

APAC infrastructure disputes have outgrown the expert model producing evidence for them.

*A commentary on scarcity, specialisation, and the quality of decisions in
Asia-Pacific infrastructure and energy disputes.*

THE CORE PROBLEM

A question of pace, not principle.

Across Asia-Pacific, infrastructure and energy disputes are becoming larger, more technically complex, and more dependent on expert evidence. The trend is structural — a change in how projects are owned, financed, engineered and operated — not cyclical.

The consequence is a deepening reliance on experts. Courts, arbitral tribunals, adjudicators and dispute boards are all asked to resolve specialised engineering, project-controls, financial and regulatory questions that lie outside the direct experience of any generalist decision-maker.

The question is no longer whether expert evidence matters. It is whether the profession's model for producing it is evolving at the same pace as the disputes — and whether the expertise reaching the decision-maker is genuinely matched to the issue in dispute.

THE NUMBERS DESCRIBE A MARKET

Not merely a docket.

Arbitration is mostly where the numbers are published, not where all the disputes are. Even so, the visible portion describes a market — the region's most valuable infrastructure and energy assets, carrying the most technically demanding questions those assets can generate.

886

new SIAC cases in 2025 — **USD 14.53 bn** in dispute across 79 jurisdictions.

388

new HKIAC arbitrations — up **10.2%**. A record HKD 126.2 bn across HKIAC's 2025 caseload.

\$299 bn

in **ICC** pending disputes at the close of 2025 (preliminary).

31%

Singapore and Hong Kong, **tied** as preferred seats immediately behind London.

Sources: SIAC Annual Report 2025; HKIAC 2025 case statistics; ICC dispute resolution statistics 2025 (preliminary); QMUL & White & Case 2025 International Arbitration Survey (London 34%, Singapore 31%, Hong Kong 31%).

FROM DEFECTS TO SYSTEMS & REGULATION

A different kind of dispute.

Delay, disruption and defects have not gone away. What has changed is that a growing share of disputes sit at once within engineering, economics, regulation, financing and operations. Examples in current practice now include:

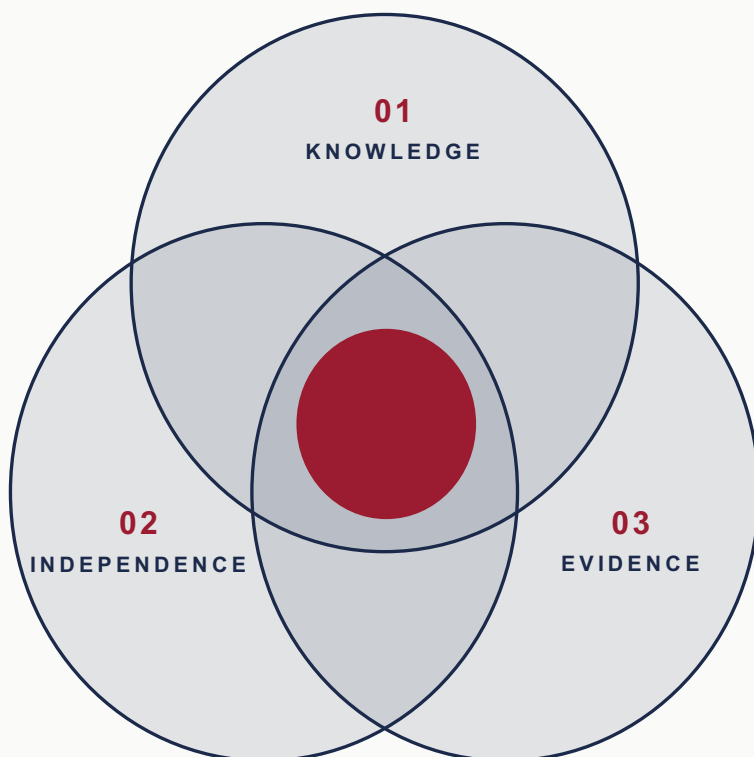
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| ▪ Battery storage degradation and round-trip efficiency loss | ▪ Renewable performance guarantees and availability warranties |
| ▪ Transmission constraints, congestion and dispatch priority | ▪ Grid-code compliance, model validation and commissioning hold-points |
| ▪ Curtailment and the allocation of curtailment risk | ▪ Power-market reform and regulatory change events |
| ▪ Commissioning, performance testing and acceptance failures | ▪ Multiple interface breakdowns — Owner / Contractor / OEM / Grid / Civil BoP / Electrical BoP / Supply Chain |

These disputes are different in kind, not merely in degree — they will ask a decision-maker to evaluate how a complex system actually behaved within an equally complex regulatory environment.

THE EXPERT SUPPLY GAP

Three attributes. One small pool.

Persuasive expert evidence requires three attributes at once. Each is scarce on its own; their intersection is scarcer still. In more than three decades working across major infrastructure projects and disputes, I have observed that this intersection is thinnest precisely where dispute values and consequences are highest.

**THE INTERSECTION**

The experts who actually decide cases.

01**Deep, current, issue-specific knowledge**

Not “understands infrastructure” — understands this exact technology, generation and operating environment.

02**Demonstrable independence**

Independent assistance to the tribunal or court — not advocacy for the instructing party.

03**The ability to give and defend evidence**

To explain facts, technical details and uncertainty, with the ability to succeed under adversarial testing.

The operative question is no longer “*does this person understand infrastructure?*” It is:

“Does this person understand this infrastructure, in this jurisdiction, under these regulatory conditions, at this point in the technology cycle?”

A “MONUMENTAL” CASE

Santos v Fluor.

A coal-seam-gas EPC contract, found at first instance to be cost-reimbursable — an original value reported near AUD 3.6 bn against a final cost near AUD 5.4 bn — that the Queensland courts twice described as being on a “monumental scale.”

76

expert reports

8

joint expert reports

171

lay witness statements

- 1 No single witness could address every technical issue in a project of this size. The proliferation of experts is a *structural response* to multidisciplinary complexity
- 2 On delay, the Court declined to require a strict but-for model, looking instead to *transparent method corroborated by contemporaneous records* — decision-makers scrutinise reasoning as closely as the conclusion.

THE RANGE OF EXPERTISE

The expertise that decides the case.

What most affects the technical outcome is the range of expertise placed before the decision-maker — evidence drawn from a sufficient spread of *disciplines, jurisdictions and operating environments*, matched to the issues actually in play and qualified by extensive direct industry experience. A panel drawn from one discipline cannot evaluate a system failure that crosses five.

The network engineer

Grid behaviour, security standards and dispatch.

The project-controls specialist

Schedule, progress, disruption and delay.

The operations expert

Asset behaviour, duty cycles and warranties.

The seasoned practitioner

Decades lived in the discipline itself.

Range of expertise is not a procedural nicety separate from decision quality. It is decision quality.

KEY TAKEAWAYS

The real metric is decision quality.

- Disputes are becoming larger and more technical — **the expert model must evolve.**
- Match the expertise to this **specific** technology, jurisdiction and regulatory regime.
- Select experts by **direct experience** — a generalist and a credible specialist are not interchangeable.
- Broaden the expert pool — **seasoned practitioners, commissioning managers, network engineers, etc.**
- The right expertise, at the right time, in the right form — is the **measure of decision quality.**

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