

**AN APPRAISAL OF THE EFFECTIVENESS OF THE NIGERIAN ARBITRATION AND MEDIATION ACT  
IN RESOLVING COMMERCIAL DISPUTES**

**SUBMITTED**

**BY**

**OKEREKE CHIOMA LILIAN  
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**TO**

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

**SUPERVISOR:  
BARRISTER EMEKA CHUKWUDIFU EARNEST**

**SEPTEMBER, 2025**

**TITLE PAGE**

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## **DECLARATION**

I, Okereke Chioma Lilian hereby declare that this research project titled: “An Appraisal of the Effectiveness of the Nigerian Arbitration and Mediation Act in Resolving Commercial Disputes” Is my original work carried out by me in the Department Law, Faculty of Law, Alex Ekwueme federal University, under the supervision of Barrister Emeka Chukwudifu Earnest.

This work has not been submitted, either wholly or in part, for the award of any degree or diploma in this or any other institution of higher learning. All sources of information have been duly acknowledged in accordance with academic conventions.

**Matriculation Number:** 2020/LW/15862

Signature \_\_\_\_\_

September, 2025

## APPROVAL AND CERTIFICATION

This research project titled: “An Appraisal of the Effectiveness of the Nigerian Arbitration and Mediation Act in Resolving Commercial Disputes” by Okereke Chioma Lilian, with Matric Number 2020/LW/15862 has been carried out in the Department of Law, Faculty of Law, Alex Ekwueme federal University Ndufu-alike, Ikwo, Ebonyi State University, under my supervision.

It has been examined, approved, and certified as meeting the requirements for the award of the degree of "LLB" Certification.

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**Barrister Emeka Chukwudifu Earnest**  
**Project Supervisor**

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**Date**

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**Dr. K.G. Onyegbule**  
**(Coordinator)**

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**Date**

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**Prof. Eseni Azu Udu**  
**(Dean of Faculty)**

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**Date**

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**(External Examiner)**

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**Date**

## **DEDICATION**

This work is dedicated to the Almighty God, whose grace, wisdom, and strength have seen me through the course of this research.

I also dedicate this project to my beloved parents and family for their unwavering love, encouragement, and sacrifices, as well as to my friends and colleagues whose support has been invaluable throughout this academic journey.

## **ACKNOWLEDGEMENT**

First and foremost, I give glory and thanks to EL ROI for His guidance, wisdom, and strength throughout the course of this research.

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Special appreciation goes to my parents Mr/Mrs. James Okereke and family members for their constant encouragement, love, and sacrifices, without which this achievement would not have been possible.

Finally, I acknowledge my friends and colleagues whose insightful discussions, assistance, and companionship made this journey worthwhile.

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## **TABLE OF STATUTES**

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Civil Procedure Rules of the High Court of the Federal Capital Territory, Abuja, 2018

Lagos State Arbitration Law, 2009

New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards, 1958

UNCITRAL Model Law on International Commercial Arbitration, 1985 (as amended in 2006)

## **LIST OF ABBREVIATIONS**

ADR – Alternative Dispute Resolution

AMA – Arbitration and Mediation Act, 2023

ACA – Arbitration and Conciliation Act, Cap A18, LFN 2004 (Repealed)

UNCITRAL – United Nations Commission on International Trade Law

ICC – International Chamber of Commerce

LCIA – London Court of International Arbitration

ICDR – International Centre for Dispute Resolution

NYC – New York Convention, 1958

FHC – Federal High Court

HCT – High Court of a State or the Federal Capital Territory

HOD – Head of Department

LL.B – Bachelor of Laws

NALT – Nigerian Association of Law Teachers

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## ABSTRACT

Arbitration serves as the guiding light that direct conflicting parties towards the shores of resolution, encouraging, mentoring, guiding and fostering an environment of harmony, equity in a world were conflicts frequently pose. Arbitration and Mediation is the two popular Alternative dispute resolutions. Arbitration is a process where a neutral third party arbitrator hears evidence and argument from both parties of dispute and makes a binding decision. Mediation is a process where a neutral third-party Mediator facilitates a negotiation between the parties to help them reach a mutually acceptable agreement. Commercial disputes can have devastating consequences for businesses, including financial losses, reputational damage, and strained relationships. Traditional litigation methods often prove inadequate, leading to increased interest in Alternative Dispute Resolution (ADR) methods, particularly arbitration and mediation. This study critically examines the effectiveness of arbitration and mediation in resolving commercial disputes, highlighting their benefits, limitations, and challenges. A comprehensive review of existing literature and empirical data reveals that arbitration and mediation can provide efficient, cost-effective, and flexible solutions for commercial disputes, while also preserving business relationships. However, the study also identifies areas for improvement, including the need for greater awareness, training, and institutional support. The findings of this study contribute to the ongoing debate on the role of ADR in commercial dispute resolution, providing valuable insights for businesses, policymakers, and dispute resolution practitioners. In conclusion, this study demonstrates the effectiveness of arbitration and mediation in resolving commercial disputes, offering a faster, more cost-effective, and flexible alternative to traditional litigation. While challenges persist, the benefits of ADR methods make them an increasingly attractive option for businesses seeking to manage disputes efficiently and preserve valuable relationships. As the use of arbitration and mediation continues to grow, it is essential for businesses, policymakers, and dispute resolution practitioners to work together to promote awareness, training, and institutional support, ensuring that these methods remain a viable and effective means of resolving commercial disputes.

# CHAPTER ONE

## INTRODUCTION

### 1.1 Background to the Study

Alternative Dispute Resolution (ADR) refers to methods of resolving disputes outside the traditional court system. It includes mechanisms such as arbitration, mediation, conciliation, and negotiation. ADR has become increasingly popular in resolving commercial disputes globally due to its efficiency, cost-effectiveness, and flexibility, compared to the often lengthy and expensive litigation process. In Nigeria, ADR, particularly arbitration and mediation, plays a vital role in resolving commercial disputes in sectors like oil and gas, construction, banking, and telecommunications.

With the advent of the Arbitration and Mediation Act, 2023, Nigeria has taken another step towards modernizing its legal framework for ADR. This legislation aims to make Nigeria an attractive destination for international business transactions and resolve commercial disputes swiftly and fairly. Rt.Hon. Lord Mustill note that " Commercial arbitration must have existed since the dawn of commerce. All trade potentially involves disputes and successful trade must have been a means of dispute resolution other than force. It must have involved a neutral determination, and an agreement, tacit or otherwise, to abide by the result, backed by some kind sanction. It must have taken many forms, with mediation no doubt merging into adjudication. Even for historical times it is impossible to place together the details, as will readily be understood by anyone who nowadays attempts to obtain reliable statistics on the recent incidence and varieties of Arbitration.

## Overview of Arbitration and Mediation in Nigeria

Nigeria has long recognized the need for an effective ADR framework, particularly in the context of commercial disputes, as the country is a major hub for trade and investment in Africa. The Arbitration and Mediation Act, 2023 supersedes earlier laws, notably the Arbitration and Conciliation Act, 2004, providing a more structured approach to arbitration and mediation practices. The 2023 Act aligns Nigeria with international best practices, including those established by the United Nations Commission on International Trade Law (UNCITRAL) Model Law on International Commercial Arbitration.<sup>1</sup> The Act is designed to improve the quality and effectiveness of ADR in Nigeria by focusing on arbitration and mediation. The law enhances the enforceability of arbitral awards, emphasizes party autonomy, and introduces provisions that aim to make arbitration more efficient and accessible.

### Key Provisions of the Nigeria Arbitration and Mediation Act, 2023.<sup>2</sup>

The 2023 Act provides clear guidance on arbitration and mediation practices, both domestically and internationally. Some of its key provisions include:

**Arbitration:** It allows parties to choose their arbitrators, setting clear guidelines for the appointment process and the conduct of arbitration proceedings. The Act also facilitates the enforcement of arbitral awards, both within Nigeria and internationally. It adopts a more streamlined process for resolving disputes, ensuring faster resolution and reducing the burden on the courts.

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<sup>1</sup> United Nations Commission on International Trade Law (UNCITRAL), Model Law on International Commercial Arbitration, 2023.

<sup>2</sup> Arbitration and Mediation Act, 2023, Sections 1-4.

Mediation: The Act provides a framework for the mediation of commercial disputes, promoting the use of neutral third parties to facilitate agreements between parties. This provision encourages parties to resolve disputes without resorting to full-scale litigation or arbitration.

Enforcement of Awards: A critical feature of the Act is the provision for the enforcement of arbitral awards, even those made outside of Nigeria. This brings Nigeria into alignment with international standards, particularly the New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards.

