

Chapter 11

Interweaving Incentives and Disincentives for Construction Dispute Negotiation Settlement



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Abstract What incentives and disincentives motivate negotiators to settle or not in a construction dispute negotiation (CDN)? A thorough literature review is conducted on this subject to identify the antecedents of negotiators' intention to settle (ITS) in CDN. Three relevant constructs are identified: motivation (i.e., prosocial and proself motive), cognition (i.e., justice and power), and psychological bonding (i.e., trust and shared vision). Categorically, this study finds that in the negotiation context, negotiators having a prosocial motive and perceiving justice about the negotiation process and outcome can stimulate negotiators' ITS, which can be seen as incentives; however, the proself motive and perceived power advantage would serve the opposite, thus can be classified as disincentives. In addition, cumulated trust and shared vision during the project collaboration can also play an incentive role in promoting negotiators' intention. As a result, this study develops a link between the incentive/disincentive (I/D) and negotiators' intention to settle through the literature review. A better understanding of these agents of I/D can help explain negotiation conditions and negotiators' decisions whereby appropriate negotiation strategies can be devised.

Keywords Construction dispute negotiation · Disincentive · Incentive · Intention to settle

1 Introduction

1.1 Research Background

It appears that no construction project is free from dispute (Cheung & Yiu, 2006). In this regard, Arcadis (2021) reported three critical causes of dispute: disputing

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parties' misunderstanding of the contractual obligations, changes in scope, and unforeseen events. Another 2021 study published in the World Built Environment Forum involved 1,200 construction and engineering projects across 88 countries as survey respondents. It was reported that the cumulative sum in dispute exceeds US\$48.6 billion, and resultant delays amounted to schedule extension by more than 71% of the original (RICS, 2021). Since 2020, the COVID-19 pandemic has been exerting unprecedented pressure on the already strained industry as most projects are inevitably grappled with disputes arising from the lockdown and associated restrictions (Casady & Baxter, 2020). The impact of disputes can be substantive, leading to cost overrun, declining productivity, delays in the delivery of projects, and, potentially, a loss of business viability (Cheung & Pang, 2013; Yiu et al., 2015). Improving dispute resolution has attracted great attention from both the industry and the academia because of the ever presence of construction disputes.

The stair-step chart in Fig. 1 outlines a series of construction dispute resolution methods with reference to the respective hostility and cost. Litigation is the most formal, adversarial, and costly option, commonly regarded as the "last resort" (Jagannathan & Delhi, 2020). The others are collectively termed alternative dispute resolution (ADR) techniques that may save an enormous cost for disputing parties (Cheung, 1999; Yousefi et al., 2010). Furthermore, forms of ADR can also be grouped as binding (formal) and nonbinding (informal). Arbitration offers binding resolution and is commonly specified in most construction contracts. Many projects have arbitration incorporated as the final resolution forum for project disputes. Negotiation, third-party neutral, mediation, mini-trial, and adjudication are the nonbinding options (Cheung et al., 2002; Treacy, 1995). Among all these methods, negotiation is the most cost and time efficient means of resolving disputes. In fact, most disputes are firstly negotiated, thus making negotiation a daily routine for construction practitioners. There are basically no restrictions regarding the form and process of negotiation (Cheung, 1999). Negotiating parties can freely express their will despite having varying goals, expectations, and opinions. Solving differences through negotiation has been regarded as the most commended form of resolution because of resource-saving and relationship-maintenance functions (Lu et al., 2015; Yiu et al., 2018).

A productive negotiation demands cooperative efforts from both parties. In fact, many negotiation studies have informed sufficient advice on best practices in negotiation, including tactics and strategies (Cheung et al., 2009; Yiu et al., 2008), negotiation styles (Cheung et al., 2006; Patton & Balakrishnan, 2010), logrolling and trade-offs (Qu & Cheung, 2012; Tajima & Fraser, 2001), and potential mistakes (Love et al., 2010, 2011; Yiu et al., 2015). These informative materials have contributed to the training of negotiators. Nevertheless, the assumption of these strategic moves is that negotiators are rational and can follow the economic view to take mutual profit maximization as the ultimate goal. In fact, negotiators are not "rational economic men" who would always choose the "right" method and make the "correct" decisions. The social-psychological view reveals that negotiators can deviate from optimality because they are influenced by their personalities, the information available, bounded cognitions, and opportunistic motivations (Bazerman et al., 2000; Caputo,

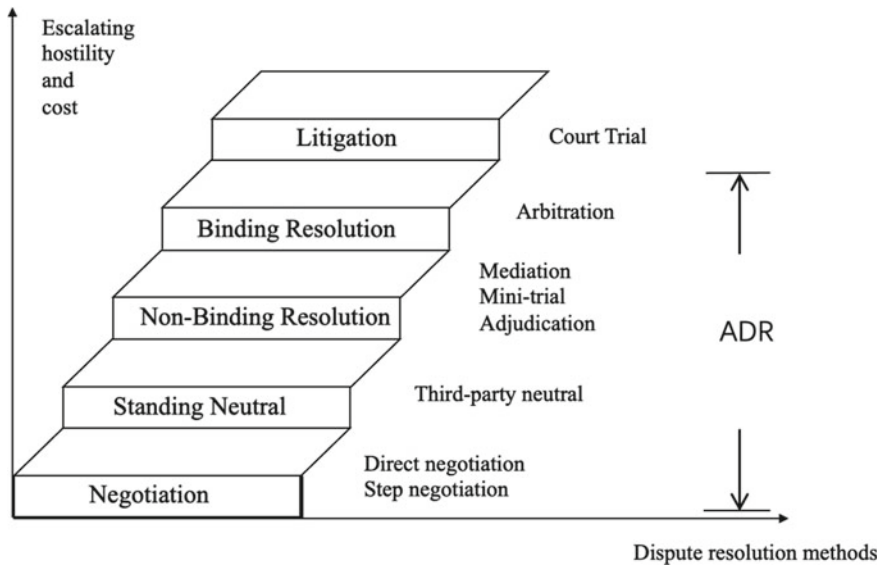


Fig. 1 Hierarchy of methods of construction dispute resolution (Adapted from Cheung (1999))

2013; Tversky & Kahneman, 1985). Furthermore, negotiation is an art of interaction, critically dependent on the relationships between the negotiation parties. Every negotiation move can be influenced by the attitudes of the counterparts and the relationship bonds between the social units (Yiu et al., 2018; Yousefi et al., 2010). The complicated and adversarial habit of construction contracting requires the parties to cooperate and compete simultaneously. In addition, the contracting environment is masked with uncertainties and unexpectedness, thus requiring project participants to make spontaneous decisions and be flexible in response to contingencies (Loosemore, 1999). Above all, prescribing the behavior of negotiators is not practical.

