

**ONLINE ARBITRATION MECHANISM UNDER THE NIGERIAN ARBITRATION
AND MEDIATION ACT 2023**

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2020/LW/13052

**FACULTY OF LAW
ALEX EKWUEME FEDERAL UNIVERSITY NDUFU
ALIKE IKWO, EBONYI STATE**

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AND MEDIATION ACT 2023.**

SUBMITTED

BY

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2020/LW/13052**

TO

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**BEING A PROJECT SUBMITTED TO THE FACULTY OF LAW, ALEX EKWUEME
FEDERAL UNIVERSITY NDUFU ALIKE IKWO, IN PARTIAL FULFILLMENT OF
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LAWS (LL.B)**

SEPTEMBER 2025

DECLARATION

I, **CHUKWUMA JULIET UCHENNA**, a Student of the Faculty of Law Alex Ekwueme Federal University, Ebonyi State, do hereby declare that this work is a product of my own research efforts, undertaking under the supervision of **Dr. CC Ituma** and has not been presented elsewhere for the award of a degree or certificate. All sources have been duly distinguished and appropriately acknowledged.

Signed.....

CHUKWUMA JULIET UCHENNA

(2020/LW/13052)

CERTIFICATION

This is to certify that this long essay titled “Online Arbitration Mechanisms under the Nigerian Arbitration and Mediation Act 2023” has been assessed and approved by the Undergraduate Studies Community of the Faculty of Law, Alex Ekwueme Federal University, Ndufu Alike Ikwo” as an original work carried out by Chukwuma Juliet Uchenna, with registration number: 2020/LW/13052 in the Faculty of Law, Alex Ekwueme Federal University, Ndufu Alike Ikwo, under the guidance and supervision of Dr. C.C Ituma

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DEDICATION

This research work is dedicated to God Almighty for His love, mercies and grace all throughout my undergraduate days and to my family, my lovely parents MR/MRS CHUKWUMA for their support and encouragement throughout the period of my LL. B journey.

Finally, I dedicate this work to all researchers who have gone before me and those that will come after me.

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LIST OF ABBREVIATIONS

AAA-	American Arbitration Association
AMA-	Arbitration and Mediation Act
ADR-	Alternative Dispute Resolution
ICC-	International Chamber of Commerce
UN-	United Nations
Cap-	Chapter
Pt-	Part
P-	Page
LFN-	Laws of the Federation of Nigeria
NCLR-	Nigeria Constitutional Law Report
NWLR –	Nigeria Weekly Law Report
SCJN-	Supreme Court of Nigeria Judgment
All FWLR –	All Federation Weekly Law Report
All NLR-	All Nigeria Law Report
CHR-	Chancery Report
CLR-	Constitutional Law Report

Ltd-

Limited

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ABSTRACT

The emergence of technologies and applications has begun to significantly influence every sphere of human life and commercial transactions. The current advancement of technology has also crept into the domain of arbitration and has increased an unpredictable shift in the arbitral process to online arbitration, as a means of amicably resolving commercial disputes between parties. The main objective of this work is to appraise online arbitration mechanisms under the Nigerian Arbitration and Mediation Act 2023. The study explores the opportunities online arbitration create for enhancing efficiency and accessibility and cross-border enforceability of arbitral awards in Nigeria. However, legal challenges such as data protection, cyber-security, digital literacy and procedural fairness remain pressing issues requiring careful implementation and judicial interpretation in the conduct of online arbitration in Nigeria. Adopting doctrinal research methodology, the study conducts a detailed analysis of relevant statutory provisions including the Arbitration and Mediation Act 2023, the ICC Arbitration Rules 2021 and the rules of court, alongside key judicial decisions and roles some institutions play in the conduct of online arbitration. The study further elaborates the legal conundrums experience in the conduct of online arbitration in Nigeria. The study finds out that the Arbitration and Mediation Act 2023 do not make elaborate provisions for the conduct of online arbitration in Nigeria, save the storage and communication of arbitration agreement which really showed the intention of the Act to incorporate the practice of online arbitration in Nigeria. It recommends among others that internet facilities, which are the hub of online arbitration, should be facilitated to enable online arbitration to thrive better in Nigeria. The study concludes that although there is no specific legislation in Nigeria which governs the conduct of online arbitration in Nigeria, there are possibilities of deciphering such rules from the existing Arbitration and Mediation Act 2023 and the agreement of the parties when the need arises.

CHAPTER ONE

INTRODUCTION

1.1 Background to the Study

The advancement of technology has crept into the domain of arbitration and has increased an unpredictable shift in arbitral process. This penetration of technology into arbitration has given birth to a new arbitration called online arbitration. Online Arbitration is an arbitration in which all aspects of the proceedings are conducted online.¹ It is a new tool for dispute settlement mechanism. This mechanism is more cost effective, more efficient, and better than other traditional approaches of dispute settlement. Online arbitration thus means a method to settle disputes through online platforms providing arbitration services. It constitutes a recent process dispute resolution mechanism between economic agents using information and communication technology.²

All around the world, disputation is an inherent characteristic of human existence and interaction. It may be domestic, international, civil, political, commercial or economic in nature especially as the society becomes more complex. Several factors generally give rise to the occurrence of disputes and such may include inadequate information, lack of skills, clash of personal values, environmental impact, ignorance of the law, intentional and unintentional breach of agreements et cetera.³

¹ Oliver Ikubanni and Ahmed Saheed, 'Impact of Technology on Alternative Dispute Resolution in Nigeria and the Birth and Challenges of Online Dispute Resolution' *Global Journal of Politics and Law Research* (2022) 10(4) 1 – 13.

² Moses Bakhramova, 'E-Arbitration and its Role in Modern Jurisprudence' *Journal of Ethics and Diversity in International Communication* (2022) 1(8) 11-16. available at <https://openaccessjournals.eu/index.php/jedic/article/view/960/913> accessed on 29 August, 2025.

³ Ogunkorode Oluwayemi Oluwadunsin, 'An Overview of Recognition and Enforcement of Arbitral Awards in Nigeria and United Kingdom' *University of Lagos Journal of Law* (2017) 10(2) 64.

To effectively address the spate of conflicts and deviances in a society, the legal system must provide a plethora of mechanisms which can be applied to resolve disputes in an orderly and just manner. The adversarial process is the most widely recognized method all over the world even though it has a lot of challenges which affect the quick and effective adjudication of cases. The adversarial system of adjudication has been found to be slow, rigid, expensive, time wasting and sometimes destroys the relationship between parties.⁴

In litigations, for instance, parties bear the greatest brunt of the high cost of justice which ranges from monetary costs to opportunity and intangible costs. Under the adversarial system of judicial adjudication in Nigeria, both parties to the suit actually incur huge amount of expenses while enforcing their rights or defending their interests.

The effect of high cost on both sides to a dispute was aptly captured by Lord Rupert Jackson⁵ in his report on how cost of civil litigation could be reduced. He said:

Access to justice entails that those with meritorious claims (whether or not ultimately successful) are able to bring those claims before the courts for judicial resolution or post-issue settlement, as the case may be. It also entails that those with meritorious defenses come before the courts for judicial resolution or alternatively, based on the merits of the case...

Overtime, the delay of cases in courts, cost of litigation, technicalities of court procedures among others, formed the basis for the emergence of the concept of Alternative Dispute Resolution (ADR) as a means of resolving disputes. The term ADR is an acronym for Alternative Dispute

⁴ Ayodele Akinbuwa, *Citizens Mediation Centre and Multi-Door Court House in Lagos State in Law, Politics and Development* (ATY Publishers, 2017) 327.

⁵ Mohammed Lawal and Kenneth Omolola, 'Examining the Effects of Costs of Justice on Access to Justice in Nigeria: Looking Beyond monetary Costs for Solutions' *Journal of Public Law* (2017) 1(2) 23-29.

Resolution which is often used to describe a wide variety of dispute resolution mechanisms or techniques that are alternative to full scale court action. Electronic commerce operations are based on contracts concluded electronically between those who do not physically meet.⁶

The conclusion of an electronic contract is often prolonged by the electronic execution of the contract, which consists of opening access to a database, downloading software, and transmitting an item of information. These electronic operations can give rise to disputes, just as in traditional commerce.⁷ A co-contractor might complain of poor execution of the contract, stating that the goods ordered electronically, for delivery by traditional logistical means, arrived in a damaged condition or did not conform. Another complaint might be that when a contract was to be executed electronically, a transmission error occurred, impeding access to the information. The service was thus not provided, or the non-physical object of the contract was not delivered.

At first sight, these electronic trade disputes can be resolved by traditional means. The parties are still at liberty to refer the case to a state court, although if one of the co-contractors is based in another country, it is not certain that the other party will go to court on the claimant's home territory. Even if a decision is handed down, it is not certain to be executed in a foreign country. The parties may then resort to ADR, and even to arbitration, as in disputes in the physical world. In theory, there is therefore no need to use online dispute resolution to settle an electronic commerce dispute. Conversely, disputes concerning the non-electronic world can be submitted to online dispute resolution, even though the litigants are in a position physically to meet. In practice, there is, however, an indissociable link between electronic commerce

⁶ Titus Odeh, *E - Commerce and Development Report* (Unilag Press, 2001) 99.

⁷ Oliver Cachard, *International Regulation of the Electronic Market* (Sweet & Maxwell, 2002) 480.

operations and online dispute resolution.⁸ For economic and sociological reasons, online dispute resolution will be the preferred means of dealing with disputes on the internet and on private networks (Intranet). The most immediate contribution of information technology in ADR is in the implementation of automated settlement assistance systems. Each party to the dispute assesses the value of its claim and sends it to the automated system. Using methods of calculation and criteria known to the litigants, the computer suggests when the difference is not too great a price on which the parties can agree. This system has enjoyed considerable success in disputes between insurers and insured. However, it is applicable only when the claimant is seeking a sum of money.

Arbitral institutions propose a partial or total electronic procedure. The arbitrator is the third. The party, entrusted by the disputing parties with the task of settling their dispute. At the end of the arbitration procedure, he or she makes an award which is binding on the parties and which is invested with the authority of *res judicata*. Here, the internet facilitates the remote administration of the procedure and does not require the attendance of the parties or their legal representatives. Commercial disputes may be business-to-business or business-to-customer.⁹ Both types of disputes, litigation is the least favored method of resolution for a variety of reasons; delay being the foremost. Alternative Dispute Resolution (ADR) methods provide a reasonable solution. Commercial arbitration – private court by a private judge chosen by the parties has been very successful but any form of ADR, including arbitration is not beyond the control of courts. Thus, even the use of arbitration was and is dogged by inordinate delay. Procedural delays and complexities had made the control of courts much more painful, and in spite parties opting to settle the business disputes through arbitration, courts simply became another level of the dispute

⁸ Philippe Fouchard, *Arbitration & Alternative Dispute Resolution in International Trade* (Sweet & Maxwell, 1977) 51.

⁹ Ephraim Akpata, *The Nigeria Arbitration Law in Focus* (West African Book Publishers, 1997) 38.

settlement mechanism. Today, arbitration, along with other ADR mechanisms, is commonly used to get commercial disputes resolved¹⁰. However, the limitation of these methods, particularly the physical presence of both parties and the arbitrator(s) at one place on several occasions, is prompting the business community to try another form of dispute resolution, which is online dispute resolution.

Online arbitration is similar to traditional arbitration in the sense that a third party is chosen by the parties, or nominated by the case after having heard the relevant arguments and seen the appropriate evidence. The main difference is the online communication of all the parties, in the leading case of *state of Maharashtra v Praful*,¹¹ Supreme Court held that video-conferencing could be resorted to for the purpose of taking evidence of a witness. The strains and challenges obtained in the process of litigation brought arbitration under the spotlight, and because of the rapid growth in global commercial transactions, this has led to the integration of online dispute resolution to commercial disputes.

1.2 Statement of the Problem

The emergence of technologies and applications has begun to significantly influence every sphere of human life, and has also crept into the domain of arbitration and has increased an unpredictable shift in the arbitral process as a means of resolving commercial disputes by introducing online arbitration.

However, the online arbitration faces several legal issues that can impact its effectiveness and adoption. These legal issues range from enforcement of arbitral awards, validity of electronic agreements, vulnerability of the online arbitration proceedings to cyber-security risks and the

¹⁰ Gaius Ezejiolor, *The Law of Arbitration in Nigeria* (Longman Publishers, 1997) 28.

¹¹ [2003] 4 SCC, 601

issue of fairness and impartiality of the arbitrator(s). all these legal issues gave rise to this study, to review the existing legal frameworks as it regards the conduct and enforcement of online arbitration in Nigeria.

1.3 Research Questions

Flowing from the background and subsequent problems revealed or disclosed in the statement of the problem, the researcher would rely on the following questions to direct the path of this study.