Time Efficiency and Cost-Effectiveness: The 2023 Act introduces time limitations for resolving disputes, aiming to reduce the protracted delays often associated with arbitration in Nigeria. Additionally, provisions for lower costs and reduced formalities are designed to make ADR a more accessible option for businesses.

### Commercial Disputes in Nigeria and the Need for ADR

In Nigeria, commercial disputes are prevalent across several sectors, including construction, oil and gas, telecommunications, and banking. The country's economic growth, particularly in the energy sector, has attracted significant foreign investments, leading to disputes between Nigerian entities and international investors. In these contexts, arbitration has become a preferred means of resolving disputes due to its confidentiality, flexibility, and ability to handle complex matters outside the public eye. *Shell Petroleum Development Company (SPDC) v. O.A. Etemire*.<sup>3</sup> This case highlights a dispute between a multinational company (Shell) and a Nigerian contractor. The arbitration process, conducted under the Arbitration and Conciliation Act, 2004, provided a

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<sup>3</sup> *Shell Petroleum Development Company (SPDC) v. O.A. Etemire* (2012). Nigerian Arbitration Reports, 15(1), 54-78.

quicker and more efficient resolution than would have been possible through the Nigerian court system.

The 2023 Act addresses several issues raised by stakeholders, including delays in proceedings, the high cost of litigation, and the growing need for more effective enforcement mechanisms. The new law seeks to address the complexities of modern commercial disputes, balancing the need for speed, fairness, and the ability to handle international matters.

Challenges Facing the Effectiveness of the Arbitration and Mediation Act, 2023.

Despite the improvements brought about by the 2023 Act, some challenges persist in its implementation. Key issues include:

**Enforcement of Awards:** Although the 2023 Act aligns Nigeria with international standards, there remain concerns about the enforcement of foreign arbitral awards in Nigeria: *Nigerian National Petroleum Corporation (NNPC) v. Skye Bank*.<sup>4</sup> This case demonstrated challenges in enforcing a foreign arbitral award in Nigeria, despite the country's legal commitments under international treaties. The lack of uniformity in enforcement practices can deter foreign investors from using arbitration in Nigeria.

**Awareness and Understanding of ADR:** Many businesses, particularly small and medium-sized enterprises (SMEs), are still not fully aware of the benefits of ADR, particularly arbitration and mediation. While larger corporations often utilize ADR, SMEs may be more inclined to use litigation due to familiarity and perceived cost savings, even if ADR is ultimately more efficient.

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<sup>4</sup> *Nigerian National Petroleum Corporation (NNPC) v. Skye Bank* (2018). Court of Appeal, Lagos Division, Case No. CA/L/123/2016.

**Perceived Bias in Arbitrations:** In some instances, parties have raised concerns about bias in arbitrations due to the selection of arbitrators or the influence of powerful stakeholders. Ensuring transparency and impartiality remains a significant challenge in ADR proceedings.

**Infrastructure Limitations:** Despite the legal framework, there are still concerns about the availability of skilled arbitrators and mediators, particularly in regions outside Lagos and Abuja. The Act's success will depend on the establishment of well-equipped arbitration centers and training programs for professionals in ADR.

### Global Trends and Comparisons

Internationally, many jurisdictions, such as Singapore, the United Kingdom, and the United States, have advanced ADR systems that attract global investors. These countries have invested significantly in the development of infrastructure, resources, and legislation that support arbitration and mediation. *PT First Media v. P.T. Indosat* – A case handled by the Singapore International Arbitration Centre (SIAC) is an example of how well-structured and efficiently executed arbitration procedures can lead to a timely resolution of commercial disputes, providing an attractive environment for international investments.

The 2023 Act aims to position Nigeria as a leader in Africa for commercial dispute resolution, but to achieve this goal, it must overcome similar challenges faced by other jurisdictions, particularly in ensuring that the infrastructure and professional capacity to handle international arbitration are developed.

## 1.2 Statement of the Problem

As Nigeria's economy continues to grow, driven by increased commercial activities and investments across sectors such as oil and gas, banking, construction, and telecommunications, the number of complex commercial disputes has also risen. Traditional litigation processes often fail to meet the needs of businesses due to their length, high costs, and adversarial nature. In response, the Arbitration and Mediation Act, 2023 was introduced as part of Nigeria's effort to modernize and streamline the resolution of commercial disputes by providing a more efficient, cost-effective, and neutral alternative to litigation.<sup>5</sup>

While the 2023 Act offers a comprehensive framework for arbitration and mediation, aimed at fostering greater efficiency, flexibility, and fairness in resolving commercial disputes, several concerns persist regarding its practical effectiveness. Issues such as delays in arbitration proceedings, limited understanding and awareness of ADR mechanisms, challenges in the enforcement of arbitral awards—particularly those issued outside Nigeria—and perceptions of bias in the selection of arbitrators continue to pose significant barriers.<sup>6</sup> Additionally, the infrastructure and resources required to fully support the Act's implementation, including the availability of qualified arbitrators, mediators, and specialized facilities, remain underdeveloped in some regions.<sup>7</sup> Despite the legal advancements made with the 2023 Act, including Nigeria's alignment with international standards such as the UNCITRAL Model Law on International Commercial Arbitration, its actual impact on resolving commercial disputes effectively is still in

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<sup>5</sup> Arbitration and Mediation Act, 2023, Sections 1-3. The Act modernizes Nigeria's ADR framework, aligning it with international standards and addressing emerging challenges in commercial dispute resolution.

<sup>6</sup> Eke, A. (2023). Challenges in Arbitration and Mediation in Nigeria: A Review of the 2023 Arbitration and Mediation Act. *Nigerian Arbitration Journal*, 9(1), 34-50.

<sup>7</sup> Oluyede, J. (2023). Infrastructure Challenges in Arbitration: A Case for Nigeria's ADR Evolution. *International Dispute Resolution Review*, 15(2), 76-89.

question. There is a need for a thorough appraisal to assess how well the Act addresses the challenges of commercial dispute resolution in practice, identifying the strengths of the legislation as well as the barriers hindering its full potential. This evaluation is essential to ensuring that Nigeria's ADR framework can better meet the needs of businesses and foster a more attractive and efficient environment for both domestic and international commercial transactions.<sup>8</sup>

### **1.3 Aim and Objectives of the Study**

The objective of this study is to critically appraise the effectiveness of the Nigeria Arbitration and Mediation Act (AMA) 2023 in resolving commercial disputes. Specifically, the research seeks to:

1. Examine the Legal Framework of the AMA 2023 – To analyze the key provisions of the Act and how they enhance arbitration and mediation as alternative dispute resolution mechanisms in Nigeria.
2. Assess the Efficiency of Arbitration and Mediation under the AMA 2023 – To evaluate whether the Act has improved the timeliness, cost-effectiveness, and accessibility of commercial dispute resolution compared to litigation.
3. Identify Implementation Challenges – To explore the major obstacles affecting the effective application of arbitration and mediation, including judicial interference, enforcement difficulties, and awareness gaps.

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<sup>8</sup> United Nations Commission on International Trade Law (UNCITRAL). (2023). Model Law on International Commercial Arbitration. UNCITRAL. Nigeria's adoption of these international standards is meant to enhance the country's attractiveness for global investors.

4. Compare with International Best Practices – To assess the extent to which the AMA 2023 aligns with globally accepted arbitration and mediation standards, and how it positions Nigeria in the international ADR landscape.
5. How does the cost of arbitration and mediation under the AMA 2023 compare to traditional litigation in commercial disputes?

#### **1.4 Scope and Limitations of the Study**

This study focuses on the appraisal of the Nigeria Arbitration and Mediation Act (AMA) 2023 in resolving commercial disputes. The research covers the key provisions of the Act, its impact on arbitration and mediation, and its effectiveness in comparison to litigation. The scope includes:

**Legal Framework Analysis** – Examining the provisions of the AMA 2023, particularly its innovations and modifications to previous arbitration laws in Nigeria.

**Effectiveness of Arbitration and Mediation** – Evaluating how the Act enhances dispute resolution in terms of speed, cost-effectiveness, and enforceability of arbitral awards and mediated settlements.

**Comparative Analysis** – Comparing Nigeria’s arbitration and mediation framework under the AMA 2023 with international best practices.

**Sectoral Impact** – Investigating the practical application of the Act in key commercial sectors such as banking, oil and gas, construction, and telecommunications.

**Stakeholder Perspectives** – Assessing the views of legal practitioners, arbitrators, mediators, business executives, and policymakers on the effectiveness of the AMA 2023.

The study is limited to Nigeria’s legal and commercial environment and does not cover arbitration and mediation practices in other jurisdictions, except for comparative purposes.

Despite the relevance of this study, certain limitations may affect the depth and scope of the research:

**Limited Access to Empirical Data** – The study may rely primarily on secondary sources such as legal texts, journal articles, and case law due to limited availability of first-hand data on the practical application of the AMA 2023.