When a negotiator needs to decide how to deal with negotiation, at each critical decision, he needs to consider three options: (1) accept the currently available proposals; (2) continue the negotiation with their counterpart to pursue a better outcome; or (3) leave the negotiating table for lost of interest (Cheung & Chow, 2011; Mitropoulos & Howell, 2001). It is suggested that negotiators' level of intention to settle is the determining factor on which option to take. Table 1 depicts the relationship between intention to settle and the respective negotiating behaviors. It can be expected that despite facing similar negotiation situations, negotiators having different settlement intentions would adopt strategies that would lead to the respective outcomes.

Table 1 State of intention to settle and negotiating behaviors (Adapted from Cheung & Chow, 2011)

Intention to settle	Negotiating behavior	Degree of behavior
Low	Stalemate/Breakdown	Aggressiveness
↓	Irrational argument	↓
	Rational argument	
	Concession	
Strong	Apologies	Cooperativeness

1.2 The Significance of Intention to Settle

Studies on intention have attracted considerable attention in the construction field. Reported studies cover topics such as waste management (Yuan et al., 2018), construction labor productivity (Johari & Jha, 2020), construction insurance (Liu et al., 2018), and failure learning (Liu et al., 2017). Intention can be regarded as an aspiration for a specific outcome that will motivate people to set goals and plans (Hagger et al., 2002). According to behavioral school, intention is a key behavioral attribute that can affect the way in which people act (Johari & Jha, 2020). The theory of planned behavior (TPB) is one of the classical “intention–behavior” models that highlight the relevance of intention to predict the practice of certain behaviors (Ajzen, 1991). If one develops a high level of intention toward a certain object, there will be a higher chance that he/she will conduct purposive behaviors to achieve that object. Furthermore, Ajzen (2011) reviewed the applications of TPB and suggested that intention has better predictive validity when one has actual control over behaviors and the time intervals for the intention to take effect is not that long. Considering the characteristics of daily routine and voluntariness of CDN, negotiators’ intention is paramount. In addition to these theoretical predictions, field observations from the Global Construction Disputes Report also identified that parties’ intention to settle is the most crucial element for early resolution (Arcadis, 2021).

Lin and Cheung (2021) described intention to settle (ITS) in construction dispute negotiation (CDN) as the state of favorably engaging in ending a dispute through negotiation. Three forms of intention (i.e., technique-based, relationship-based, and cognition-based intention) were examined that respectively represent the willing-to-settle negotiators’ subjective perceptions toward negotiation issues, the counterpart, and themselves. Considering the pivotal role of intention to settle in bringing negotiated settlement, it is invaluable to understand their formation. With this aim, a systematic literature review was conducted to identify what would facilitate (i.e., incentives) or impede (i.e., disincentives) negotiators’ intentions.

1.3 Sources of Incentives and Disincentives

Studies on the influence of negotiation behaviors and outcomes were reviewed to identify the sources of incentives and disincentives. For example, Thompson (1990) summarized the impact of individual differences, motivational, and cognitive approaches in negotiation, and asserted that the role of personality and individual differences is minimal. Thompson et al. (2010) further proposed five levels of negotiation behaviors: intrapersonal, interpersonal, group, organizational, and virtual. Brett (2000) put forward a dyadic negotiation model with two key concepts: (1) interests and priorities; and (2) negotiation strategies. The model asserts that negotiators' interests and priorities would affect the outcome potential, and strategies would influence the negotiation process; their combined effects result in different negotiation outcomes (Brett & Thompson, 2016). Even though these negotiation models are not focused on CDNs, they provide valuable insight into incentives and disincentives of settlement intentions.

Unlike two-person negotiation, CDN is a two-party negotiation whereby organizational factors are involved and hence the settlement intention. To operationalize in the negotiation context, two dimensions of antecedents are included: (i) social motive at the intra-organizational level (i.e., prosocial motive and proself motive); (ii) relational cognition at the inter-organizational level (i.e., justice and power). This is in line with the negotiation model proposed by Brett (2000) and Brett and Thompson (2016). It can be explained that in CDNs, negotiators are representatives of their organizations. Their expectations and interests in the distribution of negotiation outcomes are aligned with those of their organizations, ultimately determining their social motive for the settlement. Moreover, their negotiation interactions make them form different perceptions about the negotiation situation and relationship, which indicate their relational cognition and complicate their settlement intention. In addition, construction projects usually face long-term work periods, complex technical requirements, and high uncertainty environments, which provide room to cultivate relationships and make negotiations more complex than those in general business operations. In such a scenario, the connecting mechanism formed during the project cooperation would also take effect in negotiations, thereby influencing negotiators' settlement intention. Considering the social network in construction projects, this study proposes psychological bonding at the project level (i.e., trust and shared vision) that should exert a "high-level" influence to regulate the negotiation trends and affect negotiators' intention to settle.

The first two levels have more to do with the negotiation context, while the third level is more subjective and pertains to the degree of psychological connection between the two parties at project level. Thus, the social motive, relational cognition, and psychological bonding together determine the negotiating parties' intention to settle, as illustrated in Fig. 2.

Specifically, the three levels of factors are classified as incentives and disincentives on intention to settle (Fig. 3). In the negotiation context, proself motive and power are identified as disincentives, while prosocial motive and justice are incentives. In the

