

A THEMATIC ANALYSIS OF EXPERTS' PERCEPTIONS OF CRITICAL CHALLENGES TO EFFECTIVE STATUTORY ADJUDICATION IMPLEMENTATION

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PURPOSE

Default payment either in the form of delayed payment or non-payment remains a lingering issue affecting the construction industry supply chain. The payees', which are mostly contractors and subcontractors at the lower rung of the contractual chain face financial difficulties from main contractors who delayed or refused payment in the knowledge that court and arbitration proceedings are often too expensive and a slow remedy for, particularly, the smaller contractors. These oppressive acts have led to insolvency of many lower-chain players and as such generated serious concerns within the construction industry. Consequently, several countries around the globe have introduced payment and adjudication legislation to provide parties with the right to payment and further allow a swift and cheaper means of resolving construction disputes by way of adjudication.

Similar legislation is about to be promulgated in the South African (SA) construction industry. However, previous studies revealed that the effectiveness of statutory adjudication could be undermined when there are challenges. Thus, this paper reports the experts' perceptions on the critical challenges that can impair the effective statutory adjudication implementation, highlights the causes of those challenges and finally suggests potential approaches to prevent the identified challenges.

DESIGN/METHODOLOGY

The study which is reported upon in this paper generated open ended questions which require novel answers from the experts that are directly involved in the adjudication implementation process. Thus, the study employed a qualitative research approach in both the collection and analysis of data.

Data for the study were collected through Skype TM interviews with 15 experienced and seasoned professionals who have had direct interaction with the statutory adjudication implementation in four selected jurisdictions namely: (i) The United Kingdom, (ii) Australia, (iii) Singapore, and (iv) Malaysia.

FINDINGS

The study revealed that challenges which could impinge the effectiveness of the legislation supporting statutory adjudication ranges from lack of familiarity with the legislation itself, to issues relating to the contents of the legislation, cost of adjudication and adjudicator's fees, inadequate knowledge of process and procedure of adjudication by the users, jurisdictional challenges, capacity challenges and legal technicalities challenges.

The perception of the participants is that some of these challenges arise from poor drafting, court interference and adverse court decision, drafting inconsistency and low level of knowledge.

The study finally highlighted the possible ways of avoiding the identified challenges such as raising awareness of different industry stakeholders, adequate training for adjudicators and institutional interventions.



ORIGINAL/VALUE OF PAPER

This study adds to the body of knowledge by providing empirical evidence which addresses some of the gaps identified in the literature regarding the issue relating to effective implementation of statutory adjudication. The application of proposed means of avoiding the identified implementation challenges would positively lead to the effective operation of statutory adjudication practice in the SA construction industry and may also serve as a guide to other jurisdictions contemplating introducing statutory adjudication.

Keywords: Statutory adjudication, legislation, implementation challenges.

1. INTRODUCTION

All over the world, the occurrence of disputes in the construction industry continues to plague all stakeholders such as clients, contractors, subcontractors, professionals and suppliers. In addition, disputes have had different consequences for those involved in construction projects. These consequences range from delays in project progress to utter abandonment of construction projects. In fact, disputes have also been associated with severe health challenges to injured contracting parties, poor construction work, delay and consequent loss of money used in securing the services of legal representatives, etc.^{[1] [2]} Hence, contracting parties have always had cause to remediate disputes. Litigation through the formal courts has been the oldest means of resolving disputes^{[2][3][4]}. While it has been noted that formal courts have over the years played a significant role in the construction industry's dispute resolution and have provided succour and redress to contracting parties, the process of litigation is nonetheless being less appreciated by contractors in the presence of alternatives^{[5][6]}. In effect, many experts believe that litigation is currently becoming especially inappropriate for resolving disputes in the construction industry^[7].

