

## **Contract Disputes and Conflict Resolution in Building Projects: Lessons from Anambra State Government Projects 2015-2022**

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### **Abstract**

*The research studied contract disputes and conflict resolution in building projects in Anambra State. The research adopted a qualitative design. A mixed methods approach was deployed. A scoping review of literature was done, followed by a survey that was carried out by means of a structured questionnaire to elicit information on contract disputes and resolution in Anambra State building projects from 2015 to 2022. The survey results revealed a notable occurrence of conflicts, specifically contract disputes, within the construction initiatives of the state government. In order to optimize conflict resolution in the context of state government construction projects, the research recommends that prioritizing clear contract language, cultivating efficient communication strategies, and encouraging preemptive conflict resolution planning be undertaken. It is advisable to utilize stakeholder collaboration, continuous training, along with legal expertise in order to effectively prevent and manage conflicts.*

**Keywords:** *construction, conflict resolution, contract dispute, building project,*

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### **1.0 Introduction**

Globally, the building industry is an indispensable catalyst for infrastructure development and economic growth. This industry is of significant importance in Nigeria as it contributes to the country's economic expansion, job creation, and overall well-being of its populace (Fenn et al., 1997). Anambra State, located in the southeastern sector of Nigeria, has undergone an extraordinary period of economic expansion and diversification throughout the previous decade.

Acknowledging the criticality of infrastructure development for the maintenance of this expansion, the Anambra State Government initiated a comprehensive program of construction endeavours encompassing housing, education, healthcare, transportation, and public utilities. From 2015 to 2022, these initiatives were launched in an effort to meet the changing demands of the general public.

Nevertheless, the effective implementation of these initiatives encountered a multitude of obstacles, such as setbacks, financial overruns, and disagreements between contractors and governmental entities (Hughes & Champion, 2008). The construction industry has extensively documented these challenges, and their influence on the outcome of projects and the sector at large is of the utmost importance.

Contract disputes have consistently emerged as a significant concern within the construction industry. Changes in the project's scope, design deficiencies, payment complications, and construction setbacks are all potential causes (Allen & Stephenson, 2008). Contract disputes can lead to significant ramifications, including but not limited to legal conflicts, financial setbacks, strained stakeholder relationships, and project delays (Fenn et al., 1997).

Effective conflict resolution methods are critical for assuring the prompt conclusion of building jobs and addressing these disputes. A multitude of conflict resolution strategies have been investigated within the construction industry, including litigation and negotiation (Gotanda, 2008). Every single one of these approaches has its own set of merits and demerits, and the selection of a particular approach frequently hinges on the particular details of the disagreement and the inclinations of the parties concerned.

The construction projects of Anambra State offer an exceptional setting in which to examine conflict resolution and contractual disputes. Significant economic expansion in the state has increased the need for infrastructure development. Nonetheless, the implementation of these initiatives has encountered obstacles including insufficient mechanisms for resolving disputes and prolonged timelines (Mosey, 2004). It is crucial to comprehend the intricacies of contract conflicts and dispute resolution in the particular context at hand. A comprehensive comprehension of the distinct challenges and opportunities that each region entails is critical for the achievement of successful management of projects (Mosey, 2004). Through an investigation of contract disagreements and conflict resolution methods in Anambra State, this study seeks to provide significant contributions that can aid in the improvement of project management procedures in the area.

## **2.0 Literature Review**

The construction sector is an essential pillar of global infrastructure development and economic progress, exerting significant influence over job creation and economic expansion. Whereas this trend is exemplified in Anambra State, which is located in southeastern Nigeria, this sector is of equal importance in Nigeria. In recent years, Anambra State has witnessed an unprecedented expansion and diversification of its economy.

Priority has been placed on infrastructure development in the state's development plan. In response to the changing demands of the population, the Anambra State Government initiated a considerable quantity of construction initiatives spanning multiple sectors, such as housing, education, healthcare, and transportation. These initiatives, which were launched from 2015 to 2022, are fundamental to the state's sustainable economic development strategy.