The research work will supply cogent answers to the following research questions:

1. What are the legal challenges of online arbitration in Nigeria, and how do they impact the effectiveness of the process?
2. What is the judicial approach of Nigeria courts to the interpretation and enforcement of online arbitration agreements?
3. What are the principal legal and practical consideration that impact the efficacy of online arbitration proceedings in Nigeria?
4. How does the provisions of the Arbitration and Mediation Act 2023, shape the procedural framework and enforceability of online arbitration within the Nigerian legal system?

1.4 Aim and Objectives of the Study

The aim of this study shall be to discuss online arbitration mechanism under the Nigerian Arbitration and Mediation Act 2023.

The objectives of the study shall be to

- (i) To determine the legal challenges of online arbitration in Nigeria, and how the legal challenges impact the effectiveness of the process
- (ii) To ascertain how Nigerian courts interpret and enforce online arbitration agreements
- (iii) To evaluate the key factors that influence the success of online arbitration in Nigeria

- (iv) To critically examine how the provisions of the Nigerian Arbitration and Mediation Act 2023 impact the conduct and enforcement of online arbitration in Nigeria.

1.5 Research Methodology

This research is a long essay on arbitration law and therefore, doctrinal method of research is applied because of its nature. A huge part of the information was gotten from secondary and primary sources such as textbook, internet sources, journals, newspapers and local and international case laws and statutes respectively.

1.6 Scope and Limitations of the Study

The focus in this study is Nigeria, and as such, particular attention will be paid to the relevant Nigerian laws that concern the use of online arbitration to resolve commercial disputes. However, considering the nature and origin of online arbitration, and based on the fact that Nigeria does not live in isolation with regards to global commercial transactions, reference where circumstances demand, will be made to inter-nation treaties on the conduct and enforcement of online arbitration. This study shall specifically discuss some legal frameworks like Arbitration and Mediation Act 2023, ICC Arbitration Rules 2021, and Rules of some courts as they relate to online arbitration and the roles played by institutions like arbitral tribunal in the conduct of online arbitration in Nigeria. The study will also analyze the legal conundrums of online arbitration in Nigeria.

Limitations of the Study

Undertaking this research was both enlightening and motivating, especially considering its exploration of a novel area of law. However, several significant challenges were encountered during the process:

1. Limited Availability of Research Materials: The scarcity of relevant materials on the topic posed a substantial challenge.
2. Unreliable Power Supply: Frequent power fluctuations significantly delayed the completion of this work.

1.7 Significance of the Study

This study is of both theoretical and practical significance. It addresses key issues related to the adoption and practice of online arbitration in Nigeria, while offering valuable insights for academic and legal context

Theoretical Significance;

- (a) Contribution to existing literature: This study will contribute immensely to the existing body of knowledge on online arbitration, particularly in the Nigerian context.
- (b) Foundation for Future Research: This research will serve as a resource for future scholars and researchers who wish to explore the topic further.

Practical Significance;

- (a) Informing policy and regulation: This study can inform policy and regulatory decisions on online arbitration in Nigeria, promoting a more effective and efficient dispute resolution framework.
- (b) Legal practitioners: The study will provide insights for legal practitioners on the use of online arbitration in Nigeria, including its benefits and challenges.
- (c) Promoting economic growth: This study will demonstrate the potential of online arbitration to promote economic growth and investment in Nigeria by providing a reliable and efficient dispute resolution mechanism.

Over all, the research will contribute to a better understanding of online arbitration in Nigeria, promoting its development and effective use in the country.

1.8 Chapter Analysis

This research work is divided into five distinct chapters. Chapter one introduced the work and laid a strenuous foundation as regards electronic/online arbitration in Nigeria. The same chapter also looked out the problem that necessitated the study and as well analyzed significance of the study, scope of the study among others. Chapter two discussed some key concepts to the topic of the research and reviewed the position of some scholars and explained in clear terms the gap in knowledge the work intends to fill. Chapter three discussed the existing legal and institutional frameworks in relation to the topic under discourse. Such legal and institutional frameworks respectively include the Arbitration and Mediation Act 2023, Rules of Court, ICC Arbitration Rules 2021, Arbitral Tribunal and Court.

Chapter four looked at electronic arbitration procedure such as electronic consent to arbitration. Arbitral awards, conduct of electronic arbitration, among others. Chapter five summarized the work with necessary recommendations to ameliorate the issues discovered in the findings.

CHAPTER TWO

CONCEPTUAL AND THEORETICAL FRAMEWORK AND REVIEW OF RELATED LITERATURE

2.1 Conceptual Framework

2.1.1 Alternative Dispute Resolution

ADR is known to some persons to mean “Appropriate Dispute Resolution” or Amiable Dispute Resolution”, which folks who believe that ADR originates from Africa, term it “African Dispute Resolution. However, it is called ADR still has its role to play as another means of settling disputes between conflicting parties. A lot of techniques of dispute resolution put under ADR have separate roots. For example, in many civil laws in the Asian judicial system and African traditional dispute resolution models, the adjudicator has, by custom or duty, attempted to settle claims by conciliation. Mediation in family, community and labor relation disputes all have independent and sometimes, long-standing historical or cultural roots.¹²

The term Alternative Dispute Resolution has its origin in the United States of America (USA). It focuses on developing effective communication and interpretation skills, patience, tolerance and accommodation. ADR increases participation in dialogue, understanding and trust, which subsequently helps the parties focus on reaching an agreement. ADR techniques can be devised to fit into new situations and conditions, adapting to evolving issues brought before it. The term “Alternative dispute resolution is a means of settling disputes amongst disagreeing parties short of litigation. In other words, methods used by disputing parties to settle their dispute outside the courtroom without recourse to the officers of the court could be referred to as an alternative to resolving disputes.

¹² Institute of Chartered Mediators and Conciliators, Professional ADR Skills Certification Course Module, 1: Training Manual 2016, 13.

Alternative Dispute Resolution mechanism could be seen as a basket of procedures outside the traditional process of litigation or strict determination of legal rights.¹³ It also could be said to be a range of processes or procedures that act as alternatives to litigation through the courts for the resolution of disputes, which generally will require the support and intervention of a neutral and impartial third party.¹⁴ The overwhelming importance of ADR prompted the need to not only equip but also train the stakeholders with the necessary information of the practice through several conferences, training, workshops and seminars..

2.1.2 Arbitration

This is the best of the ADR mechanisms. Arbitration is where two or more persons agree that a dispute or potential dispute between them shall be determined in a legally binding way by a third party or parties who are neutral in a judicial manner. In *Collins v Collins*,¹⁵ the court defines commercial arbitration as ‘a reference to the decision of one or more persons, either with or without unfair, of a particular matter between the parties. it is an agreement of the parties that a dispute between them be settled by a tribunal of their choice.’¹⁶

Arbitration is a private process whereby a private disinterested person called an arbitrator, chosen by the parties to a dispute, acting judicially but without regards to legal technicalities, applying either existing law or norms agreed by the parties and acting in accordance with equity, good conscience and the perceives merit of the dispute make an award to resolve the dispute.”¹⁷

¹³ Olisa Agbaoba, *Need for National Arbitration in Nigeria* (NJR Publishers, 2011) 6

¹⁴ Paul Obo Idonrigie, *Alternative Dispute Resolution Mechanism* (The Dee-Stage Nigeria Ltd) 12.

¹⁵ 28 LJCH 186

¹⁶ Ronald Benstein, *Handbook of Arbitration Practice*, (3rd Edition, Thomas Professional publisher, 2007) 32

¹⁷ Maxwell J. Fulton, *Commercial Alternative Dispute Resolution*, available at <http://arbitrationlaw.com/library/assessment-arbitration-and-mediation-means-resolving-commercial-disputes-compared-litigation> accessed on 30 April, 2025.

Arbitration as an ADR mechanism can either be mandatory or voluntary, although arbitration can be compulsory when it comes from the statute such that the law directs the parties to go through the arbitral process or from the contract entered into by the disputing parties of which the parties had earlier agreed to take future disputes to an arbitration. The arbitrators or arbitral tribunal that reviews the evidence brought before them impose a decision called an award on both parties, which would be enforced by the courts. Arbitration agreements could be written or made orally. The arbitration agreement must be related to the dispute that can be resolved by arbitration parties concerned must have legal capacity under the law, and the agreement must be valid under the applicable law. Arbitration could be a domestic arbitration, international commercial arbitration, and institutional arbitration.

Domestic Arbitration

Domestic Arbitration is the kind of commercial arbitration that is between parties who live in the same country, doing the same type of trade or business, and such trade carried out or contracted is subject to the local statutes or laws. The terms of the contract must have been performed in the same country where the parties reside. The basic source of law for domestic and foreign arbitral proceedings is the Arbitration and Mediation Act 2023, which contains the UNCITRAL Arbitration and Conciliation Rules and the New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards 1958.

International Commercial Arbitration

The international commercial Arbitration is regulated by several laws, such as international trade laws, international conventions and treaties even laws governing corporations. Concisely, arbitration is deemed international if it involves international trade issues. The place of business of the disputing parties is paramount in determining whether or not an arbitration is international.

In other words, the transaction in question must have been one that included another country either by way of having the terms of the contract being performed in another country or that the resultant effect of the dispute is relative to a different country from where the parties come from.

According to the European Convention of 1961¹⁸, ‘International arbitration agreements are such agreements concluded for the purpose of settling dispute arising from international trade between physical or legal person having their habitual place of residence or the seat in different contracting states when concluding the agreement.’ In the view of Grey C Nwakoby,¹⁹ the use of residence as a way of deciding whether or not the arbitration agreement is international or not, may not be entirely correct in that the parties may decide that the agreement should be domestic, since this is a right available to both parties. However, the idea of residence is a factor in considering what amounts to international arbitration.

According to the Model Law, arbitration is international if:

- a. The parties to an arbitration agreement have, at the time of the conclusion of that agreement, their place of business in different state; or
- b. One of the following places is situated outside the state in which the parties have their places of business.
 - i. The place of arbitration if determined in, or pursuant to, the arbitration agreement;
 - ii. Any place where a substantial part of the obligations of the commercial relationship is to be performed or the place with which the subject matter of the dispute is most closely connected or
 - iii. The parties have expressly agreed that the subject matter of the arbitration agreement relates to more than one country.²⁰

Commercial contracts are the only contracts that can be arbitrated upon in some jurisdictions.

Attempts have been made to differentiate non-commercial and commercial contracts such as the commercial courts in England that defined commercial actions as ‘any cause arising out of the ordinary transactions of merchants and traders and without prejudice to the generality of the

¹⁸ Article 1(1) (a) of the ICC Arbitration Rules 2021.

¹⁹ Greg C Nwakoby, *The Law and Practice for Commercial Arbitration in Nigeria* (2nd Edition, Iyke Ventures Production, 2004) 54.

²⁰ Article 1(3) UNCITRAL Model Law

foregoing words, any cause relating to the construction of a mercantile document, the export or import of merchandise, insurance, banking, mercantile agency and mercantile usage.’

Institutional Arbitration

This is a type of international commercial arbitration; even though it does not resolve disputes, it provides facilities and rules for dispute resolution.

All arbitration institutions may, as required, have the same principles of arbitration, features, but not the same rules. Some arbitration institutions attend to general commercial disputes, while some are restricted to a range of matters for dispute or perhaps one subject matter. There are some viable facilities for arbitration, which are well-known and permanent. Examples include the American Arbitration Association (AAA), the court of the International Chamber of Commerce (ICC), Asian-African Legal Consultative Committee with Regional Centre at Casablanca and Kuala Lumpur (AALCC). The parties are deemed to be bound by the rules of any institution that they agreed upon, unless it was amended by putting a different name in place of the previous institution. The disadvantage of institutional arbitration is that it is not cheap, especially where the subject matter is of a high value. The institutional arbitration is different from ad hoc arbitration where in that institutional arbitration, there are laid down rules or procedure while in ad hoc arbitration, there are no laid down rules, parties are the ones who make rules for themselves, this occurs where the arbitration clause that was included in the contractual agreement of the party’s state that, where disputes arise an arbitration should be done without referring to any institution or institutional rules. This could be beneficial in that it is specifically meant to achieve the purpose for which they came to arbitration in the first place.

2.1.3 Online Dispute Resolution

The advancement of technology has crept into the domain of arbitration and has increased an unpredictable shift in arbitral process. This penetration of technology into arbitration has given birth to a new arbitration called online arbitration. Online Arbitration is an arbitration in which all aspects of the proceedings are conducted online. It is a new tool for dispute settlement mechanism. This mechanism is more cost effective, more efficient, and better than other traditional approaches of dispute settlement. Online arbitration thus means a method to settle disputes through online platforms providing arbitration services.²¹ It constitutes a recent process dispute resolution mechanism between economic agents using information and communication technology. Online arbitration has been identified as using a website to automatically settle claims. It is a form of dispute resolution using the internet as the main medium in conjunction with other technology such as multi-point video conferencing.²² The use of information and communication technology (ICT) in this arbitration service is not an assisting tool but an essential one to the administration and functioning of the parties. From the definitions given so far, it can be summarized that online arbitration is concerned with resolving disputes online.

