

EVALUATION OF CONSTRUCTION CONTRACT DISPUTE BETWEEN THE CLIENTS AND CONTRACTORS IN NIGERIA (ONDO STATE AS A CASE STUDY)

E. O. Aiyewalehinmi¹ & Lucky Nkumah

Department of Civil and Environmental Engineering
The Federal University of Technology, Akure, NIGERIA

ABSTRACT

Construction projects embody a complex set of human relationship, different individuals are involved. Equally Construction project entails legal binding principle. Conflicts arise when individual attempting to claim his or her interests in accordance with predetermined agreement. This type of problem can degenerate to dispute between/among contracting parties especially when individual acts as a petitioner. Moreover, if client discovered that the contractor is not following contract specifications and documentations and the contractor could not defend the claim before the client, this could degenerate into dispute. Questionnaires and dispute records from Ministry of Works and High Court of Justice, in Akure were used to generate the data for this study and analyzed using Relative Importance Index (R.I.I) and Severity Index (I). Thirteen factors were identified and ranked as the most influencing construction contract disputes in Ondo State, Based on these findings, this study recommended effective quality control and prompt release of funds by the client so as to reduce construction contract dispute in Ondo State, Nigeria.

Keywords: Construction industry, Contractor, Client, Dispute, Influencing factors.

INTRODUCTION

Building and Construction industry in Nigeria is a product of a diverse group of sub industries, with many individuals and organization involved in construction of a single structure, from the manufacturing of structural components to final assembly. The Federal, State and Local Government Council rule and regulations require a registered architect or Engineer, or both, to execute the Design and to make sure that the design complies with public health, zoning, and building – code requirement. The design must conform to the requirements of the owner. The architect or engineer converts these requirements into a set of drawings and written specifications that usually are sent to interested general contractors for bids. The successful bidder or bidders in turn employing other firm specializing in the crafts as subcontractor to work in other areas such as plumbing, painting, electrical wiring, structural frame, construction and erection of a complete structure. The construction industry plays an important role in the economy of Nigeria, contributing an average of over 8% to Gross Domestic Product (GDP) from 2007 to 2014; the industry contributed up to four Trillion Naira to Gross Domestic Product generated 2014. The total value of construction projects awarded in Nigeria 2014 equivalent to 500 billion (RP Nigeria 2015) and had created job opportunities to boost the country's economy, National Bureau of Statistics (2016). The number of employed persons working in the construction industry in Nigeria is not known or documented; however, it can be estimated up to 10% which is second largest single employer after Federal Government. According to the National Bureau of Statistics (2016) Construction industry grows by 1.14% in titular terms year by year, despite this improvement, the industry needs to develop her professionals to be able to meet client's

needs (project quality delivery on time and within the Budget). Construction product quality delivery is a degree to which the production meets the requirements and methodology as indicated in the design and specifications. The requirements refer to the needs or expectations of the client, promoters and stakeholders. Methodology as indicated in contract documentation implies execution of construction in conformity with the approved design, working drawings and specification. Despite all the information or requirements, it is observed that not all the construction projects are completed on time or ahead of schedule in Nigeria. Therefore construction delays continue to contribute to construction disputes which seem to be the common challenge in Nigeria construction industry. Reasons for these are many; Construction Industry itself is a complex industry as it involves both professionals and non-professionals including regulators. The interrelationship between/among these parties in a construction project is bounded and guided by the law of contract documentations which is signed and witnessed by all party members to the project. As can be seen, Contract itself is defined to include an agreement having a lawful object, voluntary agreement between two or more persons, each of whom intends to create one or more legal obligations between them. Before a construction project contract is signed and approved, there is always an agreement between/amongst parties, the Client, the Consultant, the Contractor and other relevant key stakeholders. In this respect contract documentation might include the Scope, the Cost and the Time frame for the completion of the project and quality of the project. Any breach of this contract agreement may lead to dispute. According to Cheng *et al.* (2009); Mitropoulos and Howell, (2001); Fenn *et al.*, (1997), disputes is considered common in the construction industry, judging by the growth in publications and reports dealing with construction cases. Sutrisna (2004) showed that disputes in construction projects affect the work quality and also delay on the construction process. As a result of this occurrence, Cheng *et al.*, (2009) wrote that the industry is eager to identify ways to resolve construction contract disputes, equitably and economically. These authors noted that dispute is a great challenge to the construction industry. Mitropoulos and Howell, (2001) showed that most publication on construction disputes focused on specific factors, such as contractual language and its judicial interpretation, the technical causes of claims, contractual equity or parties' relationship and neglected legal obligation, the complexity of the industry, mistakes and failure to identify and correct procurement system, etc. In the area of Procurement Jannadia *et al.*, (2000) indicated that construction disputes may also be linked to the type of procurement system used in a particular construction project. The purpose of evaluating of construction contract dispute between the clients and contractors in Ondo State is to provide realistic data to assist management Judiciary in making decisions and to enable them to utilize the maximum resources available without extra cost.

