

Assessment of Dispute Resolution Methods in Building Construction Industry in Ogun State.

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ABSTRACT

Construction is a vital sector fostering economic expansion and development in Ogun State, Nigeria. However, conflicts and disagreements are a natural part of the intricate dynamics of construction projects, and the success of dispute resolution techniques has a big impact on project outcomes. This study investigates the frequency and characteristics of construction conflicts in Ogun State through a combination of literature review and stakeholder focus group discussions. The underlying causes of disagreements, covering problems with contracts, designs, delays, disagreements over payments, and issues with quality was dealt with. The study also looks at how accessible, understandable, and well-known various dispute resolution techniques are among those involved in the construction business, such as owners, consultants, and contractors. The study's findings provide important new information about the dispute-resolution practices in Ogun State's building construction sector. This research helps to establish methods for enhancing conflict resolution procedures by identifying obstacles and best practices, creating a more favourable climate for successful and long-lasting construction projects. This information is crucial for stakeholders, decision-makers, and practitioners because it can improve project delivery, lower project risks, and foster peaceful relationships within the construction industry.

INTRODUCTION

The building construction industry is often marked by complex contractual relationships, varying interests, and unforeseen challenges, leading to the occurrence of disputes. Effective dispute resolution is crucial for the successful completion of construction projects. In the context of Ogun State, Nigeria, it is important to assess the various dispute resolution methods employed in the industry to identify their effectiveness, advantages, and shortcomings. This systematic literature review aims to synthesize existing research on the assessment of dispute resolution methods in the building construction industry in Ogun State.

Dispute is said to be a form of disagreement between two or more parties. It is often described in the form of if there is an interaction between two or more parties or companies, and one party believes that his or her interests are not the same as those of the others, there will be a dispute (Neale and Kleiner 2001).

LITERATURE REVIEW

Construction Industry Stakeholders:

Organizations and individuals are actively involved in various types of construction projects, or their interests may be negatively or positively impacted by the project's conclusion (Eyiah, Aigbavboa, Ohis, Thwala and Wellington, 2016). Who are these stakeholders, what are their interests, and how can they be managed? is the question, according to Eyiah et al. (2016). Construction stakeholders are a group of persons

with an interest in a project, according to Chinyio and Akintoye (2008). According to Gebken and Gibson (2006) and Ning and Ling (2013), the stakeholders in construction are architects, engineers, builders, contractors, owners, suppliers, and subcontractors. Internal and external stakeholders can be distinguished (Atkin and Skitmore, 2008). Internal stakeholders, such as employees, owners, suppliers, and customers, are those who are directly involved in an organization's decision-making process, while external stakeholders, such as local authorities, local communities, neighbors, and the general public, are those who are significantly impacted by the organization's activities, according to Atkin and Skitmore (2008).

Stages in construction disputes:

Disputes in the construction industry in Nigeria can occur at various stages of a construction project. These disputes can be complex and often lead to delays, increased costs, and strained relationships among project stakeholders. The stages of disputes in the construction industry in Nigeria typically include:

1. **Pre-construction Stage:** Design and Planning Phase: Disputes may arise during the initial stages of a project when there are disagreements over project design, specifications, or scope of work (Agboola, 2016).
2. **Contract Formation Stage:** Conflicts may be seen during the tendering and bidding process when contractors believe they have been unfairly treated or when there are allegations of bid rigging, which may be a product of ambiguities, omissions, or inconsistencies in the contract documents. These can include disagreements over payment terms, project timelines, and scope changes (Owolabi et al., 2021).
3. **Construction stage:** Disputes are very common in this stage due to issues such as delays, cost overruns, variations in work, defective workmanship, and safety concerns. All which the many times there are different views and interpretation of issues from different concerns, amongst other reason for disputes in the construction stage is the disagreements regarding the quality of materials used and the quality of work performed (Ogunsanmi & Otunola, 2017).
4. **Post-construction Stage:** Literature has shown that disputes can emerge after project completion related to warranty claims and maintenance obligations Owolabi et al., 2021. According to agboola in 2016, he also revealed that project conflicts may also arise when determining final project costs, resolving claims for extra work, or addressing payment disputes.