Nevertheless, a multitude of obstacles have impeded the effective implementation of these initiatives—such as setbacks, financial overruns, and conflicts arising between contractors and governmental entities (Hughes & Champion, 2008). Contract disputes have become a recurring concern within the construction industry, exerting an impact on project results, schedules, and stakeholder relationships (Acharya & Lee, 2006).

## 2.1 Conflict Resolution Strategies In Construction Projects

In order to ensure the timely and cost-effective completion of construction projects, it is vital to resolve contract disputes and conflicts. In the building industry, a wide range of ways to resolve disputes are implemented, each possessing its own set of benefits and drawbacks. These strategies are summarized in this below:

### 2.1.1 Negotiation

Constructive initiatives frequently employ negotiation as a means of resolving disputes. All involved parties—owners, contractors, and subcontractors—engage in direct dialogue in an effort to arrive at solutions that are acceptable to all parties. Negotiation is frequently employed to resolve matters including change orders, payment disputes, and project scope, while also allowing parties to retain authority over the procedure and results (Fenn et al., 1997).

Negotiation is an essential approach to resolving conflicts that finds application across diverse sectors, such as business, diplomacy, and notably, the construction industry. This adaptable methodology is distinguished by the practice of direct dialogue and consultation among entities with divergent interests, with the ultimate goal of attaining a consensus that is satisfactory to all. Construction projects involve the collaboration of various stakeholders on intricate undertakings, and negotiation is a critical factor in resolving disputes and guaranteeing the achievement of the project.

Successful negotiation relies on several principles and techniques that guide the process. These principles include:

1. **Voluntary Participation:** Negotiation is a voluntary process in which parties choose to engage. It involves a willingness to communicate and explore potential solutions. In the construction context, this means that all involved parties, such as owners, contractors, and subcontractors, come to the negotiation table by their own choice.
2. **Communication And Information Sharing:** Effective negotiation hinges on open and transparent communication. Parties must express their needs, concerns, and objectives clearly. Information sharing allows each side to understand the other's perspective and facilitates the search for common ground.
3. **Mutual Benefit:** Negotiation seeks to find mutually beneficial solutions where all parties gain something of value. It is not a zero-sum game where one side's gain and the other's loss. This principle encourages creative problem-solving and collaborative decision-making.

4. **Flexibility:** Negotiation is adaptable and responsive to changing circumstances. Parties can adjust their positions and explore new options as discussions progress. This flexibility allows negotiations to evolve as conflicts are better understood (Lewicki, Saunders, & Barry, 2015).
5. **Objective Criteria:** Negotiations often benefit from relying on objective criteria or standards to evaluate proposals. In construction, these criteria may include project specifications, industry standards, and legal requirements. Utilizing objective criteria helps ensure fairness and transparency (Fisher, Ury, & Patton, 2011).
6. **Batna (Best Alternative To A Negotiated Agreement):** Each party in a negotiation should be aware of their BATNA, the best course of action they can take if the negotiation does not yield a satisfactory outcome. Knowing one's BATNA provides leverage and helps set realistic expectations.

Numerous benefits are associated with negotiation in construction undertakings. It facilitates customized resolutions, maintains professional connections, and may prove economical in contrast to formal legal procedures such as arbitration or litigation. Collaboration is promoted through negotiation, which allows involved parties to effectively resolve conflicts while retaining authority over the process (Lewicki, Saunders, & Barry, 2015).

Nevertheless, negotiation poses certain difficulties. Effective communication, a readiness to make concessions, and a dedication to identifying solutions that benefit all parties are essential attributes. Partnerships require an investment of time and effort from all parties involved, and the absence of cooperation does not ensure a successful outcome.

### 2.1.2 Mediation

A mediator, an impartial third party, facilitates the resolution of a dispute between disputing parties so that all parties are able to reach a resolution that is satisfactory to all. Mediation promotes effective communication, facilitates the identification of shared interests, and stimulates innovative approaches to problem-solving. In construction disputes, it is favored over litigation due to its capacity to maintain professional relationships and decrease expenses and time (Allen & Stephenson, 2008).

