

**INVESTIGATE THE CRITICAL ATTRIBUTES AND
PRACTICAL CONSTRAINTS AFFECTING THE
EFFECTIVENESS OF ARBITRATION IN THE
CONSTRUCTION INDUSTRY OF SRI LANKA**

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Master of Science in Construction Law and Dispute Resolution

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Dissertation submitted in partial fulfilment of the requirements for the degree Master
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DECLARATION

I declare that this is my own work and this dissertation does not incorporate without acknowledgement any material previously submitted for a Masters or Degree in any other University or institute of higher learning and to the best of my knowledge and belief it does not contain any material previously published or written by another person except where the acknowledgement is made in the text.

Further, I acknowledge the intellectual contribution of my research supervisor Mr. M.D.T.E Abeynayake for the successful completion of this research dissertation. I affirm that I will not make any publication from this research without the name of my research supervisor as contributing author unless otherwise I have obtained written consent from my supervisor.

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The above candidate has carried out research for the Dissertation under my supervision.

.....

Dissertation Supervisor

M.D.T.E. Abeynayake

..... / .. / 2022

Date

ABSTRACT

With the growing of the construction sector, construction disputes have been grown significantly. ADR methods including arbitration requires effective procedures of management in order to deliver fair awards to the clients. Still, few number of studies have been conducted on enhancing the effectiveness of arbitration, they had very little prioritisation on critical attributes and practical constraints. This research aims to enhance the effectiveness of arbitration method, which will ultimately help avoid disputes in the construction projects in Sri Lanka. The collected empirical data from expert interviews and two phase of questionnaire survey were analysed using content analysis and descriptive statistics respectively.

The research's findings indicated twenty-five (25) attributes connected to the Sri Lankan arbitration framework, with ten (10) of them being deemed the most critical. In the arbitration, "information confidentiality" is the most critical attribute. Furthermore, the analysis uncovered twenty-one (21) severe practical constraints relating to the Sri Lankan arbitration context, with ten (10) of them being identified as the most essential. In the context of Sri Lankan arbitration, the top most severe restraint is "time demanding." To enhance most critical attributes, 14 handlings strategies were identified. Among them, arbitrators must properly manage the arbitration process, arbitrators must gather sufficient information from the parties to deliver a successful hearing, conducting an awareness program is required to enhance the success of the arbitration and clearly identify their role and responsibilities of arbitrators can be considered as most significant strategies to deal with specific attributes also the professionals must avoid the practical constraints.

Keywords: Arbitration, Critical Attributes, Strategies, Practical Constraints

DEDICATION

**I'd want to dedicate my work to my devoted parents,
my wife and esteemed instructors, who have never
wavered in their support, devotion, and
encouragement.**

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LIST OF ABBREVIATIONS

ADR - Alternative Dispute Resolution

RII – Relative Importance Index

DAB - Dispute Adjudication Board

RDA – Road Development Authority

SL – Sri Lankan

CPD - Continuing Professional Development

SPSS - Statistical Package for the Social Sciences