Dispute Resolution Methods and Stage:

It's important to note that disputes can arise at any point in the construction process, and their resolution may vary based on contractual arrangements and the willingness of parties to engage in dispute resolution mechanisms. There is always a clause in contract agreement which often comes with arbitration. Though, several test and advocacy has made other ADR methods be pronounced in recent times. When ADR fails then the only option remains litigation.

Parties may choose to resolve disputes through ADR methods like mediation or arbitration, which are increasingly common in the Nigerian construction industry, Some disputes may escalate to litigation, leading to legal proceedings in Nigerian courts (Ogunsanmi & Otunola, 2017).

COMPARATIVE ANALYSIS OF DIFFERENT DISPUTE RESOLUTION METHODS

Disputes are widespread in the construction sector, frequently resulting from problems like delays, flaws, payment disagreements, or varying interpretations of contractual responsibilities. There are numerous conflict resolution techniques at one's disposal, each with unique benefits, drawbacks, and applicability for

certain kinds of construction problems.

1. **Litigation:** The traditional mode of litigation has the benefit of enforceable court rulings that are binding. But it may be expensive, time-consuming, and strain relationships between parties; therefore, it works best in complex conflicts with big financial stakes or important legal issues. Agboola, (2016).
2. **Arbitration:** With the ability for parties to choose arbitrators with the necessary experience, arbitration offers a more adaptable and private substitute for litigation. Arbitration can be costly even though it is typically quicker than litigation, and the arbitrator's ruling may have an impact on the final result. When parties want to settle their differences quickly and in private, this method is frequently chosen. Lawal, D. U., & Oyegoke, A. S. (2019).
3. **Mediation:** Through cooperation and communication, mediation keeps power over the resolution in the hands of the parties involved. Although it is usually less costly than litigation or arbitration, it is not legally binding and mainly depends on the parties' desire to communicate. When parties are willing to negotiate a compromise and relationship preservation is a top priority, mediation can be an appropriate resolution for their conflict. Agboola, (2016).
4. **Negotiation:** The most casual and adaptable approach is negotiation, which gives parties complete control over the process and direct communication. However, in situations when parties are prepared to work directly together, negotiation is more appropriate for less complex issues because it can be hampered by power imbalances and the absence of an impartial third party. Lawal, D. U., & Oyegoke, A. S. (2019).
5. **Dispute Review Boards (DRB):** this provide timely resolutions by providing continuing counsel tailored to each project. DRBs can stop disagreements from getting worse by appointing an impartial panel of experts to make decisions, but they don't always result in legally binding rulings and need cooperation from all sides. Large construction projects where disagreements are expected and prompt settlement is essential are a good fit for them.
6. **Adjudication:** In cases of financial issues in particular, adjudication offers provisional rulings to maintain project momentum. Although it provides speedy decisions and construction law expertise, decisions could be transitory and open to revision. While adjudication may not be available in all jurisdictions, it is a good option for settling urgent issues that arise during construction. Fenn, Paul, and Alistair Young, 2011

SUITABILITY OF DISPUTE RESOLUTION TO EXISTING DISPUTES

Numerous problems in the building business, from delays and poor design to payment conflicts and contract violations, can give rise to construction disputes. The type and complexity of the conflict, as well as the preferences of the parties, determine which dispute resolution techniques are most appropriate. List of the appropriate methods of various dispute settlement are shown below:

1. **NEGOTIATION:** In construction conflicts, negotiation is frequently the first step towards a mutually acceptable resolution since it enables parties to address their disagreements without the involvement of third parties. When the parties have a positive working relationship or are dealing with minor concerns, it can be especially helpful. However, when there is a large power disparity between the parties in a complex issue, bargaining might not be the best course of action. Sweet, David. 2018
2. **MEDIATION:** In order to help the parties find a settlement, a third party who is impartial mediates the dispute. Parties have influence over the outcome thanks to its adaptable and cooperative procedure. When parties to a conflict are eager to work together but need help establishing common ground, mediation may be helpful. It is a more affordable alternative to litigation or arbitration for settling construction issues because it is less formal and time-consuming. Fenn, Paul, and Alistair Young, 2011
3. **ARBITRATION:** An arbitrator, or panel of arbitrators, hears evidence and arguments from both

sides and then makes a ruling in a private and legally binding arbitration. It is similar to a mini-trial and provides a more formal and structured approach than mediation. Because of its enforceability of verdicts, confidentiality of proceedings, and experience of arbitrators, arbitration is frequently preferred in construction contracts. But it can be costly and time-consuming, especially if there are a lot of hearings and discovery phases to the procedure. (ICC International Court of Arbitration, 2017)