Construction Contracting

It is a common practice in the construction industry for parties to a construction project to enter into a legal and binding agreement called contract. Failing to meet Contractual obligations set up by the contract agreement will upshot to contract disputes unless the memorandum of understanding of the terms and interpretation of the contents of the contract documents are not fully spelt out. A construction contract may take any form which is acceptable to the parties, but there are some clauses in contracting documents which can be useful for certain construction contract conditions such as Lump Sum Contracts, Measurement Contracts and Cost-Reimbursement Contracts and others.

Conditions of Contract

The conditions of contract are defined as “sets of terms which state the general responsibilities, risks and liabilities of the parties to the contract and establish procedures

between them, including terms of payment. Some forms of Conditions of Contract include: FIDIC - Federation Internationale des Ingenieurs-Conseils, JCT - Joint Contracts Tribunal, NEC- New Engineering Contracts and specifically in Nigeria, GCC - General Conditions of Contract.

Conflicts and Disputes in the Construction Industry

Conflict and disputes are almost inevitable in construction industry (Hellard 1988; Fenn *et al.* (1997).

Conflict and disputes are costly and can jeopardize the good relationship between/amongst construction parties. Reviewing relevant reports on Contract conflict and disputes in construction industry disputes seem to be that there is a distinction between these two expressions or concept. Hibberd and Newman (1999); Cheung *et al.* (2001) capitalized on different opinions. However, the common understanding about conflict is when two or more individuals see the same situation differently while disputes on the other hand arise when one of the parties' interests has been ignored and the party may claim that their interests have been neglected or rejected.

Causes/Sources of Dispute in the Construction Industry

According to dispute reported cases related to the industry, causes of disputes are traceable to payment, delay, defect/quality; professional negligence, variation, extension of time, quality of work, unfamiliar with local condition, project scope definition, risk allocation, technical specification, poor communication, administration/management, unrealistic client expectation, adversarial approach in handling disputes, lack of knowledge of local legal system, conflict of laws, jurisdictional problems, unclear contractual terms, lack of team spirit, previous working relationships; contradictory and erroneous of information; and changes in construction plans and specifications.

After a review of relevant studies on various causes or sources of disputes, a certain level of cohesion is observed. Cakmak and Cakmak, (2013) summarized common causes of disputes and also classifying them into categories depending on their nature and mode of occurrence: these include; owner related, contractor related, design team related, contract related, human organization problem related, project related and external factors related causes. Table 1 shows the summary of identified Common Causes of Construction Disputes in Categories as obtained from the literature review.

Table 1: Common Causes of Construction Disputes by Categories

| Category of Disputes | Causes of Disputes |
|-------------------------------|--|
| Owner related (A) | change of scope without reimbursement (A1) unrealistic expectations from the client(A2) Delay payment (A3) |
| Contractor related (B) | delays in work progress (B1) time extensions (B2) financial failure of the contractor (B3) technical inadequacy of the contractor (B4) tendering (B5) quality of works (B6) |

| | |
|-----------------------------------|--|
| Design related (C) | design errors (C1) inadequate / incomplete specifications (C2) quality of design (C3) availability of information (C4) |
| Contract related (D) | ambiguities in contract documents (D1) different interpretations of the contract provisions (D2) risk allocation (D3) other contractual problems (D4) |
| Human behavior related (E) | adversarial / controversial culture (E1) lack of communication (E2) lack of team spirit (E3) |
| Project related (F) | site conditions (F1) unforeseen changes (F2) |
| External factors (G) | weather (G1) legal and economic factors (G2) |

Source - Cakmak and Cakmak, (2013)

METHODOLOGY

Both structured questionnaire survey and documented information from the Ministry of Works, and High Court of Justice judgment resolution, Akure, Ondo State, were used to generate the data for the study. The main purpose was to compare the primary with the secondary or existing records from both Ministry and High Courts in Ondo State. The purpose of structured questionnaire was to solicit the opinions of clients, consultant and contractors on the factors influencing construction contract dispute in Ondo state, while Ministry and High Court of justice were equipped with the disputes resolution documents established in the High Court of Justice cases recognized factors relating to construction contract disputes in Akure Ondo State. From the Review of relevant journals construction contract dispute factors were identified; these factors were classified into eight groups which include: ambiguity, deficiency, inconsistency, defectiveness, violation of agreements, renegotiation, evasion of obligations and refusal to accept change related factors. Also documents resolution on construction contract dispute cases between client and contractor in Ondo State were obtained from the Ministry of Works, and High Court of Justice ,Akure, Ondo State, The documents obtained from the Ministry of Works, and High Court of Justice ,Akure, are referred to as secondary informational data (see table 7-8, pages 15-18)

100 questionnaires were sent to randomly selected participants; include; Clients, Civil Engineers, Contractors (Main and Sub) and other professionals involved (Architects, Q.S, Builders). The distribution of the questionnaire include 30 to Clients, 30 to Civil Engineers, 30 to (Main and Sub) Contractors and 10 to others ((Architects, Q.S, Builders). In the questionnaire, respondents were asked to indicate based on their local experience the level of importance of each one of the identified 28 factors influencing construction contract dispute on a Five Point Likert scale as Very important (5), Important(4), Moderately Important(3), Not important(2) and Not very Important(1).The responses received were tabulated and analysed using the Relative Important Index (RII) and the Severity Index (I).

