

The Application of Civil Litigation and Contract Law in Resolving Contractual Conflicts in the Construction Industry

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Abstract

Construction projects face a number of challenges related to variations, uncertainties, delays, cost overruns, and dissatisfaction from the users, resulting in conflicts. Arguably, there are more contractual conflicts in construction compared to tort, employment, procurement, and environmental conflicts. Despite the existence of Alternative Dispute Resolution (ADR) mechanisms, contractors and clients often proceed to litigation. There is limited research regarding the use of litigation to resolve contractual conflicts as compared to ADR techniques. Therefore, this research explores the use of litigation to establish the actual causes, time taken, and damages awarded based on real court cases, unlike most studies that use questionnaires giving experiences, impressions, perceptions, and opinions of practitioners. The research relied on published court cases by government organizations or institutions that were analyzed using R software. The search strategy resulted in 64 contract-related court cases that were resolved by the judicial system between 2000 and 2023. These contractual conflicts were broadly categorized as payment-related conflicts (48%), breach of contract (41%), and other contract issues (11%). The overall winning rate for plaintiffs in contractual conflicts is 90.6%. The findings show that the main causes of contractual conflicts in the construction industry are non-payment, breach of contract, delays and defective work. Non-payment is responsible for over 50% of the contractual conflicts in the construction industry. The average court-awarded special damages in contractual conflicts were USD 85,000 and USD 18,000 for general damages. Contractual conflicts in the construction industry take an average of 39.6 months to be resolved, with payment-related conflicts taking the least time (35 months). Therefore, based on the judicial target and lead time for all court cases in Uganda, the judicial system appears inefficient in resolving contractual conflicts in the construction industry given the lengthy lead time.

Keywords: Contract, Conflict, Litigation, Damages, Law.

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INTRODUCTION

Globally, the construction industry appears to be one of the most lucrative and capital-intensive sectors, involving many key stakeholders. The industry is known to be one of the pillars for economic growth through employment and infrastructure provision and boosting a number of economic activities. A study conducted by Nursjanti (2019) in Indonesia using data between 2005 and 2017 showed that the construction sector contributes 6.81% per year to Indonesia's gross domestic product (GDP). In Uganda, it is estimated that the construction industry contributes between 7% (Colonnelli et. al, 2018) and 13% of the country's GDP based on UBOS (2018).

Despite its tangible contribution to economic growth in many countries, the contractors who are key stakeholders continue to face a number of challenges during execution of their work. As an example, many contractors in developing countries are often not paid in time and are not compensated for late payment (Omopariola, et. al., 2019; Thwala, et. al., 2009). Again, most construction projects face a number of challenges related to variations, uncertainties, delays, quality, cost overruns and dissatisfaction from the users (Alameri et al., 2021; Omopariola, et. al., 2019) which ultimately may result in conflicts. In addition, due to the complex nature of mega- construction projects related to the magnitude and technicalities of the work, poor documentation, and financial issues, a number of conflicts are unavoidable during the contract implementation process. On the other hand, the competitive nature of the construction industry involving different stakeholders with differing views/ideologies, goals, and knowledge of the construction process has often resulted in a number of conflicts.

Project cost and schedule overruns are very common in the construction industry. The performance of every construction project is measured by its ability to meet or exceed stakeholder expectations without any constraint on time, cost, and quality. Conflicts are inevitable in the construction industry and a major problem in the sector among the stakeholders that leads to cost and time overruns, reduced productivity and poor relationships among the parties involved in a construction project. Thus, the success in achieving project objectives may be realized in how conflicts are resolved in the construction projects.

