

**ANALYZE WHETHER THE CHALLENGES MADE
AGAINST ARBITRATORS IN ARBITRATIONS
CONDUCTED IN SRI LANKA ARE USED TO DELAY
OR DISRUPT THE ARBITRATIONS**

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DECLARATION

I declare that this is my own work, and this dissertation does not incorporate without acknowledgment 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 acknowledgment is made in the text.

Further, I acknowledge the intellectual contribution of my research supervisor Ch.QS Indunil Seneviratne for the successful completion of this research dissertation. I affirm that I will not make any publication from this research without the name(s) of my research supervisor(s) as contributing author unless otherwise I have obtained written consent from my research supervisor.

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I hereby acknowledge that Kathri Arachchige Don Aruna Stanley Kathriarachchi has followed the dissertation process for the Master's Dissertation set by the Department of Building Economics under my supervision.

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Date

ABSTRACT

Analyze whether the challenges made against arbitrators in Arbitrations conducted in Sri Lanka are used to delay or disrupt the arbitrations.

Arbitration has become the preferred method of dispute resolution in international business transactions due to its flexibility, neutrality, and the ability to appoint subject matter experts as arbitrators. Arbitrators' independence and impartiality are fundamental to ensuring fair and equitable arbitration proceedings. Challenges against arbitrators are necessary when legitimate doubts arise about an arbitrator's impartiality, independence, or qualifications. Institutional arbitration rules and national laws provide mechanisms for challenging arbitrators who do not comply with their duty of independence and impartiality, ensuring the integrity of the arbitration process.

Challenges against arbitrators can potentially cause delays and disruptions in the arbitration process, affecting its efficiency and effectiveness. While challenges are essential to preserving the independence and impartiality of arbitrators, their misuse can undermine the arbitration process. This research aims to analyze whether challenges made against arbitrators in arbitrations conducted in Sri Lanka are used to delay or disrupt the proceedings. The study further examines the mechanisms available for challenging arbitrators and the global trend in misusing challenges. A comprehensive literature review was conducted alongside a structured survey among stakeholders in Sri Lankan arbitrations, with data analyzed using frequency analysis to summarize participants' opinions on arbitrator challenges.

The literature review indicates that in the global context, most challenges against arbitrators across various legal systems and arbitration rules do not favor the initiating party. Despite a low success rate, the number of challenges is increasing alongside the growth of arbitrations. When faced with a challenge, arbitrators often choose to resign without verifying or substantiating the accusations. This trend encourages parties to make tactical challenges against arbitrators they perceive as unfavorable to their interests. The analysis findings reveal that participants in Sri Lankan arbitrations strongly believe that challenges or potential challenges substantially impact causing delays and disruptions in the arbitration proceedings. Additionally, participants perceive these challenges as a strategic tool to buy time, delay proceedings, tactical tool to frustrate the opposing party, pressure arbitrators to resign and to influence arbitrators conduct in arbitrations to some extent.

Keywords: Arbitration, Arbitrator, Construction, Challenges against Arbitrators, Impartiality, Independence, Delays.

DEDICATION

To my wife, son, and daughter - your love and support mean everything to me. This work is dedicated to you.

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LIST OF ABBREVIATIONS

ADR	Alternative Dispute Resolution
AIAC	Asian International Arbitration Centre
IBA	International Bar Association
IBM SPSS	International Business Machines Corporation Statistical Package for Social Sciences
ICC	International Chamber of Commerce
ICDR	The International Centre for Dispute Resolution
ICLP	Institute for the Development of Commercial Law and Practice
ICS	Inspection and Control Services
ICSID	The International Centre for Settlement of Investment Disputes
IESL	Institution of Engineers, Sri Lanka
LCIA	The London Court of International Arbitration
SCC	Stockholm Chamber of Commerce
SD	Standard Deviation
SIAC	The Singapore International Arbitration Centre
UNCITRAL	United Nations Commission on International Trade Law