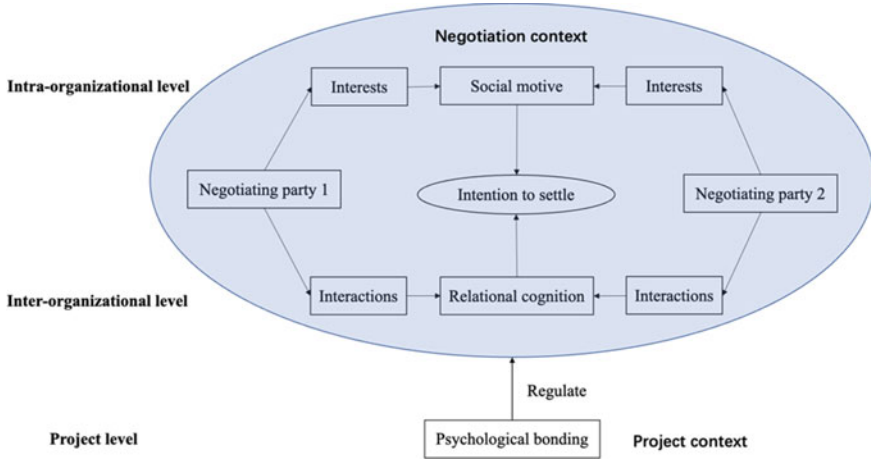


Fig. 2 A model of intention to settle in CDNs

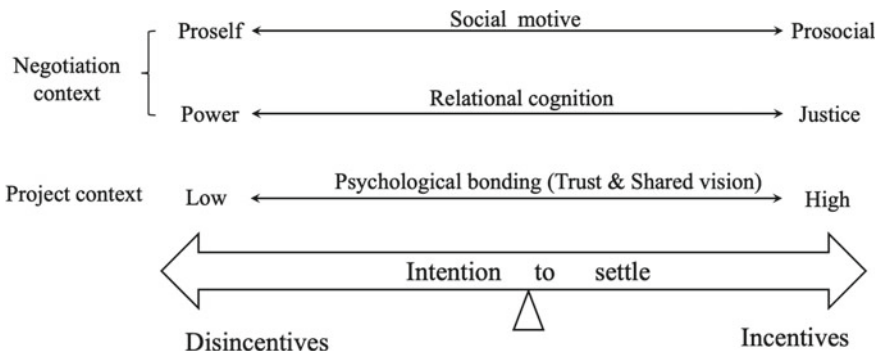


Fig. 3 Incentives and disincentives on intention to settle

project context, a low psychological bonding mechanism will impede negotiators’ settlement. However, high psychological bonding will serve the opposite. Each factor playing the role of incentive/disincentive (I/D) is addressed in the following sections.

2 Social Motive (Intra-Organizational Level)

Disputes arise when individuals, groups, or organizations have different viewpoints on certain issues. Negotiating parties have different levels of aspiration in achieving their goals (De Dreu et al., 2000). Intuitively, one might feel that negotiators would

strive to maximize their gains. In fact, negotiators are not always aiming to maximize their own profits while minimizing those of their counterparts. Many negotiation situations are mixed-motive, with the interests of negotiating parties neither completely opposite nor fundamentally compatible, leaving ample room for negotiation (Beersma & De Dreu, 2002). This leads to one of the main theoretical variables in negotiation—social motive.

2.1 The Anatomy of Social Motive in Negotiation

Social motive refers to the preference for a distribution of negotiation outcomes for the self as well as these of the others (Butt & Choi, 2006). A number of social motives have been identified. For example, McClintock (1977) classified four types of motive: altruistic, competitive, individualistic, and cooperative. Competitive and individualistic motives are commonly grouped as self-centered. Trötschel and Gollwitzer (2007) identified two types of motive as prosocial and egoistic. Carnevale and Lawler (1986) distinguished individualistic and cooperative orientation. This study adopts the widely used classification of prosocial motive and proself motive. Prosocial motives involve more cooperative and altruistic goals, whereas proself motives would drive competitive and individualistic goals. Negotiators with prosocial motives desire to maximize both parties' profits, and they try to maintain a fair and harmonious game environment. In contrast, proself-motivated negotiators, who are more egoistical, would ignore their counterparts' outcomes and pursue their maximum gain. Social motive embraces the intrinsic triggers of negotiation behaviors, whether constructively or destructively. Social motive has been widely explored in negotiation studies (Beersma & De Dreu, 2005; De Dreu et al., 1998; Li et al., 2021; Trötschel & Gollwitzer, 2007).

Social motive can be viewed as a trait variable reflecting negotiators' differences in "social value orientation"; it can also act as a state variable of "motivational orientation" (De Dreu et al., 2000). This is because social motive in negotiation can be induced or affected by both individual differences and situational elements in negotiation. Scholars have conducted two types of studies to identify the origins of social motives. Regarding individual differences, Antonioni (1998) tested the influence of the big five personalities and showed that the personality of extroversion, conscientiousness, openness, and agreeableness could induce a more integrative and cooperative motive. Social motives are also highly related to social value orientations. Carnevale and Probst (1998) confirmed the positive relationship between individualism and proself motive, and the positive correlations between allocentrism and prosocial motive. In addition, a large range of work has attempted to reveal the influence of situational factors on social motives, especially in CDNs. For example, Li et al. (2021) found that trust can facilitate prosocial motive while conflict event criticality can induce proself motive. Wei and Luo (2012) revealed the significance of interactive effects of power and social motive on problem-solving behaviors. De Dreu

(2004) also summarized the rooted influence of superiors, culture, reward structures, and social relationships on motivation.

De Dreu et al. (2000) suggested that the application of social motive is functionally equivalent and produces similar effects on negotiation, regardless of whether acting as a trait or state variable. In this study, the social motive is treated as a state variable that negotiators with different “motivational orientations” can stimulate or inhibit negotiators’ intention and behavior.

2.2 *The Incentive and Disincentive of Social Motive*

Before discussing how social motive incentivizes (or disincentivizes) negotiators’ intentions or behaviors, it is useful to draw on the underlying theory—dual concern theory. Dual concern theory advocates that the choice of negotiation strategies is affected by negotiators’ relative degree of concern for self and concern for others, or in other words, social motive (Pruitt, 1983; Rahim, 1983). As shown in Fig. 4, there are five types of negotiation strategies that negotiators may take, depending on the level and object of concern: problem-solving, yielding, forcing, avoiding, and compromising. It is argued that the function of social motives can predict negotiating behaviors; more specifically, prosocial rather than proself motive (i.e., strong rather than weak concern for others) can drive more problem-solving, less contentious behaviors, and ultimately achieve more integrative outcomes (Li et al., 2021). The central message of dual concern theory is that negotiators with a high degree of self-concern and other-concern can achieve more amicable outcomes than negotiators who only care about their own outcomes and negotiators who only care about the other party’s outcomes. This view is also supported by the theory of cooperation and competition (Deutsch, 1949).

In addition to strategy choice, social motive also explains how negotiators process negotiation information (De Dreu & Carnevale, 2003). Carnevale and Probst (1998) suggested that prosocial negotiators are more flexible and inclusive. Gelfand and Christakopoulou (1999) added that negotiators with collective backgrounds could better understand the priorities and preferences of both parties, thus fostering better trade-offs and effective logrolling. It is suggested that when processing negotiation information, proself negotiators are likely to fall prey to motivational biases and strengthen their selfishness. Prosocial negotiators, however, are more inclusive and thereby more likely to achieve joint gains.