4. **LITIGATION:** Litigation is the process of settling conflicts in court, with a judge or jury rendering a decision based on the relevant legal statutes and the evidence that the parties have provided. Although litigation offers a structured and reliable approach to settle construction disputes, it is sometimes the most costly and time-consuming choice. Antagonism in court procedures can also cause tension in the parties' relationships. When alternative conflict resolution techniques have failed or when there are important legal issues at stake, litigation is usually undertaken. (ICC International Court of Arbitration, 2017)

METHODOLOGY

This paper used qualitative approach with the aid focus group discussion, as the aim of the study centers around assessment of alternative dispute resolution in the construction industry, the challenges of alternative dispute resolutions among the building industry professional and investigate its impacts on project delivery with the identified solutions from the discussion. According to Owusu-Manuet. et. al., (2015), a review of literature helps to identify, select and critically appraise research in order to answer clearly formulated question(s). It is also expected to follow a clearly defined protocol or plan where the criteria are clearly stated before the discussion is conducted, as presented with research questions in this study. According to Tahir et. al., (2018) analysis, the following assessment framework outlines key factors to consider and provides references to support the evaluation.

Participants Selection

Questions related to the objectives were provided. Based on their demographics and experiences, professionals that fit the questions were shortlisted. After that, they were contacted to inquire about their interest and availability. It was challenging to find individuals who would offer valuable insights and contribute to the research's goals. The final group of eight participants were selected based on their knowledge, availability, and willingness to participate in an open dialogue and express their ideas. The information's purpose and intended audience were made clear to the participants, who were also assured that the privacy and confidentiality of the personal data obtained would be maintained.

FINDINGS AND DISCUSSIONS

Focus Group Discussion

The discussion is aimed to gather insights on the existing disputes resolution methods, challenges, and opportunities to help facilitate a fruitful discussion among building industry professionals and shed light on their experiences and perspectives regarding communication challenges

The discussion took place at the ongoing renovation work at the Central Bank, Abeokuta branch site office on 19th September, 2023 by 3pm, after the statutory weekly technical meeting. The discussion lasted for 40 minutes, the session was recorded using a mobile phone recorder. The content was thereafter transcribed manually.

The discussion was used to assess the dispute resolution methods within the building construction industry in Ogun state with the objective of gathering insights from various stakeholders, including contractors,

architects, engineers, government representatives, and community members, to better understand the current state of dispute resolution and identify potential improvements. Below are the outcomes of the discussion:

Identification of Key Issues:

Participants in the focus group discussion identified several key issues related to dispute resolution in the building construction industry in Ogun State. These issues included:

1. **Lack of Awareness:** Many stakeholders were unaware of the existing dispute resolution mechanisms and options available to them.
2. **Lengthy Processes:** Participants expressed frustration with the time-consuming nature of formal dispute resolution processes, such as litigation and arbitration.
3. **Costly Proceedings:** High legal and administrative costs associated with formal dispute resolution methods were a significant concern for both contractors and project owners.
- iv. **Limited Access to Information:** Lack of access to relevant information and resources related to dispute resolution was a common problem, especially for smaller construction firms and community members.

Preferred Dispute Resolution Methods:

During the discussion, participants shared their preferences for alternative dispute resolution methods. These included:

1. **Mediation:** Many participants advocated for the promotion of mediation as a primary method of resolving disputes. They believed that it could be a quicker and more cost effective way to reach mutually beneficial solutions.
2. **Dispute Resolution Committees:** Participants proposed the establishment of local committees comprising industry experts, community representatives, and government officials to address disputes at an early stage.
3. **Training and Awareness Programs:** Stakeholders emphasized the need for educational programs to increase awareness about dispute resolution methods and make information accessible to all.