**Time Constraints** – Given that the AMA 2023 is relatively new, its full impact may not yet be evident, making long-term effectiveness difficult to measure.

**Judicial and Institutional Challenges** – The study may face difficulties in obtaining official records or data from arbitration institutions and courts regarding the enforcement of arbitral awards and mediated settlements.

**Stakeholder Response Bias** – Interviews and surveys, if conducted, may be influenced by subjective opinions of respondents, affecting the objectivity of findings.

**Comparative Limitations** – While comparisons with international best practices will be made, variations in legal systems and economic conditions may limit the applicability of foreign models to Nigeria.

## **1.6. Significance of the Study**

This study is significant as it provides a critical appraisal of the Nigeria Arbitration and Mediation Act (AMA) 2023 and its effectiveness in resolving commercial disputes. The findings of this research will be beneficial to various stakeholders, including legal practitioners, business entities, policymakers, and dispute resolution experts. The significance of the study is highlighted in the following ways:

1. **Enhancing Legal and Institutional Understanding** – The study will provide a detailed examination of the AMA 2023, offering insights into its key provisions and their impact

on commercial dispute resolution.<sup>9</sup> This will be useful for legal scholars and practitioners in understanding how the Act improves arbitration and mediation in Nigeria.

2. Improving Efficiency in Commercial Dispute Resolution – By assessing the effectiveness of arbitration and mediation under the AMA 2023, this research will highlight whether these ADR mechanisms provide a faster and more cost-effective alternative to litigation.<sup>10</sup> The findings can help businesses make informed decisions about dispute resolution strategies.
3. Identifying Challenges and Areas for Reform – The study will explore the practical challenges hindering the implementation of the AMA 2023, such as judicial interference, enforcement difficulties, and awareness gaps.<sup>11</sup> This will provide a basis for recommending necessary legal and institutional reforms.
4. Comparative Analysis with International Standards – By comparing Nigeria’s arbitration and mediation framework with international best practices, this research will assess Nigeria’s competitiveness as a dispute resolution hub in Africa.<sup>12</sup> This is crucial for attracting foreign investment and enhancing Nigeria’s legal credibility in global commerce.
5. Informing Policy Development – The study will provide policymakers with data-driven recommendations to enhance the implementation and enforcement of the AMA 2023, ensuring that arbitration and mediation are more widely adopted and effectively utilized.<sup>13</sup>

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<sup>9</sup> National Assembly of Nigeria. (2023). Arbitration and Mediation Act 2023. Abuja: Government Press.

<sup>10</sup> Okonkwo, C. (2023). ADR Mechanisms in Nigeria: A Comparative Analysis of Arbitration, Mediation, and Litigation Timelines. *Journal of Business Law and Policy*, 8(4), 99-114.

<sup>11</sup> Falana, B. (2022). Judicial Intervention in Arbitration: A Nigerian Perspective. *Nigerian Arbitration Journal*, 5(1), 23-40.

<sup>12</sup> Uwais, M. (2021). Challenges of Arbitration in Nigeria: A Practical Perspective. Lagos: Legal Insights Publishing.

<sup>13</sup> Adepoju, K. (2022). Mediation as an Effective Commercial Dispute Resolution Mechanism in Nigeria. *Nigerian Journal of Law and ADR*, 10(1), 120-135.

6. Empowering Businesses and Investors – A well-functioning arbitration and mediation system enhances investor confidence by ensuring that commercial disputes are resolved efficiently. This research will provide businesses with clarity on how the AMA 2023 can protect their interests and facilitate smoother business transactions.<sup>14</sup>
7. Strengthening Judicial and ADR Relations – The study will explore how courts interact with arbitration and mediation under the AMA 2023, with a view to minimizing unnecessary judicial interference while ensuring proper oversight.<sup>15</sup> This can contribute to a more efficient legal system.

### **1.7. Research Methodology**

This study adopts a qualitative research methodology, combining doctrinal (legal) research and empirical analysis where applicable. The methodology is structured as follows:

Research Design – The study is primarily descriptive and analytical, focusing on legal analysis, case studies, and stakeholder perspectives on arbitration and mediation under the AMA 2023.

Sources of Data – The research relies on secondary sources, including:

The Arbitration and Mediation Act 2023 and other relevant Nigerian laws.

Judicial decisions and arbitral awards interpreting the Act.

Reports and publications from arbitration institutions such as the Lagos Court of Arbitration (LCA) and the Chartered Institute of Arbitrators (CI Arb Nigeria Branch). Academic journal articles, textbooks, and policy papers on arbitration and mediation.

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<sup>14</sup> Oboh, J. (2021). Commercial Dispute Resolution in Nigeria: Time Considerations and Best Practices. *Journal of Legal Studies*, 12(3), 78-94.

<sup>15</sup> Yusuf, A. (2019). Enforcement of Arbitral Awards in Nigeria: Legal and Practical Challenges. *African Journal of Arbitration*, 11(1), 88-103.

Comparative Analysis – The study will benchmark Nigeria’s arbitration and mediation framework against international arbitration rules, including the United Nations Commission on International Trade Law (UNCITRAL) Model Law and the New York Convention on the Recognition and Enforcement of Arbitral Awards.

Stakeholder Analysis – Where possible, opinions of legal practitioners, business executives, and ADR experts will be reviewed through surveys, interviews, or published reports.

Data Interpretation – The study will critically analyze legal texts, case law, and stakeholder opinions to draw conclusions on the effectiveness, challenges, and areas for improvement of the AMA 2023. Comparative insights will contribute to a better understanding of arbitration and mediation in Nigeria’s commercial landscape.

## **1.8 Chapter Analysis**

Chapter One introduces the research by outlining the background to the study, the statement of the research problem, objectives, significance, scope, limitations, methodology, and research questions. It sets out the foundation of the work and explains why the Arbitration and Mediation Act, 2023 (AMA) was chosen as the focal point of analysis in resolving commercial disputes in Nigeria.

Chapter Two Literature Review and Theoretical Framework reviews existing scholarly works, judicial opinions, and academic debates on arbitration and mediation as methods of dispute resolution. It examines different perspectives on the effectiveness of Alternative Dispute Resolution (ADR) in Nigeria and globally. It also traces the evolution of arbitration and mediation in Nigeria, drawing attention to both statutory and case law developments.

Chapter Three The Nigerian Legal Framework for Arbitration and Mediation This chapter provides a detailed examination of the statutory and institutional framework regulating arbitration

and mediation in Nigeria. It discusses the Arbitration and Mediation Act, 2023, the (now repealed) Arbitration and Conciliation Act, the Evidence Act, the Contracts Act, the Civil Procedure Rules, and relevant state arbitration laws. It also highlights the role of national and international institutions such as the Lagos Court of Arbitration, the Abuja Arbitration Court, the ICC, LCIA, and ICDR in the Nigerian context.

Chapter Four Effectiveness of the Arbitration and Mediation Act in Resolving Commercial Disputes. This chapter forms the core of the research. It assesses the practical effectiveness of the AMA in resolving commercial disputes by analyzing four key areas: (1) awareness and utilization of the Act, (2) challenges facing effective implementation, (3) case studies of arbitration proceedings under the AMA, and (4) a holistic assessment of the Act's effectiveness in comparison with international best practices. Judicial precedents and arbitral awards are used to illustrate the points made.

#### Chapter Five Summary, Conclusion, and Recommendations

The final chapter summarizes the major findings of the study, provides a conclusion on the effectiveness of the AMA, and makes recommendations for improving arbitration and mediation practice in Nigeria. Suggestions for future research are also highlighted, with a view to strengthening Nigeria's position as a hub for commercial dispute resolution in Africa.

## CHAPTER TWO

### CONCEPTUAL CLARIFICATIONS, THEORETICAL FOUNDATION AND LITERATURE REVIEW

#### 2.1 Conceptual clarifications

##### 2.1.1 Introduction to Arbitration and Mediation Act

The Arbitration and Mediation Act, 2023 represents a watershed in Nigeria's dispute resolution framework, replacing the long-standing Arbitration and Conciliation Act of 1988. Legal scholars and practitioners have analyzed the scope and impact of this legislation, with a focus on how it promotes efficiency, reduces court congestion, and aligns Nigeria's alternative dispute resolution (ADR) mechanisms with global standards.