This study focuses on the influence of prosocial and proself motives on negotiators’ intention to settle. Considering the effect of social motives on strategy choice and information process, this study argues that prosocial as opposed to proself motivated negotiating parties can better facilitate the intention to settle. That is, prosocial motive can be an incentivizing agent, while proself motive is a disincentivizing agent.

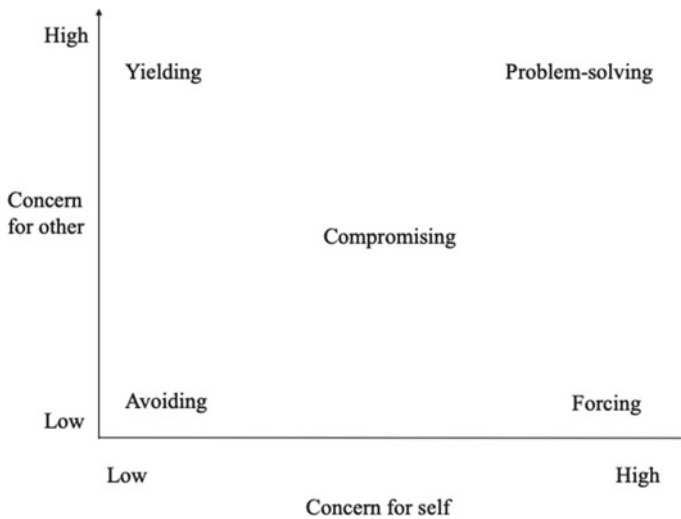


Fig. 4 Dual concern model (adapted from Rahim, 1983)

(1) Prosocial motive as incentivizing agent

Prosocial motive is closely related to concern for others. Negotiators with prosocial motives consider negotiations more like a cooperative game for which the relationship, fairness, and joint outcomes are prominent. Prosocial negotiators have a better chance to form positive attitudes, put themselves in others' shoes, build trust, carefully listen, and commit to constructive information exchange (Beersma & De Dreu, 2005; De Dreu et al., 2000). As a result, integrative behaviors, such as problem-solving or trade-offs, that represent a high level of settlement intention are more likely to happen. In this regard, the prosocial motive can be one of the significant antecedents that incentivize negotiators' intention to settle.

(2) Proself motive as disincentivizing agent

In contrast to prosocial motive, proself motive is more associated with self-concern, which is also akin to "toughness," "resistance to yielding," and "intransigence to concession making." Selfish negotiators commonly have higher aspirations of the negotiation outcomes; thus, they will see negotiation as a competitive game. Negotiators with proself motive are more likely to develop aggressive attitudes, distrust, and negative perceptions of negotiation situations (De Dreu et al., 2000). In this case, they tend to use protracted approaches, demanding proposals, threats, or even coercion, which will impede the intention to settle. Accordingly, this study posits that proself motive can be the disincentive antecedent to negotiators' intention to settle.

3 Cognition Against the Counterpart (Inter-Organizational Level)

The other main line in negotiation is cognitive perspective during the interactions. Starting from the 1980s, socio-psychological scholars applied to cognition approach to examine structural or situational variables that shaped behavioral decision research in negotiation as opposed to game theory or rational mathematical analysis (Bazerman et al., 2000). Cognition studies cover topics such as framing effect (Tversky & Kahneman, 1985, 1986), perceived problem-solving feasibility (Pruitt, 1983), prescriptive perspective (Raiffa, 1982), and attributional perspectives (Shaver, 2012). To gain a deeper understanding of how negotiators form their intention to settle, it is necessary to know how they describe or perceive their opponents and negotiation situations. Therefore, this study focuses on negotiators' cognition against their counterparts (i.e., power and justice) in order to better understand their negotiation decisions. The weight of evidence seems to support that justice can incentivize negotiators' intention to settle, while power may serve the opposite.

3.1 Justice

Justice or fairness has been identified as a major issue in managing construction projects. According to Lind and Tyler (1988), organizational justice is related to whether people are treated in a fair manner, whether the pay is fair, whether the adopted procedures are not biased, and whether people's responses to outcomes are justified. Justice is of prime importance in construction dispute management, verified by a series of studies. For example, Maqsoom et al. (2020) explained that prospective disputes could be avoided if contractors perceive fairness. Tatum and Eberlin (2008) found that justice is highly related to the conflict management style, and people who are careless about justice would be more inclined to competitive or dominating resolution tactics. Zhang et al. (2021) highlighted the role of justice on claimants' satisfaction. Justice is a complex concept that contains just interactions as well as just outcomes (Druckman & Wagner, 2016). According to the holistic review by Colquitt et al. (2013), there are four main trends of study on organizational justice:

- (1) the distributive justice trend (from the 1950s to 1970s) that focuses on the allocation norms and just outcomes with the theory of equity;
- (2) the procedural justice trend (from the 1970s to 1990s) that focuses on the development of just rules to promote a sense of process fairness;
- (3) the interactional justice trend (from the 1980s to 2000s) that attends more to interpersonal interactions and treatment as a unique form of justice; and
- (4) the integrative trend (from the 1980s to the 2000s) that put justice as an integral element of an organization.

This study argues that multidimensional justice (i.e., distributive justice, procedural justice, and interactional justice) is positively related to negotiators' intention to settle. The role of each dimension in negotiation is explained in turn.

3.1.1 Distributive Justice

Distributive justice refers to the perceived fairness of the decision outcomes (Blau, 2017). Distributive justice is regarded as the beginning of organizational justice, which can trace back to the equity theory (Adams, 1965). According to equity theory, results are usually measured as a ratio of inputs to outputs and compared to a reference standard to determine whether the distribution of resources is equitable or not. The reference standard is adopted according to the preference of the individual and is usually derived from another individual or organization which can be comparable to himself/herself. Three possible results may occur: (1) Equity—People are assumed to be satisfied if they find their input–outcome ratio is equal to the reference standard. This situation is ideal or optimal to be achieved. (2) Underpayment inequity—People will feel under-benefited if their input–outcome ratio is less than the comparative standard. In this case, retaliation may occur to restore the equity, such as asking for a raise in compensation or cutting corners. Adams (1965) further found that the feeling of underpayment will impede the organizational commitment or even drive people to “leave the field.” (3) Overpayment inequity—People may feel guilty when they find their input–outcome ratio is greater than the reference standard; this will motivate people to do more to match the outcomes and address this inequity (Zhang et al., 2021). The equity theory provides the basis of distributive justice with the principles of equality, proportionality, compensation, and need, which are considered applicable to negotiation (Druckman & Wagner, 2016).