Role of Government and Professional Bodies:

The focus group discussion highlighted the crucial role that government agencies and industry associations can play in improving dispute resolution in the construction sector. Participants suggested:

Developing Clear Guidelines: Government bodies should develop and disseminate clear guidelines on dispute resolution processes and provide support to enforce them.

Accreditation of Mediators: Participants recommended the establishment of a system to accredit and train mediators, ensuring their competence and impartiality.

Collaborative Initiatives: Industry associations should collaborate with government agencies to create a framework for effective dispute resolution and facilitate training programs for stakeholders.

Community Involvement:

The discussion underscored the importance of involving local communities in the dispute resolution process, especially when construction projects impact their lives. Participants recommended the inclusion of community representatives in dispute resolution committees.

CONCLUSION AND RECOMMENDATION

In conclusion, the discussion provided valuable insights into the challenges and potential solutions for enhancing dispute resolution methods in the building construction industry in Ogun State. The identified recommendations and next steps will serve as a roadmap for stakeholders to work collaboratively towards a more efficient and accessible dispute resolution system in the region. It is therefore recommended that a task force comprising stakeholders from the construction industry, government, and local communities would be formed. This task force would work together to develop a comprehensive strategy for improving dispute resolution methods in Ogun State's building construction industry. The strategy would encompass elements such as mediation promotion, awareness campaigns, and the establishment of local dispute resolution committees.

REFERENCES

1. Agboola, O. O. (2016). Causes and Effects of Construction Disputes in Nigeria. In Proceedings of the 2016 International Conference on Industrial Engineering and Operations Management (IEOM), Kuala Lumpur, Malaysia.
2. Owolabi, J. D., Ajayi, S. O., & Ayodeji, O. E. (2021). Factors Influencing Construction Disputes in Nigeria: A Delphi Study. In Proceedings of the 2021 Construction Research Congress (CRC), San Diego, USA.
3. Ogunsanmi, O., & Otunola, O. (2017). Causes and Resolution of Construction Disputes in Nigeria. In Proceedings of the International Conference on Construction in a Changing World, Heritance Kandalama, Sri Lanka.
4. Smith, J. A., & Johnson, M. P. (2017). Dispute resolution mechanisms in the construction industry: A comparative analysis. *Construction Management and Economics*, 35(1), 37-53.
5. Ogunlela, A. O., & Aigbavboa, C. O. (2019). Assessment of dispute resolution methods in construction projects in Nigeria: Contractors' perspective. *Journal of Legal Affairs and Dispute Resolution in Engineering and Construction*, 11(2), 04519005.
6. Adegbemile, O. J., & Dada, J. O. (2016). Evaluation of dispute resolution methods in the Nigerian construction industry. *International Journal of Construction Management*, 16(1), 60-73.
7. Adegoke, R. A., & Dahunsi, A. O. (2020). Comparative analysis of construction dispute resolution methods in Nigeria. *Journal of Construction Engineering, Management, and Innovation*, 2(3), 157-165.
8. Oyediran, O. O., & Afolabi, A. O. (2015). Dispute resolution in construction projects: A case study of Ogun State, Nigeria. *International Journal of Construction Management*, 15(1), 1-12.
9. Ogunbekun, E. O., & Aduwo, E. B. (2018). Evaluating the effectiveness of arbitration as a dispute resolution mechanism in construction projects: A case study of Ogun State, Nigeria. *Journal of Engineering, Project, and Production Management*, 8(2), 75-84.
10. Lawal, D. U., & Oyegoke, A. S. (2019). Challenges of arbitration in construction dispute resolution: Perspective from Ogun State, Nigeria. *International Journal of Engineering Research and Technology*, 12(8), 1144-1149.
11. Fenn, Paul, and Alistair Young. "Construction Dispute Resolution: Choices and Challenges." *Construction Law Journal*, vol. 27, no. 1, 2011, pp. 17-38.
12. Sweet, David. *Construction Law: General Principles*. 3rd ed., Informa Law from Routledge, 2018.
13. International Chamber of Commerce. "ICC Dispute Resolution Bulletin: Special Supplement on Construction Arbitration." ICC International Court of Arbitration, 2017.