Most contracts have provisions to minimize some of these anticipated risks or challenges faced by contractors and clients such as alternative dispute resolution (ADR) mechanisms. In Uganda, based on the standard bidding documents by PPDA (2025), there is a provision to appoint an adjudicator to settle any disputes during contract execution. The same document provides for either party to refer the decision of the adjudicator for resolution as maybe specified in the special conditions of contract (SCC). Despite the existence of ADR provisions in contracts coupled with their advantages of time and cost savings (Gamage & Kumar, 2024), contractors and clients often proceed to litigation due to continued dissatisfaction from this ADR process. This is usually provided in SCC, where any disputes arising out of the contract that cannot be resolved amicably or using any of the ADR techniques provided in the contract are resolved by litigation in any court of competent jurisdiction. Challenges related to time, cost, no guarantee in dispute resolution, dissatisfaction from the parties, and poor documentation may explain the increasing use of litigation to resolve contractual conflicts in the construction industry. Based on contract formulation in Uganda, a number of disputes unresolved by ADR techniques are resolved in the courts of law. Despite this, many scholars have conducted research on the ADR techniques with little attention to litigation, a final way of resolving conflicts in the construction industry.

There have been some arguments developing showing that litigation may not be appropriate in resolving construction conflicts considering the need to develop good relations between parties for future businesses (CII, 1995). Whereas this may apply to a few parties, broadly, litigation may help bring order in the industry, especially for parties breaching the contract provisions, and prevent future occurrences for others. Litigation can also help contractors minimize the losses that may result from conflicts or disputes despite arguments by Stipanowich (1998) indicating that litigation can reduce or eliminate job profits. Arguably, contractors need to be smart and guided while making decisions on whether or not to proceed to courts to avoid such anticipated profit loss, which is obvious in some cases. The construction industry is complex, and thus ultimately litigation is unavoidable sometimes for obvious cases. In such scenarios, litigation may not only be preferred where the dispute involves a legal issue or an issue requiring expansion and clarity of the existing law as argued by Trantina (2001) but also to bring order and prevent future similar occurrences or breaches to the parties in the industry.

Unfortunately, litigation has a number of disadvantages despite the existence of a large body of laws/acts that are available to resolve the contractual conflicts and the flexibility of appealing if any party is unhappy with the ruling. The experiences of most court cases show the unnecessary lengthy time taken and documentation required for trial and ruling, coupled with the large cost of legal fees. This might be one of the reasons for the unpopular application of contract law in resolving conflicts and disputes. Nonetheless, it appears litigation, specifically contract law, has been used extensively to resolve many conflicts in the construction industry. The main purpose of contract law is to reduce and resolve contractual conflicts and to put an appropriate price and prevent future breaches of the contract (MacMahon, 2018). The legal system is one of the possible ways and last resort to conflict resolution as usually provided in the SCC. There is limited scholarly literature documenting the use of contract law or litigation globally and more so in Uganda despite the existence of data on court rulings handling contractual conflicts in the construction industry.

There is an opportunity to learn from the available rich data of a number of court cases where contract law has been applied in the country, but this has not been utilized up-to-date. There is no documentation and critical analysis of the available rulings made using contract law to resolve conflicts in the construction industry. As an example, no study in Uganda has explored the effectiveness of contract law in resolving contractual conflicts despite the known disadvantages above. In comparison, a number of studies (Bahemuka, 2021; Ndandiko, Oryema, & Kitasala, 2025; Safari, 2024) have explored the effectiveness of ADR techniques in Uganda. The time taken to resolve contractual conflicts and the damages awarded in litigation are unknown despite the common talk that litigation is costly and lengthy. The quality that is lacking in most litigation studies reviewed is the lack of real-life court cases that were resolved by the judicial system. Therefore, this research attempts to undertake the first empirical evidence regarding the use of litigation to establish the actual causes, time taken, and damages awarded in resolving contractual conflicts based on real court cases, unlike most studies that use questionnaires giving experiences, impressions, perceptions, and opinions of practitioners.

