Construction Claims and Disputes Management: Inevitability, Techniques and Mechanisms for Efficient Resolution in Engineering and Infrastructural Projects

By
Engr. Prof. Sadiq Z. Abubakar, FNSE, FAEng
President and Chairman, COREN
At
Construction Law Forum Conference
Faculty of Law University of Abuja, Nigeria
26 June 2026

1. Introduction

Distinguished Chairman, Moderator, Fellow Panelists, Distinguished Guests, Ladies and Gentlemen.

It is a pleasure to participate in this important discussion on **"Construction Claims and Disputes Management: Inevitability, Techniques and Mechanisms for Efficient Resolution in Engineering and Infrastructural Projects."**

The subject is particularly relevant because Nigeria is currently investing significantly in infrastructure development across transportation, housing, energy, oil and gas, maritime, telecommunications, water resources, and public buildings. As project sizes and complexities increase, so too does the likelihood of claims and disputes.

The objective, therefore, is not to completely eliminate disputes—which is practically impossible—but to **anticipate, manage, and resolve them efficiently before they escalate into costly litigations and project failures.**

2. Why Construction Claims and Disputes are Inevitable

Engineering and infrastructure projects are inherently complex because they involve multiple stakeholders, long implementation periods, changing environments, and significant uncertainties.
Disputes arise because of competing expectations among:

- Clients/Employers
- Contractors
- Consultants
- Engineers
- Financiers
- Suppliers
- Regulators
- Host communities

In reality: **Claims are normal project management events; disputes are failures in claims management.**

3. Common Sources of Construction Claims in Nigeria

A. Design-Related Issues

- Incomplete designs
- Errors and omissions
- Poor site investigations
- Frequent design changes

B. Scope Changes (Variations)

- Client-initiated changes
- Regulatory changes
- Unforeseen conditions

C. Delayed Payments

- Delayed release of funds
- Cash flow constraints
- Budget shortfalls

D. Time Delays

- Land acquisition issues
- Insecurity
- Weather disruptions
- Supply chain interruptions

E. Poor Contract Administration

- Ambiguous contract clauses
- Poor documentation
- Weak supervision

F. Force Majeure Events

- Flooding
- Civil unrest
- Terrorism
- Banditry
- Economic shocks

G. Inflation and Currency Volatility

Particularly significant in Nigeria due to:

- Exchange rate fluctuations
- Rising material costs
- Fuel price instability

4. Types of Construction Claims

The common claims include:

Time Claims

- Extension of Time (EOT)
- Excusable delays

Cost Claims

- Additional works
- Escalation claims
- Variation claims

Disruption Claims

- Reduced productivity
- Interference with planned activities

Acceleration Claims

- Increased resources to recover lost time

Loss and Expense Claims

- Site overheads
- Idle equipment
- Labour downtime

Professional Negligence Claims

- Design errors
- Defective supervision

Defects Claims

- Poor workmanship
- Substandard materials

5. Why Construction Disputes are Dangerous

Unresolved disputes result in:

Project Impacts

- Project delays
- Cost overruns
- Abandonment

Economic Impacts

- Investor uncertainty
- Reduced competitiveness
- Loss of economic value

Social Impacts

- Public dissatisfaction
- Community unrest

Professional Impacts

- Damaged reputations
- Loss of trust

Legal Impacts

- Lengthy litigation
- Increased legal costs

6. Principles of Effective Claims Management

Five principles are critical.

Principle 1: Prevention is Better than Litigation

The best dispute is the dispute that never occurs.

This requires:

- Proper planning
- Complete designs
- Adequate risk allocation

Principle 2: Documentation is Everything

Every project decision must be documented.

Maintain:

- Site diaries
- Meeting minutes
- Inspection reports
- Progress reports
- Correspondence
- Photographic records

No records, no claims.

Principle 3: Early Notification

Contract provisions must be respected.
Claims should be notified immediately once events occur.
Delayed notification often weakens entitlement.

Principle 4: Transparency

Open communication among stakeholders prevents escalation.

Principle 5: Collaboration

Move from adversarial relationships to collaborative problem-solving.