Relative Important Index and Severity Index

Numerical values were assigned to identify contract dispute factors on a Five – Point Likert Scale of 1 to 5. The five point Likert scale was converted to Relative Important Index (RII) for each factors causing construction contract dispute between Client and Contractor in Ondo State, Nigeria. The Relative Important Index (RII) value had a range of 0 to 1, the higher the value of the RII the more important the factor influencing construction contract dispute between Client and Contractor is.

Table 2: Five Point Likert Scale showing ranking and rating

| Item | Not Very Important | Not Important | Moderately Important | Important | Very Important |
|-------|--------------------|---------------|----------------------|-----------|----------------|
| Scale | 1 | 2 | 3 | 4 | 5 |

The Relative Important Index method (RII) was used herein to determine owner`s, consultants` and contractors` perception of the relative importance of the identified dispute factors.

$$\text{Relative important index (R.I.I)} = \frac{\sum_{i=1}^5 (a_i)(n_i)}{A \times N} \quad (1)$$

$$\text{Relative important index (R.I.I)} = \frac{5n_5 + 4n_4 + 3n_3 + 2n_2 + 1n_1}{5N} \quad (2)$$

(0 ≤ RII ≤ 1)

Where:

A Constant expressing weight given to *i*th response: *i* = 1, 2, 3, 4, 5

n = Variable expressing frequency of *I* N = Total number of Respondents,

A = Highest weight (i.e. 5 in this case), n₅ = Number of Respondent for Very important,

n₄ = Number of Respondent for Important. n₃ = Number of Respondent for Moderately Important,

n₂ = Number of Respondent for Not important, n₁ = Number of respondent for Not very important

And the Severity Index (I) was calculated to interpret the degree of severity effect of the identified construction contract dispute factors. This index was calculated as follows Domninowski, 1980

$$\text{Severity Index (I)} = \frac{\sum_{i=1}^5 (a_i)(n_i)}{A \times N} \times 100 \% \quad (3)$$

i.e. $\text{Severity Index (I)} = \text{R.I.I} \times 100\% \quad (4)$

The severity index was categorised into five levels. The 0-49% was categorised as none severe; 50-69% is categorised as fairly severe; 70-74% is categorised as moderately severe; 75-79% is categorised as severe; and 80-100% is categorised as most severe. The categorisations reflect the scale of the respondents answer to the questionnaire. The severity index of a category was the average severity indexes of all its related problems.

RESULTS, ANALYSIS AND DISCUSSIONS

Results of questionnaire survey

One hundred (100) questionnaires were distributed to the selected respondents 80 returned 3 were considered in complete. Only seventy seven (77) questionnaires were considered reliable, computed and analysed for the study as shown in Table 3

Table 3: Questionnaire`s Distribution and Responses

| Particulars/Profession | Owner/ Clients | Engineers | Contractors | Others (Architects, Q.S, Builders) | Total |
|--|-------------------|-----------|-------------|--|-------|
| Number Distributed | 30 | 30 | 30 | 10 | 100 |
| Number of Responses | 27 | 26 | 20 | 4 | 77 |
| Percentage of Total Responses (%) | 35.1 | 33.8 | 25.9 | 5.2 | 100 |

Analysis of Results of the study

Table 4. below shows the identified Factors Causing Construction Contract Dispute these factors were rated and classified by respondents. The relative importance indexes (R.I.I) were computed and ranked according to (R.I.I) values. Table 5 below shows the Relative Important Index (RII) And Ranking Factors Influencing Construction Contract Dispute between Client and Contractor in Ondo State, Nigeria

Table 4: Factors Causing Construction Contract Dispute

| S/N | Factors Causing Construction Contract Dispute | n ₁ | n ₂ | n ₃ | n ₄ | n ₅ | Total | RII | Rank |
|----------------|---|----------------|----------------|----------------|----------------|----------------|-------|-------|------|
| A | Ambiguity related factors | | | | | | | | |
| A ₁ | The specifications in the contract document is unclear | 7 | 7 | 10 | 17 | 36 | 77 | 0.777 | 7 |
| A ₂ | The scope of work in the contract document is unclear | 9 | 8 | 7 | 16 | 37 | 77 | 0.766 | 9 |
| A ₃ | Completion milestones are unclear | 2 | 12 | 20 | 23 | 20 | 77 | 0.722 | 20 |
| A ₄ | Work activities are unclear | 6 | 7 | 19 | 26 | 19 | 77 | 0.717 | 22 |
| B | Deficiency related factors | | | | | | | | |
| B ₁ | The rules to evaluate substantial change in quantity of works are not addressed | 8 | 9 | 11 | 21 | 28 | 77 | 0.766 | 9 |
| B ₂ | The drawings provide insufficient details | 7 | 5 | 8 | 21 | 36 | 77 | 0.792 | 6 |
| B ₃ | There is no statement of resources in the work schedule | 5 | 13 | 23 | 23 | 13 | 77 | 0.668 | 27 |
| C | Inconsistency related factors | | | | | | | | |
| C ₁ | The specification of materials to be used is contradictory | 2 | 13 | 16 | 20 | 26 | 77 | 0.743 | 15 |
| C ₂ | The drawings contradict with the standard specification | 3 | 10 | 9 | 19 | 36 | 77 | 0.795 | 5 |
| C ₃ | The details in the drawings are inconsistent with reality on site | 8 | 10 | 12 | 24 | 23 | 77 | 0.714 | 24 |
| C ₄ | The specified design standard is different from standard requirement | 4 | 10 | 19 | 23 | 21 | 77 | 0.722 | 20 |
| D | Defectiveness related factors | | | | | | | | |
| D ₁ | Some Items in the contract documents are under measured | 2 | 9 | 11 | 21 | 34 | 77 | 0.797 | 4 |
| D ₂ | Excess items are found in the contract bills of quantity | 10 | 19 | 13 | 17 | 18 | 77 | 0.636 | 29 |
| D ₃ | Over measured items are found in the contract bills of quantities | 4 | 18 | 18 | 24 | 13 | 77 | 0.662 | 28 |
| D ₄ | Some items are missing from the contract bills | 2 | 7 | 15 | 17 | 36 | 77 | 0.803 | 3 |
| E | Violation of Agreements related factors | | | | | | | | |
| E ₁ | The Contractor over-claims its cost entitlement | 3 | 9 | 16 | 23 | 26 | 77 | 0.756 | 12 |