Cheung and Yiu (2006) assert that mediation is an extensively utilized and esteemed method of resolving conflicts, finding application in a multitude of sectors such as healthcare, law, and most notably, the construction sector. A neutral individual, commonly referred to as the mediator, facilitates this process by aiding the disputing parties in their endeavor to achieve a resolution that is agreeable to all involved. Within the realm of construction projects, where complex dynamics and numerous stakeholders are at play, mediation assumes an indispensable function in resolving disputes and cultivating cooperative efforts.

Mediation, according to Moore (2014), relies on several key principles and techniques that guide the process:

1. **Neutrality And Impartiality:** Mediators must maintain strict neutrality and impartiality throughout the mediation process. They do not take sides, provide legal advice, or make decisions for the parties. This neutrality is essential to create an environment where all parties feel heard and respected.
2. **Voluntary Participation:** Mediation is a voluntary process, and parties participate willingly. They have the autonomy to decide whether to engage in mediation and whether to accept the proposed resolution. This voluntary aspect distinguishes mediation from other conflict resolution methods.
3. **Confidentiality:** Confidentiality is a fundamental element of mediation. Discussions, documents, and information shared during the mediation process are kept strictly confidential. This confidentiality fosters open and honest communication, as parties can freely express their concerns without fear of disclosure (Folberg, Milne, & Salem, 2004).
4. **Self-Determination:** Mediation empowers parties to make their own decisions. The mediator facilitates the conversation but does not impose solutions. Self-determination means that the parties have control over the outcome and can craft solutions that best align with their needs and interests.
5. **Collaboration And Communication:** Effective communication is essential in mediation. The mediator encourages open dialogue, active listening, and respectful interaction among parties. Collaborative problem-solving is a central objective, with parties working together to find common ground (Folberg, Milne, & Salem, 2004).

Mediation presents a multitude of noteworthy benefits within the context of construction undertakings. By fostering constructive communication, it enables stakeholders to maintain professional relationships while effectively resolving conflicts. As well as being frequently more expedient and economical than litigation or arbitration, mediation also grants the disputing parties greater autonomy over the process of resolving the dispute.

Nevertheless, mediation does pose certain difficulties. Skilled mediators are necessary in this context to facilitate constructive dialogues and steer parties in the direction of mutually acceptable resolutions. Effective mediation is contingent upon all parties' readiness to participate in good faith and make a sincere effort to identify areas of agreement. When parties are resistant to cooperating, the efficacy of mediation may be compromised.

### 2.1.3 Arbitration

Arbitration is a formal method of resolving disputes in which a tribunal or arbitrator, who is impartial, renders a legally binding decision after hearing evidence and contentions from both parties. The inclusion of arbitration clauses in construction contracts renders it a prevalent mechanism for resolving disputes. Although its rulings are generally conclusive, it is frequently more expedient and economical than litigation (Diekmann et al., 1994).

Arbitration is a formal and extensively employed mechanism for resolving conflicts across diverse sectors, including international relations, business, and most notably, the construction industry. The structured procedure entails the participation of an arbitrator or tribunal of arbitrators, an impartial third party, who issues a legally binding judgment subsequent to evaluating the evidence and arguments presented by both disputing parties. Arbitration provides a systematic methodology for conflict resolution in the realm of construction projects, thereby mitigating the temporal and financial burdens typically associated with litigation.

According to Savage (2008), and Lew (2019), arbitration is guided by specific principles and practices that distinguish it as a dispute resolution mechanism:

1. **Impartiality And Neutrality:** Arbitrators are required to be impartial and neutral. They do not have a vested interest in the outcome and do not take sides. Their role is to objectively evaluate the evidence presented by both parties and render a fair decision.
2. **Formality And Legal Framework:** Arbitration proceedings adhere to formal rules and procedures, often outlined in arbitration agreements or relevant laws. Parties typically select arbitration as their chosen dispute resolution method when drafting contracts, and these contracts define the parameters of the arbitration process.
3. **Binding Decision:** One of the distinguishing features of arbitration is that the arbitrator's decision is binding on the parties involved. Unlike mediation or negotiation, where parties voluntarily agree to a resolution, arbitration results in a legally enforceable decision that both parties must adhere to.
4. **Arbitrator Selection:** Parties have the opportunity to participate in the selection of the arbitrator or arbitrators, often choosing individuals with expertise in construction law and industry practices. This allows for a degree of customization in the arbitration process.
5. **Formal Hearings:** Arbitration proceedings can include formal hearings where evidence is presented, witnesses are called, and arguments are made by each party. The arbitrator presides over these hearings, ensuring that due process is followed.