Contract Law and Contractual Conflicts in the Construction Industry

Contract law in the construction industry is usually applied to try and compensate parties financially if there is a contract breach by any of the parties. The other components of construction law include tort law, employment law, and environmental law, which apply to different parties and components of the construction industry. Although law is highly stratified,

construction law may be largely considered as a branch of civil law and not criminal law because it handles conflicts between individuals or parties in a construction contract. A construction contract is defined as an agreement, usually between parties such as between an employer and a contractor or an employer and a consultant. Therefore, contract law is a law that governs or regulates agreements between these different parties that are legally enforceable in courts of law. Thus, contract law lays down the rules that are applicable in any construction contract regardless of the parties, their relationships, and the subject matter of the contract. The importance of contract law lies in helping the parties know their expectations in case of any breach and ensuring there is order and respect by all parties. Construction contracts in Uganda are primarily governed by the Contracts Act, 2010, which outlines the principles, requirements, and enforcement of contracts in the country. For instance, the Act provides for compensation for loss or damage caused by breach of a contract including a provision for an interest on the amount of compensation to be paid. Similarly, there are provisions for refusal to perform, time for performance, rights for third parties and variations. All these provisions relate to common conflicts in the construction contracts which are then resolved based on this Act.

There are a number of theories that can be used to understand and help explain contract law and aspects related to the enforceability of a contract. Some of these theories include the will theory, promise theory, economic theory, and bargain theory as presented below. The will theory is one of the oldest theories in contract law. Based on this theory, a contract is enforced to respect the will of the parties who are part of the contract. It puts emphasis on the freedom of parties to enter into any contract based on freedom of choice and mutual agreement. The expression of human will in this theory is considered inherently worthy of respect, thus forming the basis for contract law. This theory argues that a contract is an expression of will or intention. The cornerstone of the promise theory is based on the promise made, which ideally makes the contract valid, lawful, and enforceable by law. It relies heavily on the concept of reciprocity, where it is expected by society that a person who does something will receive something useful. Contracts are made of promises, and thus it is important to uphold the enforcement of these promises. Therefore, any promise made during any transaction must be enforced. Bargain theory is founded in the idea that as part of contract formulation, there is always a bargain or exchange between the parties. The principles of consideration, offer, and acceptance in contract law are fulfilled through bargaining, thus the bargain theory. Reciprocal consideration in contracts requires that the parties make their undertakings to each other, and each of these parties desires those undertakings to be made. Therefore, bargain theory reinforces the idea of privity, request, and mutuality.

This research describes the conflicts in the construction based on the laws applied to resolve them. Thus, these conflicts maybe categorized as tort, employment, environmental and contractual conflicts. Although tort conflicts are not very common, they exist in the construction industry. Some parties in the construction industry are increasingly being attracted to the tort arena because consequential claims are more easily recovered in negligence claims than in contract claims. Additionally, tort law holds for numerous defendants with a likelihood of more money compared to a claim against only one partner in contract law. According to Wright and Nicholas (1986), a more compelling factor for negligence claims in the construction industry is the desire by the other party to avoid contract claims with limiting or precluding recovery of damages. Tort conflicts in the construction industry are mainly due to ordinary negligence, negligent misrepresentation, and professional negligence. Negligence is defined as the omission to do something that reasonably should have been done. Failure to act reasonably in a professional duty may result in a negligent victim recovering direct and consequential losses caused by the breach of duty.

The literature has little documentation regarding environmental conflicts in the construction industry despite some studies such as Litmanen (1996). Despite contractual environmental-related provisions and legal requirements such as Environmental Impact Assessment (EIA) studies for all construction projects, some environmental-related conflicts emerge in the name of public order, especially from other parties usually not part of the construction contract. Environmental activists with interests in protecting communities and the environment sometimes challenge government construction projects, which may result in an environmental conflict. In other scenarios, government authorities like the National Environmental Management Authority (NEMA) do challenge private developments, especially where some regulations or guidelines have not been followed. Generally, threats to the environment give birth to conflicts, although the scholarly literature has little documentation of environmental conflicts.

The other category of construction conflicts is usually between employers and employees but also sometimes between team members, as the industry is sometimes defined as a labor-intensive industry. Labor or employment conflicts are mostly from non-payment and unlawful termination or treatment of workers. These conflicts, in a way, affect the execution of works and may degrade the quality, increase cost, and damage the organization's reputation. Project managers need to understand such conflicts and resolve them amicably to ensure harmony in the work environment as these workers play a critical role in project success. Some of the workers may be forced to leave the job or are affected psychologically leading to inefficiency in the firm due to loss of confidence, communication, and cooperation (Giritli, Balci & Sertyesilisik, 2014).