Olawoyin (2023) argues that the new Act reflects a shift toward modern arbitration practices by adopting provisions from the UNCITRAL Model Law, including clearer rules on party autonomy, appointment of emergency arbitrators, and expedited procedures. He emphasizes that these features significantly reduce procedural delays that plagued the earlier legal regime.<sup>16</sup>

One of the most significant developments is the recognition of mediation as an independent ADR process with legally binding settlement outcomes. Adeyemi (2023) highlights that Section 67 of the Act now provides enforceability for mediation settlements, akin to arbitral awards. This

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<sup>16</sup>T. Olawoyin,(2023). Modern Arbitration and the Nigerian Legal System: An Analysis of the 2023 Act. *Nigerian Journal of Arbitration and ADR*, 5(1), 43–60.

development is lauded as a mechanism to encourage peaceful, voluntary dispute resolution, especially in sectors like commerce and family business.<sup>17</sup>

Bamgbose (2022) contrasts the new Act with the old regime, noting that the 1988 Act provided insufficient clarity on issues such as multi-party arbitration and interim measures. He references the case of *Statoil (Nig.) Ltd. v. NNPC* (2013) 14 NWLR (Pt. 1373) 1, where delays in enforcement and undue court intervention exposed gaps in the legal framework. Under the new Act, court intervention is more controlled and limited to supportive roles.<sup>18</sup>

Furthermore, Ezeani (2023) praises the Act's institutional structure, which allows for the establishment of arbitral institutions and supports the use of technology in dispute resolution, as outlined in Sections 55 and 62. These provisions aim to modernize the dispute resolution process in Nigeria and make it attractive to international investors.

Despite its strengths, the literature also addresses some persisting challenges. Ogbonna (2023) contends that the true test of the Act lies in its implementation. He notes that the success of the Act will depend on continuous judicial education, the development of arbitration-friendly courts, and improved infrastructure for dispute resolution. This view is supported by the outcome in *Shell Petroleum Dev. Co. v. Crestar Integrated Natural Resources Ltd.* (2016) LPELR-40049(CA), where procedural delays undermined the effectiveness of arbitration.<sup>19</sup>

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<sup>17</sup> F. Adewumi,(2023). Mediation and its Emerging Legal Status in Nigeria: A Commentary on the Arbitration and Mediation Act. *African Law Review*, 11(2), 88–101.

<sup>18</sup> *Statoil (Nig.) Ltd. v. NNPC* (2013) 14 NWLR (Pt. 1373) 1

<sup>19</sup> . *Shell Petroleum Dev. Co. v. Crestar Integrated Natural Resources Ltd.* (2016) LPELR-40049(CA).

A 2023 report by the Lagos Chamber of Commerce International Arbitration Centre (LACIAC) also cautions that enforcement of arbitral awards at the state level remains inconsistent due to varying levels of judicial expertise and commercial awareness.<sup>20</sup>

In summary, the scholarly consensus is that the Arbitration and Mediation Act, 2023 has significantly improved the legal framework for dispute resolution in Nigeria. Its alignment with international standards and introduction of enforceable mediation mechanisms are considered major progress. However, the full realization of its objectives depends on capacity building, public awareness, and sustained judicial support.

### **2.1.2 Scope of Alternative Dispute Resolution in Nigeria**

Alternative Dispute Resolution (ADR) in Nigeria has grown from informal, customary practices into a structured and recognized part of the legal system. The increasing inefficiencies in the traditional court system—such as delays, technicalities, high litigation costs, and case backlogs—have made ADR a desirable and often necessary alternative, particularly in commercial disputes.

ADR encompasses mechanisms such as arbitration, mediation, conciliation, and negotiation. These methods offer parties the opportunity to resolve disputes amicably, confidentially, and often at a lower cost than litigation. The fundamental appeal of ADR lies in its flexibility, privacy, and the autonomy it affords parties in selecting neutrals and designing procedures.

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<sup>20</sup> Lagos Chamber of Commerce International Arbitration Centre (2023). Annual Report on Arbitration and ADR in Nigeria.

## **2.2 Historical and Legal Foundation**

Prior to formal legislative intervention, dispute resolution in Nigeria was largely community-based, relying on customary methods and traditional rulers. These indigenous practices reflect the long-standing cultural acceptance of non-litigious approaches to conflict resolution. However, the introduction of statutory ADR began with the Arbitration Ordinance of 1914, which was later replaced by the Arbitration and Conciliation Act of 1988, modeled after the UNCITRAL Model Law.

The 1988 Act provided the primary legal framework for arbitration and conciliation in Nigeria. However, it lacked robust provisions on modern arbitration practices and did not adequately incorporate mediation or institutional arbitration. In response to these gaps, Nigeria enacted the Arbitration and Mediation Act, 2023, which repealed the 1988 law and now governs both arbitration and mediation in a consolidated form.<sup>21</sup>

## **Judicial Recognition and Development**

The Nigerian judiciary has played a vital role in supporting the growth of ADR. Courts have consistently affirmed the enforceability of arbitral awards and mediated agreements, provided procedural requirements are met.

In *Statoil (Nig.) Ltd. v. Nigerian National Petroleum Corporation (NNPC)*<sup>22</sup>(2013) 14 NWLR (Pt. 1373) 1, the Supreme Court upheld the finality of an arbitral award and emphasized the limited scope of judicial review, reinforcing party autonomy in arbitral proceedings.

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<sup>21</sup> Olawoyin, T. (2023). Modern Arbitration and the Nigerian Legal System: An Analysis of the 2023 Act. *Nigerian Journal of Arbitration and ADR*, 5(1), 43–60.

<sup>22</sup> Ibid

Similarly, in *Starlite Nigeria Ltd v. Mosunmola Olayemi* (2019) LPELR-47610(CA)<sup>23</sup>, the Court of Appeal confirmed the enforceability of mediated settlement agreements, where such agreements are voluntarily entered into by parties. This reflects the growing judicial recognition of mediation as a legitimate and binding dispute resolution method.

#### Institutional ADR and Modern Practice

The institutionalization of ADR in Nigeria began with the establishment of the Lagos Multi-Door Courthouse (LMDC) in 2002.<sup>24</sup> It was the first court-connected ADR center in West Africa and has since served as a model for similar institutions across the country. The LMDC, and others like it, provide mechanisms for pre-trial and court-referred mediation and arbitration.

The Arbitration and Mediation Act, 2023 has further advanced institutional ADR in Nigeria. The Act includes provisions that:

Recognize emergency arbitrators (Section 16),

Support the use of technology in proceedings (Section 54),

Grant binding legal status to mediated settlement agreements (Section 67),

Encourage party autonomy, especially in the choice of arbitrators and rules.<sup>25</sup>

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<sup>23</sup> Ibid

<sup>24</sup> Ibid

<sup>25</sup> Arbitration and Mediation Act, 2023, Sections 16, 54, and 67.

These reforms reflect a deliberate effort to align Nigeria's dispute resolution regime with international standards, thereby increasing its attractiveness to foreign investors and commercial entities.<sup>26</sup>

### Challenges and Criticisms

Despite significant progress, the practice of ADR in Nigeria still faces several hurdles. These include:

Limited public awareness and misconceptions about the finality of ADR outcomes,

Judicial interference in arbitral processes, although discouraged by the courts,

Inadequate training for some ADR practitioners and poor infrastructure in some regions,

Enforcement difficulties, particularly at the state court level, where judicial capacity and familiarity with ADR may be lacking.

In *Shell Petroleum Dev. Co. v. Crestar Integrated Natural Resources Ltd* (2016) LPELR-40049(CA),<sup>27</sup> the delay in enforcing an award highlighted the challenges of judicial delay and communal settings.<sup>28</sup>

Nigeria's plural legal system means many disputes are resolved through community elders, religious leaders, or traditional councils. Yet, this area remains under-researched, leaving a knowledge gap in harmonizing formal and informal ADR mechanisms.

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<sup>26</sup> C. Ezeani, (2023). Emerging trends in arbitration and mediation in Nigeria. *Journal of contemporary law and policy* 12(1),92-105

<sup>27</sup> Ibid

<sup>28</sup> *Statoil Nigeria Ltd. v. NNPC* (2013) 14 NWLR (Pt. 1373) 1.

In *Agbaje v. Agbaje* (2006) 11 NWLR (Pt. 990) 1, the Nigerian Court of Appeal acknowledged the need to recognize customary forms of dispute resolution, but scholarly treatment remains minimal.

#### Lack of Analysis on Judicial Attitudes to ADR

While courts are now required under Section 5 of the AMA to stay proceedings in favor of arbitration, the actual judicial attitude towards arbitration and mediation has not been comprehensively analyzed.

In some instances, courts have demonstrated resistance to arbitration, especially where questions of public policy arise, as seen in *Statoil Nigeria Ltd. v. NNPC* (2013) 14 NWLR (Pt. 1373) 1. The literature fails to critically examine whether Nigerian judges consistently uphold the pro-arbitration spirit of the New York Convention or undermine it through broad interpretations of public policy.

