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**THE IMPACT OF JUDICIAL INTERVENTION ON
ARBITRAL PROCESS IN THE CONSTRUCTION
INDUSTRY OF SRI LANKA**



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Thesis submitted in partial fulfilment of the requirements for the degree of
Master of Science in Construction Law & Dispute Resolution

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Abstract

The Impact of Judicial Intervention on Arbitral Process in the Construction Industry of Sri Lanka

The characteristics of built environment activities are complexity and disputability in its own nature. This complexity drives most of the construction projects and contracts towards disputes between parties. Both the traditional way of litigation and alternative methods of dispute resolution practices in the construction industry. At present Arbitration as an alternative dispute resolution method (ADR) does not efficiently resolve disputes.

This research examines the usage of Arbitration as an ADR method to resolve the construction disputes instead of traditional litigation and review on impact of judicial interference to Arbitral process in the construction industry in Sri Lanka. It also investigate how to improve the arbitration process by minimizing of judicial interference. Efforts have been made to recognise and examine problematic areas which are highly influencing the Arbitration.

The survey has conducted in order to recognise priorities and to observe the extended appraisal of panel of industry experts who are actively engaged in Construction Arbitration. The panel consisted the professionals, consultants, construction resource persons.

Current arbitration method and its practice hinders the advantages by intervene of judiciary which prolong its efficiency. The research is recommended for arbitration practice in Sri Lanka by reviewing the minimising of judicial interference. It proposes a well-planned Arbitration method which can avoid pitfalls in the current legal regime of the Arbitration practice in Sri Lanka. Further it seeks to suggest amendments to the Arbitration Act No 11 of 1995 to avoid discrepancies and minimise the challenging grounds of arbitral awards in the construction industry of Sri Lanka.

Keywords: Dispute Resolution, Arbitration, Construction Industry, Judicial Interference

Acknowledgements

I would like to express my gratitude to the University of Moratuwa for the generous opportunity provided with me to follow this valuable Postgraduate Degree Course on Construction Law & Dispute Resolution. In particular, I am grateful to Dr. (Mrs.) Yasangika Sandanayake, Head, Department of Building Economics, University of Moratuwa for conducting the MSc. programme and for her valuable guidance. I am specially thankful to my supervisor, Mr. Mahesh Abeynayake (Attorney-at-Law) Senior Lecturer of the Department for his outstanding support and meticulous supervision as a mentor in completing this dissertation.

I am pleased to express my sincere gratitude to all the staff members of the Commercial High Court, notably research officer of Sri Lanka Judges Institute, and construction industry specialists who rendered an immense feedback by their interviews, valuable comments and guidance.

I would also like to extend my sincere gratitude to Miss. Wijewantha who rendered an immense support correcting numerous drafts of this dissertation, all my fellow MSc. students for their generous support by providing feedback on various activities, questionnaires, and for supporting to obtain interviews from experts.

Randima Senarathna (159171P)

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Abbreviations

AIR	: All India Law Reports
ADR	: Alternative Dispute Resolution
BLR	: British Law Reports (England)
DAB	: Dispute Adjudication Board
FIDIC	: International Federation of Consulting Engineers
HGCRA	: Housing Grants Construction and Regeneration Act (UK)
IAA	: Indian Arbitration Act
ICLP	: Institute for the Development of Commercial Law and Practice
CIDA	: Construction Industry Development Act
JCT	: Joint Contract Tribunal
NLR	: New Law Reports (Sri Lanka)
QS	: Quantity Surveyor
RICS	: Royal Institution of Chartered Surveyors
SBD	: Standard Bidding Document
SLLR	: Sri Lanka Law Reports
SLNAC	: Sri Lanka National Arbitration Centre
TCC	: The Technology and Construction Court
UK	: United Kingdom
UNCITRAL	: United Nations Commission on International Trade Law