Based on the classic definition of equity (Adams, 1965) and considering the context of CDNs, distributive justice can be defined as how negotiators perceive the fairness of their counterparts' offers regarding the dispute being negotiated (Lu et al., 2017). The dispute can be monetary (e.g., additional costs) or nonmonetary (e.g., the extension of time or technical criteria) (Maqsoom et al., 2020). Negotiators will form their expectations or judgments about offers based on the work they have done, which can then serve as a reference standard for the distribution outcome (Folger & Konovsky, 1989). Lu et al. (2017) revealed that when negotiators perceive that the offers are fair, they are more likely to take cooperative behaviors. On the other hand, the fear of being exploited will make negotiators cautious about the offers and impede any possible reciprocation (Fisher et al., 2011; Zhang & Han, 2007). Furthermore, Youngblood et al. (1992) found that perceived unjust decisions can be the reason for conflict escalation. As such, it can be assumed that negotiators will compare the offers with their expectations and will be willing to resolve disputes only when the distribution appears reasonably fair.

3.1.2 Procedural Justice

Procedural justice is defined as the perceived fairness of the procedures that regulate the process and decide outcomes (Colquitt et al., 2013). In contrast to distributive justice, which is primarily concerned with the satisfaction of outcomes, procedural justice focuses more on the fairness of the rules. Thibaut and Walker (1975) proposed the psychology of procedural justice by distinguishing between two types of control: process control and decision control. Thibaut and Walker (1975) compared the Anglo-American adversarial legal system, in which the judge controls the decision but not the evidence process, and the European Inquisitorial legal system, in which the judge controls both the decision and process. Through the response of participants, they found that people consider the Anglo-American adversarial legal system fairer as it allows them some control over the process, even though the final decisions may not favor them. The psychology of procedural justice explains the significance of impartiality of process as people care about their direct or indirect control over decisions (Tyler, 1989). Procedural issues, including the impartial rules, unbiased process, opportunity to express, grounds for decisions, and authority of decision making, are considered crucial to enhance the perception of procedure justice (Al-Zu'bi 2010; Bayles, 2012; Lind and Tyler, 1988).

Procedural justice in negotiation relates to the perceived fairness of procedures and criteria adopted by negotiating parties in proposing offers (Lu et al., 2017; Luo, 2007). To be procedurally fair, negotiators should follow certain rules and provide evidence that proves their offer is legitimate. More specifically, negotiators are suggested to abide by the explicit and implicit terms of the contract, give sufficient explanation about why their offer should be accepted, leave room for the other side to express views, and timely adjust mistakes or unreasonable problems (Luo, 2007). Lind et al. (1993) found that decision to accept or reject the offer is highly correlated with negotiators' judgment of procedural justice. With unfair procedures, negotiators would think there is little chance to recover their losses even if they are right (Zhang et al., 2021). Thus, they will be less incentivized to settle the problems. It can be summarized that the fairer the negotiation process, the more likely negotiators will collaboratively work forwards a settlement (Druckman & Wagner, 2016; Lu et al., 2017).

3.1.3 Interactional Justice

Interactional justice is the extent to which people perceive fairness based on the "quality of interpersonal treatment received during the execution of a procedure" (Bies, 1986). Interactional justice also relates to the "fair process" and plays a complementary role to procedural justice. Procedural justice focuses more on the formal process that is applied to make decisions, while interactional justice concerns more person-to-person interactions. Bies (1986) delineated the attributes of interactional justice as truthfulness, justification, respect, and propriety, which can help to distinguish interactional justice from the rules and criteria of procedural justice. In some studies, interactional justice is also called the quality of treatment (Aibinu et al., 2011;

Maqsoom et al., 2020). Tyler and Blader (2013) stated that negative feelings about the quality of treatment could lead to the devaluation of a group and dissatisfaction with organizational decisions. No matter interactional justice or quality of treatment, it places more on social sensitivity and involves actions showing people's kindness and goodwill, such as careful listening, open discussion, and attentive communication.

CDN typically involves interactions among negotiators from different parties. The perception of whether negotiators are treated fairly during their interpersonal and informational exchange can be considered interactional justice (Luo, 2007). Compared to distributive and procedural justice, interactional justice is informal and relates more to the relationship between negotiating parties. Interactional justice is suggested to affect negotiators' cognitive, affective, and, ultimately, behavioral reactions (Tyler & Bies, 2015). Macfarlane (2001) found that if negotiators feel offended during a negotiation, they will likely harden their position. Kadefors (2005) added that the possible reactions are anger, loss of motivation, or even resentment if negotiators are unfairly treated. The feeling of being fairly treated is the minimum requirement for a voluntary resolution. Negotiators who are satisfied with the just interactions will be more inclined to communicate and give positive feedback, thus creating a harmonious negotiation atmosphere that is conducive to settling their differences (Rupp & Spencer, 2006).

For distributive justice, the greater negotiators perceive the favorability of the outcomes, the higher chances that they will accept the decisions. Procedural and interactional justice, which emphasize the procedures and interactions during the decision-making process, are also proved to be reasonable concepts to determine negotiators' settlement intention. Negotiators will voluntarily come to the negotiating table when they feel fair about the process and results of negotiations; otherwise, negotiations will be frozen in endless blame-shifting and competition.

3.2 Power

3.2.1 Definition of Power

Power in negotiation is mainly analyzed in two distinct ways. The economic view of power is determined by the presence and quality of alternatives, named BATNA (Best Alternative to a Negotiated Agreement) (Fisher et al., 2011). Ideally, the more appealing one's alternatives, the less dependent on the other party, and the greater one's power. In this genre, power was manipulated by comparing negotiating parties' value of BATNA (Wei & Luo, 2012), or the number of alternatives (Van Kleef et al., 2006). However, this form of operationalization requires estimation of the parties' BATNA, which can only be applied in laboratory or simulated experiments. Moreover, Brett and Thompson (2016) reported that the effects of BATNA were influenced by the context of the negotiation. Only when the bargaining zone is small and certain can the BATNA exert a clear impact on negotiators' decisions (Kim & Fragale, 2005).