It is fair to state that online arbitration is both ODR (Online Dispute Resolution) System and it is also an ADR (Alternative Dispute Resolution) system. It is an ODR because it is using arbitration online in resolving disputes online and it is an ADR because it is an alternative to Litigation. Online arbitration evolved from traditional arbitration. Naturally, there is much commonality across the two forms. It has a similar notion with traditional arbitration except

²¹ D Yeoh, '*Is Online Dispute Resolution the Future of Alternative Dispute Resolution*' available at <<https://arbitrationblog.kluwerarbitration.com/2018/03/29/online-dispute-resolution-future-alternative-dispute-resolution/>> accessed on 7 April, 2025.

²² Chitranjali Negi, '*Concept & Overview of Online Arbitration*' available at <<https://papers.ssrn.com/sol3/papers>> accessed on 7 April, 2025.

using specific communication tools such as email and online conferences. It is a branch of arbitration which uses technology. This technology which is the ICT (Information Communication Technology) has been named the fourth party. It is like conventional and traditional arbitration as it is based upon the same three core foundations of – the online arbitral agreement, the online arbitral process, and the issuance of a decisive online award in regard to the dispute between the parties. The major difference is that it occurs in cyberspace, virtually over the internet. The format of hearing in online arbitration is virtual hearing. It is the kind of hearing where participants can now attend a hearing room by having only an electronic device and internet connection. Videoconferencing has been commonly used for hearing in online arbitration. One good characteristic of virtual hearing is that all participants connect from different locations to a virtual medium, which enables them to appear in person on screen. Online arbitration is particularly convenient and efficient where parties are located at a distance, hence it discards the need to travel and face-to-face communication, since parties can communicate even at a distance. Consequently, various technological platforms such as email, video/audio conferencing, electronic signatures and e-filing have been incorporated in the field of arbitration. Online arbitration is gaining prominence as it is deemed to be a private and faster means of solving e-commerce disputes. It can be more expeditious and cost-effective since it eliminates the need of having to travel to a physical location for the arbitral hearings and filing of voluminous documents.²³

Advantages of Online Dispute Resolution

It is crystal clear that online arbitration has an undeniable importance at the national, regional, and international levels. Its importance is demonstrated by many reasons and advantages that

²³ Jana Herboczkova, '*Certain Aspects of Online Arbitration*' available at <https://certainaspectsofonlinearbitration> accessed on 7 April, 2025.

have contributed to its spread and to its increased recourse for its resolution of disputes. It is a significant time saver because there is no need for parties and arbitrators to travel great distances to attend hearings, which expedites the process. Using cutting-edge audio and video conferencing technologies, the disputing parties can conduct meetings and hearings remotely.²⁴ This reduces the time for the arbitrators, parties and their witnesses to travel. Also, using technological communication in online arbitration, parties can also exchange information, present evidence, and upload and review pleadings, papers, and evidentiary submissions. Using the Internet to conduct online arbitration and transfer and exchange required documentation accelerates the process and reduces delays. This expedites the procedure and the resolution of the dispute. Online arbitration is also time saving since most websites function 24 hours a day throughout the year, which means that the tribunal and the parties to the conflict could work from their own computers anywhere without the need to travel long or even short distances to attend sessions or present documentation before the tribunal.

The initiation of the arbitration process on the internet, including the transfer and sharing of documentation, memos and exchanges, accelerates the process, and leads to the completion of the procedures and the resolution of the dispute in the shortest delays.

Online arbitration is based on the internet, hence there are cost savings in terms of physical movement and meetings of the parties for arbitration purposes, as all sessions are conducted electronically through the internet, and this naturally leads to significantly more efficient activities. On the other hand, the evolution of ICT, and the resulting widespread use of these technologies, will further reduce these cost elements.

²⁴ Oluwaseye Ikubanni and Adekunle Saheed, 'Impact of Technology on Alternative Dispute Resolution in Nigeria and Birth and Challenges of Online Dispute Resolution' *Global Journal of Politics and Law Research* (2022) 10(1)13.

In addition to such effects of acceleration of the proceedings, costs reduction and productivity gains of the various people involved in an arbitration, the IT in online arbitration may also make certain aspects of an arbitral procedure more effective, in the sense that tasks can be undertaken—or goals can be reached in a way that may not have been practicable without IT. For instance, in the absence of IT availability, costs and time constraints may lead to renouncing certain actions, like hearing a witness or experts who may not be quickly available, especially in fast-track procedures. This is for instance enables witnesses and experts to be heard using videoconferences during arbitrations, where time constraints would have prevented their testimony if they had had to be physically present.

In online arbitration, parties can file and defend claims by going to specialized websites and filling out the necessary forms online. This is possible because web-based document filing systems enable them to transfer needed documents immediately, regardless of the distance or expense involved. Availability and accessibility: Because the content of the websites is always accessible, both the arbitrators and the parties to the dispute can view the material that pertains to the arbitration without having to physically attend sessions or provide paperwork to the arbitrators. This eliminates the need for travel. Because the incentive is communicated and enforced online, the procedure makes it possible for decisions to be made quickly.²⁵

Additionally, online arbitral websites can provide disputing parties with a secure online electronic environment in which to file claims, select neutral arbitrators to resolve their dispute, and submit exhibits and supporting materials for their cases to the arbitrators who have been assigned to them because the Internet is so widely accessible. After the parties have finished

²⁵ Mokhinur Bakhramova, 'E –Arbitration and its Role in Modern Jurisprudence' *Journal of Ethics and Diversity in International Communication (JEDIC)*, (2022) 1(8) 23.

presenting their side of the case, the arbitrators will review the evidence and arguments presented, and then they will issue a decision that is legally binding within twenty hours.

2.2 Theoretical Framework

2.2.1 Positivist Theory

The scholars of the Positivist school of thought postulate that actions of humans and institutions are only a prescription of the positive law. Actions of Humans and institutions are typically comprised in enacted laws-statutes, codes, regulations and constitutions that are applied and enforced in the courts. To scholars in positive theory of law, there is no such thing as a human right except as is established by human authority.²⁶ Human rights imply a set of rights guaranteed under a given legal system, which is activated either when there is a threat to or actual infringement of any of these rights. The positivist school argued that rights guaranteed as human rights in one society may not be within the legal cognizance of another society.²⁷ The political, social and economic circumstances prevalent in a particular society might be an inexorable determinant constraining the range of options of human right legally allowable to the people. This simply means that different societies are subject to inequalities of opportunity.

The superstructure and socio-economic endowment are disproportionately placed on societies a from the argument of the positivist school, it simply entails that Arbitration and Mediation Act 2023 as a man-made law, makes elaborate provisions for online arbitration, especially as it concerns commercial disputes, as a medium for disputing parties to settle out of court.

²⁶ Funso Adaramola, *Adaramola Jurisprudence* (Lexis Nexis Prutterworths, 2008) 109

²⁷ O C Eze, *Inaugural Lecture* (Abia State University, 1992) 7.

2.2.2 Utilitarian Theory

The utilitarian theory of law, or utility theory of law, was started by Jeremy Bentham; an English Philosopher, economist and legal theories.²⁸ He propounded that life is full of pain and pleasure, and that law should be used as a tool of social engineering or a means to increase human happiness and minimize pain. That law should be enacted to secure or ensure the happiness of the greatest possible number of people. The aim of law should be to maximize human happiness by securing the greatest happiness of the greatest number of people, that every person should be allowed freedom to pursue his or her happiness, advantage and actualize himself and to seek self-fulfillment without interference by the state. That all existing laws and consequently the institutions established by such laws should be reformed to secure the greatest happiness possible for the populace. Whether any law is good or bad should be decided by assessing or evaluating its utility to the individual and society. That there are four major utilities or good any and every society should seek to promote which are; security, equality, liberty and importance and that government in making laws and policies to achieve these goods or ideals, should weight the interests of individuals against that of the state, and should prefer, choose and promote the interest of the state or the interest of the majority against that of an individual. Bringing the postulations of the scholars in the utilitarian theory of law about online arbitration, it simply means that the provisions of the Arbitration and Mediation Act 2023, as regards virtual

²⁸ Ese Malemi, *The Nigerian Legal Method* (Princeton Publishers, 2012) 52

arbitration, must be such that will be able to satisfy the needs of the disputing parties by ensuring that justice is done to every party.

2.3 Review of Related Literature

Okoro²⁹ maintains that online commercial transactions have increased exponentially recently due to rapid technological innovations in information and communication technology. Generally speaking, information technology has positively impacted on almost every sector including the means of dispute resolution. This catalyzed the development of various online dispute resolution mechanisms to meet the demands of the present times and circumstances. Online arbitration is one of the online dispute resolution mechanisms and simply means the conduct of arbitration electronically using the gadgets of information technology. It has numerous advantages which include swiftness, easy accessibility, increased convenience, efficiency and effectiveness.

Idigbe,³⁰ is of the view that a direct consequence of economic growth is an increase in business activities. These numerous business activities often give rise to disputes that require settlement. The question is how can these disputes be settled between business partners, customer/clients within a very short time and in a manner that the disputants' relationship is not adversely affected. It is the quest to get justice in a faster way and keep business relationships intact that gave rise to arbitration and ADR mechanisms especially online arbitration.

²⁹ Polycarp Arinze Okoro, et al. *Recondite Issues Revolving around Online Arbitration in Nigeria*. (UNICAL Press, 2023) 62.

³⁰ Anthony Idigbe, *Arbitration Practice in Nigeria* (District Universal Limited, 2010) 1.

Radovan,³¹ postulates that online arbitration also referred to as electronic arbitration is faced with some challenges which if not tackled may render the advantages nugatory. The effective operation of online arbitration requires that all the parties involved in the arbitration must possess adequate knowledge of the use of computers and the internet. This may be realisable to certain extent in developed climes but not in developing or undeveloped parts of the world, such as Africa. Similarly, the utilisation of online arbitration mechanisms for dispute resolution may be inhibited by poor telecommunications services. Online arbitration requires the availability of reliable telecommunication network externalities to enable all the parties to achieve the required connectedness and interconnectivity among the various gadgets put in place for use.

According to Berger & Schramm,³² technological developments of recent years are significantly changing conventional arbitration processes and procedures. Nowadays, arbitration tends to involve more and more diverse online techniques, which allow arbitration agreements and proceedings to be conducted and concluded by electronic means in online settings. International arbitrators would naturally prefer to deliberate on disputes without leaving their hometowns and would gladly issue an arbitral award in an electronic form. The development of online arbitration envisages that disputes arising online should be resolved online.

According to Philippe,³³ there are three possible ways to conduct arbitration procedures. The first method is to conduct the whole arbitration using traditional arbitration procedures. The

³¹ Mario Radovan, *ICT and Online Arbitration*.

<<https://www.tandfonline.com/doi/abs/10.1080/01972243.2013.825686>> accessed on 7 April, 2025.

³² Girs berger and David Schramm, 'Cyber Arbitration' *European Journal Business Organization Review* (2002) 3(1) 604.

³³ Mireze Philippe, *Offline or Online Virtual Hearings or ODR?*

<<http://arbitrationblog.kluwerarbitration.com/2020/04/26/offline-or=online-virtual-hearings-orod>> accessed on 8 April, 2025.

second method is to follow the hybrid way using information technology and traditional arbitration procedures for example, using the internet to submit the dispute or sending documents via e mail while using traditional arbitration procedures for sending original documents and written arbitration agreement. The third method is by conducting an Arbitration procedure solely through electronic means from the beginning to the end. There is an unfortunate tendency to think that online arbitration is a new form of ADR, administered by a new breed of techno-arbitrators, having little in common with its more traditional counterpart. This tendency is not plausible as online arbitration certainly remains arbitration, though it may be seen as its new type or dimension.

Obidimma³⁴ opines that the advancement of technology has crept into the domain of arbitration and has led to an unpredictable shift in arbitral process. This penetration of technology into arbitration has given birth to a new arbitration called online arbitration. Online Arbitration is an arbitration in which all aspects of the proceedings are conducted online. It is a new tool for dispute settlement mechanism. This mechanism is more cost effective, more efficient, and better than other traditional approaches of dispute settlement.

Some scholars have worked on the topic under discourse especially as it concerns online or electronic dispute resolution. However, these scholars in their various publications have failed to specifically discuss online dispute resolution in line with arbitration and the nuances of electronic arbitration such as formation of online arbitration agreement, electronic arbitration procedures, seat of online arbitration, electronic award(s), and its enforcement. These are the gap in knowledge that this work tends to fill and solve.

³⁴ Emmanuel Obidimma, *Online Arbitration in Nigeria: Prospects & Challenges*. (NAU Press, 2023), 11.

CHAPTER THREE

LEGAL AND INSTITUTIONAL FRAMEWORKS FOR ONLINE ARBITRATION IN NIGERIA

3.1 Legal Framework

3.1.1 Arbitration and Mediation Act, 2023

The Arbitration and Mediation Act (AMA) was enacted in 2023 with some modifications to the routine practice of amicable settlement of disputes in Nigeria.