| | | | | | | | | | |
|---|--|----|----|----|----|----|----|-------|----|
| E ₂ | The Contractor over-claims for time extension | 6 | 6 | 16 | 28 | 21 | 77 | 0.735 | 17 |
| F Renegotiation related factors | | | | | | | | | |
| F ₁ | The Client attempts to renegotiate the terms of signed contract | 6 | 11 | 11 | 15 | 34 | 77 | 0.756 | 12 |
| G Evasion of obligations related factors | | | | | | | | | |
| G ₁ | The Contractor purposely fails to disclose the specifications of the materials used | 4 | 8 | 13 | 23 | 29 | 77 | 0.769 | 8 |
| G ₂ | The Contractor purposely fails to notify potential implication arising from changes orders | 3 | 11 | 16 | 26 | 21 | 77 | 0.733 | 19 |
| G ₃ | The Contractor purposely works below the specified standard | 2 | 4 | 16 | 15 | 40 | 77 | 0.826 | 1 |
| G ₄ | The client delays progress payment after work done | 2 | 6 | 9 | 23 | 37 | 77 | 0.826 | 1 |
| G ₅ | The Client orders extra without providing proper cost reimbursement | 8 | 9 | 17 | 20 | 23 | 77 | 0.707 | 25 |
| G ₆ | The Client orders extra without granting justifiable extension of time | 10 | 11 | 15 | 17 | 24 | 77 | 0.688 | 27 |
| G ₇ | The Client rejects Contractor's claims for variation out rightly without providing reasons | 7 | 6 | 14 | 18 | 32 | 77 | 0.761 | 11 |
| G ₈ | The Client rejects outright extension of time claim submitted by the Contractor | 4 | 6 | 19 | 27 | 21 | 77 | 0.743 | 15 |
| H Refusal to adapt to change related factors | | | | | | | | | |
| H ₁ | The Contractor refuses to respond to late design change requested by the Client | 5 | 10 | 19 | 21 | 22 | 77 | 0.717 | 22 |
| H ₂ | The Contractor refuses to accelerate work progress requested by the Client | 5 | 10 | 10 | 27 | 25 | 77 | 0.748 | 14 |

Table 5: Category Relative Important Index (RII) And Category Ranking of Factors Influencing Construction Contract Dispute between Client and Contractor In Ondo State, Nigeria

| S/N | Factors Causing Construction Contract Dispute | Category RII | Category Rank |
|-----|---|--------------|---------------|
| A | Ambiguity related factors | 0.746 | 3 |
| B | Deficiency related factors | 0.740 | 6 |
| C | Inconsistency related factors | 0.744 | 5 |
| D | Defectiveness related factors | 0.725 | 8 |
| E | Violation of Agreements related factors | 0.746 | 3 |
| F | Forced Renegotiation related factors | 0.756 | 2 |
| G | Evasion of obligations related factors | 0.757 | 1 |
| H | Refusal to adapt to change related factors | 0.734 | 7 |