Arguably, contractual conflicts account for the biggest percentage of conflicts in the construction industry in comparison to tort, environmental, and labor-related conflicts. These conflicts relate to contractual matters, including variation, extension of time, payment, quality of technical specifications, availability of information, administration and management, unrealistic client expectations, and determination. These issues and many others cause a significant portion of conflicts in the industry. The participation of different parties in a project is governed by a contract that defines the expectations and responsibilities during the exchange of services, work, and supply of goods. Construction contracts are governed by contract law, a branch of common law that concerns legally enforceable relationships between parties made through an agreement, usually part of the contract. A construction contract is a legally binding written or spoken agreement between two or more parties. Therefore, any conflicts that may arise during execution of the project between these parties are regarded as contractual conflicts in this research.

In most cases, the words "conflicts" and "disputes" are often used interchangeably in the scholarly literature. Basically, conflicts and disputes are all disagreements over ideas or interests between different parties (Jaffar, Tharim & Shuib, 2011; Deutsch, 1973; Vorster, 1993) but may further be distinguished by the way they are resolved. Well, if the disagreement is being or can be handled by any of the ADR techniques, then it may be regarded as a dispute. However, continued disagreement beyond application of ADR, ideally to be resolved by litigation, then the word "conflict" may be applicable as applied in this research. Although previous arguments presented by Mitkus and Mitkus (2014) and other scholars (Acharya, Im & Lee 2006; Fenn, Lowe & Speck, 1997) show that a dispute is a result of a conflict usually resolved by litigation, this research considers a conflict to be a result of unresolved dispute and resolved by litigation. The above scholars argue that conflicts are manageable, unlike disputes that must be resolved. In agreement with our definition, Burton, Mason, and Dukes (1990)

define a dispute as a short-term disagreement and a conflict as a long-term disagreement. Therefore, a contractual conflict in this research refers to a disagreement between parties in a construction contract resolved by litigation that escalates from a dispute with any of the parties being dissatisfied with the outcome of the application of the ADR techniques.

Conflicts are not healthy in the construction industry, as they may damage the working relationships between the different parties, reduce productivity, increase costs, losses and cause delays in project execution (Chen et al., 2014; 2005; Irfan et al 2019; Lee et al., 2017). Data available from South Korea shows that conflicts in the construction industry cause \$70bn a year in damages (Lee et al., 2017). The study conducted by Mahamid (2024) shows that key conflict factors such as delayed payments and delivery, poor quality, and frequent variation orders were strongly associated with the failure of contractors in the construction industry. The literature describes a wide range of effects of conflicts in the construction industry, although not quantified except in a few studies (Chen et al., 2014; Lee et al., 2017). This is an area that requires research so that these effects are quantified rather than being descriptive only. The majority of these effects are negative, although little is documented on the positive effects of conflicts. Some studies argue that appropriate conflict in the construction industry may stimulate effective communication between parties and stimulate productivity again (Jiang et al., 2013; Zhang et al., 2015).

There are a number of studies conducted regarding the causes of conflicts and disputes in the construction industry. A summary indicating the causes of conflicts in the construction industry is presented in Table 1. The key causes include design errors, late payments, ambiguity in bidding documents and late execution of work (Alrasheed, Soliman & AlMesbah, 2023; Serpell & Torres, 2023; Zeberga et al., 2024). Design errors are common in most construction projects, and these constrain the project resulting in cost and project delays that are crucial for project delivery and success. These errors may take different forms, including omissions, inaccuracies, and ambiguities. Late payments by clients is another common cause of conflicts in the construction industry. These late payments affect project execution substantially by disorganizing the project cash flows and delaying the execution of work. Delayed execution of work by consultants and contractors is also very common in the industry. The delays may be in the commencement or continuation of a project which results in missing deadlines and increased project expenditures. The project delays may be controlled or uncontrolled. The delays usually not controlled by the contractor may be compensated by extension of time.