Arbitration in construction endeavors presents a multitude of benefits. It frequently demonstrates a quicker pace than litigation, resulting in time savings and diminished disruptions to projects. It affords the involved parties a certain level of autonomy regarding the choice of the arbitrator and the arbitration procedure in its entirety. In addition, arbitration decisions furnish parties with a definitive and conclusive resolution and are legally binding and enforceable (Lew, 2019).

Nevertheless, arbitration does pose certain difficulties. It may incur substantial financial burdens, including arbitrator fees and administrative costs. Arbitration's formalities may contribute to a more adversarial environment in contrast to alternative dispute resolution methods such as mediation. Due to the legally binding nature of arbitration decisions, parties who disagree with the result have limited recourse (Savage, 2008).

#### 2.1.4 Legal Recourse

Generally, legal recourse consists of litigating a dispute in court as an absolute last resort. A contest may be protracted, expensive, and adversarial. Nevertheless, it provides a methodical legal procedure that might prove indispensable in situations where alternative approaches to resolving conflicts prove inadequate. Construction disputes that are litigated may pertain to matters such as non-payment, negligence, or breach of contract (Gotanda, 2008).

Legal recourse, which is alternatively referred to as litigation, is a recognized and structured approach employed to adjudicate construction disputes via the court system. In situations where mediation, negotiation, or arbitration fail to produce a mutually agreeable resolution, disputing parties may resort to litigation in order to reach a settlement. Filing a lawsuit, introducing evidence, and submitting a case to a judge or jury for a binding verdict comprise litigation. Legal recourse is frequently regarded as a final option in construction projects owing to its formal, expensive, and time-consuming characteristics.

Legal recourse, according to Peckar & Abramson (2017), as a conflict resolution mechanism, involves several key aspects:

1. **Filing a Lawsuit:** The legal recourse process begins with one party (the plaintiff) filing a formal complaint or lawsuit against another party (the defendant). This document outlines the claims, grievances, and the desired outcome. The defendant responds with an answer, and the litigation process commences.
2. **Discovery:** Discovery is a critical phase of litigation. During this stage, both parties gather evidence, including documents, witness statements, and expert reports, to support their respective positions. Discovery tools may include depositions, interrogatories, requests for documents, and subpoenas (Semple *et al.*, 1994).
3. **Pretrial Proceedings:** Before a trial date is set, pretrial proceedings occur. These include motions, hearings, and negotiations aimed at resolving the dispute before it goes to trial. Settlement discussions may take place during this stage.
4. **Trial:** If a dispute cannot be resolved before trial, the case proceeds to court. Parties present their evidence and arguments to a judge or jury, who will make a final, binding decision on the matter. Trials can be lengthy, complex, and expensive affairs.
5. **Appeals:** After a trial, either party has the option to appeal the decision if they believe there were legal errors or other grounds for appeal. The appellate court reviews the case and may uphold, overturn, or modify the lower court's decision.

There are numerous benefits associated with seeking legal recourse in construction disputes. It provides a structured and formal procedure accompanied by predetermined rules and protocols. The binding and enforceable nature of court decisions brings an end to the dispute. In addition,

when all other options have been exhausted, legal recourse may be considered a last resort (Semple et al., 1994).

In construction endeavours, litigation does, nevertheless, present a number of formidable obstacles. It is frequently the most costly and time-consuming method of resolving conflicts. Legal proceedings may cause extended project delays and escalated expenses for the involved parties. Collaboration among project stakeholders may be strained due to the contentious nature of litigation (Peckar & Abramson, 2017).

### 2.1.5 Renegotiation

The proactive approach to resolving disputes is through renegotiation. In order to accommodate new circumstances or issues that may arise during a construction project, the involved parties may elect to renegotiate certain provisions of the contract. The parties are able to adapt to shifting conditions and reduce disputes through renegotiation.