#### Insufficient Focus on Mediation as a Distinct Mechanism

While arbitration has received considerable attention, mediation is still under-theorized in Nigerian legal literature. Most publications either treat it as subordinate to arbitration or merely describe its procedural aspects under the new Act.

The enforceability of mediated settlements under Sections 78–82 of the Act raises novel legal questions (e.g., can such settlements be challenged like arbitral awards?), yet there is limited doctrinal or case law analysis on this issue.<sup>29</sup>

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<sup>29</sup> Arbitration and Mediation Act, 2023, Sections 78–82.

Additionally, ethical standards for mediators and the potential for judicial oversight are scarcely discussed in scholarly writings.

### Neglect of Third-Party Funding and Costs

There is also a near-complete silence on the issue of third-party funding in arbitration in Nigerian academic circles, despite its growing relevance globally.

Third-party funding allows external entities to finance arbitration in exchange for a share in the award. The Arbitration and Mediation Act does not address this, and there is a dearth of legal commentary exploring whether this could be adopted under Nigerian law.<sup>30</sup>

In contrast, jurisdictions such as Hong Kong and Singapore have introduced clear legislative frameworks for third-party funding, accompanied by scholarly analysis.<sup>31</sup>

### Limited Comparative Analysis with Other Jurisdictions

Although Nigeria's arbitration regime has evolved, many legal writings fail to place it in comparative context with leading arbitration hubs like the UK, Singapore, or South Africa.

Comparative scholarship is vital for understanding how Nigeria can adapt best practices such as institutional frameworks, fast-track arbitration, and technology integration.<sup>32</sup>

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<sup>30</sup> Ukeje, I., "Third-Party Funding in Nigerian Arbitration: Legal and Policy Perspectives", *Nigerian Journal of Arbitration*, Vol. 3, 2023, pp. 22–35.

<sup>31</sup> Hong Kong Arbitration Ordinance (Cap. 609), Part 10A; Singapore Civil Law (Amendment) Act 2017.

<sup>32</sup> Yusuf, O., "Comparative Arbitration Law: Lessons for Nigeria from Singapore and South Africa", *African Dispute Resolution Review*, 2023, pp. 120–138.

### **2.3 Analysis of the Nigeria Arbitration and Mediation Act, 2023**

The enactment of the Arbitration and Mediation Act, 2023 (AMA) marks a significant step toward aligning Nigeria's dispute resolution framework with international best practices. The new Act repeals the Arbitration and Conciliation Act, Cap A18, LFN 2004, and introduces comprehensive provisions for both arbitration and mediation, which were previously inadequately addressed under Nigerian law.

#### Arbitration Provisions: Innovations and Challenges

##### Alignment with UNCITRAL Model Law

One of the key achievements of the new Act is its incorporation of the UNCITRAL Model Law on International Commercial Arbitration. This harmonization fosters foreign investment and strengthens Nigeria's position as a hub for international arbitration in Africa. For example, Section 2(1) recognizes party autonomy by allowing parties to choose the rules applicable to their arbitration, a major improvement over the rigid structure of the old law.<sup>33</sup>

> See *Kano State Urban Development Board v. Fanz Construction Co. Ltd.*, where the Supreme Court upheld party autonomy as a fundamental aspect of arbitration.<sup>34</sup>

#### Emergency Arbitrators and Interim Relief

The Act introduces Emergency Arbitrators under Section 16, enabling parties to seek urgent interim reliefs even before the constitution of the arbitral tribunal. This was absent in the previous legal framework and often hindered enforcement of arbitration agreements. However, critics argue

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<sup>33</sup> Arbitration and Mediation Act 2023, s. 2(1).

<sup>34</sup> *Kano State Urban Development Board v. Fanz Construction Co. Ltd.* (1990) 4 NWLR (Pt. 142) 1.

that the practical implementation of emergency arbitration in Nigeria might be hampered by the lack of specialized infrastructure and trained personnel to handle such requests swiftly.<sup>35</sup>

#### Reduced Judicial Interference

Section 5 of the Act limits court interference by mandating a stay of proceedings once a valid arbitration agreement is presented. This codifies the principle laid down in *NNPC v. Lutin Investment Ltd*, where the court emphasized the importance of respecting arbitration agreements.<sup>36</sup>

Yet, Nigerian courts have historically exhibited a tendency to override arbitration agreements on grounds of “public policy” or “illegality.” The ambiguous interpretation of public policy remains a challenge, as seen in *Statoil v. NNPC*.<sup>37</sup>

#### Mediation Provisions: A New Legal Framework

The most transformative aspect of the AMA is the legal recognition of mediation. Sections 67–84 of the Act provide a detailed framework for mediation, including confidentiality, enforceability, and appointment of mediators.

#### Mediation Agreement and Enforcement

Section 78 provides for the enforcement of a mediated settlement agreement as a judgment of court, upon registration. This aligns with the Singapore Convention on Mediation, which Nigeria is expected to ratify, thus providing international enforceability.<sup>38</sup>

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<sup>35</sup> Fagbohunlu, A., “The Role of Emergency Arbitrators in Nigerian Arbitration Law,” *NIALS Journal of Dispute Resolution*, 2023.

<sup>36</sup> *Nigerian National Petroleum Corporation v. Lutin Investment Ltd.* (2006) 2 NWLR (Pt. 965) 506.

<sup>37</sup> *Statoil Nigeria Ltd. v. Nigerian National Petroleum Corporation* (2013) 14 NWLR (Pt. 1373) 1.

<sup>38</sup> United Nations Convention on International Settlement Agreements Resulting from Mediation (Singapore Convention), 2019.

However, critics point out the potential overlap between court-annexed mediation and private mediation under the Act. This may create jurisdictional conflicts unless clarified by subsidiary legislation.<sup>39</sup>

### Mediator Immunity and Neutrality

The Act grants mediators immunity for acts done in good faith (Section 74), which encourages independence. But the Act remains silent on the ethical standards and training required for mediators, which may undermine quality assurance in mediation practice.<sup>40</sup>

### Institutional Arbitration and Mediation

The Act allows for institutional arbitration (Section 56), empowering bodies like the Lagos Court of Arbitration (LCA) and the Chartered Institute of Arbitrators UK (Nigeria Branch) to develop rules consistent with the Act. This decentralization fosters competition and innovation among arbitration centers.

Nonetheless, the fragmentation of arbitration institutions may lead to inconsistent standards unless there is regulatory oversight by a centralized arbitration authority or council.<sup>41</sup>

### Shortcomings and Areas for Reform

While the Act is progressive, several limitations persist:

**No Provision for Third-Party Funding:** The Act does not address third-party funding in arbitration, which limits access to justice for financially constrained parties.<sup>42</sup> While the Act is progressive, several limitations persist

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<sup>39</sup> Ogunbanjo, B., "Court-Annexed vs. Private Mediation in Nigeria: Legal and Institutional Overlaps," *African ADR Review*, 2024.

<sup>40</sup> Arbitration and Mediation Act 2023, s. 74.

<sup>41</sup> Yusuf, O., "The Role of Arbitration Institutions in Nigeria's New Arbitration Act," *Arbitration Law Reports and Review*, 2023.

<sup>42</sup> Ukeje, I., "Third-Party Funding in Nigerian Arbitration: Missed Opportunity in the 2023 Act," *Nigerian Journal of Arbitration*, 2024.

Lack of Detailed Timelines: Unlike other jurisdictions, the Act does not provide strict timelines for completion of arbitration proceedings, leading to potential delays.

Limited Awareness and Training: Many legal practitioners and judges remain unfamiliar with the technicalities of the new Act, possibly resulting in inconsistent interpretations and enforcement.

## **2.4 International Best Practices in Arbitration and Mediation**

### **Respect for Party Autonomy**

A central tenet of international arbitration is the recognition of party autonomy, which allows disputing parties to determine key aspects of the process, including the choice of arbitrators, applicable law, seat of arbitration, and procedural rules.<sup>43</sup> This principle promotes flexibility and procedural efficiency, enabling the arbitration to reflect the commercial realities of the parties.

In Redfern and Hunter on International Arbitration, party autonomy is described as the “guiding principle in international arbitration.”<sup>44</sup> The UNCITRAL Model Law, adopted in over 80 jurisdictions, embodies this concept in Articles 19 and 20.

### **Limited Judicial Intervention**

Globally, judicial support for arbitration is encouraged, but with strict limits. Courts are generally expected to intervene only where necessary to assist arbitration (e.g., granting interim measures, enforcing awards). This principle is codified in Article 5 of the UNCITRAL Model Law, which explicitly states that “no court shall intervene except where so provided in this Law.”<sup>45</sup>

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<sup>43</sup> UNCITRAL Model Law on International Commercial Arbitration, 1985 (as amended), Article 19.