The AMA 2023 by design, overrides a fair amount of anachronistic arbitration case law, and in critical areas, it replaces judicial uncertainty with concrete prescriptions in the statute. These developments, combined with purposeful provisions in the Act, such as provision for electronic form of arbitration agreement, reinforce the stability, speed, and efficiency that has made online dispute resolution tenable in Nigeria.

As the new law comes to be applied to business disputes, express provisions in the statute enjoin the Courts to settle such controversies "in conformity with the general principles on which the Act is based", having regard to "its international origin and the need to promote uniformity in its application". All things considered, the AMA keeps Nigeria firmly in step with global trends in

international arbitration and online dispute resolution, and reaffirms its status as a prime destination for cross-border dispute settlement in Africa.³⁵

By section 1 of the Act, the objectives of the Act is among others to promote fair resolution of disputes by an impartial tribunal without necessary delay or expense, parties to a dispute are at liberty to decide the means by which their disputes may be resolved, provided they adhere to measures that are necessary to promote peaceful existence and protect public interest, and that an arbitration agreement between parties for settlement of dispute shall be binding on parties and enforceable against each of the parties to the exclusion of any other dispute resolution method unless the parties to the exclusion of any other dispute resolution method unless the parties otherwise provide or the agreement is void. This objective of the Act as stipulated in section 1 of the Act entails that parties are at liberty to choose among themselves whether to go through physical arbitration or online arbitration as means of amicably resolving their disputes.

However, the AMA 2023 fails to make elaborate provisions for the conduct of online arbitration in Nigeria, save the provision for electronic form of arbitration agreement.

By section 2 of the AMA 2023, the Act requires that an arbitration agreement shall be in writing. Section 2(2 & 3) of the Act acknowledges that an arbitration agreement can be in writing if its content is recorded in any form, regardless of whether the agreement or contract was concluded orally, by conduct, or by other means. This provision recognizes the validity of electronic communication as a form of writing if the information is accessible and usable for subsequent reference. Electronic communication, in this context, includes data messages transmitted through

³⁵ Nigeria's New Arbitration and Mediation Act 2023 – A Competitive Edge to Arbitration in Nigeria. Available at <<https://www.afriwise.com/blog/nigerias-new-arbitration-and-mediation-act-2023---a-competitive-edge-to-arbitration-in-nigeria>> accessed on 30 April, 2025.

electronic, magnetic, optical, or similar means, such as electronic data interchange, electronic mail, telegram, telex, or telecopy.

This provisions of section 2 of the Act are geared towards leveraging online dispute resolution mechanisms in Nigeria in line with the evolving world.

3.1.2 ICC Arbitration Rules 2021

The ICC Arbitration Rules 2021 plays a significant role in online dispute resolution by providing a structured, neutral framework for resolving disputes arising from online transactions. They offer a standardized process for parties to engage in arbitration, ensuring a fair and efficient resolution process, especially in cross-border disputes.

Article 2 of the ICC Arbitration Rules 2021 provides for communication of pleadings and documents annexed by the parties and to the arbitral tribunal. Specifically, article 3(2) of the Rules allows such communication to be sent by email or any other means of telecommunication that provides a record of the sending. This invariably implies that any party who intends to request for arbitration under article 4 of the Rules, appointment and confirmation of arbitrators under article 13 and notification of the arbitral award under article 35 of the Rules can do same electronically.

By Article 26(1) of the ICC Arbitration Rules 2021, either of the disputing parties has the right to request to participate in the hearing of arbitral proceedings by means of videoconferencing.

All these provisions of the International Commercial Court (ICC) Arbitration Rules 2021 ensure that arbitrators and parties have the ability to conduct the arbitration procedures online through a closed, and secure system.³⁶ This enables parties to post, read and respond to messages through a

³⁶ Philippe Mireze, 'New Upgrades to ICC NetCase' *Bulletin of the ICC International Court of Arbitration*, (2008) 19(2) 23.

dedicated space for their case. Disputing parties have the possibility to access all documents filed online or posted in the system by the Secretariat of the Court. The arbitrators and parties only need their username and password to be able access the documents that have been by the parties.

The International Chamber of Commerce (ICC), through its International Court of Arbitration, launched several projects in response to the demands of IT. These include issuing guidelines on the use of IT on arbitration, devising a web-based system for conducting and managing arbitration proceedings and setting up an online clearinghouse system for small claims.³⁷

All these provisions in the ICC Arbitration Rules 2021 are geared towards promoting online dispute resolution in line with the technological advancement across all countries of the world.

3.1.3 Rules of the Court

The Rules Court in Nigeria plays a crucial role in promoting online dispute resolution (ODR) by providing a legal framework and encouraging the use of technology for dispute resolution. It achieves this through various means, including recognizing the validity of virtual court hearings, promoting the use of ADR, and enforcing arbitration agreements. The Rules Court has recognized the validity of virtual court hearings, particularly after the COVID-19 pandemic, allowing for online legal proceedings. This has facilitated the adoption of online dispute resolution methods, making justice more accessible and efficient.

The Rules in court in Nigeria promote amicable settlement of disputes. Order 1 Rule 6(1) of the National Industrial Court (Civil Procedure) Rules 2017 provides that in any civil proceedings before the court, it shall be the primary duty of the court after the parties have joined issues, to

³⁷ C Rule, *Online Dispute Resolution B2B, E-C Commerce, Consumer, Employment Insurance, and other Commercial Conflicts* (San Francisco-Jossey Publication, 2002) 115.

promote reconciliation, encourage as well as facilitate amicable settlement of the dispute amongst the parties.

Fundamentally, Order 21 of the Court of Appeal (Civil Procedure) 2021 provides for virtual hearing of court proceedings where the circumstances demand. This virtual hearing shall be by means of any audio-visual platform duly approved by the court and a link will be provided to enable the public to observe the virtual proceedings.³⁸ Where the virtual hearing is adopted by the court in settling disputes, the disputing parties shall be notified.³⁹

When online dispute resolution is adopted by the court, it shall be duty of the court to give directives on the conduct of virtual hearing in any appeal which shall be in accordance with any relevant law, the Rules of Court and any practice direction made pursuant to the rules of court. Online means of resolving dispute is also allowed under the practice direction of some courts in Nigeria in line with the evolving world.

3.2 Institutional Framework

3.2.1 Arbitral Tribunal

In Nigerian arbitration, the arbitral tribunal is responsible for resolving disputes according to the terms of the contract and applicable law, ensuring equal treatment for all parties, and issuing a final, binding award. The tribunal has the authority to determine the admissibility and relevance of evidence, and in Nigeria, the proceedings are generally held *in camera*, with an implied obligation on arbitrators and parties to maintain confidentiality.

By section 14 of the Arbitration and Mediation Act (AMA) 2023, the arbitral tribunal before which a dispute is pending has the power to rule on application challenging its jurisdiction,

³⁸ Order 21 Rule 2 of the Court of Appeal (Civil Procedure) Rules 2021.

³⁹ *Ibid*, Order 21 Rule 3.

including any objections with respect to the existence or validity of the arbitration agreement, and after the ruling, the tribunal shall continue with the proceedings and make an award notwithstanding that a party has recourse to court in respect to such ruling.⁴⁰

In order to ensure smooth conduct of offline or online arbitration, the arbitral tribunal shall have the power to hear and grant interim measures.⁴¹ The purpose of the interim measures is to maintain/restore the status quo pending the determination of the dispute, take action that may prevent or refrain from taking action that is likely to cause harm or prejudice to the arbitral which a subsequent award may be satisfied among others.

When such interim measure is given by the tribunal, it may if there is existence of exceptional circumstances, modify, or terminate interim measures or preliminary order granted by it.⁴² The tribunal also has the power to require the party requesting an interim measure to provide appropriate security in connection with the interim measure.⁴³

Just like the court of law, the tribunal by virtue of section 37 of the Act has the power of make a declaration as to any matter to be determined in the proceedings, order the payment of a sum of money in any currency claimed by a party.

While carrying the arbitral proceedings either offline or online, the tribunal is mandated to give the parties sufficient advance notice of any hearing and its meeting held for the purposes of inspection of documents, goods or other property as the case maybe.⁴⁴ Where the tribunal is faced with an issue that requires experts, it is empowered to appoint one or more experts to report to it on such issue to be determined except where parties agree in the contrary.

⁴⁰ Section 14(7) of the Arbitration and Mediation Act 2023

⁴¹ *Ibid* S 20

⁴² *Ibid* S 24

⁴³ *Ibid* S 25

⁴⁴ *Ibid* S 38(2)

When the disputing parties have been heard by the arbitrator(s), the arbitral tribunal shall by section 44 of the Act make arbitral award in writing and communicate the parties.

3.2.2 Court

The court of law plays pivotal roles in arbitral proceedings in Nigeria. This is because by the provisions of the Arbitration and Mediation, successful arbitral proceedings whether offline or online cannot be done with the help of the court especially in the event of challenges. By section 1(4) of the AMA 2023, the court shall have the power to do all things necessary for the proper and expeditious conduct of the arbitral proceedings, and this power of the court shall be applicable even where the seat of the arbitral proceedings is outside Nigeria or in the circumstance where the parties have not determined the seat of arbitration.⁴⁵

By section 5 of the Act, the court before which a matter is pending and which matter is a subject of arbitration agreement can stay proceedings and refer the matter to the arbitration on the request of the disputing parties unless in the circumstance where the agreement is void. The court in the event where parties fail to agree on the procedure for appointing an arbitrator can appoint arbitrators for the parties.⁴⁶

In order to avoid rendering nugatory whatever award the arbitral tribunal will give after the conclusion of the arbitral proceedings, or to preserve the subject matter of an intending arbitration, section 19 of the Act empowers the court to issue interim measures of protection in relation to arbitral proceedings which seat of arbitration is in Nigeria or in another country and the court has to exercise this power within 15 days of the application for interim measures. These interim measures become handy especially in the event where the parties have not appointed the

⁴⁵ Section 1(7) of AMA 2023

⁴⁶ *Ibid* S 7 & 8

arbitrator(s) or where the process of appointment of arbitrator is still ongoing. The main purposes of these interim measures are as follows:

- (a) Maintain status quo pending determination of the dispute
- (b) Prevent action that is likely to cause any harm to the arbitral process
- (c) Preserve assets out of which arbitral award may be satisfied when made
- (d) Preserve evidence that may be relevant to the arbitral proceedings.⁴⁷

By section 28 of the Act, enforcement of whatever interim measure the arbitral tribunal will give shall be done by the court upon application to the court irrespective of the country in which it was issued. Before the court goes ahead to make an order for enforcement, the court where it considers it proper, order the requesting party to provide appropriate security if the arbitral tribunal has not already made a determination with respect to security or where the decision is necessary to protect the rights of 3rd parties.

In the course of the arbitral proceedings, any of the parties can request the court for subpoena of a witness. In so doing, the court is empowered by section 43 of the Act to order that a writ of ad testificandum or subpoena duces tecum be issued with the aim of compelling the attendance of a witness to the arbitral tribunal. When the offline or online arbitration proceedings are concluded and an arbitral award is made, such award can be enforced with the help of the court.⁴⁸ In the event any of the parties is aggrieved by the arbitration award, he can challenge such arbitral award in the court.⁴⁹

3.2.3 Multi Door Court House

⁴⁷ Section 20(2) of AMA 2023.

⁴⁸ Commerce Assurance Ltd. v Alli [1992] 3 NWLR (Pt. 232) 710.

⁴⁹ *Ibid* S 55.

It is a well-known fact that delay in justice delivery is caused by court congestions, unending applications for adjournments, inefficiency of court staff and many other extraneous reasons.

The Multi courthouse is a one stop place where the dispute resolution officer, if required, after assessing the controversy, recommends the best suitable door through which the parties can access a resolution of the conflict. In adopting the Multi-door courthouse, a court connected ADR as part of the justice delivery system in the states that have them, economic access to justice by the ordinary man and businessmen alike has been enhanced.⁵⁰

The Multi-Door Court House was first established in Nigeria by the Lagos State Government in 2007 and some states like Enugu Edo and others followed suite, with the appointment of ADR judge.⁵¹

Section 1 of the Lagos State Multi-Door Court House and other Connected Matters Act 2007 established the multi-Door Court as an independent, non-profit body corporate with perpetual succession and a common seal.

The overriding objectives of the multi-Door Court as clearly provided in *section 2* of the law are as follows:

- (a) enhance access to justice by providing alternative mechanisms to supplement litigation in the resolution of disputes;
 - (b) minimize citizen frustration and delays in justice delivery by providing a standard legal framework for the fair and efficient settlement of disputes through Alternative Dispute Resolution (ADR);
 - (c) serve as the focal point for the promotion of Alternative Dispute Resolution in Lagos State;
- and

⁵⁰ Adejumoke Ayoade, 'Customary Law and Traditional Dispute Resolution in Nigeria' *Nigerian Journal of Legal Studies*, (2020) 6(2) 45.

