

**THE LEGAL FRAMEWORK FOR
ALTERNATIVE DISPUTE RESOLUTION
IN SRI LANKA**

**AND PROPOSED REFORMS TO THE
ARBITRATION ACT, NO. 11 OF 1995**

The argument for ADR

- Asia Express (Pvt) Limited v Minnette De Silva (Pvt) Limited [SC Appeal No. 48/2015; SC Minutes of 16th December 2022]
- Dispute over the publication of the biography of a renowned architect
- Claim was Rs. 1,061,974 – action filed in January 2002 in the DC

Role of ADR in economic development

- The present - Ranked 99th in the ease of doing business index
- Clear correlation between influx of FDI and ADR landscape
- The time is now – as we kickstart the economy
- Port City
- First quarter of 2023 – \$604m in foreign investments

Different forms of ADR

- Negotiation
- Conciliation
- Mediation
- Adjudication
- Arbitration – Act No. 11 of 1995

Mediation

- Several laws already provide for this:
 - Mediation Boards Act
 - Mediation (Special Categories of Disputes) Act
 - Commercial Mediation Centre of Sri Lanka
 - The Court of Appeal (Mediation Appeals) Rules
 - Companies Act
 - Human Rights Commission of Sri Lanka Act
 - Construction Industry Development Act

- Initiatives by the Chambers

Mediation (contd.)

- Easiest form of ADR
- Benefits – speed, confidentiality and no procedural obstacles
- Enforcement of a settlement and the Singapore Mediation Convention

The pros and cons of arbitration

- Party autonomy and flexibility
- Time
- Costs
- Experts as arbitrators
- Confidentiality
- Enforcement of the award – the New York Convention, 1958

Arbitration – the experience so far...

- Interim relief
- Emergency arbitrations
- Independence and impartiality of arbitrators
- Issues at the recognition and enforcement stage

Proposed reform – interim relief and measures

- Based on the approaches taken in Singapore, Hong Kong and Malaysia
- More efficient mechanism for tribunal-granted interim measures to be enforced
- Minimum safeguard by allowing the High Court to grant interim measures in limited circumstances – confusion cleared up



Proposed reform – addressing delays

- Rules and practice directions for the High Court
- Handbook for Judges and Practitioners – ICCA Guides
- Mandatory timelines – specially at the recognition and enforcement stage
- Timelines to be followed by Court

Going forward...

- Challenges are many
- But opportunities galore for the legal fraternity
- So, lets equip ourselves with the correct tools, the correct laws, the correct attitudes and face the future

THANK YOU