

**CRITICAL ANALYSIS OF ARBITRATION METHOD  
USED IN THE  
CONSTRUCTION INDUSTRY IN SRI LANKA**

Noor Mohamed Mohamed Nihaaj  
138970 M

Master of Science in Construction Project Management

Department of Civil Engineering  
University of Moratuwa  
Sri Lanka.

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## **LIST OF ABBREVIATION**

<b>AAA</b>	: American Arbitration Association
<b>ADR</b>	: Alternative Dispute Resolution
<b>BOQ</b>	: Bill of Quantities
<b>DAB</b>	: Dispute Adjudication Board
<b>FIDIC</b>	: Fédération Internationale Des Ingénieurs-Conseils
<b>GDP</b>	: Gross domestic product
<b>ICC</b>	: International Chamber of Commerce
<b>ICTAD</b>	: Institute for Construction Training & Development
<b>LKR</b>	: Lankan Rupees
<b>QS</b>	: Quantity Surveyor
<b>Rs</b>	: Rupees
<b>SBD</b>	: Standard Bidding Document
<b>U.K</b>	: United Kingdom
<b>UNCITRAL</b>	: United Nations Commission International Trade Law

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This research is about the critical analysis of arbitration, which being used in the construction industry in Sri Lanka. It mainly tries to find the answer for the question why Arbitration is not being practiced in an effective manner in the construction industry of Sri Lanka. Hence, this research and its findings will be very much useful for the stakeholders who are worried about the current performances of the Alternative Dispute Resolution and trying to enhance the Arbitration practices in the construction industry which can make a positive impact to the economic development of Sri Lanka.

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## ABSTRACT

Disagreement among contracting parties has a rich tradition in the construction industry, which induces of creating and experimenting with alternatives to litigation. Alternative Dispute Resolution (ADR) methods such as adjudication, mediation, negotiation and arbitration, in construction industry have gained numerous positive impacts during the recent years in Sri Lanka. Construction disputes become more technical intensive, multifaceted and multinational interested than other commercial disputes; construction disputes need the enforceable and flexible Alternative Dispute Resolution (ADR) such as Arbitration to resolve disputes efficiently. Arbitration is seen as the final mode of Alternative Dispute Resolution with enforcement mechanism. The Arbitration Act of Sri Lanka No. 11 of 1995 provides for a legislative framework for the effective conduct of arbitration's procedure. However, the use of the Arbitration in the private and public sectors has not been efficiently apparent, probably due to several practical constraints. This paper discusses successful critical attributes behind Arbitration in construction industry and reports on an evaluative study on how effectively these critical success factors are being fulfilled.

Further adverse practical customs also were identified and grouped under the critical attributes as causative of the ineffectiveness of particular attributes. Opinions of the key players of the construction industry also have been included as recommendation and suggestion of the identified problems by the research.

This is the first endeavor for evaluator studies after two decades enacting the Arbitration Law no 11, 1995. Further, this research is the threshold to collect professional perception and the feedback about the performance of the Arbitration in construction industry of Sri Lanka. These findings try to indicate the precise problematic area in the Arbitration.

Key Words: Alternative Dispute Resolution (ADR), Construction Industry, Arbitration. Critical attributes. Critical Success Factors (CSF)