7. Techniques for Managing Construction Claims

A. Risk Management

Identify risks at project inception. Use:

- Risk registers
- Risk allocation matrices
- Contingency planning

B. Contractual Risk Allocation

Use standard forms of contracts. Examples:

- FIDIC
- NEC
- JCT
- Public Procurement templates

Contracts must clearly define:

- Roles
- Responsibilities
- Payment procedures
- Claims procedures

C. Digital Project Management

Deploy:

- Building Information Modelling (BIM)
- Project management software
- Digital document management systems

D. Early Warning Systems

Monitor:

- Schedule deviations
- Cost overruns
- Resource shortages
- Safety incidents

E. Project Audits

Periodic technical and commercial audits.

8. Efficient Mechanisms for Dispute Resolution

Dispute resolution should follow an escalation ladder.

Level 1: Negotiation

Advantages:

- Fast
- Cost-effective
- Preserves relationships

Most disputes should end here.

Level 2: Dispute Avoidance Boards (DAB)

Independent experts monitor projects throughout implementation. Advantages:

- Early intervention
- Technical expertise
- Reduced litigation

Level 3: Mediation

Neutral third party facilitates settlement. Advantages:

- Flexible
- Confidential
- Non-adversarial

Level 4: Adjudication

Quick interim decisions.

Commonly used in large projects.

Level 5: Arbitration

Advantages:

- Specialist expertise
- Confidentiality
- Faster than litigation

Level 6: Litigation

Should always be the last resort.

Challenges:

- Expensive
- Time-consuming
- Damages relationships

9. The Nigerian Context: Key Challenges

Nigeria faces unique challenges:

Institutional Challenges

- Weak contract administration
- Capacity gaps

Procurement Challenges

- Political interference
- Inadequate project preparation

Economic Challenges

- Inflation
- Currency volatility

Security Challenges

- Kidnapping
- Insurgency
- Vandalism

Legal Challenges

- Delays in judicial processes

10. The Role of Engineers in Dispute Prevention

Engineers are central to dispute prevention.
Engineers should:

Technical Role

- Produce complete designs
- Ensure quality assurance

Administrative Role

- Maintain accurate records
- Certify works objectively

Ethical Role

- Act independently
- Avoid conflicts of interest

Advisory Role

- Provide timely advice to clients

11. Emerging Trends in Construction Dispute Management

Future dispute management will increasingly rely on:

- Artificial Intelligence (AI)
- Digital twins
- BIM-based evidence
- Predictive analytics
- Blockchain-enabled contract management
- Smart contracts
- Electronic dispute resolution platforms

12. Policy Recommendations for Nigeria

Nigeria should institutionalise:

Regulatory Reforms

- Standardised contract templates

Capacity Building

- Continuous training on claims management

Digitalisation

- National digital project records

Dispute Avoidance Boards

- Mandatory for mega projects

Professional Certification

- Claims management certification

Multi-disciplinary Collaboration

Among:

- Engineers
- Lawyers
- Quantity Surveyors
- Architects
- Project Managers

13. Key Takeaways for Panel Discussion

1. Claims are inevitable; disputes are manageable.
2. Prevention is cheaper than litigation.
3. Documentation is the foundation of successful claims management.
4. Early warning systems reduce dispute escalation.
5. Collaborative dispute resolution preserves project relationships.
6. Litigation should be the last resort.
7. Nigeria needs institutionalised dispute avoidance mechanisms.

14. Concluding Remarks

As Nigeria embarks on massive infrastructure investments under its economic transformation agenda, efficient claims and disputes management must become an integral component of project governance.

We must shift from a culture of **adversarial conflict management** to a culture of **collaborative dispute avoidance and early resolution**.

Ultimately:

Successful infrastructure delivery is not measured by the absence of claims, but by the speed, fairness, and efficiency with which claims are managed and disputes are resolved.

Thank you.

Discussion Questions

1. Why do infrastructure disputes persist despite improved contract documentation?
2. Should Dispute Avoidance Boards be made mandatory for public projects above a specified threshold?
3. How can digital technologies reduce construction disputes?
4. What reforms are needed in Nigeria's procurement and dispute resolution ecosystem?
5. What role should professional regulators play in dispute prevention?
6. How can inflation and insecurity risks be fairly allocated among contracting parties?

7. Should Nigeria establish a specialised Construction and Infrastructure Disputes Tribunal?