Source: Field survey, 2016

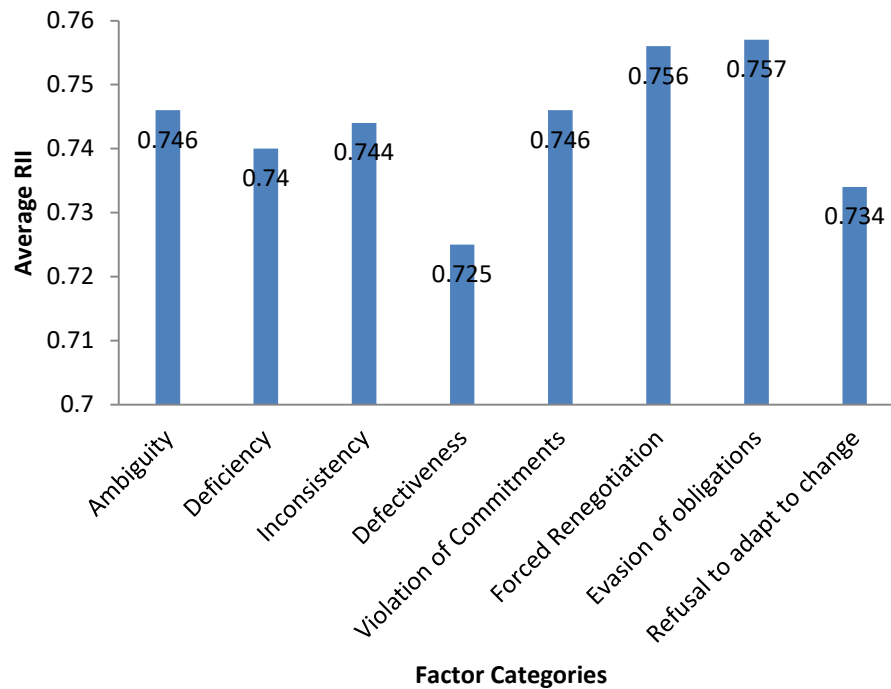


Figure 1 Chart of Average Relative Important Index against Factor Categories

Table 5 and Figure 1 show the Category Relative Important Index (RII) and Ranking of the factors influencing construction contract disputes between client and contractor in Ondo state, Nigeria. The Category Relative Important Index (RII) is calculated by getting the average of all the RII values of factors in each and determined their rankings.

i) Ambiguity Related Factors:

In a construction contract; Sometimes Ambiguity in contract is observed when contractual language or if not properly described, can result into conflict. In Ambiguity, four related factors were identified and they are specifications in the contract document is unclear, scope of work not properly defined in the contract document, completion and handing over date in the document is not clearly defined and Network activity duration estimation and determination of resources are not clearly indicated in the contract document.

The R.I.I values obtained after analysis range from 0.717 to 0.777. Ambiguity category is ranked 3rd position in the category rankings with an Average Relative Important Index of 0.746 as shown in Table 5.

ii) Deficiency Related Factors:

Flaw in contract document, omission was identified in the contract document which slows down the smooth running of the project. Three related factors under this category were identified and analyzed, which includes specifications of materials in the contract are inadequate, the drawings provide insufficient details and there is no reference to resources in the work schedule. The values of R.I.I. obtained under this category ranging from 0.668 to 0.792. Deficiency category is rated sixth on Table 5 When this omission becomes unbearable especially to the contractor, issues can be raised by the contractor especially construction team.

iii) Inconsistency Related Factors:

Inconsistency is identified when information provided in the contract document is incoherent with what is actually obtainable in the contract document. The R.I.I values obtained ranging from 0.714 to 0.795 as indicated on Table 5. Also on the Table 5 Inconsistency is rated placed 5th among other categories identified and analyzed.

iv) Defectiveness Related Factors:

In this study, defectiveness is specifically related to issues that are not well addressed or missing in the contract documents, specifically Bill of Quantities and Bill of Engineering Measurement Equipment (BEME). The R.I.I values obtained ranging from 0.636 to 0.725 as indicated on Table 5 and is ranked placed 8th among other categories identified and analyzed.

v) Violation of Agreements Related Factors:

Violation of Agreement indicates that project Parties involved are not honestly abiding to contract agreement. This shows that every contractor violates contract agreement. The Statistical Value of RII attained ranging from 0.735 to 0.756. Violation of Agreement is ranked third 3rd among other categories as indicated on Table 5.

vi) Renegotiation Related Factors:

Renegotiation can be initiated by Client if he admits that contract document is not properly defined and , the contents of the documents are not described or explained full of lapses in the contract documents, He/she can call for renegotiation the statistical RII value obtained was 0.756, this made the factor to be ranked 2nd among other categories analyzed in this study are shown Table 5.

vii) Evasion of Obligation Related Factors:

Evasion of Obligation is defined as abandonment of responsibilities. In Nigeria nobody takes responsibility of anything, this problem is not only associated with project but all existing organizations in Nigeria. The statistical RII value obtained was 0.757 this made Evasion of obligation to be First position, ranked among other categories as shown Table 5. This is a serious challenge in Ondo State and must be addressed.

viii) Refusal to Accept Change Related Factors:

Refusal to Accept a Change, can be associated with rigidity on the side of employer as project work progress, a client may like to make modification to the project for one reason or the other which may or may not be favorable to the contractor, the contractor may refuse since it wasn't part of the original contract. This can cause communication breakdown between the two, eventually leads to confrontation. If the situation is not managed well may result into Contract dispute. The analysis show the statistical R.I.I value for this factor to be 0.734 and ranked as 7th among other categories indicate on Table 5.

Severity of Top 13 Factors Influencing Construction Contract Dispute between Clients and Contractors in Ondo State Nigeria

The Severity Index I was calculated to interpret the degree of effectiveness on identified construction contract dispute factors. The severity index I of dispute factors on the degree of severity category calculated to be within a range of 75 – 100% (Severe and Most Severe), categorically analysed and discussed below. The Severity index calculation under the Top 13 Influencing Factors, indicated on the Table 6 below.