⁵¹ Section 15 of the Lagos State Multi-Door Court Law 2007.

(d) promote the growth and effective functioning of the justice system through Alternative Dispute Resolution methods.

To ensure that the multi-door court performs proactively, the Lagos state government and other states in Nigeria that have established it, confer on it with the following functions:⁵²

(a) Apply mediation, arbitration, neutral evaluation and any other ADR mechanisms in the resolution of such disputes as may from time to time be referred to the LMDC, from the High Court of Justice, Lagos State, Courts of other jurisdictions outside Lagos State, Federal Courts, Private Persons, Corporations, public institutions and dispute resolution organizations.

(b) Encourage disputing parties to appear before the LMDC for the resolution of their disputes;

(c) Assist disputants in the resolution of their disputes and act as administrators in the conduct of ADR proceedings locally or internationally.

(d) Publicize its services by informing and sensitizing the public about its facilities.

(e) Render assistance in the conduct of ad-hoc arbitration or mediation proceedings;

(f) Encouraging disputing parties whose matters are already listed before the court for hearing to appear before the LMDC to explore settlement options.

(g) Maintain registers of suitably qualified persons to act as mediators, arbitrators or neutral evaluators.

(h) Promote or undertake projects or other activities including but not limited to the “Settlement Week” which in the opinion of the Council will further assist in decongesting the courts and help to achieve the purpose for which the LMDC was established.

⁵² *Ibid*, S 3.

When dispute has been settled amicably and electronic award is made, such award shall be enforced in accordance with the provisions of Arbitration and Mediation Act 2023.⁵³

3.2.4 Nigerian Institute of Arbitrators

The integration of technology into dispute resolution in Nigeria, particularly through virtual mediation and online arbitration, has shown significant promise in enhancing efficiency, reducing costs, and making justice more accessible. These technological approaches have proven their value, by allowing disputes to be resolved remotely and swiftly, without the need for physical presence.

The Nigerian Institute of Chartered Arbitrators (NICArb) promotes online arbitration by conducting e-learning programs and virtual training, offering e-courses, and hosting webinars on the subject, thereby building capacity in virtual dispute resolution and addressing infrastructure gaps like internet accessibility.⁵⁴

NICArb also engages in research, partnerships, and advocacy to foster the adoption and development of online arbitration and to address regulatory needs for data security and platform standards in Nigeria.⁵⁵

In Nigeria and other countries of the world, The COVID-19 pandemic significantly accelerated the shift from physical to virtual mediation, highlighting its adaptability and efficiency.⁵⁶The institute ensures that with the increasing accessibility of the internet and the widespread adoption of video conferencing technologies, virtual mediation has evolved to handle more intricate disputes by way of online arbitration.

⁵³ Section 19 of the Lagos Multi-Door Court Law 2007.

⁵⁴ Arno R Lodder, 'Developing an Online Dispute Resolution Environment' *Harvard Negotiation Law Review* (2005) 10(2) 287.

⁵⁵ Eberechukwu Oji, 'Challenges in Online Dispute Resolution under Nigerian Law' *Nigerian Bar Journal* (2020) 14(2) 112.

⁵⁶ *Ibid* (n 51) 113.

Today, online arbitration is widely recognized as a legitimate and effective method of dispute resolution across various states in Nigeria. The institute provides and ensures improvements in technology and practices continue to enhance its effectiveness, making it a valuable complement to traditional means of dispute resolution.

The Chartered Institute of Arbitrators (CI Arb) Nigeria Branch has also successfully conducted online arbitration in various commercial disputes. In a notable case involving a breach of contract between two Nigerian companies, the CI Arb Nigeria facilitated the entire arbitration process online, from filing the initial claim to issuing the final award. The case highlighted the efficiency of online arbitration in managing voluminous documentary evidence and maintaining procedural fairness through digital communication tools.⁵⁷

⁵⁷ Chartered Institute of Arbitrators (Nigeria Branch), 'Case Digest on Online Arbitration Proceedings' available at: <https://www.instituteofarbitrators.com> accessed on 25 August, 2025.

CHAPTER FOUR

ANALYSIS OF LEGAL CONUNDRUMS IN ONLINE ARBITRATION IN NIGERIA

4.1 Legal Challenge of Online Arbitration Agreement in Nigeria

Despite the many positive features of online arbitration, however, like any modern system, there are some challenges that may stand in the way of its usage as a method of disputes resolution. In Nigeria as our case study, its application has been facing some potential challenges. These challenges are inherently dominant in the country, and they do not only affect online arbitration but also affect the use and enjoyment of technological advancement generally. These challenges include but not limited to the following:

Lack of specific legislation: In Nigeria, there is no specific legislation on online arbitration. Although there is now the Arbitration and Mediation Act 2023 which is the regulatory legislation on arbitration and mediation, yet there is no provision of the Act on online arbitration neither is there any specific national legislation that regulates online arbitration in Nigeria. The absence of a regulatory legislation for the operation of online arbitration hinders its general acceptance and its operation. There is no doubt that the enactment of a legislation or the amendment of the

existing Arbitration and Mediation Act 2023 to incorporate provisions on the operation of online arbitration will reinforce its credibility and reliability. In the same breath, the enforcement of the award after a successful online arbitration maybe difficult and unrealistic where there is no law which recognizes the procedures adopted for the dispute resolution.⁵⁸

High Cost and Poor or Lack of Internet Services: The internet is not a facility with equal access rate across the world. While some countries have a considerably high access to internet, some other countries especially developing countries such as Nigeria do not have such a high access to the internet. It is, however, a common experience that often this internet services are very poor or even unavailable thereby making it impossible to either start a transaction or to complete it which occasion serious loss or setback to customers and ultimately impacting on the economy of the nation. It is certain that many businesses and individuals in Nigeria lack robust internet access. This poor access to internet constitutes a big challenge to the applicability of online arbitration in Nigeria. This is because online arbitration depends massively on the availability of the internet. The Internet plays an important part for online arbitration to succeed. Without easy access to internet connections and computers, the ability of parties to utilize online arbitration tools is extremely limited.⁵⁹ The operation of online arbitration in Nigeria is impossible without the use of internet services. More so, the cost of accessing the internet is high thereby not many persons can afford it because online dispute resolution may require being online for hours at each session of the meetings.

⁵⁸ Oluwaseye Ikubanni and Adekunle Saheed, 'Impact of Technology on Alternative Dispute Resolution in Nigeria and Birth and Challenges of Online Dispute Resolution' *Global Journal of Politics and Law Research* (2022) 10(1) 1-13

⁵⁹ Adaobi Ifejiolor and Cosmas Nwankwo, 'The Undercurrents of ICT Skill Acquisition in Nigeria: Problems and Prospects' *International Journal of Research in Business Studies and Management* (2015) 2(8) 1-7

Inadequate ICT knowledge and skills: This is one of the challenges to the wide acceptance of online arbitration in Nigeria. There is no doubt that online arbitration is totally dependent on ICT and cannot exist without ICT. A good knowledge of ICT and the acquisition of the required skills will help to enhance the application of online arbitration in Nigeria. Unfortunately, there is a poor level of ICT skills in Nigeria. This is due to several factors such as cost of purchase of personal computer, lack of government interest in providing ICT skills to Nigerians, amongst others. The application of online arbitration requires sufficient knowledge and skills on the use and operation of computer which most Nigerians lack sufficient knowledge of. In the same breath, many individuals and corporate bodies are not even willing to acquire the said knowledge and skills.⁶⁰ This challenge is one of the major setbacks to the wide acceptance of online arbitration in Nigeria.

As the society steadily moves online in all areas of human endeavors, various agreements are entered into expressly or impliedly online. Online arbitration agreement, therefore, is an agreement, in which parties agree to settle their dispute in arbitration, which would be held through medium of technology (i.e., internet).⁶¹ Such agreements are made electronically'. Likewise, the American Arbitration Association (AAA) defines the online arbitration agreement to be 'the agreements of the parties electronically via the internet to arbitrate to resolve their dispute or which will arise between them. Therefore, the online-arbitration agreement is a document stipulating the offer from one party with regards to an offer to arbitrate via an electronic method, over the cyberspace platform. This offer must also be accepted by the other party via electronic means. The aim in this agreement is to resolve some or all disputes, which

⁶⁰ Ali Tarhini, et al, 'User Adoption of Online Banking in Nigeria: A Qualitative Study' *Journal of Internet Banking and Commerce* (2015) 20 132.

⁶¹ Jana Herboczkova, *Certain Aspects of Online Arbitration*. (PTY Publishers, 2021) 23.

develop or could develop between them due to restricted legal relationships. Some authors have stated that there is no difference between online arbitration agreements and conventional arbitration agreements as it is the agreement of two parties to resort to arbitration without judicial intervention of the state to resolve all or some of the disputes which develop or could develop between the parties due to a specific legal issue. Yet in this work it is stated that there is a difference between the two. The difference between an online agreement and a conventional agreement is that for the online agreement, the offer and acceptance are carried out in the electronic or digital form. Online agreements are generally non-faced. In other words, they do not require a physical presence. The online arbitration agreement is regarded as an e-contract and related to contracts concluded by distance. This feature distinguishes the online arbitration agreement (concluded by two parties which are not physically present) from the conventional arbitration agreement concluded by two physically present parties. Therefore, the utilization of information communication technology (ICT) to conclude online arbitration agreements is of the most important features of the online arbitration agreement, as all the parties involved in the arbitration use modern ICT to communicate. Another feature that distinguishes online arbitration agreement from conventional agreement is its international characteristic.

The agreement is usually concluded by parties of varying nationalities in different countries via a universal mode of communication (i.e., the Internet). Thus, the arbitration agreement concluded via an electronic method is of an international scope and nature as opposed to it being nationalistic and domestic as is the case with agreements made prior to conventional arbitration. Agil in his article,⁶² stated that three items have come to represent these online agreements. They are clickwrap, browse wrap and hybrid wrap. Whether one wants to use an app, subscribe to

⁶² Hussain Agil, 'Electronic Arbitration: The New Mechanism for Dispute Resolution' *The Arbitrator & Mediator Journal* (2016) 1(2) 1-4

social media platforms like Facebook, LinkedIn, WhatsApp, Instagram etc., buy goods and services on online shops like Jumia, Konga, Amazon, and other platforms, engage in online financial transactions or fintech, participate in the digital influenced gig economy, one cannot escape entering into one of such agreements. He went further to state that in click-wrap agreements, users are mandatorily required to click on an 'I agree' button or expressly assent to the terms and conditions before they can continue with their transactions. Browse wrap agreements on the other hand, are provided through a hyperlink on the website, often at the bottom of the screen. They do not require the user to manifest his or her consent to the terms and conditions, but instead the party consents simply by using the website. Hybrid wrap agreements have the characteristics of both and typically prompts the user to manifest assent' after presenting a hyperlink to the terms and conditions, rather than displaying the terms themselves.⁶³ A fourth category which is essentially a version of click-wrap is a scroll-wrap. In a scroll-wrap, the agreement appears in a pop-up window and requires the user to scroll to the bottom of the agreement before they click the 'I agree' box.

However, viewed, it is crystal clear that in most standard online terms and conditions, arbitration clauses are inserted. Depending on the nature of the terms, online users merely click to indicate acceptance. Unless one wants to go back to the Stone Age, these agreements are inescapable and mandatory. In most e-arbitration systems, the offer includes an arbitration clause that has some general terms and conditions, and the parties are required to fill some parts of the clause. Although the information furnished by the e-arbitration providers may differ, but it facilitates confirmation and user acceptance. The actions that are undertaken to confirm and conclude an e-arbitration agreement include a functional equivalence of a standard agreement.

⁶³ Elvis Asia, *Enforceability of Arbitration Clauses in Online Agreements under the Nigerian Law* (TQR Publishers, 2007) 12.

Under the Arbitration and Mediation Act 2023, section 2(2&4) is to the effect that arbitration agreement must be in writing and the requirement of writing of the agreement is met where such agreement is communicated electronically and the information contained in it is accessible so as to be useable for subsequent reference, and the agreement is contained in an exchange of points of claim and defense in which the existence of an agreement is alleged by one party and not denied by the other.

The court in *Stabilini Visinoni Ltd. v Mallinson Partners Ltd*,⁶⁴ held thus:

An Arbitration agreement generally exists as a clause in a contract agreement and is usually treated separately regardless of what the contract is all about. It is a special clause not affected by the main contract though part of the contract agreement. An Arbitration clause usually names its applicable law and this is one of the attractiveness of arbitration in commercial transactions. It is all about the right to make a choice. Parties are at liberty to choose applicable law and the arbitration clause in the instant case, stated that the applicable law shall be the law from time to time enforced in Nigeria. This was a deliberate choice made by the parties to submit to arbitration and they chose the applicable law also.