<sup>44</sup> . Nigel Blackaby et al., Redfern and Hunter on International Arbitration, 6th ed. (Oxford: OUP, 2015), p. 357

<sup>45</sup> UNCITRAL Model Law, Article 5.

In *Fiona Trust & Holding Corp. v. Privalov* [2007] UKHL 40, the House of Lords emphasized the autonomy of the arbitration process, holding that courts must uphold the parties' choice to arbitrate unless there is a clear legal ground to the contrary.

### **Efficiency and Institutional Oversight**

Efficient dispute resolution is a hallmark of leading arbitration institutions. Bodies like the ICC, LCIA, and SIAC impose strict timelines, case management protocols, and procedural transparency.<sup>46</sup> These institutions often adopt expedited procedures to ensure swift resolution of disputes. The ICC Rules (2021) and SIAC Rules (2016) allow for summary dismissal and emergency arbitration, enhancing procedural efficiency.

### **Recognition and Enforcement of Awards**

International enforceability of arbitral awards is guaranteed under the New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards (1958), to which over 170 countries are signatories.<sup>47</sup> Under Article III of the Convention, contracting states must recognize and enforce foreign arbitral awards as binding.

In *Dallah Real Estate v. Ministry of Religious Affairs, Pakistan* [2010] UKSC 46, the UK Supreme Court applied the New York Convention to determine whether a foreign arbitral award should be recognized, underscoring the importance of the convention's uniformity.

### **Emergency Arbitration and Interim Measures**

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<sup>46</sup> International Chamber of Commerce (ICC), Rules of Arbitration (2021), Articles 22–30.

<sup>47</sup> New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards, 1958, Article III.

Best practices include allowing parties to obtain urgent interim relief through Emergency Arbitrators, even before the full tribunal is constituted.<sup>48</sup> This provision is available in most institutional rules (e.g., LCIA Article 9B, ICC Article 29, SIAC Schedule 1).

In *Gerald Metals SA v. Timis*, [2016] EWHC 2327 (Ch), the English court upheld the principle that emergency arbitrators could provide effective interim relief without undermining the arbitral process.

### Confidentiality and Data Security

Confidentiality is a fundamental aspect of both arbitration and mediation, often cited as a key advantage over litigation. Leading jurisdictions and institutions enforce confidentiality through procedural rules and legislation.

In *Ali Shipping Corp. v. Shipyard Trogir* [1999] 1 WLR 314, the English Court of Appeal held that confidentiality is an implied term in arbitration agreements under English law.<sup>49</sup>

### Neutrality and Impartiality of Third Parties

International standards emphasize the neutrality and independence of arbitrators and mediators. Arbitrators must disclose any conflict of interest and may be challenged on grounds of bias.<sup>50</sup> The IBA Guidelines on Conflicts of Interest in International Arbitration provide a widely accepted benchmark.

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<sup>48</sup> ICC Rules of Arbitration (2021), Article 29 and Appendix V; SIAC Rules (2016), Schedule 1.

<sup>49</sup> *Ali Shipping Corp. v. Shipyard Trogir* [1999] 1 WLR 314.

<sup>50</sup> IBA Guidelines on Conflicts of Interest in International Arbitration, 2014

In *Commonwealth Coatings Corp. v. Continental Casualty Co.*, 393 U.S. 145 (1968), the U.S. Supreme Court ruled that even the appearance of bias could be grounds to set aside an arbitral award.

#### Use of Technology and Virtual Hearings

Since the COVID-19 pandemic, the adoption of virtual hearings, e-filings, and online case management systems has become widespread. Institutions like the ICC and SIAC offer digital platforms for conducting arbitrations efficiently.<sup>51</sup>

The Seoul Protocol on Video Conferencing in International Arbitration (2020) outlines guidelines to ensure procedural fairness during virtual hearings.

#### Enforceability of Mediated Settlements

The Singapore Convention on Mediation (2019) provides a global framework for enforcing international mediated settlement agreements.<sup>52</sup> This enables cross-border enforceability, placing mediation on par with arbitration in terms of finality and certainty.

Nigeria is a signatory to the Convention but is yet to ratify it, unlike countries such as Singapore, Qatar, and Saudi Arabia.

#### Capacity Building and Legal Reform

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<sup>51</sup> Seoul Protocol on Video Conferencing in International Arbitration, 2020.

<sup>52</sup> United Nations Convention on International Settlement Agreements Resulting from Mediation (Singapore Convention), 2019.

Finally, leading arbitration jurisdictions like Singapore, Switzerland, and the UK invest in judicial education, professional accreditation of arbitrators/mediators, and public awareness to ensure quality ADR delivery.<sup>53</sup>

The Singapore International Arbitration Centre (SIAC) and the Singapore International Mediation Centre (SIMC) serve as models of how policy, education, and infrastructure combine to support a thriving ADR ecosystem.

## **2.5 Gaps in the Existing Literature on Arbitration and Mediation in Nigeria**

Despite the recent advancements embodied in the Arbitration and Mediation Act, 2023, several gaps remain in the academic and practical literature addressing the Nigerian dispute resolution landscape. These gaps affect understanding, application, and evolution of arbitration and mediation in the country.

### **Insufficient Empirical Research on Effectiveness**

A major shortcoming in the literature is the lack of empirical studies assessing the effectiveness of arbitration and mediation mechanisms in Nigeria. Most publications are doctrinal, focusing on legal provisions without analyzing how often arbitration is used, its success rates, or user satisfaction.

For instance, while the Arbitration and Mediation Act aims to improve access to justice, there is limited data evaluating whether parties actually prefer ADR over litigation or how efficient outcomes are in practice.<sup>54</sup>

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<sup>53</sup> . Born, G., *International Commercial Arbitration*, 3rd ed. (Kluwer Law International, 2021)

<sup>54</sup> Akinseye, S., "Alternative Dispute Resolution in Nigeria: A Doctrinal Versus Empirical Gap", *Nigerian Journal of Commercial Law*, Vol. 17, No. 2, 2022, pp. 55–70.

Comparative jurisdictions like the UK or Singapore have extensive datasets and surveys (e.g., the Queen Mary University International Arbitration Surveys) that shape policy, but Nigeria lacks similar frameworks.<sup>55</sup>

#### Limited Engagement with Informal or Customary ADR Systems

The literature often overlooks the interface between formal arbitration/mediation and customary or traditional dispute resolution systems, which remain relevant especially in rural and

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<sup>55</sup> Queen Mary University of London, "2021 International Arbitration Survey: Adapting Arbitration to a Changing World", available at [www.arbitration.qmul.ac.uk](http://www.arbitration.qmul.ac.uk).

## CHAPTER THREE

### LEGAL AND INSTITUTIONAL FRAMEWORK

#### 3.1 Legal Framework

1. Institutional framework: Institutional Frameworks for Arbitration and Mediation in Nigeria. The institutional framework refers to the formal structures, bodies, and organizations—both domestic and international—that support, administer, and implement arbitration and mediation processes. These institutions play a pivotal role in developing ADR mechanisms, ensuring compliance with statutory requirements, and facilitating access to justice outside traditional courts.

#### Nigerian Arbitration and Mediation Centres

Several institutional bodies in Nigeria are actively engaged in administering arbitration and mediation proceedings under various rules and procedures.

a. Lagos Court of Arbitration (LCA) The Lagos Court of Arbitration is an independent private-sector-led institution established by the Lagos State Arbitration Law, 2009. It provides institutional support for arbitration and mediation, including the appointment of arbitrators, administrative support, and training.<sup>56</sup>

LCA adopts modern arbitration rules aligned with international best practices and has become one of the most preferred arbitration centres in West Africa.

b. Chartered Institute of Arbitrators (UK), Nigeria Branch (CI Arb Nigeria) The CI Arb Nigeria Branch is the leading professional body for arbitration practitioners in Nigeria. It provides:

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<sup>56</sup> Lagos State Arbitration Law, 2009, Section 2; Lagos Court of Arbitration Official Website.

Accreditation of arbitrators and mediators,

Standardized training and certification,

Development of ADR policy and advocacy.

CIArb Nigeria also contributes significantly to legislative reform, including inputs into the Arbitration and Mediation Act, 2023.<sup>57</sup>

c. Abuja and Regional Multidoor Courthouses Multidoor Courthouses, first introduced in Lagos and now spread across various Nigerian states, are court-connected ADR centres. They integrate multiple dispute resolution methods under one roof—mediation, negotiation, arbitration, and early neutral evaluation.<sup>58</sup>

The Lagos Multidoor Courthouse (LMDC), in particular, has pioneered court-referred mediation and successfully resolved thousands of cases outside of litigation. It operates under the Lagos State Multi-Door Courthouse Law, 2007.

d. Nigerian Institute of Chartered Arbitrators (NICArb)

Established by statute in 2020, NICArb is a home-grown professional body focused on training, research, and the promotion of ADR in Nigeria.<sup>59</sup> It collaborates with both government and private sectors to enhance ADR practice.