Table .6: Severity of Top 13 Factors Influencing Construction Contract Dispute Between Client And Contractor In Ondo State, Nigeria

| S/N | Factors Causing Construction Contract Dispute | I (%) | Remark |
|-----|---|-------|-------------|
| 1. | The Contractor purposely works below the specified standard | 82.6 | Most Severe |
| 2. | The client delays progress payment after work done | 82.6 | Most Severe |
| 3. | Some items are missing from the | 80.3 | Most |

| | | | |
|-----|--|------|--------|
| | contract bills | | Severe |
| 4. | Some Items in the contract bills are under measured | 79.7 | Severe |
| 5. | The drawings contradict with the standard specification | 79.5 | Severe |
| 6. | The drawings provide insufficient details | 79.2 | Severe |
| 7. | The specifications in the contract document is unclear | 77.7 | Severe |
| 8. | The Contractor purposely fails to disclose the specifications of the materials used | 76.9 | Severe |
| 9. | The scope of work in the contract document is unclear | 76.6 | Severe |
| 10. | The rules to evaluate substantial change in quantity of works are not addressed | 76.6 | Severe |
| 11. | The Client rejects Contractor's claims for variation out rightly without providing reasons | 76.1 | Severe |
| 12. | The Contractor over-claims its cost entitlement | 75.6 | Severe |
| 13. | The Client attempts to renegotiate the terms of signed contract | 75.6 | Severe |

Source: Field survey, 2016

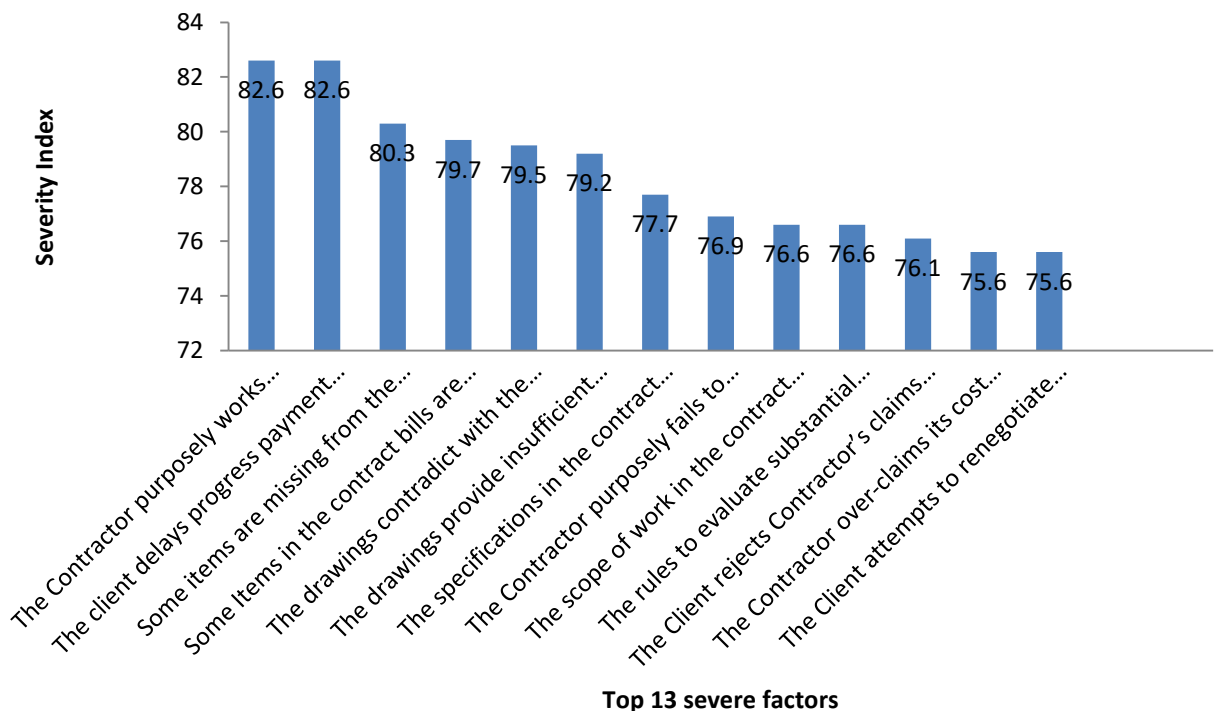


Figure 3: Chart of Severity of Factors Influencing Construction Contract Dispute Between Client and Contractor In Ondo State, Nigeria

Table 6 shows the ranking value of factors (results) ranging from None Severe (0-49%), Fairly Severe (50-69%), Moderately Severe (70-74%), Severe (74 – 79%) and Most Severe (80 – 100%). The clarity of Severity Index (I) rankings is based on this five numerical value

scales, defined as None Severe, Fairly Severe, Moderately Severe and Most Severe, Numerical value scales fall below (74 – 79%) are not considered to be severely influential or factors influencing construction contract dispute between clients and contractors in Ondo State, Nigeria. See the complete analysis on the Table 6 above. Severity index (I) values of 82.6% , 82.6% and 80.3% respectively fall within the range of Most Severe factors, while severity index (I) values ranging from 75.6% to 79.7% fall within the range scale of “Severe” category but not considered influential factors (see Table 6 above). These factors identified based on the values from (80 – 100%) are regarded to be critically influencing construction contract dispute in Ondo State Nigeria.