This leads to a more relational way of conceptualizing power in negotiation. In inter-personal negotiations, negotiators' power is more related to their status, which is esteem and respect accorded by others. Higher-status negotiators can enjoy the obedience of others but are also expected to take responsibility for the welfare of others (Magee & Galinsky, 2008). For group- or organizational-level negotiations, the definition of power is more about the degree of influence, resource dependency, and the capacity to achieve outcomes (Christen, 2004; Deutsch, 1973; Keltner et al., 2003; Lu et al., 2015). Accordingly, Bacharach and Lawler (1981) gave an overall description of power as the ability to exert influence on others (i.e., people or parties). Keltner et al. (2003) defined power as "an individual's relative capacity to modify others' states by providing or withholding resources or administering punishments". Lu et al. (2015) analyzed power in the context of CDN and defined it as "negotiators' ability to achieve their desired outcomes". This study takes the organizational level perspective to explore the impact of power on negotiators' intention to settle.

3.2.2 Power-Related Theory

Numerous theoretical perspectives have been developed to study power in negotiations, including bilateral deterrence theory (Lawler, 1986), conflict spirals theory (Lawler, 1986), approach/inhibition theory of power (Keltner et al., 2003), and power-dependence theory (Emerson, 1962, 1964). These power theories have different perspectives and their application in CDN is discussed.

(1) Bilateral deterrence theory and conflict spirals theory

The two theories were proposed by Lawler (1986) to explain how negotiators decide to use coercive tactics with different power levels, but the findings suggest opposing outcomes. By the bilateral deterrence theory, unequal power produces more coercive behavior than power parity. It is stated that when power is unequal, the powerful party does not fear retaliation and is, therefore, more inclined to take punitive measures, while the less powerful party is also motivated to take punitive actions as a signal of unwillingness to submit. The bilateral deterrence theory predicts that equal power will reduce the frequency of punitive moves as parties can perceive the coercive capability of their counterparts. However, conflict spiral theory posits the opposite conclusion, which states that equal power relationships produce more coercive behavior. This theory believes that the guarantee of security or the protection of profits is determined by their power. In the situation of equal power, coercive tactics can help portray a tough image and maintain their relative advantage, avoiding looking weak or being attacked from the other side.

(2) Approach/inhibition theory

Approach/inhibition theory argues that power is developed as a relative ability to change others' states by applying resources or imposing punishments (Keltner et al., 2003). This theory deliberates how power influences human behavior and compares the affective, cognitive, and behavioral tendencies between the power-advantaged

and power-disadvantaged. The findings show that the powerful side tends to take the system of behavioral approach with which they will form positive affect, pay more attention to rewards that can satisfy personal goals, take automatic information processing, and apply stimulative behavior. On the contrary, reduced power will lead to negative affect, attention to threat and punishment, concern for others' interests and goals, controlled information processing, and inhibited social behavior (Jordan et al., 2011; Keltner et al., 2003; Tost, 2015).

(3) Power-dependence theory

Power-dependence theory rests on the social exchange relationship and the dependence between each other (Emerson, 1962; Molm, 2015). This theory has a social premise, in which individuals/parties control resources valued by each other. For example, Party A has power over Party B if A controls resources that B highly values. Power is thus derived from the other side's dependence. Moreover, the exchange interdependence asymmetry determines which party has greater power and is considered to be the reverse of dependence (Cuevas et al., 2015). Several studies have indicated that the asymmetry of power allows the power-advantaged party to exert influence on the less powerful party to act in ways they are not willing to, determine the relationship process, and direct outcomes to their favor (Caniëls & Gelderman, 2007; Piskorski & Casciaro, 2005).

This study tends to focus on the power-dependence theory that describes power as stemming from the degree of dependence in an exchange relationship. Compared to traditional buyer–supplier relationships, project organizations seem to be more complex and highly characterized by exchange interdependence (Senescu et al., 2013). Different interdependent units (e.g., relations among owner, contractor, subcontractor, or consultant) in construction projects need to maintain their exchange relationship with each other to gain resources and achieve their desired outcomes (Bankvall et al., 2010; Chinowsky et al., 2011; Guo et al., 2021). Moreover, exchange interdependence is often asymmetric in the construction industry and will thus result in power asymmetry. For example, if there are many contractors of the same type, it will create a buyer's market, and the owner is regarded as having a power advantage. In other cases, the owner will not have relative power if the contractor has irreplaceable techniques. Once there exists asymmetry, it can be expected that both parties' attitudes and behaviors in negotiation will be affected. This study applies the power-dependence theory in CDN. The other three power theories are supplemental and assist in understanding negotiators' intention to settle.

3.2.3 The Role of Power in Negotiation

Empirical evidence of the influence of power on negotiation outcomes is mixed, especially at the dyadic level. Some studies found that parties of equal power achieve higher joint gains than unequal dyads (Mannix & Neale, 1993). Wolfe and McGinn (2005) also supported this point of view, they found that negotiating parties with small perceived power differentials can reach better agreements than parties with

higher power differentials. However, other studies have the opposite results. For example, Sondak and Bazerman (1991) argued that unequal power between dyad members would improve the negotiated outcomes. Wei and Luo (2012) supported that negotiators with unequal power achieved higher joint gains; more specifically, the high-low power dyads and high-high power dyads could get better results than the low-low power dyads. The relationship between power and negotiation outcomes can be contingent and complex, as it also relates to other elements, such as negotiators' affects (Anderson & Thompson, 2004) or their aspiration levels (Mannix & Neale, 1993).

Even though the mixed effects on negotiation outcomes, the influence of power on negotiators' settlement intention and behaviors should be clear. This study argues that, in CDNs, the higher the negotiators perceive their power, the less motivation for them to consider a negotiated settlement (i.e., less intention to settle) (Christen, 2004). In other words, power can disincentivize the intention to settle. This viewpoint is in line with the power-dependence theory. The high-power negotiators who have overwhelming resources commonly set higher goals (Wong, 2014), demand more but concede less (De Dreu, 1995), behave in more aggressive actions (e.g., threats and bluffs) (Brett & Thompson, 2016), less concern about the other side's emotions and act at will without serious considerations (Van Kleef et al., 2006), which are all considered as barriers to the negotiated settlement. In contrast, to maintain a harmonious exchange relationship, low-power negotiators have the impetus to make a good impression. In this regard, they are inclined to care about the potential retaliation, pay more attention to the other party, have a higher chance to concede, and be more vigilant to deal with the negotiated issues (Lawler et al., 1988; Piskorski & Casciaro, 2005). Moreover, Van Kleef et al. (2006) found that negotiators with lower power are motivated to foster information processing so that they can have an accurate understanding of both the negotiation situation and their counterparts. Compared to the high- and low-power negotiators, it is suggested that negotiators' intention to settle may decrease as their perceived power increases, thereby showing power is a disincentive to settlement.