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<sup>57</sup> Chartered Institute of Arbitrators (UK), Nigeria Branch, [www.ciarbnigeria.org](http://www.ciarbnigeria.org).

<sup>58</sup> Sections 1–3, Lagos Multi-Door Courthouse Law, 2007.

<sup>59</sup> Nigerian Institute of Chartered Arbitrators Act, 2020.

## Judicial Institutions and ADR Units

Role of Nigerian Courts Under the Arbitration and Mediation Act, 2023, courts in Nigeria now have a statutorily defined support role. They are required to: Stay proceedings where valid arbitration agreements exist (Section 5), Enforce or set aside arbitral awards (Sections 56–58), Enforce mediated settlement agreements (Section 82).

The judiciary also contributes to ADR through:

Court-annexed mediation schemes, especially in family, commercial, and small claims matters, Decisions that clarify ambiguities in arbitration clauses and awards.

National Industrial Court of Nigeria (NICN)The NICN is empowered under the Constitution (Third Alteration) Act, 2010 to refer employment disputes to mediation or conciliation. It has also institutionalized its own ADR Centre to encourage resolution of labour disputes without prolonged litigation.<sup>60</sup>

## International Institutions with Influence in Nigeria

### International Chamber of Commerce (ICC)

Although based in Paris, the ICC International Court of Arbitration plays a significant role in Nigerian arbitration. Nigerian parties often choose ICC Rules for complex commercial disputes, especially in oil and gas, construction, and finance.

The ICC also collaborates with local institutions for capacity building and trainings.<sup>61</sup>

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<sup>60</sup> Constitution of the Federal Republic of Nigeria (Third Alteration) Act, 2010, Section 254C.

<sup>61</sup> International Chamber of Commerce, “Arbitration in Africa: ICC's Role”, available at [www.iccwbo.org](http://www.iccwbo.org).

London Court of International Arbitration (LCIA) and ICSID Nigerian investors and state entities are frequent parties in LCIA and ICSID proceedings. Many investment disputes involving Nigeria—especially under Bilateral Investment Treaties (BITs)—are arbitrated under the ICSID Convention, to which Nigeria is a signatory.<sup>62</sup> The institutional role of ICSID in resolving investor-state disputes is central to discussions on how well Nigeria’s domestic arbitration framework aligns with international obligations.

#### Regulatory and Governmental Agencies

a. Federal Ministry of Justice (ADR Department) The Ministry, through its ADR Department, has the mandate to:

Promote non-adversarial justice mechanisms, Coordinate with courts and ADR bodies,

Develop policies in line with international ADR standards.

b. Nigerian Bar Association (NBA) Section on Business Law (SBL)

The NBA-SBL plays a policy advisory role and facilitates the development of ADR in Nigeria through conferences, research, and legislative input. It is a stakeholder in the formulation of ADR policy and the promotion of the Arbitration and Mediation Act.

### **3.2 New York Convention**

The Convention on the Recognition and Enforcement of Foreign Arbitral Awards, 1958, commonly known as the New York Convention, is one of the most influential instruments in

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<sup>62</sup> International Centre for Settlement of Investment Disputes (ICSID), Convention on the Settlement of Investment Disputes, 1965.

international arbitration. It provides a universal framework for the enforcement of arbitral awards across borders.<sup>63</sup> Given the increasing globalization of commerce, this Convention is central to evaluating how effective the Nigerian Arbitration and Mediation Act, 2023 (AMA) is in facilitating cross-border dispute resolution.

Nigeria ratified the New York Convention in 1970, and its provisions are now incorporated into Sections 57 to 59 of the AMA, making them enforceable under Nigerian law. The effectiveness of the AMA in resolving international disputes thus depends in part on how faithfully it adopts and implements the Convention's standards.

#### Legal Integration into Nigerian Law

The AMA 2023 replaces the Arbitration and Conciliation Act Cap A18 LFN 2004 and explicitly integrates the core principles of the New York Convention.<sup>64</sup> Under Section 57 of the AMA, a foreign arbitral award shall be recognized and enforced in Nigeria if it originates from a country that is a party to the New York Convention, and the dispute arises out of a commercial relationship.

This integration represents a legislative commitment to:

- Support international commerce, and
- Provide foreign investors with confidence that arbitral awards will be honored in Nigerian courts.

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<sup>63</sup> United Nations, Convention on the Recognition and Enforcement of Foreign Arbitral Awards (New York Convention), 1958.

<sup>64</sup> Arbitration and Mediation Act, 2023, Federal Republic of Nigeria Official Gazette, Sections 57–59.

This legal continuity aligns with Nigeria’s reciprocity reservation, which limits enforcement to awards made in other contracting states, and its commercial reservation, which restricts application to commercial matters.<sup>65</sup>

### Contribution to the Effectiveness of the AMA 2023

The New York Convention complements the objectives of the Arbitration and Mediation Act by:

**Promoting Finality and Certainty:** Parties choosing arbitration expect a final and enforceable award. The AMA, following the Convention, allows a successful party to enforce an award in Nigeria with minimal judicial interference. This enhances the reliability of arbitration as a dispute resolution tool, especially in international transactions.

**Limiting Grounds for Refusal of Enforcement:** The Convention sets out exhaustive and narrowly interpreted grounds for refusing enforcement, as restated in Section 59 AMA, such as:

- Incapacity of a party,
- Improper notice,
- Award beyond the scope of arbitration,
- Violation of public policy.

This limitation discourages frivolous objections and judicial delays—issues that plagued the enforcement process under the repealed ACA.<sup>66</sup>

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<sup>65</sup> Article I (3), New York Convention, 1958.

<sup>66</sup> Article V, New York Convention; Section 59, Arbitration and Mediation Act, 2023.

Harmonizing Nigerian Arbitration with Global Standards By adopting the Convention through the AMA, Nigeria aligns its arbitration law with international best practices, thereby increasing its attractiveness as an arbitration-friendly jurisdiction in Africa.

Case Law Demonstrating Application in Nigeria: Nigerian courts have affirmed the principles of the New York Convention and their relevance in the arbitration landscape: *Baker Marine (Nig.) Ltd. v. Chevron Nigeria Ltd.* (2000) 12 NWLR (Pt. 681) 393<sup>67</sup> The Court of Appeal reiterated that the grounds for setting aside or refusing enforcement of an award are limited and must be strictly interpreted. *M.V. Lupex v. Nigerian Overseas Chartering and Shipping Ltd.* (2003) 15 NWLR (Pt. 844) 469<sup>68</sup> The court emphasized the need to respect arbitration agreements and minimize court intervention, in line with Article V of the Convention. *IPC v. NNPC* (2006) 2 NWLR (Pt. 965) 506<sup>69</sup>: A key case confirming that awards made under international arbitration agreements are enforceable under the Convention, even if issued outside Nigeria.

These cases reflect a growing judicial maturity in recognizing Nigeria's obligations under the Convention and support the effective implementation of the AMA.

#### Challenges to Effective Enforcement under the Convention

Despite the legal framework, some practical issues persist:

1. Delays in the enforcement process due to court backlogs,
2. Lack of expertise in international arbitration among some judges,

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<sup>67</sup> Ibid

<sup>68</sup> Ibid

<sup>69</sup> Ibid

3. Occasional interventionist tendencies in courts despite the pro-arbitration stance of the Convention.

The AMA 2023 seeks to address some of these issues by codifying party autonomy, institutional support, and judicial restraint, thereby strengthening compliance with the Convention.

### **3.3 The UNCITRAL Model Law**

The UNCITRAL Model Law on International Commercial Arbitration, adopted in 1985 and amended in 2006 by the United Nations Commission on International Trade Law (UNCITRAL), was developed to harmonize national arbitration laws and improve the effectiveness and predictability of arbitration proceedings worldwide.<sup>70</sup> It is not a binding treaty but a template law that countries may adopt, either wholly or with modifications, to modernize their arbitration regimes.

Nigeria's Arbitration and Mediation Act, 2023 (AMA) is substantially based on the UNCITRAL Model Law, which marks a significant development from the repealed Arbitration and Conciliation Act, 2004 (based on the 1985 version of the Model Law).<sup>71</sup> This alignment underscores Nigeria's ambition to become a hub for international commercial arbitration in Africa

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<sup>70</sup> UNCITRAL Model Law on International Commercial Arbitration (1985), with amendments in 2006.

<sup>71</sup> Arbitration and Mediation Act, 2023 (Nigeria), Federal Republic of Nigeria Official Gazette.