Existing records on construction contract dispute between client and contractor in Ondo State, Nigeria

Records from 2007 to 2016 on construction contract disputes between Ondo State government, private clients and contractors in Ondo state were obtained from Ondo State Ministry of Works and High court of Justice, Akure, Ondo State. All informational records obtained from Ministry of Works and High court of Justice, Akure, are authentic and are referred to as secondary data, shown on Tables 7 and 8. The informational records were carefully studied and analyzed to determine the strength of the data information. Ongoing and settled cases and all influencing factorial evidences recorded were also critically considered. Those that were in favour and oppose the employer (government) and also Contractors were carefully studied and analyzed. The records obtained from Ondo State Ministry of Works and Ondo State High Court of Justice, Akure, Ondo State awarded within the 10 years period (2007 – 2016) were compared with the influencing factors identified from the literature.

Comparison of the Primary and Secondary Data

The analysis of both the primary data (questionnaire survey) and the secondary data (records on construction contract dispute documents from Ondo State Ministry of Works and High Court of Justice, Akure). The findings show that the most contributing factors that influence construction contract dispute in Ondo State, are Poor Performance, Non-payment of entitlement at when due, violation of contract agreement and failure to resume work on time and failure to mobilize contractors

Table 7: Records on construction contract dispute between Ondo State Government and contractor between 2007 and 2016

| S/N | Names of Parties Involve (Dispute Contract) | Year | Project | Causes of Dispute | Resolution Method | Remark Resolved/Pending |
|-----|---|--------------|---|------------------------------------|-------------------|-------------------------|
| 1 | Ondo State and Dedit Nigeria Ltd | April 2007 | Owo – Ikare Road Rehabilitation | Poor Performance by the contractor | Arbitration | Resolved |
| 2 | Ondo State and InterotechNig Ltd | May 2007 | Rehabilitation of INEC – WAEC – Elshadai Road | Non-payment by the client | Arbitration | Pending |
| 3 | Ondo State and Interotech Nig Ltd | January 2009 | Rehabilitation of Araromi obo – | Non approval by the client for | Arbitration | Pending |

| | | | | | | |
|---|--|--------------|---|--|-------------|----------|
| 4 | Ondo State and Messer Kolman Engineering Ltd | Jan 2009 | Oniparaga Road Ondo Township Road | additional works Non Performance by the contractor leading to a breach of contract | Arbitration | Pending |
| 5 | Ondo State and Messer G and Duni Hen Associates | April, 2009 | Consultancy for the dualisation Mobil – Akure – Owo Express Way | Non-payment by the client | Arbitration | Pending |
| 6 | Ondo State and Messer Kolman Engineering Ltd | 2009 | Dualisation of Mobil – Fiwasaye– Airport Road, Akure | Non Performance by the contractor leading to a bridge of contract | Arbitration | Pending |
| 7 | Ondo State and Messer G and Duni Hen Associates | October 2010 | Consultancy for selected roads in Idanre town | Non-payment by the client | Arbitration | Pending |
| 8 | Ondo State Government and Steel Solution Company Nigeria Ltd | Dec 2010 | Constriction of twin box culvert and 100m channel at Owo | Lack of Resumption after mobilization | Termination | Resolved |
| 9 | Ondo State and Messer G and Duni Hen Associates | 2012 | Proposed upgrade to the express junction, Akure | Government did not award and reimburse consultant | Arbitration | Pending |

Source: Ondo State Ministry of Works, Akure, Ondo State. (2018)

Table 8: Records on construction contract dispute between Ondo state government, Private client and contractor between 2007 and 2016 in Ondo State.

| S/ N | Names of Parties Involve (Dispute Contract) | Year | Project | Causes of Dispute | Resolution Method | Remark Resolved/Pending |
|------|---|--------------|---------|--|-------------------|-------------------------|
| 1 | Mob Ventures and Ondo State Government | October 2009 | | Termination of contract due to poor performance by | Arbitration | Pending |

| | | | | | | |
|---|--|---------------|---|--|-------------|----------|
| 2 | Brade Nigeria Limited and Ondo State Government | October 2009 | | contractor Termination of contract due to poor performance by contractor | Arbitration | Pending |
| 3 | Crystal Spectrum Nigeria Limited and Ondo State government | October 2009 | | Termination of contract due to poor performance by contractor | Arbitration | Pending |
| 4 | J.D.P Construction Nigeria Limited Ondo State government | January 2010 | Construction of Faculty of Science Building A.A.U.A | Claim of damages for breach of contract | Arbitration | Pending |
| 5 | FAAB construction Nigeria Limited and U.B.A | June 2011 | | Claim of debenture charges on Equipments after revoke of contract | Arbitration | Resolved |
| 6 | Air flon engineering works limited and Omodara investment company limited | February 2012 | | Payment of debt based on work done | Arbitration | Resolved |
| 7 | North South engineering Nigeria limited and Shama investment Nigeria limited | October 2012 | | Claims to retrieve mobilization after failing to execute project. | Arbitration | Resolved |
| 8 | Messrs Toysom ventures Nigeria limited and Executive | October 2013 | | Payment of claim based on certificate of performanc | Arbitration | Pending |