Several reasons have been given for the current disinterest in litigation for dispute resolution within the construction industry. The most prominent of these reasons were: delay in the court protocols, which affect execution and completion of the project and serious cash flow problems which lead to lack of survival of many contractors and subcontractors. Similar consequences have been recorded about arbitration. For instance,

arbitration as an alternative disputes resolution (ADR) method, which was initially introduced to be inexpensive, prompt, private, and non-adversarial, has been fraught with challenges relating to cost, speed and procedural complexities^[7]. As such, a much better ADR method has been advocated^[8]. In the recent times, there has been an increased preference towards adjudication as an (ADR) mechanism over the other disputes resolution methods^[9]. The fundamental motivation behind the introduction of statutory adjudication is to improve cash flow within the construction industry and also to improve the efficacy of dispute resolution in terms of cost and time^[10]. Whilst cash flow is widely regarded as the lifeblood of the construction industry^{[11][12]}, unfair payment practices remain a lingering issue affecting the delivery chain^[13]. Most often, contractors and subcontractors at the lower rung of the contractual chain face financial difficulties from main contractors who delayed payment in the knowledge that court and arbitration proceedings are often too expensive and a slow remedy for, particularly, the smaller contractors. These oppressive behaviours, at many instances, have led to insolvency of the lower-chain players and as such generated serious concerns within the construction industry^[14]. Consequently, the idea of statutory adjudication was conceived to offer a swift relief to the financially squeezed and cash-starved subcontractors. Statutory adjudication is simply an "accelerated and cost-effective form of dispute resolution that, unlike other means of resolving disputes involving a third party intermediary, the outcome is a decision by the third party which is binding on the parties in disputes and is final until reviewed by either arbitration or litigation"^[15]. The United Kingdom introduced statutory adjudication first through section 108 of Housing Grants, Construction and Regeneration Act, 1996 (HGCRA). Since then several other countries have shifted to adjudication as their principal mode of construction disputes resolution mechanism [16].

The discovery is that, in many of these countries where adjudication has been employed as the means of resolving disputes, it has both timeously and satisfactorily settled disputes and pacified the parties involved. Further, adjudication has proffered acceptable solutions such that litigation was not necessarily required^{[17] [18] [3]}. Having gained popularity and wide acceptance in several other countries due to its effectiveness, adjudication seems to have come through as the desired alternative in SA. Notwithstanding, some earlier studies have illustrated in clear terms that,



certain challenges must be overcome and a lot of effort should be made before an effective implementation of statutory adjudication can be achieved in SA ^{[13] [19] [20] [21]}. Thus, this paper investigates the critical challenges that can impair the effective statutory adjudication implementation, the causes of those challenges and potential approaches to prevent the identified challenges.

2. DEFAULT PAYMENT AND MOVE TOWARD STATUTORY ADJUDICATION IN SOUTH AFRICA

The SA construction industry is large, diverse and complex in nature ^[22]. The industry plays very important roles in the national economic and social development. Nevertheless, the industry has been fraught by a series of practical payment problems which has been recognised as a chronic problem affecting the delivery chain ^[13] and the fundamental cause of construction disputes ^[23]. The unpredictability of payments has, in certain instances, resulted in an extremely negative contracting environment ^[24] and as such, disputes are not uncommon within the industry.

The annual Construction Industry Development Board (CIDB) survey of contractors, clients, consultants and other stakeholders that assess the industry performance in the form of construction industry indicators (CII) has reported continuous and increasing deterioration in both payment culture and management of disputes within the SA construction sector ^{[25] [26]}. Similarly, the report of CIDB entitled “Subcontracting in the South African construction industry; opportunities for development” shows that 65% of the subcontractors in SA faced financial difficulties as a result of payment-delay ^[23].

In addition, numerous complaints about late payment, contractual disputes between clients and contractors, main contractors and subcontractors as well as dissatisfaction on management of variation orders has continued at high level within the SA construction industry ^[26]. This has generated serious concern within the industry because of its significant negative effect on growth and performance of the industry. Unfortunately, the traditional means of resolving construction disputes have not helped, in that, the time and cost associated with litigation makes the process undesirable. Regrettably, arbitration does not provide a better solution either. Thus, there have been increased concerns on how to

strengthen the industry to face the present and future challenges with regards to payment problems and resolution of construction disputes within the industry, of which the subcontracting sector of the industry usually bears most of the brunt.

