

**EFFECTIVENESS AND PREFERENCE OF  
ARBITRATION IN SRI LANKAN CONSTRUCTION  
INDUSTRY: A PROFESSIONAL PERSPECTIVE**

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Dissertation submitted in partial fulfillment of the requirements for the degree Master  
of Science in Construction Law and Dispute Resolution

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## DECLARATION

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I declare that this is my own work and this dissertation does not incorporate without acknowledgement any material previously submitted for a Degree or Diploma 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. Also, I hereby grant to University of Moratuwa the non-exclusive right to reproduce and distribute my thesis/dissertation, in whole or in part in print, electronic or other medium. I retain the right to use this content in whole or part in future works (such as articles or books).

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Date:

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

Name of the supervisor: Prof. Lalith De Silva

Signature of the supervisor:

Date:

## DEDICATION

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This thesis is wholeheartedly dedicated to my beloved family who continuously provide me their immense support, being my source of inspiration.

## ACKNOWLEDGMENT

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I sincerely express my deep sense of gratitude to my supervisor, Prof. Lalith de Silva for inspiring me by his dynamism, vision, sincerity and motivation. Without his careful supervision and encouragement this thesis would never have taken shape.

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Vithanage. O. D. P. C.

## Abstract

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Construction is one of the major economic activities where physical process of completing a building or infrastructure include the steps of planning, designing, and funding. Presence of disputes in construction industry is a common phenomenon. Dispute means an argument or disagreement between two individuals or groups. One of the major causes of project failures in the construction industry is increasing disputes. Therefore, determining appropriate methods and factors affecting dispute resolution is extremely important. The aim of this study is assessing the preference of arbitration and the effectiveness of arbitration in Sri Lankan construction industry with professional perspective under four objectives of, observe the importance of arbitration as a method used in dispute resolution in Sri Lankan construction industry; identify important constraints that affect the preference of arbitration in local construction industry; evaluate leading critical constraints against the preference of arbitration using a statistical method, determine preference and effectiveness of arbitration as a method of ADR(Alternative Dispute Resolutions ), by professional in local construction industry. From the literature review flexibility, cost, willingness, time and binding decision, are identified as affected critical constraints for the Preference and Effectiveness of Arbitration in Construction Industry. The analysis was done on those critical constraints to determine whether the constraints identified have a relationship with the preference and effectiveness of Arbitration. This study was done based on professional perspective. This study applies quantitative research technique. The random sample consisted of 93 participants. A distinctive questionnaire was designed in and the feedbacks of participants have been plotted in 5 points Likert Scale. Through outcomes of the questionnaire, it was identified and determined that employees preferred arbitration to settle disputes that happen in real life. Hypothesis testing was conducted to discover the relationship between five critical constraints to the preference of arbitration in construction industry of Sri Lanka. From hypothesis testing it was recognized that the constraints identified in conceptual framework have a positive and a strong relationship with preference and effectiveness of Arbitration.

**Keywords:** Arbitration, Construction, Critical constraints, Dispute resolution, Professional perspective

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## **LIST OF ABBREVIATIONS**

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ADR: Alternative Dispute Resolution

B.Sc.: Bachelor in Science

CMCSL: Commercial Mediation Centre of Sri Lanka

COV: Coefficient of Variation

DAB: Dispute Adjudication Board

FIDIC: Federation Internationale Des Ingénieurs-Conseils (International Federation of Consulting Engineers)

GDP: Gross Domestic Product

HND: Higher National Diploma

ICTAD: Institute of Construction Training and Development

MBA: Master of Business Administration

M.Sc. Master of Science

NCT: National Certificate in Technology

PhD: Doctor of Philosophy

SBD: Standard Bidding Document

SPSS: Statistical Package for the Social Sciences

UNCITRAL: United Nations Commission on International Trade Law