic of psychological barriers against dispute settlement has been

discussed widely in business decisions (Korobkin and Guthrie 1994, Ross and Ward 1995, Korobkin 2005, Spangler 2012). The study on psychological barriers against CPDR was inspired by Korobkin and Guthrie (1994), in which three types of phenomena affecting disputants' decision making in litigation were identified: framing, equity seeking and reactive devaluation. Framing explains that disputants' choice to accept or reject a settlement offer is dependent on their frames on the offer in relation to a certain reference point. These frames can be positive or negative. Equity seeking describes that disputants' desire to seek perceived equity may allow personal feelings to override economically rational considerations. Reactive devaluation (RD) is a cognitive bias happening when a suggestion is always devaluated simply because it is proposed by a counterpart. In extreme cases, one would reject a proposal regardless of its quality and reasonableness (Ross and Stillingner 1991). Among the three psychological barriers, reactive devaluation was studied in-depth for its applicability in CPDR.

The objective of this research study is to identify the conceptual framework of RD in CPDR. Relevant literatures about theoretical explanations and underpinnings of RD have been reviewed. Applications on how to overcome RD were also discussed. The study is reported in four parts: i) Theoretical background of the study; ii) Conceptual framework of RD in CPDR; iii) Suggestions to overcome RD; and iv) Concluding remarks of the study.

2 THEORETICAL BACKGROUND OF THE STUDY

The theoretical basis of this study is supported by a literature review on RD. In this part, the theoretical bases of RD are discussed in terms of its initiated studies and explanations.

2.1 Pioneer Studies of Reactive Devaluation

Professor Lee Ross and his colleagues (Ross and Stillingner 1991) first initiated RD. They proposed that RD has three major observations (Mnookin and Ross 1995): i) The proposal raised by the counterpart is rated less positively than the one raised by himself or by a neutral third party; ii) proposed plan is rated less positively than plan withheld; and iii) proposal raised unilaterally is rated less positively than the one that was brainstormed by the parties together (Ross and Stillingner 1991, Ross and Ward 1995). The first observation was supported by the study about the arm reduction proposal between United States and Soviet Union (Ross and Ward 1995). It was found that the proposal was seen unfavorable by US subjects when Soviets were the originator, more favorable if a neutral third party is the putative originator and plan with US putative attributor was considered most favorable. Ross and Stillingner (1991) and Ross and Ward (1995) proposed another phenomenon that the presence of availability of choices causes the occurrence of RD. Even the choices are from non-hostile sources (Korobkin and Guthrie 1994). Ross and Stillingner (1991) and Ross and Ward (1995) reported the tendency that people devalue the 'proposed' plan announced to the one yet to be announced. RD happens that people consider the withheld choice is better, even there is neither negative relationship nor prior assurance existed among the choices. The third observations described that unilateral offer caused the occurrence of RD effect. Mono-directional concession will render the recipient to believe that it is always possible to bargain (Ross and Ward 1995). As a result, although the offeror attempted to build goodwill in dispute resolution, the proposal is lamentably devaluated (Ward *et al.* 2011).

2.2 Explanations of Reactive Devaluation

2.2.1 *Loss aversion*

Loss aversion is reported as one of the contributors of RD (Kahneman and Tversky 1984, Korobkin and Guthrie 1994, Johnson *et al.* 2007). Just as Kahneman and Tversky (1984) described, the adverse feeling caused by a loss is deeper than the attractive feeling caused by a gain of same amount. In other words, the attractiveness of possible gain cannot commensurate the aversion of possible loss. The possibility in identifying an event as “gain” or “loss” usually depends on how the event was framed. People are usually reluctant to give up something that they consider as their endowment or personal assets (Thaler 1980, Kahneman and Tversky 1984, Ericson and Fuster 2011, Morewedge and Giblin 2015). People tend to avoid taking losses thus it is much more reluctant to give up something they own than to purchase them. If accepting the resolution offer is considered as losing one’s interest, it is believed that loss aversion will take priority and will encourage the party to devalue and reject the offer (Johnson *et al.* 2007). As the feeling of loss outweighs the perceived gains, the offeree will resist to proceed with the negotiation (Kahneman and Tversky 1984). In CPDR, both contracting parties would try to ‘hide’ their weaknesses and acceptable trade-offs. This inclination would make resolution more difficult than anticipated. Affected by loss aversion in CPDR, a party may be very conscious about not exposing to potential losses.