Renegotiation is a proactive approach to resolving conflicts that enables construction project participants to reexamine and modify the provisions of their contractual agreements in response to unanticipated challenges or changes. In contrast to alternative approaches to conflict resolution that are frequently instigated by disputes, renegotiation is a voluntary process undertaken by the involved parties in order to accommodate the changing circumstances of the project. It functions as a collaborative and problem-solving mechanism amidst conditions of uncertainty.

According to Fenn *et al.*, (1997), renegotiation as a conflict resolution strategy involves several key aspects:

1. **Voluntary Initiation:** Renegotiation is initiated voluntarily by the parties involved, often driven by the recognition that changes or challenges in the project require adjustments to the original contract terms.
2. **Collaboration And Communication:** Effective renegotiation relies on open and transparent communication between parties. It encourages collaborative problem-solving, where parties work together to find mutually beneficial solutions.
3. **Contractual Adjustments:** Renegotiation typically results in adjustments to the existing contract terms. These adjustments may involve changes in project scope, timelines, costs, or other relevant aspects of the agreement.
4. **Risk Allocation:** Renegotiation allows parties to reconsider the allocation of risks and responsibilities in light of new information or unexpected events. It enables a more equitable distribution of risks when necessary.
5. **Record Keeping:** A formal record of renegotiation discussions and any resulting changes to the contract is essential to maintain transparency and accountability.



Regulatory or environmental standard modifications may have an effect on the viability and adherence to a project. The parties are able to assess the impact of regulatory changes and make any necessary adjustments to the project plan through renegotiation.

Renegotiation in construction initiatives presents a multitude of benefits. It facilitates cooperation and resolution of issues, enabling participants to adjust to evolving conditions while upholding professional connections. It can increase the efficiency of an undertaking and reduce expenses by addressing problems promptly. Additionally, renegotiation permits the development of solutions that are specific to each project's requirements (Fenn et al., 1997).

However, renegotiation is not without its difficulties. All parties involved must demonstrate a willingness to cooperate and engage in effective communication. The process of renegotiation can consume a significant amount of time, and any potential delays in reaching agreements could have an effect on the schedule of the project. Additionally, parties must ensure that any modifications to the agreement are legally solid and properly documented.

### **3.0 Research Methodology**

The research adopted a qualitative design. A mixed methods approach was deployed. A scoping review of literature was done, followed by a survey that was carried out by means of a structured questionnaire to elicit information on contract disputes and resolution in Anambra State building projects from 2015 to 2022.

### **4.0 Discussion of Findings**

With differing degrees of expertise in the field, the fifteen architects as well as five construction managers who participated in the survey were the respondents. With a range of 1-5 years of experience, half of the respondents possessed more than 5 years of work experience in the field. Significantly, thirteen of the twenty participants reported having participated in state government construction initiatives in Anambra State within the designated period.

Conflicts have been reported by eleven respondents within the last seven years. Environmental concerns, contractual disputes, and design disagreements were the most frequently reported categories of conflict. Additional types of conflicts that were less common included disputes over resource allocation, modifications to the project's scope, and delays in the schedule.

Contract disputes were predominantly triggered by modifications to the scope of work and terms and conditions of the agreement. In addition, there were references to payment disputes, interruptions, extensions, and quality-related concerns.

The prevailing approaches utilized to resolve conflicts were arbitration and negotiation. Renegotiation and mediation were utilized less frequently. It is noteworthy that each respondent refrained from mentioning legal action.

It has been reported that arbitration is the most efficacious method of resolving contractual disputes. It was reported that negotiation as well as renegotiation were effective, although not as effective as arbitration. None of the respondents regarded mediation or legal recourse as efficacious strategies.

### **5.1 Conclusion and Recommendations**

The survey results revealed a notable occurrence of conflicts, specifically contract disputes, within the construction initiatives of the state government. In order to optimize conflict resolution in the context of state government construction projects, the research suggests that prioritizing clear contract language, cultivating efficient communication strategies, and encouraging preemptive conflict resolution planning be undertaken. It is advisable to utilize stakeholder collaboration, continuous training, along with legal expertise in order to effectively prevent and manage conflicts.

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