In recognition of the negative consequences of default payment and the fact that the problem of dispute resolution within the construction industry in SA is an acute reality that requires a timely and durable solution, Prompt Payment Regulations and Adjudication standards were proposed by the CIDB for the SA construction industry. The recommendation of the proposed regulations was premised on the need to facilitate payments, outlaw unfair payment terms and establish a cheaper, swifter and binding ADR mechanism. Once enacted, the regulations are expected to ensure that the lifeblood of the construction industry - cash flow - flows ^[12].

However, past studies in some of the countries where similar regulations have been in place revealed that the initial take-up of statutory adjudication faced a lot of teething problems and certain challenges which threatened its efficiencies and undermined its usage. Thus, to achieve effective implementation of the statutory adjudication in the SA construction industry this study investigates the critical challenges that can impair the effective statutory adjudication implementation. The paper further highlights the causes of those challenges and suggests an approach to prevent them.

3. RESEARCH METHODOLOGY

This study adopted a qualitative research approach due to the richness of information and clarity of meaning that the approach usually provides. Data were collected from the professionals that have direct interaction with the adjudication implementation in four selected jurisdictions namely: The United Kingdom (UK), Australia, Singapore and Malaysia. The adjudication experts from the UK and Australian state of New South Wales (NSW) were selected because both the UK and NSW were regarded as the leaders of the practice of statutory adjudication ^[10], having being the first and second jurisdictions to enact legislation in support of statutory adjudication practice. The adjudication professionals in Singapore were contacted because their adjudication regime is somewhat different from the two leading models.



The Singapore adjudication regime is an amended version of the NSW Acts, which was purposely modified, to suit their own industry structure. Thus, consulting experts in Singapore revealed how the improvement in their legislation aided effective implementation. Adjudication experts from Malaysia were selected since it was the latest country (as at 2015) that brought into force legislation providing for the mandatory adjudication of construction payment disputes. Moreover, the Malaysian Acts is considered a hybrid of multiple adjudication systems and cannot be grouped into either of the other two leading models (i.e. the UK and NSW)^[27]. Malaysia is also the only country that named an independent institution called The Kuala Lumpur Regional Centre for Arbitration (KLRCA) as an implementing authority in charge of adjudication administration in their legislation. Thus, specific contributions from the experts working in that institution were regarded as what are needed to meet the objectives of this study.

Considering the nature of this study, a purposive and snowballing sampling method was used to identify the potential interviewees in the four selected countries. The choice of purposive sampling method was based on the recognition of the fact that it is the most important kind of non-probability sampling to identify suitable participants who have had experience relating to the phenomenon under consideration^[28]. Thus, the participants for this study were selected on the basis of their specific involvements and experiences with adjudication. In addition to the purposive technique, snowballing methods were also employed. The rationale behind the inclusion of the snowballing technique is that the participants selected through purposive sampling would volunteer information on other personnel or individuals who meet the set criteria for selection, and as such, more useful data would emerge that might lead to greater discovery of additional information. The institution in charge of adjudication implementation in Malaysia was the first to be contacted in September 2015.

Thereafter, individuals who have been involved in adjudication processes and implementation from other selected countries were also contacted. Access to the interviewees was negotiated through a letter of request and interviews were arranged with the identified individuals. In all, twenty seven (27) adjudication experts were contacted. Fifteen (15) adjudication experts agreed and participated in the interviews. A typical sample size for interviews of this nature is

from 5 to 25 individuals^{[29] [30] [31]}. The selected participants are regarded as experienced and leading adjudicators in their countries. Most of these participants (53%) have more than 20 years of experience while 47% have between 10-19 years of experience. These professionals have engaged in adjudication as legal advisers, legal representatives, adjudicators, trainers and construction lawyers. In addition, most of these participants (73%) have also written books, conference papers and journal articles on adjudication and payment legislation in their countries and internationally.