2.2.2 *Attitude polarization*

Attitude polarization is highly believed to be a cause of RD (Ross and Ward 1995). It is a phenomenon that belief polarization escalates after reviewing evidences on the issue found by the parties (Lord *et al.* 1979). People will selectively pay attention to the information that supports their views and dismiss those contradicting (Lord *et al.* 1979, Klayman 1995). Tesser (1978) claimed that the longer the time one exposes to supportive information, the more confirmation he/she has towards the information. As one gains more positivity towards his/her opinion, he/she tends to believe that the counterpart would also consider the same (Ross *et al.* 1977). As a result, when one is exposed to information that supports his dispute resolution proposal, he will find his proposal more convincing and therefore should be accepted by his counterpart (Ross *et al.* 1977, Ross and Ward 1996, Ericson and Fuster 2011). Being self-enhanced, one will lose interest in negotiating (Johnson-Cartee and Copeland 1997). Hence, biased information processing strengthens parties’ already held opinions and makes attitudes from two sides more polarized. Not providing the whole picture for the negotiation, attitude polarization destroys the trust among parties and thus adds difficulty to amicable settlement (Lord *et al.* 1979, Morewedge and Giblin 2015).

2.2.3 *Naïve realism*

Naïve Realism (NR) is also highly recognized as a source of RD (Ross and Ward 1996). There are three tenets of NR according to Ross and Ward (1996). The first one is about objectivity. People with NR think that they are able to see the world as how it is without subjective interpretations. They believe their perception is objective without any bias. These disputants believe their proposals are the most practical in solving the dispute (Pallier *et al.* 2002). As a result, they would challenge and devalue the effectiveness of the proposal put forward by the counterpart (Ross and Stillinger 1991, Ross and Ward 1995, Bland *et al.* 2012). Another tenet deals with homogeneity. People tend to believe the counterpart would draw same conclusion as theirs with the same piece of information if the counterpart were reasonable and open-minded

(Ross and Ward 1996). They expect the other side to act in the same way as they do because they believe they are correct (Ross *et al.* 1977). Final tenet is that people consider their counterparts as lazy, unintelligent and biased. The counterparts are expected to put in more effort and work harder to reach the same judgment. Therefore, facing a different conclusion drawn by others, disputants influenced by RD would attribute the differences to the incapability and biases of others. Therefore, they tend to devalue counterpart's proposals without thorough consideration.

3 CONCEPTUAL FRAMEWORK OF REACTIVE DEVALUATION IN CPDR

Literature review was conducted to elaborate the conceptual underpinnings of RD in CPDR. RD behaviors were collected from the reported studies on the three causes of RD. Twenty-five RD manifestations were operationalized in CPDR. These manifestations were summarized in Table 1. The manifestations were organized into five types according to their nature. As a result, a conceptual framework of RD in CPDR is proposed.

Table 1. Conceptual framework of RD in CPDR.

Manifestations of RD in CPDR	References	Types of RD
1. I want to maintain my decisions therefore I am uninterested in negotiating (Attitude Polarization; Loss Aversion).	Johnson-Cartee and Copeland (1997), Kahneman and Tversky (1984)	Type 1: Reluctance to change
2. Before negotiation, I believe my proposal will be accepted (Naïve Realism; Attitude Polarization).	Ross <i>et al.</i> (1977), Ross and Ward (1996), Ericson and Fuster (2011)	
3. After forming a reasonable opinion, I tend to devalue other possibilities (Attitude Polarization; Naïve Realism).	Klayman (1995), Ross and Ward (1995,1996)	
4. When rethink about my decision, I unconsciously recall reasons why my decision can hold (Attitude Polarization).	Lord <i>et al.</i> (1979), Klayman (1995)	
5. I think the resolution proposal raised by the counterpart is based on incomplete information (Naïve Realism; Attitude Polarization).	Ross <i>et al.</i> (1977), Ross and Ward (1995, 1996)	Type 2: Doubts about counterpart's ability
6. I think the proposal from the counterpart cannot resolve the project dispute (Naïve Realism).	Ross and Stillinger (1991), Ross and Ward (1995), Bland <i>et al.</i> (2012)	
7. I think the counterpart is biased (Naïve Realism).	Ross and Ward (1996)	
8. I doubt the capability of the counterpart (Naïve Realism, Attitude Polarization).	Ross <i>et al.</i> (1977), Ross and Stillinger (1991), Bland <i>et al.</i> (2012)	
9. I doubt the effectiveness of the suggestions raised by the counterpart (Naïve Realism).	Ross and Stillinger (1991), Ross and Ward (1995), Bland <i>et al.</i> (2012)	
10. I think the counterpart provides premature decisions (Naïve Realism; Attitude Polarization).	Ross <i>et al.</i> (1977), Ross and Ward (1995), Bland <i>et al.</i> (2012)	
11. I think my proposal is more practical (Naïve Realism, Attitude Polarization).	Ross and Ward (1996), Pallier <i>et al.</i> (2002), Ericson and Fuster (2011)	Type 3: Overconfidence
12. I think my proposal is the best solution to the project dispute (Naïve Realism, Attitude Polarization).	Ross and Ward (1996), Pallier <i>et al.</i> (2002), Ericson and Fuster (2011)	
13. I believe the counterpart will agree with us if they put more effort in decision making (Naïve Realism; Attitude Polarization).	Ross and Ward (1996), Ross <i>et al.</i> (1977)	
14. I always think there is still room for bargaining with the proposal from the counterpart (Naïve Realism).	Ross and Ward (1995, 1996), Ross <i>et al.</i> (1977)	
15. I think only my proposal can tackle the project dispute (Naïve Realism, Attitude Polarization).	Ross and Ward (1995, 1996), Lord <i>et al.</i> (1979), Pallier <i>et al.</i> (2002)	