Arbitration agreement is so pivotal that arbitral tribunal cannot have jurisdiction to arbitrate if it does not exist and it shall not be rendered invalid by reason of the death of any of the parties to

⁶⁴ [2014] 12 NWLR (Pt. 1420) 134

the agreement.⁶⁵ When parties enter into an agreement which contains an arbitration clause, they must first resort to arbitration before trial in a court of law. Thus, it is natural for the defendant in such circumstance, where the other party has filed a suit, to apply to the trial court for stay of proceedings pending arbitration. It is imperative to state that where such arbitration agreement exist in a contract, its enforcement is time bound. The supreme court in *City Eng. (Nig.) Ltd. v F.H.A.*,⁶⁶ held that where an arbitration agreement is not under seal or made under any other enactment other than “the Arbitration Law, the limitation period applicable to it is six years”.

4.2 Legal Conundrums of Online Arbitration in Nigeria

For there to be a successful conduct of online arbitration, there shall be IT tools that will be used in arbitration proceedings, these IT tools include; Digital Case Management System, Videoconferencing and Shared Virtual Work-spaces shall be analyzed hereunder.

Digital Case Management System: This is the important communication technology for arbitration proceedings, apart from mere e-mails. It is one that helps manage long and numerous documents conveniently and efficiently. In substance, it consists of a sophisticated website allowing users to upload, store, organize, and retrieve documents and other files, and to post messages, share electronic agendas, and generally facilitate access to all information related to a specific case.⁶⁷ The ideal digital case management system is specifically designed for the management of a legal case and would address several aspects, including – most importantly –

⁶⁵ Section 4 of AMA 2023.

⁶⁶ [1997] 9 NWLR (Pt. 520) 224

⁶⁷ Sven Lange and Irina Samodelkina, *Digital Case Management in International Arbitration*. (UNILAG Press, 2011) 17.

the management of documents. All documents submitted in a particular case would be run exclusively through a single platform. In particular, the parties would file their submissions through the platform and would upload all exhibits there as well. Furthermore, the tribunal and the institution would communicate with the parties exclusively through this platform. Thus, many of the problems associated with email communication could be avoided: Gone would be the days of struggling with size constraints. In addition, the risk of accidentally excluding a recipient from the list of addressees would also disappear. A simple upload of the communications would be sufficient for avoiding these issues altogether. This digital Case management websites have been used, for instance, in mass claims and multiparty proceedings. They provide to the numerous plaintiff's functionalities such as information sharing, claims screening, matter tracking, discovery management, patent/trademark management, and contract tracking. This technology, alternatively called case extranets, case management websites, and virtual case rooms. May be either institutionally implemented or provided for ad hoc. Several arbitral institutions provide case management websites. As early as 2005, the ICC presented Net Case – a document management platform which allowed parties to electronically follow the course of the arbitration. Other institutions offering case management systems are the AAA (Web File) and WIPO (ECAAF).⁶⁸

Video Conferencing: Videoconferencing (sometimes known as a video teleconference) is an IT-based solution that enables meetings among persons using both telephony and closed-circuit television technologies simultaneously. It allows two or more participants located in different places to communicate with almost no consideration for geographic distance, sharing images, sound, and possibly software applications. It has been defined as ‘a process of using information

⁶⁸ *Ibid*

technology to simultaneously send and receive audio and visual messages and signals of what is taking place at different parts of the world at the same time.

C Negi posits that⁶⁹ videoconferencing is ‘the holding of a conference among people at remote locations by means of transmitted audio and video signals.’ Through these conferences, individuals meet one another in a real-time virtual manner as if they ‘were in the same room’ without the hassle and expense of traveling. Simply put, videoconferencing is a conference in which several people who are a long way from each other communicate using audio and visual equipment. More advanced systems commonly used in arbitral proceedings also include remote controls with ‘zooming, panning, and tilting functions,’ and varying screen options, such as ‘multiple split-window displays.’ Split window displays present images of several individuals, physically separated by distance, together on one screen. One of the newest and most innovative forms of videoconferencing technology uses cameras that track a specific type of badge. While wearing these unique badges, arbitral participants are followed by cameras as they move, thus allowing a more dynamic interaction to take place. This technology indeed has been useful in online arbitration. it enables the parties, their witnesses, the arbitrators, and parties’ representatives where need be to hold the arbitral proceedings without face-to-face meeting.

Shared Virtual Workplace: A shared visual workspace is one where multiple people can see the same objects at roughly the same time. It assists participants in understanding the current state of a task and enables them to communicate and ground their conversations efficiently. These processes are associated with faster and better task performance. Delaying the visual update in space reduces benefits and degrades performance. The shared visual space is more useful when tasks are visually complex or when actors have no simple vocabulary for describing their world.

⁶⁹ Chitranjali Negi, *The Concept of Videoconferencing in ADR: An Overview Access to Justice*. (UNILAG Press, 2011) 14.

In the context of arbitral procedures, shared virtual workspaces could be used during the hearings with the parties and during the deliberations of the arbitrators. Regarding hearings, shared virtual workspaces may constitute an additional tool that increases the possibilities of the parties to make their case. In complex factual situations, the ability to share visual information about an object that forms part of the facts of the case may allow the party to make a clearer, more convincing allegation of the facts and to better explain the evidence it puts forth. After the hearings and before the award is rendered, the arbitrators usually meet virtually—to discuss the case and to deliberate on the facts alleged by the parties, the evidence submitted, and the rights invoked.

With respect to facts and evidence, the discussion among the arbitrators may be improved if they have the possibility of sharing the visual representation of what they are discussing. One arbitrator can for instance manipulate an object—for the other arbitrators to see—to express his or her point of view on the case. The use of a shared virtual workspace may also provide the parties and the arbitrators with a better sense of reality. It is worthy to note that the technological tools used in online arbitration are not exhaustive in this work. But the researcher restricted the work to the above mentioned three.

4.2.1 Legal Issue of Electronic Consent to Online Arbitration

E-commerce relies on the fast conclusion and execution of contracts, a process that doesn't align with the slowness and complexity of traditional judicial procedures as a result of the rapid expansion of economic activity, global trade, and the use of electronic technology for contract fulfillment and legal proceedings, electronic courts and arbitration organizations have sprung up to swiftly resolve e-commerce issues.

The fact that electronic contracts were designed to achieve transaction speed is evidence of the significance of electronic arbitration. From this vantage point, resolving conflicts in court requires the contracting parties to forfeit the time they would prefer to save, which can be avoided by using electronic arbitration organizations or a virtual judge.

Due to its audio-visual style and to its use of an open worldwide network for remote communication, arbitration carried out over the internet. Eliminates the need for the opposing parties and the arbitrators to meet in person.⁷⁰

Since electronic arbitration uses audio-visual techniques over an open international network for remote communication and does not require the disputing parties and arbitrators to meet in person, electronic arbitration, as its name suggests, refers to arbitration carried out over the Internet

An issue which is emerged in the context of electronic arbitration contract is consent of parties in arbitration clause and security of these kinds of contracts. Some experts believe that New York Convention did not imply to electronic method because not only other methods for declaration of consent in order to refer of disputes to arbitration is not precise but also these kinds of contracts are not secure enough.

The usual doubt has always been on the feasibility of having consent online, nowadays electronic signature which is adopted in many countries is a sign for parties' consent in arbitration contract or arbitration clause. When a person adds electronic signature into an email, his consent is obvious and it's not different mostly by the time that he signs a deed by his hand. However, this issue is a bit more complex when a contract is concluded in commercial web sites. In the case of

⁷⁰ Ibrahim Al-arnaout, 'Writing condition and electronic arbitration a comparative study' *UAEU Law Journal* (2012) (49) 3.

I.Lan systems, Inc. v Netscout Service Level Corp,⁷¹ the United States' court decided that clicking "I agree with contract" button when a software is bought in the internet is like accepting arbitration when the contract is contained that clause. According to the court, choosing this option has the same meaning with accepting this kind of arbitration behalf of the buyer.

4.2.2 Legal Problem of Validity of the Arbitration Clause

Arbitration is irrevocable except if the parties agree that it should be revoked or by the law of the court.⁷² Arbitration agreement may be made in such a way that it will deny any of the parties the right to court proceedings until an award is made.⁷³ This is known as the Scott v Avery clause in the English case of *Scott v Avery*⁷⁴, in this English case, mutual insurance company slot in a condition in all its policies that any member who suffered any loss or damage would be paid such an amount of money as would be determined by a committee and if the member refused to accept the amount so determined, the matter would be submitted to arbitrators provided that such a member not be entitled to maintain an action at law, or a suit in equity, on the policy until the matter has been decided by the arbitrators and only for the amount awarded to them. It was held by the House of lords that the clause did not oust the jurisdiction of the court but merely made an award a condition recent to the institution of the action in court. What the decision implies is that there was a clause and that the parties at the other end, don't have a right to go to court until an award is made concerning the dispute.

If however the party whom the award was against, that is, the unsuccessful party, goes to court without reference to the arbitration agreement, the winning party applies to the court for a stay of proceeding or rely on the defense provided for in the *Scott v Avery* case and strike out the action

⁷¹ [2002] 1 CLR 2

⁷² Section 2 of AMA 2023

⁷³ *I.M.N.L. v Pegofor Ind. Ltd* [2005] 15 NWLR (Pt. 947) 1

⁷⁴ [1856]5 HLC 81

for not complying to the terms of the clause which is condition precedent before instituting an action in court.⁷⁵ The Supreme Court stated the forms of the clause in *Scott v Avery*. They are as follows:

1. A provision that the only obligation of the defendant shall be to pay such sum as the arbitrator shall award or;
2. An express or implied term of the contract that no action shall be brought until an arbitration has been conducted and an award made.

Article 21(2) of the UNCITRAL Arbitration Rules provides thus: “an arbitration clause which forms part of an agreement and which provides for arbitration under rules shall be treated as an agreement in dependent of the other terms of contract”.

Section 12(1) of Arbitration and Mediation Act 2023 provides thus “arbitration agreement may be in the form of an arbitration clause in a contract or in the form of a separate complete agreement”. The above sections imply that the arbitration clause is distinct from the contract between the parties. This is because arbitration is about wrongful termination of a contract or any other dispute that may likely occur.⁷⁶ An arbitration may also contain a clause that a claim may be barred or not enjoyed by a party if the arbitrator is not appointed on time. This clause is called the shipping clause from English case of *Atlantic Shipping and Trading Co. Ltd v Louis Dreyfus and Co. Ltd*.⁷⁷ Where such condition is included in an agreement and it is not complied with the award will not be enforced. A model arbitration clause is “Any dispute, controversy or claim arising out of or relating to this contract or the breach, termination or invalidity thereof, shall be

⁷⁵ *Oyedele v New India Assurance Co Ltd* [1969]3 ALR comm. 200HC

⁷⁶ Greg C Nwakoby, *The Law and Practice of Commercial and Arbitration in Nigeria* (2nd Edition, Iyke Ventures Book, 2004) 72.

⁷⁷ [1992] AC 250

settled by arbitration in accordance with the Rules for Arbitration of the Regional centre for International Commercial Arbitration Lagos”. Parties may wish to add the following:

- a. The appointing authority shall be the regional centre for international Commercial Arbitration, Lagos.
- b. The number of arbitrators shall be...
- c. The place of arbitration shall be....
- d. The language(s) to be used in the arbitration proceeding shall be...
- e. The law applicable to this contract shall be that of....

4.2.3 Legal Problem of Seat of Online Arbitration

Seat of arbitration is important from various aspects. According one opinion, seat of arbitration determines the applicable law in arbitrations. On the other side, in many arbitration codes, supervision on awards is allocated to courts of arbitration seat, and base on New York Convention, recognition and enforcement of the award may be refused if the award has been set aside by a competent authority of the country in which that award was made. In the online arbitration, the obvious multiple location is an obstacle to determine the place of arbitration. In this kind of arbitration, not only parties may present in different countries, but also arbitrators may attend and discuss from different countries.

On the other hand, in comparative law there is a tendency not to use the operator's electronic presence or technical equipment to determine location. The determination of the place of arbitration must therefore rest on legal criteria. This problem led some scholars to conclude that “virtual arbitration has no sits”, or at least “no identifiable seat of arbitration”. However, modern views about the determination of arbitration place have mostly solved this problem.

Nowadays, there isn't any trend to determine location of arbitration base on "where the arbitration took place" or "where the award was made" or "the place of the situation of the establishment that has made the arbitration agreement.

But based on the new codes, seat of arbitration is mostly excluded from its geographical notion and became selective. The seat is now defined as the place agreed to be the seat by the parties or by the arbitrators or an arbitral institution if such a power is nominated by the parties. Article 20 (1) of UNCITRAL Modal Law, article 15 of the Uniform Arbitration Act, article 14 (1) of ICC arbitration rules and many other arbitration codes have accepted this approach.

As a result, the admissibility of the free choice of the seat of arbitration by the parties or arbitrators' results in the conclusion that the physical place, or perhaps – more accurately – lack of the physical place, of arbitral hearings and other procedural acts, is irrelevant.⁷⁸

Section 32 of the Arbitration and Mediation Act 2023 provides that the seat of the arbitration shall be designated by the parties to the arbitration agreement, by an arbitral or other institution or person authorized by the parties with powers in that regard; or in the event there is no agreement as to seat of arbitration, the seat shall be in Nigeria as may be convenient. The problem with seat of arbitration for online arbitration can be solved by parties agreeing to the technological platform to use in carrying out the arbitral proceeding.