Ambiguity in contract documents is another common cause of conflicts and this may result in multiple interpretations leading to misunderstandings between the parties involved. Contracts are usually composed of a number of documents, including specifications, drawings, agreements, special and general conditions of work, etc. It is important that these contract documents are clear and not vague to minimize conflicts in the industry. Differing site conditions (Abou-Elfetouh, Abdel-Hamid & Hasanin, 2024; Acharya, Im & Lee, 2006) are another cause of conflicts in the construction industry. This may refer to unforeseen physical situations that significantly differ from what was assumed or indicated in the contract documents. In a study conducted by Serpell and Torres (2023), site access delay was one of the key contributing factors to construction conflicts among the parties. Site access or handover delay is normally caused by the project owner, and when this happens, a contractor is entitled to extra time or compensation. Site access restrictions are among the compensable delays that legally entitle the contractor to claim for damages. A few studies highlighted in Table 1 are all on construction conflicts and not specifically on contractual conflicts. In addition, many of

these studies were based on interviews, reviews, and questionnaires without utilizing the abundant data on the actual court cases that have been resolved in courts of law.

Table 1: Causes of conflicts in the construction industry

S/N	Cause	Category	Methodology	Author
1	*Low levels of political support *Low levels of international project management experience by the owner *Low utilization of relational-approaches *Inadequate contract clarifications performed during the precontract period	*Host Country *Public Construction *Industry *Professional Practice *Project Managing Organization (PMO) *Administrators *Contract Utility	Interviews	Maemura, Kim and Ozawa (2018)
2	*Inadequate, ambiguity of contract documents * Poor Communication * Unclear and improper risk allocation * Differing Site Conditions	N/A	Literature review and interviews	Abou-ElFetouh, Abdel-Hamid and Hasanin (2024)
3	* No payment/late payment * Site access delay * Delays for deficient performance * Adversarial relationships and low team spirit * Bidding documents / contracts unclear, ambiguous *Weather	*Financial *Time *Execution of work and site relatedpeople's *Design and information related *Relations between actors and with third parties * Contractual documents *Force Majeure	Literature review and arbitration cases	Serpell and Torres (2023)
4	• Late payments issued by the client • Late work execution • Late payment issued by the contractor to its	N/A	Review of litigation cases	Zeberga et al. (2024)

	subcontractor.			
5	• Differing site condition • Local people obstruction • Difference in change order evaluation • Errors and omission in design • Excessive quantity of works • Double meaning in specification	N/A	Questionnaire	Acharya, Im and Lee (2006)
6	• Change or variation orders due to new requirements from client • Variations in quantities due to new requirements from client. • Contractors causing delays • Design errors and negligence • Inconsistencies in the drawings and specifications”	N/A	Questionnaire	Assaf (2019)
7	• Poorly-written contracts • Ambiguity in the contractual specifications and contract documents • Conflict among the contract documents • Unreasonable project milestone schedules	N/A	Questionnaire	Shash and Habash (2021)
	• Payment delay • Contract documents • Main contractor time delay • Owner time delay	• Abnormal conditions • Financial situation, • Project delay • Project management	Review of litigation cases & interviews	Alrasheed, Soliman and AlMesbah (2023)

The duration of cases resolved in courts of law is important because litigation delays increase costs through increased legal fees and related expenditure. Litigation time in this research is considered as the time taken from the filing to the final ruling of the court case. In most cases, it is often said that court cases take long without an indication of the actual time taken to resolve most of these conflicts in the construction industry. In a study conducted by Alrasheed et al. (2023), the mean duration for litigation was found to be 5 years in the state of Kuwait by analyzing a sample of 48 litigation cases. A study conducted in Slovenia shows that the court takes an average of 508 days to resolve commercial conflicts based on 324 court cases (Grajzl & Zajc, 2017). Generally, there is limited scholarly literature on the effectiveness of litigation in resolving court cases involving contractual conflicts in the construction industry. It appears there is no study that has explored litigation in terms of time taken in resolving contractual conflicts as well as damages awarded during court rulings.