4 Psychological Bonding Mechanism (Project Level)

As negotiations are embedded in the context of construction projects, this study suggests that project-level factors should also be taken into account in analyzing negotiators' intention to settle. Construction project is a network-based unit in which all stakeholders have a mutual goal of completing a project spanning years or even decades. The project members of different specialties are supposed to accomplish contractual obligations together. They need to cope with project emergencies arising from changes in the environment (Koh & Rowlinson, 2012). It is suggested that through long-term cooperation and interaction, parties are able to cultivate certain level of social capital. Social capital refers to a set of relational resources embedded in a network that allows individuals/parties to work effectively in achieving a common

purpose (Gulati et al., 2000; Nahapiet & Ghoshal, 1998). Nahapiet and Ghoshal (1998) specified three aspects of social capital: structural dimension (represented by network ties), relational dimension (represented by trust), and cognitive dimension (represented by shared vision). Among these dimensions, trust and shared vision can be considered interrelated yet different aspects of psychological resources in an organization (Li, 2005). Rodríguez and Wilson (2002) called these psychological factors social bonds of relationships. In this study, we take trust and shared vision as the psychological bonding mechanisms that emerge in the collaboration of the project and can play the role of incentive in negotiations.

4.1 Trust

4.1.1 Definition and Dimensions of Trust

Trust is the positive expectation or faith that others will act in a mutually acceptable manner, considering all parties' well-being, and avoiding opportunistic behaviors even when there is a chance (Das & Teng, 2001). McAllister (1995) defined interpersonal trust as "the extent to which a person is confident in and willing to act on the basis of, the words, actions, and decisions of another." Many scholars have indicated the central importance of trust in developing and strengthening relationships and considered it a prominent mechanism for partnership sustainability (Jagosh et al., 2015; Wong & Cheung, 2004; Wu et al., 2012). The formation of trust is affected by individuals' chronic disposition, contextual factors during interactions, and historical experiences with others (Kleiman et al., 2015; Lewicki et al., 2011). The traditional saying, "it takes twenty years to build trust but five minutes to ruin it," aptly describes the fragile nature of trust. Trusting is always risk-taking as the trustee can exploit the trustor. In this study, considering the definition of organizational trust proposed by Mayer et al. (1995), trust is defined as a temporary state reflecting one party's willingness to be vulnerable to the other party's action.

Trust is a complex construct containing multiple dimensions that vary in different domains. For example, Ring (1996) took the economic views and divided two distinct forms of trust as fragile and resilient. Ganesan and Hess (1997) distinguished interpersonal and organizational types of trust. Two trust dimensions: credibility and benevolence, are used. On the other hand, Rousseau et al. (1998) focused on organizational trust and proposed four types of trust: deterrence-based, calculus-based, relational, and institution-based. Cheung et al. (2011) developed a trust inventory that includes system-based, cognition-based, and affect-based trust in construction contracting. These perspectives are inspiring and provide sufficient sources for trust conceptualization. In this study, we adopted a commonly used classification in organizational management studies, which considers both the cognitive approach and the facet of emotion, named competence trust (i.e., cognitive trust) and goodwill trust (i.e., affective trust) (Dirks & Ferrin, 2002; Mayer et al., 1995; Zhang et al., 2016). The two forms of trust are derived from different theoretical views, as competence

trust focuses more on the character-based perspective while goodwill trust is more on the relationship-based perspective.

(1) Competence trust

Competence trust is a relatively rational evaluation of the other party about whether they can fulfill the required work. It develops based on past successful interactions, similar working experiences, or qualifications of the trustee (Mayer et al., 1995). Parties holding competence trust believe the trustors can accomplish the tasks considering their reliability of the resources and capabilities (Newell et al., 2019). This is essential to construction projects as there are always large scales of investment and high uncertainties (Pinto et al., 2009). The existence of competence trust can ease trustors' anxiety about the potential obstacles and believe in the success of the project. Nevertheless, competence trust will erode if they do not feel that the other parties possess the resources or ability to fulfill their commitments.

(2) Goodwill trust

Goodwill trust refers to one's perception of good faith or integrity from the trustee. It addresses the question, "will the other party consistently concern for my interests?" Goodwill trust is developed from the other party's ethical behavior and their unwillingness to take advantage of another person (Hartman, 2002). It is suggested that goodwill trust can reduce transaction costs and improve performance as both parties believe that the other party will act in the interest of their partnership (Dyer & Chu, 2003). When there are contingencies that go beyond the contractual obligations, goodwill trust can increase work flexibility and allow quick decisions to solve problems. The friendly communication, elimination of competitive behaviors, and voluntariness to contribute will come when goodwill trust is built (Pinto et al., 2009).

4.1.2 The Role of Trust in Construction Projects and Negotiations

Reported studies covering topics of leadership (Tan & Tan, 2000), communication (Cheung et al., 2013), commitment (Kwon & Suh, 2005), project-stakeholder relationship (Karlsen et al., 2008), and dispute resolution (Zhang et al., 2016) have indicated the critical role of trust in organizational management. The presence of trust is desirable as it can foster information exchange, reduce the transaction costs of monitoring, avoid opportunism, reinforce willingness to overcome risk/uncertainty, and cultivate a more harmonious working environment (Dyer & Chu, 2003; Woolthuis et al., 2005). Zhang et al. (2016) highlighted the role of trust as it can be a complementary means of contractual governance. Mutual trust allows parties to capture the "hearts and minds" of each other and motivates them to "go that extra mile" if it is necessary (Newell et al., 2019). It is therefore suggested that trust helps bond the members of the construction team (Wong & Cheung, 2004).

These merits of trust can also come into play in negotiations. This study argues that trust is one of the psychological bonding mechanisms that would foster cooperation

and positively influence negotiators' intention to settle. Given the inherent information asymmetry between the negotiating parties, they may take an opportunistic lens to assess the proposals from their counterparts (Cheung et al., 2011). Moreover, the act of openly asking and answering questions would expose parties' priorities and interests. Distrust is common in construction and would lead to endless disputes. Building trust can ease skeptical thoughts, facilitate negotiators' information sharing, and suppress negotiators' opportunistic behaviors (Brett & Thompson, 2016; Gunia et al., 2011). In addition, trust can also affect the choice of negotiation tactics and strategies. Zhang et al. (2016) found that goodwill trust would encourage negotiators to spend more time and even go beyond their obligations to do the other a favor; thus, negotiators with goodwill trust are more likely to take integrative instead of distributive approaches. Negotiators with competence trust were found to be highly committed to the relationship, which leads them to put more effort into seeking mutually acceptable solutions (Zhang et al., 2016). Even though trust-building is always challenging in construction, it is undeniable that trust is the glue between negotiating parties and can facilitate negotiators' choice to settle the differences.