Data were collected through interviews via Skype™ in accordance with the Patton's general qualitative interview guide approach^[32]. The interview guide was developed to enable uniformity in the manner at which questions are asked throughout the interview exercise and to facilitate consistency in the trajectory of the interviews. The interview guide comprised of eleven open-ended questions, excluding demographic questions. The questions were to probe the individual's viewpoint regarding the subject matter and the structure of the questions allowed reciprocal two-way communication arrangement with the interviewees' thereby giving room for exploratory and clarification purposes^[33]. The interview that lasted on average of 38 minutes were audio-recorded with the kind permission of the interviewees. The recordings were transcribed and were sent back to the interviewees for validation.

The thematic analysis of data was based on general principle of qualitative analysis, to comprehend interviewees' contributions on effective statutory adjudication practices. The analysis followed the qualitative principles of analysis which include: transcribing, coding, constant comparison and diagramming^{[34][35]}. The process was done manually by the researcher for getting comprehensive ideas of the data. During this process, key ideas were identified and highlighted.

Thereafter, the transcribed data were coded, then the coded data were categorised and relationships were built among the categories. A total of 412 codes, 41 subcategories, 11 categories and four main themes were generated in the study. This paper presents only one of the main themes, tagged "The critical challenges to effective statutory adjudication implementation". The main theme is further discussed under three sub-themes namely (i) critical challenges to effective statutory



adjudication implementation; (ii) factors that cause challenges to effective implementation and (iii) avoidance strategies and preventive measures to adjudication implementation challenges.

4. RESEARCH FINDINGS

MAIN THEME: Critical challenges to effective statutory adjudication implementation and how they can be prevented

This theme is focused on the critical challenges that could impair the effectiveness of statutory adjudication process, their causes and the possible ways by which they can be prevented.

As aforementioned, the theme will be discussed under three sub-themes.

SUB-THEME 1: CRITICAL CHALLENGES TO EFFECTIVE STATUTORY ADJUDICATION IMPLEMENTATION

Based on the analysis of the interview data, the interviewees identified several challenges that could impair the effective implementation of the legislation supporting statutory adjudication. The challenges identified are grouped under seven categories namely: (i) challenges relating to change process issues; (ii) challenges relating to technical provisions and contents of the legislation; (iii) challenges relating to the issue of procedure and process; (iv) challenges relating to legal technicalities; (v) challenges relating to cost of adjudication and adjudicator's fees; (vi) capacity challenges; and (vii) jurisdictional challenges.

(i) CHALLENGES RELATING TO CHANGE PROCESS ISSUES

The challenges relating to change process refer to the difficulties that arise during the initial stages of the implementation process. The data analysis revealed that, industry's slow acceptance of the legislation, ignorance about the provisions of the legislation and the failure to understand the requirements and operation of the new legislation, lack of understanding by the users, users' ignorance of their entitlement under the new legislation, lack of awareness and low level of knowledge of the legislation were identified as change process challenges.

These teething problems are viewed by the participants as potential factors that could undermine the effectiveness of the Act if not properly handled.

Participant 7 from Australia explained that: "The two most significant reasons for the teething

problems are: lack of training/understanding by users, adjudicators, lawyers etc. and drafting inconsistencies within the legislation". In line with participant 7 submission, participant 9 from Singapore also noted that: "Teething problems also arose in the way Acts were drafted and the technical provisions in the Act". The perception from the interviewees' comments is that, where these challenges exist, the usability and the level of invocation of the legislation may be low.