4.2.4 Legal Issue of Conduct of Electronic Proceedings

First and foremost, the Internet and information technology have a practical impact on dispute resolution procedures. There is an increased use of electronic media in the place of paper-based communication means. Such innovative and evolutional developments have equally found their way to the justice system including arbitration approaches to ensure efficiency, fairness and rapid

⁷⁸ Zekos Goerge, *International Commercial and Marine Arbitration* (Cavendish publication, 2008) 12.

resolution of disputes.⁷⁹ E-arbitration as it is commonly called involves the utilization of information technology whereby information and communications technology (ICT) applications are embedded into the arbitral proceedings that are conducted either substantially or wholly online. Thus, for a proceeding to qualify for the e-arbitration scheme, ICT should not be used just as a simple assistive tool. Rather, ICT applications should be embedded and integrated into the process in such a way that it is essential for the proper functioning of the process. The Internet now encourages remote dispute resolution. Physical meetings have thus been replaced by electronic exchanges. This total or partial elimination of the physical meetings between the parties and the third parties they have chosen to resolve their dispute is a feature of electronic procedures. By the same token, the use of the Internet and IT leads to the replacement of traditional documents and written evidence by electronic documents and written evidence. The electronic procedure can therefore be organized using a variety of models, involving the complete or partial elimination of hard-copy documents. Here we focus on the arbitration procedure itself. An electronic arbitration procedure, although having to be organized in a particular way because of the use of technology, is nonetheless still subject to the principles that traditionally govern any arbitration case. There are two commonly accepted principles that are relevant to electronic arbitration procedures. The principle of procedural autonomy allows the parties to organize the arbitral procedure. In general, when it is a case of an institutional arbitration, it is the arbitrator who organizes the procedure in accordance with the arbitration rules to which the parties have agreed. The principle of procedural autonomy therefore leaves it to the parties and the arbitral institutions to adapt the procedure to the electronic arena. Electronic cases are admissible when there is contractual freedom. Nevertheless, contractual

⁷⁹ Hussain Agil, 'Electronic Arbitration: The New Mechanism for Dispute Resolution' *The Arbitrator & Mediator Journal* (2016) 1(2) 1-8.

freedom cannot undermine the mandatory regulations that govern the arbitration procedure. Among these mandatory regulations, those resulting from the due process of law are of relevance. The arbitration proceedings must always respect the impartiality of the tribunal, the equality of the parties and the principle of contradiction. An electronic procedure organized without due care could fail to recognize these principles.⁸⁰ For example, unequal electronic access of the parties to the website of the institution could undermine the principle of equality or contradiction. Dispute Settlement When the electronic procedure is organized in accordance with the principles of good justice, additional precautions still need to be taken in electronic commerce disputes to preserve the rights of the parties. The outcome of the arbitration depends on the supporting evidence produced by the parties. This evidence is what will determine the arbitrator's decision. In arbitration, the proceedings begin when a request is filed by the contracting parties and this can involve e-production and submissions of documents, e-hearings (through video conferencing), e-communications and e-deliberations and the proceedings normally end with the provision of an e-award. It is obvious that arbitration proceedings conducted over the internet are cost-effective as compared to traditional arbitration where the conflicting parties had to meet face-to-face. While the use of technology in the arbitration process is meant to make the process efficient, the associated issues of security and confidentiality raise some concerns. E-communication is a core part of the e-arbitration process beginning with filing, hearing, deliberation and ending with award.

Generally, there are three possible ways to conduct arbitration procedures. The first method is to conduct the whole arbitration using traditional arbitration procedures. The second method is to follow the hybrid way using information technology and traditional arbitration procedures for

⁸⁰ *Ibid* (n 63)

example, using the internet to submit the dispute or sending documents via e mail while using traditional arbitration procedures for sending original documents and written arbitration agreement. The third method is by conducting an Arbitration procedure solely through electronic means from the beginning to the end. There is an unfortunate tendency to think that online arbitration is a new form of ADR, administered by a new breed of techno-arbitrators, having little in common with its more traditional counterpart. This tendency is not plausible as online arbitration certainly remains arbitration, though may be seen as its new type or dimension. There has been an increasing interest in the question as to whether an arbitration conducted online using electronic means for example, electronic mail (e-mail), is valid within the current legal framework provided by national laws and international treaties (the most important of which is the New York Convention on the Recognition and Enforcement of Foreign Arbitral Award) given that it came into existence prior to the phenomenon of dispute resolution taking place in an online setting.³⁸ For instance, it has often been asked whether an exchange of e-mail messages containing an arbitration clause satisfies the formal requirements of Article 11(2) of the N.Y.C since the exchange of e-mails can be likened to the exchange of telegrams. The majority of modern academic thoughts appear to suggest that such agreements, by analogy fall within the ambit of the phrase ‘an exchange of telegrams’ and as such covered by the Convention.⁸¹ In Nigeria, this problem becomes more intractable as our legal system does not have a specific legal framework for online arbitration.

4.2.5 Legal Issue of Admissibility of Electronic Evidence in Online Arbitration

The case of electronic generated evidence has risen through acquisition of electronic technology as the use of computers and other forms of electronic storage and communication systems has

⁸¹ Zara Spencer, *The Impact of Information Technology on Processes of Dispute Resolution for International Trade and Commerce Matters* (SPY Publishers, 2004) 53.

risen particularly in commercial and financial transactions. The peculiarity of the problems associated with proof of electronic transactions stems from the fact that they are paperless transactions.⁸² Electronic transactions limit the use of proving documentary evidence and the impact of paper based and paperless based transactions. The first consideration about electronic documents are the relevancy and authenticity. It is susceptible to all kinds of distortions, processing errors and contaminations.

It is a well-known fact that computer records can easily be altered and therefore lacks authenticity as they can be changed, altered or tampered except where a proper foundation is laid providing the witness the opportunity to testify to their authenticity.⁸³ The admissibility of electronically generated evidence in courts and online arbitral tribunals, boils down on laying proper foundation for authentication, its reliability and originality of computer output.

With the technology advancement in the world that are being operated by individuals and corporate bodies in domestic works and financial transactions, one cannot help but wonder why the Act does not provide for such. These products of technology can be used for legal and illegal acts.

The enactment of Evidence Act 2011 as amended marks a watershed in the anal of Nigeria's legal system. It has not only provided for the admissibility of electronic and computer-generated evidence but has located electronic and computer-generated evidence within the realm of documentary evidence. Hence, like every other documentary evidence, electronic generated evidence can be proved either by primary or secondary evidence.

Section 84 the Evidence Act 2011 as amended in 2023. For the purpose of emphasis, I quote;

⁸² Olusegun Yerokun, *Casebook on Law of Evidence* (Princeton & Associates Publishing Co Ltd, 2016) 1465.

⁸³ *DPP v Mckeown* [1997] 1 WLR 295

In any proceeding a statement contained in a document produced by a computer shall be admissible as evidence of any fact stated in it of which direct oral evidence would be admissible, subject to some conditions

The computer or electronically generated evidence are not automatically admissible, it first has to be relevant to the facts in issue of a particular case, then they will be admissible in evidence without much ado.

The conditions that must be satisfied for Electronically Generated Evidence can be admissible as contained in Section 84(2) of Evidence Act are as follows:

1. That the document contained in the statement was produced by the computer during a period over which the computer was used regularly to store or process information for the purpose of any activities regularly carried on over that period, whether for profit or not, by anybody, whether corporate or not, or by any individual.
2. That over that period, there was regularly supplied to the computer in the ordinary course of those activities information of the kind contained in the statement or of the kind from which the information so contained is derived.
3. That throughout the material part of that period the computer was operating properly or if not, that in any respect in which it was not operating properly or was out of operation during that part of that period was not such as to affect the production of the document or the accuracy of its contents.
4. That the information contained in the statement reproduces or is derived from the information supplied to the computer in the ordinary course of those activities.

However, in any online arbitral proceeding where it is desired to give a statement in evidence, there shall be a certificate as stipulated in section 84(4) of the Evidence Act 2011 as amended in 2023:

1. Identifying the document containing the statement and describing the manner in which it was produced.
2. Giving such particulars of any device involved in the production of that document as may be appropriate for the purpose of showing that the document was produced by a computer.

4.2.6 Legal Issue of Online Arbitration in Consumer Protection Disputes

Over the years, there has been a backlog of cases filed up in court because the number of cases instituted in court daily runs more than the judgments handed down in resolving those cases; the simple cause is that litigation is time consuming. Also, litigation is so complicated and would require one to go through the laid down procedures before trials start. These Pre-trial Procedures could be time demanding.

The purpose of arbitration is not to cause the court to give up its power to hear and determine issues that can be referred to arbitration. The courts have powers and functions specified by our statutes which may be exercised in support of the process of arbitration. The powers and functions of the court in this regard, is to facilitate and supervise the arbitral process. The essence of this collaboration with the arbitral tribunal is to resolve the party's dispute. An instance is when the court calls on an arbitrator to decide a question of law during the arbitral proceedings. Also, the

arbitrator may refer to the court for determination of any question of law arising during arbitral proceeding other than the ones agreed upon by the parties.⁸⁴

Commercial arbitration is a way of settling disputes arising from parties by referring them to a neutral person or an arbitrator nominated by parties to the dispute for a resolution based on the evidence and arguments offered to the arbitration tribunal. The parties agree in earlier before time for arbitration, that the decision will be acknowledged as absolute and binding.⁸⁵

In a commercial sector, several disputes may arise such as the supplier's failure to deliver goods to the other party who is making purchase, change in government policies not foreseen, and inconsistency in the terms of agreement. Inflation in the prices of commodity or subject matter in such a case as buying and selling. Commercial disputes can be litigated in the state and federal high court. There is an exclusive jurisdiction for the Federal high court to entertain matters on revenue, banking, aviation and shipping, customs and exercise, company taxation; matters not stated in the exclusive list can be heard by the state high court. Court of appeal and supreme court, sequentially if the need arises. The strains and challenges obtained in the process of litigation brought arbitration, under the spotlight; now, most arbitration agreements that are contextual have arbitration clauses. The court in most cases where it is needful, refers disputing parties to arbitration in commercial transaction.

4.7 Online Dispute Resolution in the Epoch of Information Technology

information technology has greatly impacted on all facets of human endeavor including justice and commerce. Consequently, commercial transactions are now initiated and concluded using

⁸⁴ Salmunur Rahman, *Introduction to E-Commerce Technology in Business*, <<https://m.grin.com/document/280494>> accessed 3 June, 2025.

⁸⁵ *Ibid* (n 75)

computers, the internet and other electronic devices. The universal reach of cyberspace has engendered visions of borderless market place emerging in which vast geographical distances no longer deter persons from engaging in commerce.⁸⁶

In order to facilitate the complete realization of these visions, internet users must possess a certain degree of confidence which enables them to seek effective means of redress should a dispute arise in the course of electronic transactions. Obviously, resorting to the primordial adversarial procedure for the settlement of differences arising from an online transaction may not be a palatable option as that would subject the parties to high level of inconsistencies in legal principles amongst different jurisdictions.⁸⁷

In a bid to address the challenges presented by online commercial transactions, the adaptation of a resolution mechanism that is in consonance with the new realities of a networked world became imperative hence the emergence of Online Dispute Resolution (ODR) as a dispute resolution mechanism for online commerce, although it has since been expanded to other areas of civil redress.⁸⁸

Online Dispute Resolution refers to a set of dispute resolution processes that allow for the resolution of disputes through online technology such as the internet or some forms of technology that allow for virtual communication without requiring the parties to be in a room together. Because ODR need not be tied to precedents or jurisdictions, ODR solutions work the

⁸⁶ Ethan Katsh Oma, *Online Dispute Resolution and Prevention: A Historical Overview*, <<https://oxford.universitypressscholarship.com/mobile/view/10.1093/acprof>. accessed on 3 June, 2025.

⁸⁷ AndraLeigh Nenstiel, 'Online Dispute Resolution: A Canada- United States Initiative' *United States Journal of Law* (2006) 1(3) 313.

⁸⁸ Thomas Schultz, *Online Dispute Resolution: Challenges for Contemporary Justice*, (Kluwer Law International Publishers, 2004) 12.

way the internet works. In other words, ODR covers a broad spectrum of ideas and applications related to digital and online dispute resolution processes.⁸⁹

Although almost all ODR processes tend to be those that allow for written submissions only, there is a wide spectrum of ODR services that range from online arbitration to fully automated online blind bidding, negotiation services and chat-based mediation programs. The selection of the appropriate ODR format may depend on the nature of dispute and the parties involved. ODR is expected to be ideal for settling international disputes compared to litigation and ADR, as it provides solutions for some issues that have been found in offline ADR and litigation, such as the enforceability of the final decision, increased efficiency and effectiveness, and saving extra costs and time.⁹⁰

The commonly practiced ODR methods can be divided into three main types, namely, online negotiation, online mediation and online arbitration. Negotiation is the way in which persons contact each other to reach an agreement.⁹¹ It implies reaching amicable solutions. Before the advent of the internet, parties used to negotiate in courthouse corridors or in offices, but nowadays they can negotiate through the web.