METHODOLOGY

The research adopted a quantitative descriptive approach that includes analysis of real contractual court cases in the construction industry from Uganda retrieved from a number of sources. The court cases considered in this research are those dealing with contractual conflicts resulting from disputes during construction contract execution. Thus, tort, employment/labor, procurement, health, safety, and environmental-related conflicts are not considered in this research. Thus, court cases due to contractual conflicts were analyzed within their real-life context to determine the causes of conflicts, the time taken to resolve these conflicts, and the damages awarded during the ruling. This is a different approach compared to other studies normally based on the opinions, knowledge, and experience of experts collected through interviews and questionnaires. The research relied on published court cases by government organisations or institutions found on websites such as the Judiciary of Uganda, Uganda Legal Information Institute (ULII), the Centre for Arbitration and Dispute Resolution (CADER), the Uganda Law Reports database and the Public Procurement and Disposal of Assets Authority (PPDA).

Each selected case involved a contractual conflict resolved through litigation, with a recorded judgment containing sufficient detail for structured data extraction. The data collected from the identified court cases was organized and studied considering areas of interest to discover some unknown facts. The data was initially collected and entered systematically into an Excel spreadsheet, cleaned, and finally imported into R software for analysis.

After completing data entry, a data cleaning script was created in R to prepare the dataset for statistical analysis. In standardizing contract dispute types, a `contract_conflict_type` variable was created with consistent categories (Breach of Contract, Payment Dispute, General Contract, Employment Contract, Sale of Goods, Land/Property) to enable comparison across dispute types. To understand the patterns of contractual conflict, a text mining script was written that categorized each case by its cause type using the cause flags recorded during data collection. Damage and claim amounts were recorded as free-text descriptions from judgments. `Time_to_judgment_months` was computed as the difference between filing and judgment dates. `Cause_count` was computed as the total number of distinct causes of action per case while `recovery_ratio_num` was computed as the proportion of the claimed amount that was actually awarded.

RESULTS AND DISCUSSION

The search strategy resulted in 64 contract-related court cases that were resolved by the judicial system between 2000 and 2023. These contractual conflicts were broadly categorized as payment-related conflicts (48%), breach of contract (41%), and other contract issues (11%). The results show that the plaintiffs' winning rate was 90.3% (payment conflicts), 88.5% (breach of contract), and 100% for other contract issues. Therefore, it is much easier for a plaintiff to win in a court of law with a payment- conflict court case as compared to a breach of contract case, which may require justification and a lot of evidence. The overall winning rate for plaintiffs in contractual conflicts in the construction industry was 90.6%. For any party aggrieved in a construction contract, it may be advisable to proceed to litigation provided the available laws and procedures favor the application. The results show that in government defendant court cases the plaintiff winning rate was higher (93.3%) compared to non-government defendant court cases (89.8%). Therefore, the government's involvement does not necessarily reduce the plaintiff's winning rate and may possibly increase the chances of winning.

The findings show that the main causes of contractual conflicts in the construction industry are non-payment, breach of contract, delays, defective work, fraud/misrepresentation and procedural rated issues. Breach of contract in this research includes wrongful termination, failure to complete works/services, repudiation (outright refusal to perform remaining obligations), failure to supply or deliver materials, equipment and general nonperformance. The above findings are comparable to design errors, late payments, ambiguity in bidding documents and late execution of work are found in previous studies (Alrasheed, Soliman & AlMesbah, 2023; Serpell & Torres, 2023; Zeberga et al., 2024). Generally, non-payment and breach of contract are responsible for over 80% of the contractual conflicts in the construction industry. Non-payment is responsible for over 50% of the contractual conflicts in the construction industry. Non-payment includes late or delayed payments including refusal to pay and disagreements on variations or certified work including liquidated damages. This research appears to be the first to establish the extent to which non-payment contributes to contractual conflicts in the construction industry.