(ii) Challenges relating to technical provisions and contents of the legislation

Majority (75%) of the participants independently observed that problems relating to the contents of the Act are critical. According to the views expressed by the participants, challenges relating to the technical provisions and contents of the Act usually arise when there is a lacuna in the legislation. It was revealed from the analysis that the manner in which a particular legislation is drafted has a way of influencing the outcome of that legislation. The majority of the interviewees stressed that drafting inconsistencies and ambiguities in legislation have led to critical interpretation problems in many jurisdictions.

According to participant 6: "The major teething problem, in my view, is the interpretation of some of the provisions of the Act and this has to be sorted out by the High Court. To date, there are more than 15 cases that have been referred to the High Court".

Similarly, participant 2 is of the view that there would always be confusion whenever the Act is silent on how some issues should be carried out. According to her, the way the Act is worded can influence the interpretation and understanding of the contents of the legislation. Gaps/lacunae in the legislation and lack of clear guidance on the implementation procedures usually give rise to uncertainty.

This will not only undermine the effectiveness of legislation but increase litigation.

(ii) CHALLENGES RELATING TO ISSUE OF PROCEDURE AND PROCESS

The challenges identified from the interviews under these categories are mainly (i) ignorance of subcontractors, suppliers and other intended beneficiaries of the various provisions of the Act, and their entitlements under the Act, (ii) procedural complexity and



(iii) THE LEVEL OF ACCESSIBILITY.

Participant 5 explained that one major contributing factor to procedural challenges is when there is provision of only a general framework within a legislation without detailed procedure as to how and what implementation process to be followed. The lack of clear process and procedure within a given legislation is being capable to cause implementation problems.

(IV) LEGAL TECHNICALITIES CHALLENGES

The opinion of the interviewees on what constitutes legal technicalities challenges include: (i) The strict interpretation of the rules of adjudication, (ii) the introduction of complicated issues that is applicable to arbitration, and (iii) adverse court decisions. Participant 9 explained that lawyers tend to approach adjudication with a strict interpretation of the rule of adjudication. This has resulted in many technical breaches thereby giving room for applications to be rejected and in some situations, good claims are dismissed. This has not only been a waste of time and resources, but also a failure of claimants to meet the justice of the claim when a good claim is dismissed due to technicalities challenges. Adverse court decisions have their share in defeating the objective of the legislation. Participant 7 explained that the courts' decisions which nullify the effect and efficiency of how adjudication is intended to operate can stultify the significance of adjudication and bring the system to a standstill, thereby circumventing the objects of the legislation.

(v) CHALLENGES RELATING TO COST OF ADJUDICATION AND ADJUDICATOR'S FEES

The challenges relating to issues of cost and fees are viewed from two perspectives. On one hand, a large proportion of the interviewees agreed that if the cost of adjudication is excessively high, this may be a limiting factor to its wider usage and thus affect the impact of the legislation. In this regard, one of the interviewees explained that the excessive cost of adjudication may be a significant barrier to subcontractors in pursuing adjudication. On the other hand, two interviewees raised concern that, if the adjudicators' fees are too low, it could discourage the experienced adjudicators and lead to inadequate capacity, as they may not want to practice adjudication.

(vi) CAPACITY CHALLENGES

The issue of quality is fundamental to an effective

adjudication process. The analysis of the interview data revealed that capacity challenge could come in the form of:

- Inadequate resources in terms of number of adjudicators available to kick-start the adjudication process;
- Inadequate resources in terms of the quality of the available adjudicators; and
- Inadequate resources in terms of the discipline and experience of the available adjudicators.

Some of the interviewees believe that, for an adjudication regime to be successful, it requires highly experienced adjudicators that can produce quality decisions. This implies that the quality of decisions produced by such adjudicators is likely to be high, and unlikely to be reopened at other levels of dispute resolution, such as arbitration and litigation. Some of the interviewees also assert that when there is availability of adequate capacity, then careful assessment of which adjudicator is available and can deal with the complexities of a case would be possible. Thus, matching the right sort of adjudicator with the right sort of dispute would not be too difficult.