The advancement of electronically based negotiations (online negotiation) means that the parties are not required to meet in a particular place. The main feature of negotiation is that it is informal and there is no third party to serve as a mediator.

Online mediation has been defined as online negotiation carried out with the assistance of a third party. Mediation is the process of negotiation and communication between two parties with the

⁸⁹ *Ibid* (n 79)

⁹⁰ Stephen B. Goldberg, *Dispute Resolution: Negotiation, Mediation and Other Processes* (Aspen Law and Business Publication, 2003) 107.

⁹¹ Susan Summers Raines, 'Can Online Mediation be Transformative? Tales from the Front' *Journal of Conflict Resolution* (2005) 22(4) 437.

interaction of a third party or the mediator. The procedure may take place wholly or partly online. The main advantage of conducting mediation online is that none of the parties will have to travel and pay extra costs in order to meet with the mediator.⁹² However, online negotiation and online mediation share a common feature in relation to being non-binding and if the parties fail to reach a final agreement, then they have no other choice than to resort to a binding dispute resolution mechanisms such as arbitration and litigation.

Online arbitration is the electronic version of offline arbitration. In other words, online arbitration is where the arbitration procedures are conducted wholly or partly on the internet, starting from the online agreement of the parties to the online arbitral procedures and ending with online arbitral award.⁹³

ODR has quite a significant number of advantages over the conventional adjudicatory system. It saves time and reduces costs of litigation as parties do not need to be physically present in the course of its conduct. The ODR system promotes e-commerce and counters geographical barriers by ensuring that justice is timely accessed irrespective of geographical distances. The use of ODR mechanisms makes room for the editing of communications compared to instantaneous responses that characterize interface encounters in litigation. The persistent loss and misplacement of files encountered in courts are grossly minimized as ODR system stores, saves and secures documents transmitted during resolution processes.⁹⁴

Despite the above benefits associated with the use of ODR, the system is encumbered with some legal issues. The core legal issues in the adaptation of dispute resolution mechanisms to the information technology epoch, range from;

⁹² *Ibid* (n 82)

⁹³ Lucinda Case, The Impact of ODR Technology on Dispute Resolution in the UK, <<https://blogs.thomsonreuters.com>> accessed on 3 June, 2025.

⁹⁴ Gary Born, *International Commercial Arbitration* (Kluwer Law International Publishers, 2009) 11.

1. Jurisdiction & Enforceability of online arbitration award
2. Due process & fair hearing rights
3. Data privacy & Cyber-security especially handling sensitive information in digital platforms raises compliance issues with the provisions of Nigerian Data Protection Act 2023.

CHAPTER FIVE

SUMMARY OF FINDINGS, RECOMMENDATIONS AND CONCLUSION

5.1 Summary of Findings

Online arbitration has evolved over the years as an easy way of resolving commercial dispute. It has special notion with the use of electronic tools such as email and online conferences, among others. The advancement of technology has crept into the domain of arbitration and has increased an unpredictable shift in arbitral process.

This study on Online Arbitration Mechanisms under the Nigerian Arbitration and Mediation Act 2023 reveals several key insights into the evolving dispute resolution framework in Nigeria thus:

(a) Legal Recognition of Online Arbitration: The Arbitration and Mediation Act 2023 (AMA 2023) expressly accommodates the use of electronic communications and virtual platforms in arbitration proceedings. This demonstrates Nigeria's alignment with global best practices and the UNCITRAL Model Law on e-commerce and online arbitration.

(a) Procedural Flexibility: The Act provides parties and tribunals with discretion to conduct hearings, submission of documents, and exchange of evidence electronically. This flexibility reduces procedural rigidity, enhances efficiency, and broadens access to arbitration, particularly for cross-border disputes.

(b) Efficiency and Cost-Effectiveness: Online arbitration mechanisms significantly lower transaction costs, minimize delays caused by logistics, and allow parties to participate from different jurisdictions without physical presence. This supports faster resolution of disputes compared to traditional in-person arbitration.

(c) Challenges of Implementation: Despite the legal framework, practical concerns persist. These include issues of digital infrastructure in Nigeria, unequal access to technology, cybersecurity risks, and the enforceability of electronically signed arbitral agreements or awards in local courts.

(d) Confidentiality and data security: While the Act emphasizes confidentiality in arbitral proceedings, online mechanisms raise additional concerns over data breaches, hacking, and secure storage of evidence. The absence of detailed cybersecurity standards under the Act poses a potential weakness.

(e) Judicial Support and Enforcement: The Nigerian courts, under the new Act, are required to recognize and enforce arbitral awards, whether rendered in physical or online proceedings. This strengthens the legitimacy of online arbitration but requires consistent judicial interpretation to avoid conflicting outcomes.

(f) Potential for Wider Adoption: The Act positions Nigeria as a progressive arbitration hub in Africa. However, effective adoption of online arbitration will depend on awareness, training of arbitrators, and institutional readiness by arbitration centres to integrate digital technologies.

5.2 Recommendations

In light of the findings of this study, it is evident that while the Arbitration and Mediation Act 2023 represents a progressive step in the modernization of Nigeria's dispute resolution framework, several legal problems remain in relation to the effective operation of online arbitration. To ensure that online arbitration mechanisms achieve their full potential, the following recommendations are proposed:

(a) Clarification of Jurisdiction and Seat of Arbitration: One of the persistent legal challenges associated with online arbitration is the determination of jurisdiction and the seat of arbitration where proceedings are conducted virtually. It is recommended that the Act, or accompanying arbitral institutional rules, should expressly provide guidelines on how the seat of arbitration is to be determined in online proceedings. This will mitigate conflicts of laws and prevent jurisdictional challenges that may frustrate the enforcement of awards.

(b) Strengthening Recognition of Electronic Agreements and Awards: Although the Act recognizes electronic communications, Nigerian courts must consistently uphold the validity of electronic signatures on arbitration agreements and arbitral awards. To this end, the Evidence Act

should be harmonized with the Arbitration and Mediation Act to provide explicit recognition of digitally executed arbitral documents. Such legislative clarity will reduce judicial reluctance in enforcing e-signed awards and agreements.

(c) Procedural Safeguards for Due Process: To guard against challenges based on lack of fair hearing, regulations or institutional rules should establish minimum due process standards for online arbitration. These should include provisions ensuring equal access to technology, adequate notice of virtual hearings, and a reasonable opportunity for parties to present their case. Incorporating these safeguards will reduce the risk of awards being set aside on grounds of procedural unfairness.

(d) Adoption of Cybersecurity and Confidentiality Protocols: While confidentiality is a cornerstone of arbitration, the virtual environment introduces new vulnerabilities. It is recommended that arbitral institutions in Nigeria adopt binding cybersecurity protocols covering encryption, secure transmission of documents, and data protection standards. The Act could be supplemented with rules imposing liability for breaches of confidentiality in online proceedings, thereby bolstering parties' confidence in the system.

(e) Judicial Training and Sensitization: The judiciary plays a critical role in the recognition and enforcement of arbitral awards. Continuous judicial training on the peculiarities of online arbitration—including enforcement of e-signed awards, interpretation of electronic evidence, and recognition of virtual hearings—should be institutionalized. This will promote judicial consistency and minimize resistance to online arbitration.

(f) Cross-Border Enforceability of Online Awards: Given that arbitration is often cross-border in nature, Nigeria should take proactive steps to strengthen international recognition of online arbitral awards under the New York Convention. This may be achieved by clarifying, through

judicial decisions and institutional rules, that awards rendered via virtual proceedings are valid and enforceable, provided due process standards are met.

5.3 Contribution to Knowledge

This research makes significant contributions to the growing body of knowledge on alternative dispute resolution, particularly in the Nigerian context. Its contributions are both theoretical and practical, as outlined below:

(a) Filling a knowledge gap on online arbitration in Nigeria:

While arbitration has long been studied as a mechanism for dispute resolution in Nigeria, limited scholarly attention has been given to the emerging field of online arbitration. This research provides one of the few comprehensive analyses of its prospects, challenges, and applicability in Nigeria, thereby expanding the scope of ADR literature in the country.

(b) Contextualizing global practices for Nigeria:

The study situates Nigeria within the global discourse on online dispute resolution (ODR). By critically appraising the successes and limitations of online arbitration in other jurisdictions, the research highlights how international best practices can be adapted to suit Nigeria's legal, socio-cultural, and technological realities.

(c) Exposing legal and institutional gaps:

A major contribution of this study lies in its identification of statutory, regulatory, and institutional deficiencies that hinder the effective adoption of online arbitration in Nigeria. By drawing attention to outdated legal frameworks and inadequate technological infrastructure, the research provides a foundation for law reform and institutional strengthening.

(d) Practical recommendations for stakeholders:

Beyond theoretical appraisal, the study proposes actionable recommendations for policymakers, arbitral institutions, legal practitioners, and technology providers. These suggestions are aimed at creating a conducive environment for online arbitration, thus advancing Nigeria's dispute resolution framework in line with global digital trends.

(e) Interdisciplinary insight:

The research bridges the fields of law, technology, and policy by examining how digital tools can be integrated into Nigeria's arbitration system. This interdisciplinary perspective contributes to ongoing debates about technology-driven justice systems in developing countries.

5.4 Areas for Further Studies

In the course of this study, a number of issues emerged which could not be exhaustively addressed within its scope. These issues provide fertile ground for future research, particularly in the evolving field of online arbitration. Suggested areas include:

(a) Comparative studies with other jurisdictions:

Further studies may compare Nigeria's regulatory and institutional framework for online arbitration with that of leading ODR jurisdictions such as the European Union, United States, India, or China, with a view to distilling best practices adaptable to Nigeria.

(b) Technological infrastructure and cyber-security concerns:

The effectiveness of online arbitration depends heavily on secure and reliable technology. Future research could focus specifically on the challenges of digital infrastructure, data protection, and Cyber-security in Nigeria's arbitral practice.

(c) Enforceability of online arbitration awards:

Further scholarly inquiry is needed into how Nigerian courts will treat online arbitration awards, especially where issues of consent, electronic signatures, or jurisdiction arise. This is crucial for aligning online arbitration with both domestic law and international instruments like the New York Convention.

(d) Socio-cultural and ethical dimensions:

Future studies may also explore how cultural attitudes, trust in technology, and ethical considerations affect the willingness of Nigerians to embrace online arbitration as a legitimate dispute resolution mechanism.

(e) Integration of artificial intelligence in online arbitration:

With the growing use of AI in dispute resolution globally, research could examine the prospects, challenges, and legal implications of incorporating AI-driven tools into Nigeria's arbitral process.

5.5 Conclusion

E-Commerce is among the fastest growing industries in the whole world. Advances in computer and information technology have contributed to this tremendous growth. Indeed, such growth needs to be matched by appropriate legal framework that caters for this type of economic activity. Due to the fluidity of e-commerce transactions over national boundaries and multivariate

number of actors involved, the possibilities for conflicts arising from breaches of certain laws and jurisdictions have increased. In Nigeria, the absence of a regulatory framework detailing the modus of conducting online arbitration and enforcement of electronic awards, may seriously truncate any attempt by the parties to resolve their disputes by way of arbitration using the electronic means. As noted above, some countries have developed systems and institutional rules guiding the conduct of online arbitration procedures. Specific legislations designed to regulate online arbitration in Nigeria is imperative as it would maximize the benefits of e-commerce.

There is a clear consensus that our courts cannot provide a system that will effectively meet the needs of consumers in the new global marketplace, and that a global Online Dispute Resolution network is the best solution to deal with consumer disputes. This does not imply that Online Dispute Resolution is always proper; in fact, there are some cases when it should be avoided, which includes when one party is acting in bad faith (i.e. criminal cases) and when one of the parties feels very uncomfortable with the use of technology. However, for majority of consumer disputes that arise online, the most appropriate field to resolve them is also the Internet. Thus, for online arbitration, it is understood to be any dispute resolution process which is mainly carried out with the assistance of ICT. Clearly, online arbitration has several advantages, but the most significant one is that online arbitration allows communication at a distance, obviating the need for travelling and reducing costs. It also allows the use of asynchronous communications delivering a more convenient and flexible option for resolving disputes.

As a result, online arbitration has important potential to increase consumer access to redress. However, ODR has a number of pitfalls, such as the lack of face-to-face communications, technological burdens, legal restrictions, etc. It is widely acknowledged that many of these difficulties can be overcome with appropriate regulations and technologies. In order to release

the full potential of online arbitration, we must design efficient consumer services that reduce the number of difficulties and exploit their advantages.

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