Based on the bargain theory, all the above court cases were enforceable in courts of law due to the mutual exchange and consideration agreed by the parties at contract formulation. As an example, as long as court establishes that work was performed by a claimant, then the courts of law have to ensure fairness based on mutual exchange and consideration for the claimant to be paid, partly explaining the plaintiff's higher winning rate of 90.3% for payment related conflicts. Equally, the promise theory in contract law applies in resolving payment related conflicts since according to this theory, a contract is formed through an exchange of promises. Thus failure to pay for executed services or works is enforceable in court since the promises made by the parties are legally binding. Therefore, it is very important for contract and project managers to resolve payment related disputes during project execution so as to minimize contractual conflicts.

In this research court, damages were also determined for contractual conflicts in the construction industry. Court-awarded damages are basically financial compensations given to either party that has suffered loss or injury due to another party's actions or negligence. The average special damages awarded in contractual conflicts were USD 85,000 and USD 18,000 for general damages. This information can be used for decision making giving an indication of the expected compensation by plaintiff or loss to be incurred by defendant. The compensation

awarded in all the above court cases are grounded in the mutual exchange and consideration agreed by the parties as explained by the bargain theory. Again, since a contract is considered a promise based on the promise theory, the law gives a remedy for the breach by any party, which is seen in resolving these conflicts in form of compensation awarded by the courts of law.

Regarding the time taken, contractual conflicts in the construction industry take an average of 39.6 months to be resolved in the courts of law in Uganda. Over 60% of the court cases analyzed took more than 2 years to be resolved, and 12.5% of the court cases were resolved in more than 5 years. The findings show that payment-related conflicts take the least time to be resolved (35 months) compared to the other types of contractual conflicts. In a study conducted by Alrasheed et al. (2023), the mean duration for litigation was found to be 5 years in the state of Kuwait by analyzing a sample of 48 litigation cases. One possible explanation for the difference in time is the fact that our research specifically analyzed only contractual court cases and ignored all the other construction conflicts probably considered in Kuwait's court cases. This research appears to be the first one to provide an in-depth analysis of only contractual conflicts compared to previous studies. According to the annual judiciary performance report 2023/24, the average time taken to clear court cases in Uganda was 897 days in 2022/2023 and 891.25 days in 2023/2024. The target lead time for the court cases in Uganda was 1,074 days in 2022/23 and 1,044 days in 2023/24. The lead time refers to the amount of time from the date of registration of a court case until it is concluded. Based on the above data, it clearly shows that the average time taken to clear contractual court cases is above the average time taken to clear all court cases in Uganda by 10 months. Generally, case backlog, understaffing, and limited automation of court processes may possibly explain this lengthy time in resolving contractual conflicts.

CONCLUSION

This research explores the use of litigation in resolving contractual conflicts, only using real court cases, unlike other studies that focus on general conflicts in the construction industry based on reviews and questionnaires (giving experiences, impressions, perceptions, and opinions of practitioners or experts). Using 64 court cases resolved by the judicial system in Uganda between 2000 and 2023, this research categorizes the contractual conflicts based on the cause of the conflict as mainly payment and breach of contract conflicts. The analysis shows that the plaintiffs' winning rate in contractual court cases is 90.6%, with a higher rate in government defendant court cases. Generally, non-payment and breach of contract are responsible for over 80% of the contractual conflicts in the construction industry, with non-payment responsible for over 50% of the contractual conflicts in the construction industry. The average court-awarded special damages in contractual conflicts were USD 85,000 and USD 18,000 for general damages. Contractual conflicts in the construction industry take an average of 39.6 months to be resolved in the courts of law in Uganda, with over 60% of the court cases requiring more than 2 years to be resolved. The time taken to resolve contractual conflicts is above the average lead time and the judicial targets for all court cases between 2022 and 2024 in Uganda. Therefore, it appears the judicial system is inefficient in resolving contractual conflicts in the construction industry given the lengthy time taken.

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