(vii) JURISDICTIONAL CHALLENGES

Data analysis revealed several grounds on which a jurisdictional challenge might be brought into adjudication. The grounds for challenging an adjudicator's determination include (i) jurisdictional errors by the adjudicators (ii) breach of natural justice (iii) where one of the parties feels that the adjudicator was not validly appointed (iv) where either of the parties feels that he has not been given a fair hearing. The study further revealed that all these factors are fundamental grounds at which adjudicators' decisions would not be enforced. This challenge, according to the participants can defeat the very objective of the legislation of making adjudication a summary, simple, fast and relatively cheap process.

SUB-THEME 2: CAUSES OF TEETHING PROBLEMS AND CRITICAL CHALLENGES TO EFFECTIVE IMPLEMENTATION **THE INTERVIEWEES PROVIDED A LOT OF INFORMATION ON THE VARIOUS CAUSES OF IMPLEMENTATION CHALLENGES. THESE INCLUDE:**

(i) poor drafting style and drafting inconsistency within the legislation; (ii) unnecessary judicial interference or adverse court involvement in the adjudication process; (iii) ignorance or lack of familiarity with the process and procedure; and



(iv) lack of clarity on the provisions of the legislation (ambiguities) As revealed by the data, the drafting inconsistencies within the legislation provide a basis for interpretation problems with parts of the legislation. One of the participants observed that, in his country, the ambiguities within the legislation have led to considerable confusion in pursuing the contractual remedies stated in the legislation.

In addition, some of the interviewees observe that failure by the court to understand the intended nature of adjudication had in some instances led to adverse interpretation and setting aside of adjudication decisions. In fact, this action had in some instances resulted in a flood of jurisdictional challenges. Thus, it was observed that the losing party in adjudication may use this avenue to challenge the adjudication determination with the hope of delaying or avoiding payment to the winning party.

The interviewees also observed that the user’s (contractors/subcontractors) low level of knowledge, users’ ignorance of the legislation provision and degree of accessibility to the legislation are the factors that are responsible for some of the problems associated with the implementation process.

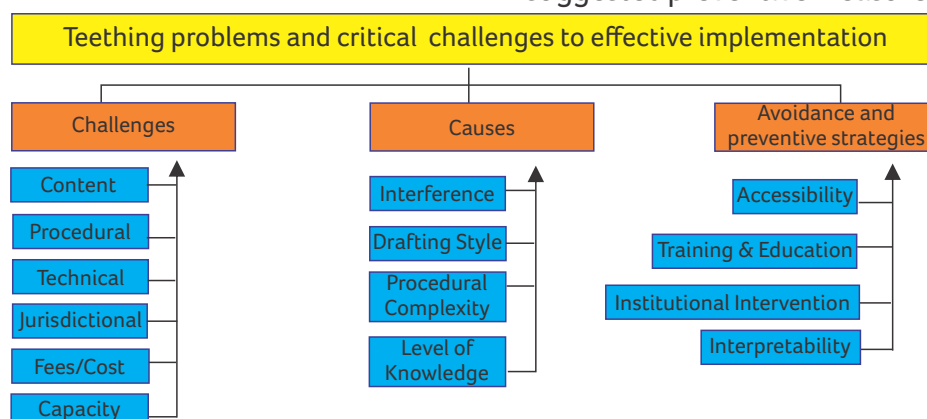
SUB-THEME 3: AVOIDANCE STRATEGIES AND PREVENTIVE MEASURES TO THE IDENTIFIED IMPLEMENTATION CHALLENGES

The participants suggested certain strategies that could be used as a measure to prevent various challenges identified in this study. Some of the suggested preventive measures include: raising awareness of different construction stakeholders through different means, such as road shows, seminars, workshops and conferences etc. Some of the participants also advised that the high court judges should be informed about the intended nature of adjudication to avoid any misconception in relation to statutory adjudication policy objectives.