Table 1 (contd). Conceptual framework of RD in CPDR.

16. I endorse information that supports my decisions (Attitude Polarization).	Lord <i>et al.</i> (1979), Klayman (1995)	Type 4: Biased information processing
17. I search for information that confirms my assessment (Attitude Polarization).	Lord <i>et al.</i> (1979), Klayman (1995)	
18. After forming a decision, I tend to pay more attention to the information that supports my decision (Attitude Polarization).	Lord <i>et al.</i> (1979), Morewedge and Giblin (2015)	
19. My information searching process terminates after I consider I have found enough supporting information for my decision (Attitude Polarization; Naïve Realism).	Pallier <i>et al.</i> (2002), Ericson and Fuster (2011)	
20. I tend to think the choices provided by the counterpart are disadvantageous to my side (Loss Aversion; Naïve Realism).	Korobkin and Guthrie (1994), Johnson <i>et al.</i> (2007), Bland <i>et al.</i> (2012)	
21. I tend to believe the choices not provided by the counterpart are more advantageous to my side (Loss Aversion).	Kahneman and Tversky (1984), Ross and Stillinger (1991), Ross and Ward (1995)	
22. I tend to think the counterpart wants to gain interests from me with his offer (Loss Aversion).	Kahneman and Tversky (1984), Johnson <i>et al.</i> (2007), Morewedge and Giblin (2015)	
23. I think the compromise of the counterpart is just their negotiation strategy (Loss Aversion).	Korobkin and Guthrie (1994), Ross and Ward (1995)	
24. I tend to think the counterpart is behaving opportunistically (Loss Aversion; Naïve Realism).	Ross and Ward (1995, 1996)	
25. I tend to devalue the proposal if I know that it was based on information out of my knowledge (Loss Aversion).	Korobkin and Guthrie (1994), Ross and Ward (1995)	

4 SUGGESTIONS TO OVERCOME REACTIVE DEVALUATION

Suggestions to overcome RD were categorized in two types—raising one’s self-awareness of irrationality and enhancing communication. Raising awareness of irrational behavior is the first step for performance improvement. It is expected that after disputants realized their biased reluctance to change, overconfidence and biased information processing, more efforts will be paid to improve their performance and decision-making approaches in CPDR. In this regard, raising disputants’ self-awareness is believed to be useful in mitigating RD for type 1, type 3 and type 4. Enhancing communication is the recommended approach to alleviate the RD attitudes in type 2 and type 5. Seamless communication and partnering relationship among the disputing parties would alleviate hostile RD attitudes and facilitate the settlement procedures (Bayliss *et al.* 2004).

5 CONCLUDING REMARKS

Disputes are common in construction projects. Amicable and efficient CPDR is welcomed by all contracting parties. RD is a well-known psychological behavior that describes the tendency to devalue the proposal raised by counterpart. It may happen among construction disputants and threaten rational dispute resolution. This study examined the conceptual framework of RD in CPDR. A comprehensive literature review was conducted. Underpinning theoretical background was explored. Twenty-five possible RD manifestations in CPDR were summarized from literatures. Five types of RD behaviors in CPDR were identified. These are: i) reluctance to change; ii) doubts about counterpart’s ability; iii) overconfidence; iv) biased information processing, and v) mistrust of the counterpart. Furthermore, raising one’s self-awareness of irrationality and enhancing communication are suggested as possible means to curb RD.

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