

ABSTRACT

In the course of studying International Arbitration, author became aware that in the global context, Arbitration was very much sought after as a successful mode of settling differences between disputing parties. In contrast, author noticed that in Sri Lankan commercial practices, most of parties are excluding the arbitration clause in their agreements. Therefore, purpose of this research is to understand the root causes for the withdrawal from arbitration in Sri Lankan context. To validate the position that, Arbitration is one of the most sought-after Alternative Dispute Resolution methods internationally, the websites of specific leading International Arbitration Centres were accessed, and statistics were obtained to show that the number resorting to Arbitration has increased within the past six years. In this research, the author shows how in the current environment of Sri Lanka, Parties were gradually withdrawing from the process of Arbitration in favour of litigation as revealed during interviews had with three segments of parties of arbitration, arbitrators, and legal luminaries. This was mainly seen where there was an arbitration clause in consumer contracts. Disputants in other agreements relating to construction, technology, communication still preferred Arbitration to an extent. In the latter part, the author, through her research, aims to emphasize the importance of practicalizing Arbitration and its proceedings rather than go through the court litigation proceedings in Sri Lanka as it affirms in International Arbitration in advance. There is, however, also non-binding Arbitration where the disputing parties put their case before an impartial third party who renders an opinion or recommendation, which the parties may choose to accept or not. The researcher has also looked at other concepts and words that have been noted to affect Arbitration's declining trend in Sri Lanka. Some of these concepts involved will be personality theories looking at individuals' attitudes, behaviour, and locus of control. It was evident that, practical elements such as cost, time, and lack of experienced arbitrators are more deterrent than the certain concepts used in arbitration clauses for the observed trends in Sri Lankan arbitration usage. Such practical constrains can be overcome by establishing practices such as introducing separate court houses to enforce the arbitration award, training arbitrators in specialised areas, and creating structured fees, among others.

Key Words: *Alternative Dispute Resolution (ADR), Arbitration, Sri Lanka*