Participant 12 noted that: “I think, it is by creating awareness in the judges of how arbitration is different from adjudication, it will be good when a country who wants to introduce legislation should check the experience of judges to be involved in the consultation process as well, so that the judges may be well informed of what adjudication is and what the legislation wants to achieve when it is introduced in the future. Thus, it will be good to create and increase awareness to let the judges be involved from the very beginning”. The implication of the statement of participant 12 is that all industry stakeholders, that would be involved in adjudications whether as a user or as implementer, should be properly informed. In addition, education and training was suggested as one of the significant factors that can enhance effectiveness. For instance, participant 3 advises that adjudicators should be properly trained to fully understand ethical, technical and substantive legal standards. According to him: “Training is very important. A core focus of the training programme has to be directed at the pool of individuals who will serve as adjudicators. Ethical, technical and substantive legal standards, knowledge, and principles ought to be communicated and the candidates for inclusion in the pool of adjudicators tested for an adequate understanding of the relevant standards, knowledge and principles”.

Some interviewees also suggested that institutional interventions will go a long way in preventing the identified challenges. These interventions include: (i) the regulation of adjudication fees, (ii) information dissemination, (iii) good accessibility to the legislation, (iv) clear interpretation (v) using simple and clear languages in the wording of the legislation to avoid misinterpretation and ambiguities and (vi) maintaining a high standard of adjudicators through the introduction of a quality control system and rigorous training and assessment programs.

Figure 1 presents the critical challenges to effective statutory adjudication, its causes, and suggested preventive measures.



5. DISCUSSION

Challenges are not uncommon to an implementation process. Every policy maker expects to see that the policy objectives behind their legislation is achieved. However, implementation problems do occur and create a gap between policy conceptions and outcomes. While it has long been recognised that the existence of systemic problems usually make the gap between policy theory and practice hard to close^[36], the lack of adequate preparatory arrangements to influence transformation initiatives and implementation process usually compounds implementation problems. As indicated in this paper, one of the major challenges to effective implementation is the degree of ambiguity of the policy. The challenge of ambiguity consequently leads to diverse interpretation, multiple perspectives and interpretative flexibility^[37]. These challenges have in some instances led to jurisdictional challenges, rejection of adjudication determination and thus defeat the purpose of the legislation to provide quick and cheap resolution process.

The lack of awareness and insufficient knowledge of the new legislation, procedural complexity, low level of accessibility, lack of understanding of the contents of the legislation, inadequate information dissemination, insufficient resources, unavailability of the required combination of resources, lawyer attitudes, and excessive high cost of adjudication were recognized as potential impediments to the effective implementation of the legislation supporting statutory adjudication. All these require adequate attention if the purpose of introducing the legislation is to be achieved.

6. CONCLUSION

This paper has identified the critical challenges that can impair the effectiveness of statutory adjudication implementation based upon a qualitative interview involving experts drawn from the UK, Australia, Singapore and Malaysia. The paper also highlighted the causes of those challenges and suggested approach to prevent them.

The study revealed seven critical challenges that can undermine the effective implementation of statutory adjudication in the resolution of construction disputes. These challenges are relating to: (i) the technical provision and contents of the legislation; (ii) change process issues; (iii)

procedure and administration issues; (iv) legal technicality issue; (v) cost of adjudication; (iv) capacity; and (v) jurisdictional issues. Drafting inconsistency, adverse court decisions, ambiguities in the legislation content, ignorance and lack of familiarity with the adjudication process and procedures are revealed as factors that can occasion failure in the implementation process.

Thus, the study suggested possible ways to prevent the identified challenges, these include, awareness raising, education and training and institutional interventions. Based on these findings, this paper concludes that, if priority is given to proper drafting of the legislation supporting adjudication practice, in a clear, simple and understandable manner, and the issues of ignorance is dealt with through rigorous publicity and creation of awareness, adjudication becoming the most effective dispute resolution in the SA construction industry has great possibilities.

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