4.2 Shared Vision

During project interactions, parties may develop shared vision. Shared vision means members having shared values, mutual goals, and mental models in a relationship (Li, 2005). In this regard, Nanus (1992) demonstrated shared vision as "a mental model of a future state of a process, a group, or an organization." Thoms and Greenberger (1995) indicated that shared vision is the psychological basis of an organization's motivation and work plans to achieve an ultimate goal. Pearce and Ensley (2004) described shared vision as "a common mental model of the future state of the team or its tasks that provides the orientation for action within the team." Chi et al. (2022) gave a definition in the context of construction projects as "a shared understanding of collaboration and appropriate methods of cooperation for all collective goals and directions as formed by stakeholders involved in projects." The function of shared vision is to delineate the expectations of task performance (Converse et al., 1993). The shared vision is regarded as a "top-level" psychological concept, and two parts of connotation can be summarized from its definition: shared understanding and action norms (Wang et al., 2021).

The role of shared vision has been widely recognized in the organizational arena. Wang et al. (2021) argued that shared vision could facilitate the adoption of specific behaviors (i.e., behavioral integration) that are valuable to the groups' goals. Parkhill et al. (2015) found that a high shared vision creates organizational principles, explains why certain futures are expected, and leads to related social actions. Chi et al. (2022) suggested the critical role of shared vision on value co-creation. Jacobson and Choi (2008) found that high commitment and shared vision among clients, contractors, and architects are key to project success. As a top-level psychological factor, shared vision can bring parties together and facilitate a series of variables conducive to

project cooperation and performance. As part of the significant work in construction projects, negotiation settlement should also be governed by the shared vision.

Due to the diversity of contradictions, the highly dynamic nature of the construction process, and the incompleteness of the contract, negotiators may have a fear of being exploited in negotiations, which leads them to be short-term vision and unwilling to cooperate with each other (Cheung & Pang, 2013; Wang et al., 2021). In this case, if parties have a well-developed shared vision, it would remind negotiators to have better coordination and work amicably to achieve their overall goal of the project (Shenhar & Holzmann, 2017). Specifically, shared vision, on the one hand, increases negotiators' mutual understanding of each other and the negotiated issues, thus reducing potential prejudice and friction during the negotiation process. On the other hand, their shared goal provides a good foundation for negotiators to communicate and exchange information, contributing to the negotiation efficiency. Therefore, shared vision can be regarded as the other psychological bonding mechanism for triggering negotiators' settlement intention in CDNs, which indicates that shared vision is also an incentive of intention to settle.

5 The Integrative Incentive/Disincentive Influence on Intention to Settle

Prior studies have provided valuable sources for identifying the I/D on negotiators' intention to settle. Based on the above discussion in this chapter, an integrative I/D framework on negotiators' intention to settle is portrayed in Fig. 5. Disputing issues to be negotiated and the negotiating parties are the two primary inputs of a CDN. During the negotiation, three aspects of I/D, including motivation, cognition, and psychological bonding, are having influence on the negotiators' intention to settle.

More specifically, the operation mechanism of the three levels of I/D is summarized as follows:

- (1) In the negotiation context, negotiators' motivation mainly describes how they value their interests. This is the intrinsic trigger at the intra-organizational level. Negotiation is a goal-directed process with negotiating parties having

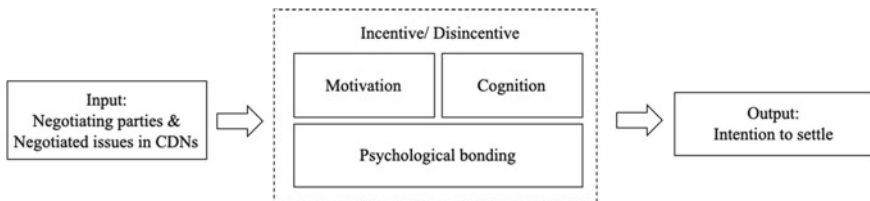


Fig. 5 The integrative influence of incentive/disincentive on intention to settle

different preferences, interests, or priorities. Their expectation of the negotiation outcomes informs their pursuit of prosocial or proself motives, and hence their settlement intention: prosocial motive encourages intention to settle while proself motive disincentives it.

- (2) In addition to the intrinsic motivation, how well the negotiation outcome can materialize the potential value of joint gains depends on the negotiation interactions (Brett and Thompson 2016). Relational cognition attributes (i.e., justice and power) that capture at the inter-organizational level underpin negotiators' position. It is believed that how negotiators view each other and value their relationship will directly affect their settlement intention. In terms of justice, negotiators' feeling of being fairly treated in the negotiation process and outcome can motivate negotiators to settle. However, if negotiators feel that they have a power advantage over their counterpart, they would take advantage of that and adopt a more competitive manner. The chance of settlement will thereby be impeded.
- (3) Except for the negotiation-related factors, negotiations are embedded in construction projects and should also be regulated by the project-level factors. It is proposed that trust and shared vision are the psychological bonding mechanisms to be developed for long-run cooperation that are not limited to dispute negotiation. These can be seen as the superior psychological determinants that have enduring effect on negotiation behaviors. High levels of trust and shared vision are conducive to the strengthening of the parties' relationships, reducing tension during negotiations, and promoting cooperation, hence explaining how psychological bonding regulates the intention of negotiators to reach a settlement.

6 Summary

Negotiation has been recognized as the most efficient method to resolve construction disputes. However, analyzing negotiating behavior is not practical without understanding the underlying settlement intention. This study argues that negotiators' intention to settle is indispensable for negotiated settlement. It is thus crucial to explain why negotiators intend to settle or not. In this regard, a thorough literature review is conducted to identify what facilitates (i.e., incentive) or impedes (i.e., disincentive) negotiators' intention to settle. Three levels of agents are summarized: (i) social motive (i.e., prosocial and proself motive) at the intra-organizational level; (ii) relational cognition (i.e., justice and power) at the inter-organizational level; and (iii) psychological bonding (i.e., trust and shared vision) at the project level. Incentives/disincentives explain why and how negotiators develop settlement intention. Creating an environment conducive to settlement can therefore be deployed by fostering incentives and suppressing disincentives.

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