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| | governor of Ondo state. | | | e | | |
| 9 | Messrs Dele Doyin Nigeria Limited and Executive governor of Ondo state. | October 2013 | | Payment of claim based on contract agreement | Arbitration | Pending |
| 10 | Messers Oje Nigeria Ltd and Executive governor of Ondo state. | November 2013 | | Payment of claim based on contract agreement | Arbitration | Pending |
| 11 | Messrs J.A international limited and Executive governor of Ondo state. | November 2013 | | Payment of claim based on contract agreement | Arbitration | Pending |
| 12 | NABSCO Engineering Limited and Ifedore Local Government | January 2014 | Construction of 6.7 km township roads at Ifedore L.G.A of Ondo State | Claim for balance payment based on work done | Arbitration | Pending |
| 13 | Ondo state government and Engineer Bamidele Atta | October 2014 | | Breach of Contractual Agreement | Arbitration | Resolved |

Source: Ondo State High Court of Justice, Akure, Ondo State (2018).

CONCLUSION AND RECOMMENDATION

The construction industry is a multidisciplinary industry that brings together experts from different fields to embark on a construction project; all participants are guided by contract documents, any breach of the contract terms or agreement may result into dispute. A structure questionnaire survey approach and Ondo State Ministry of Works and Ondo State High Court of Justice, Akure records on construction contract dispute between client and contractor in Ondo State were used to elucidate the opinion of respondents relating to suggested factors

influencing contract disputes in Ondo State Nigeria. In totality, the study has identified Twenty eight (28) factors considered to be influencing construction contract disputes in Ondo State. they are grouped under eight categories, these include: Ambiguity, Deficiency, Inconsistency, Defectiveness, Violation of Agreements, Renegotiation, Evasion of obligations and Refusal to accept change related factors. The responses were analysed using the Relative Important Index (RII) and the Severity Index (I) to determine the most important and severe factors influencing construction contract dispute in Ondo State, Nigeria. The results of the study showed that Severity index (I) values of 82.6%, 82.6% and 80.3% respectively were rated the most severe factors that influence construction contract dispute in Ondo State, Nigeria. The influencing factors include: the Contractor purposely works below the specified standard, The client delays progress payment after work done” and “Some Items missing from the Bill of quantities/specification. On the other hand on records factors identified causing construction dispute relating to data obtained from both ministry of works and high court of justice in Akure include Poor Performance by the contractor, Non-payment by the client, Non approval by the client for additional works, Failure to resume work on time after mobilization, Government did not award and reimburse consultant and Contractors claim for payment. These factors are identified as leading factors influencing construction contract dispute in Ondo State. Finally when the primary and secondary data was compared, the two most important factors influencing construction contract dispute between client and contractor in Ondo State are Poor Performance and Non-payment by the client when due. The purpose of this study was to investigate and identify factors influencing contract disputes between clients and contractors in Ondo State. Examining Ministry of Work and High Court disputes related records in Ondo State and compared with data obtained from the study participants we indentified very little difference between them. It shows that information provided is genuine and authentic, can be used as a guide for contractor, client and future reference in Ondo State especially contract documentations (specifications, drawings and standards).

REFERENCES

- Cakmak, P.I., and Cakmak, E. (2013). An analysis of causes of disputes in the construction industry using analytical hierarchy process (AHP). AEI 2013 Architectural Engineering Institute Conference, 3-5 April, The Pennsylvania State University, University Park, Pennsylvania, USA.
- Cheng, M.Y., Tsai, H.C. and Chiu, Y. H (2009) Fuzzy case-based reasoning for coping with construction disputes. *Expert Systems with Application*, (36), 4106-4113.
- Cheung, S. O., Ng, S. T., and Sin, W.-S. (2001). A fuzzy sets model for construction dispute evaluation. *Construction Innovation*, 117–127.
- Cheung, S. O., Yiu, T. W. Y., and Yeung, S. F. (2006). A study of styles and outcomes in construction dispute negotiation. *Journal of Construction Engineering and Management*, 805.
- Dominowski, R. (1980) *Research methods*. Prentice Hall, Englewood Cliffs, N.J.
- Fenn, P (2007) Conflict Management and Dispute Resolution. In: David Lowe, *Commercial Management of Projects*. Oxford: Wiley-Blackwell.
- Fenn, P., Lowe, D., & Speck, C. (1997). Conflict and dispute in construction. *Journal of Construction Management and Economics*, 15(6), 513–518.
- Hellard, R B (1988) *Managing construction conflict*. England: Longman Group UK Ltd.
- Hibberd, P and Newman, P (1999) *ADR and Adjudication in construction disputes*. Oxford: Blackwell Science Ltd.

- Jannadia, O M, Assaf, S, Bubshait, A A, and Naji, A (2000) Construction methods for dispute avoidance and resolution (DAR). *International Journal of Project Management*, (18) 41-49.
- Mitropoulos, P., and Howell, G. (2001). Model for understanding, preventing and resolving project disputes. *Journal of Construction Engineering And Management*, 223-231.
- Nigeria Bureau of Statistics (NBS) Nigeria Gross Domestic Product (NGDP) 1st quarter report 2016.
- Sutrisna, M (2004) *Developing a knowledge based system for the valuation of variations on civil engineering works* Unpublished PhD Thesis, Research Institute in Advanced Technologies, University of Wolverhampton.