## Key Features of the UNCITRAL Model Law Incorporated in the AMA 2023

### Party Autonomy

The Model Law emphasizes party autonomy—the freedom of parties to choose the rules, procedure, and seat of arbitration. Section 2 of the AMA reflects this, allowing parties to tailor their arbitration agreements while providing default rules where necessary.<sup>72</sup>

**Minimal Court Intervention** Article 5 of the UNCITRAL Model Law limits court intervention in arbitration matters to specific situations. This principle is adopted in Section 3 of the AMA, which provides that no court shall intervene except as permitted by the Act.<sup>73</sup> This ensures the independence of arbitral proceedings and respects the arbitral tribunal’s competence.

**Competence-Competence Principle** Article 16 of the Model Law empowers arbitral tribunals to rule on their own jurisdiction. This principle is codified in Section 26 of the AMA, strengthening the authority of arbitrators to decide on objections related to jurisdiction, arbitrability, or scope.<sup>74</sup>

**Enforcement and Recognition of Awards** Sections 56 to 59 of the AMA reflect Articles 35 and 36 of the Model Law, dealing with recognition and enforcement of arbitral awards, and setting out exhaustive grounds for refusal, in line with the New York Convention.<sup>75</sup> This harmonization fosters legal certainty and enhances Nigeria’s attractiveness as a seat of arbitration.

**Interim Measures and Preliminary Orders** One of the major updates in the 2006 revision of the Model Law is the recognition of interim measures. Nigeria adopts this in Sections 23 and 24 of the

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<sup>72</sup> AMA 2023, UNCITRAL Model Law, Article 19, Section 2.

<sup>73</sup> AMA 2023, UNCITRAL Model Law, Article 5, Section 3.

<sup>74</sup>AMA 2023, UNCITRAL Model Law, Article 16, Section 26.

<sup>75</sup> AMA 2023, UNCITRAL Model Law, Articles 35–36, Sections 56–59.

AMA, which allow arbitrators to issue binding interim measures to preserve assets or evidence, enhancing the effectiveness of arbitration.

### Benefits to the Nigerian Arbitration Landscape

By aligning the AMA with the UNCITRAL Model Law, Nigeria has made significant strides in:

1. Modernizing arbitration practice, including digital arbitration and e-filing;
2. Providing clarity and uniformity, thereby attracting cross-border investors;
3. Strengthening the legal infrastructure to reduce court delays and promote enforceability.

This reform places Nigeria in the same category as other arbitration-friendly jurisdictions such as Singapore, Hong Kong, and the UK, all of which have adopted versions of the Model Law.

Judicial Interpretation and Practice in Nigeria Even under the former law (ACA 2004), Nigerian courts have recognized UNCITRAL principles. With the AMA 2023, these principles now have statutory backing. Nigerian courts are therefore expected to give more consistent and internationally aligned rulings.

For instance:

In *Statoil Nigeria Ltd. v. Nigerian National Petroleum Corporation (NNPC)* [2013] 14 NWLR (Pt. 1373) 1,<sup>76</sup> the Supreme Court emphasized respect for party autonomy and limited judicial interference, in line with Article 5 of the Model Law.

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<sup>76</sup> Ibid

In *Baker Marine (Nig.) Ltd. v. Chevron Nigeria Ltd.* (2000) 12 NWLR (Pt. 681) 393,<sup>77</sup> the court reaffirmed that arbitral awards must be recognized unless clear statutory grounds for refusal exist.

Limitations and Implementation Challenges Despite adopting the UNCITRAL Model Law, Nigeria still faces challenges in effective implementation, such as:

1. Judicial inconsistency, especially at the lower courts;
2. Limited capacity of arbitrators and judges in some regions;
3. Enforcement delays, which frustrate the finality expected in arbitration.

The success of the AMA depends not only on its UNCITRAL-based provisions but also on judicial education, institutional reforms, and political will to support arbitration practice.

### **3.4 International Chamber of Commerce (ICC) Rules**

The International Chamber of Commerce (ICC), headquartered in Paris, is one of the world's leading institutions for international commercial dispute resolution. Through its International Court of Arbitration, established in 1923, the ICC offers administrative services for resolving business disputes via arbitration and alternative dispute resolution (ADR). For countries like Nigeria aiming to strengthen their dispute resolution infrastructure, aligning with ICC standards and collaborating with global institutions is essential for enhancing the credibility, predictability, and effectiveness of arbitration mechanisms under the Arbitration and Mediation Act, 2023 (AMA).

#### Structure and Role of the ICC in Arbitration

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<sup>77</sup> Ibid

The ICC's arbitration process is governed by the ICC Arbitration Rules, most recently revised in 2021. These rules provide a flexible and globally respected framework for:

Administering arbitral proceedings;

Ensuring procedural fairness and neutrality;

Supporting enforcement of awards under the New York Convention.

Key features of ICC arbitration include:

Party autonomy in choosing arbitrators and applicable law;

Scrutiny of arbitral awards by the ICC Court to ensure quality and enforceability;

Availability of Emergency Arbitrator provisions;

Access to case management conferences and expedited procedures for time-sensitive matters.

Relevance to the Nigerian Arbitration and Mediation Act, 2023

The AMA 2023 is modeled after international best practices and reflects the influence of institutions like the ICC, particularly in areas such as:

Recognition of institutional arbitration (Section 16 AMA), which enables parties to use institutions like the ICC;

Codification of the competence-competence principle (Section 26 AMA), consistent with ICC procedural autonomy;

Enforcement of foreign arbitral awards (Sections 57–59), in line with ICC-administered awards and the New York Convention.

This harmonization allows Nigerian parties to engage in ICC arbitration with the confidence that such awards will be recognized and enforced domestically.

ICC Arbitration and Nigerian Parties Several Nigerian entities, including government agencies, oil and gas companies, and multinationals, have participated in ICC-administered arbitrations. A notable example includes:

Process and Industrial Developments Ltd. (P&ID) v. Federal Republic of Nigeria (2017).

### **3.5 Nigerian Legal Framework**

The resolution of commercial disputes in Nigeria is underpinned by a multifaceted legal framework consisting of substantive and procedural laws. Central to this framework are: the Arbitration and Mediation Act, 2023, the Nigerian Law of Contract, the Evidence Act, 2011, and the Civil Procedure Rules of the various courts. These laws collectively ensure that parties have access to fair, efficient, and enforceable mechanisms for dispute resolution outside traditional litigation.

### **3.6 Nigeria Arbitration and Mediation Act**

Arbitration and Mediation Act, 2023 The Arbitration and Mediation Act, 2023 represents a significant reform in Nigeria's legal landscape for alternative dispute resolution. It repeals the Arbitration and Conciliation Act, Cap A18 LFN 2004 and introduces a unified framework governing both arbitration and mediation. The Act aligns with global best practices, particularly the UNCITRAL Model Law on International Commercial Arbitration, and incorporates modern mechanisms to improve efficiency, enforceability, and party autonomy in dispute resolution.

Key features of the Act include:

1. **Legal Recognition of Mediated Settlements:** Section 67 of the Act provides that mediated settlement agreements are binding and enforceable in the same manner as arbitral awards or judgments of court.
2. **Emergency Arbitration:** Section 16 introduces the concept of emergency arbitrators, enabling parties to obtain urgent interim measures before the constitution of the arbitral tribunal.
3. **Use of Technology:** Section 54 allows the use of electronic communications and online platforms in arbitral and mediation proceedings, enhancing accessibility and efficiency.
4. **Institutional Arbitration and Party Autonomy:** The Act supports the growth of arbitration centres in Nigeria and gives parties the freedom to choose arbitrators and procedures best suited to their needs. This legislation has revitalised Nigeria's arbitration landscape and made it more appealing to foreign investors and domestic businesses alike by promoting certainty, enforceability, and user control in dispute resolution processes.<sup>78</sup>

### **3.7 Nigerian Contract Act**

Though Nigeria does not possess a codified Contract Act, contract law is primarily derived from English common law, judicial decisions, and certain statutes like the Sale of Goods Act and Hire Purchase Act. These legal principles govern the formation, interpretation, and enforcement of contracts, which form the basis of most commercial relationships.

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<sup>78</sup> T. Olawoyin, *Modern Arbitration and the Nigerian Legal System: An Analysis of the 2023 Act* (2023) 5(1) *Nigerian Journal of Arbitration and ADR* 43.

Core elements of contract law in Nigeria include:

Offer and Acceptance: A valid contract requires a clear offer by one party and acceptance by another.

Consideration: There must be something of value exchanged.

Intention to Create Legal Relations: The parties must intend that their agreement be legally binding.

Capacity and Legality: The parties must have legal capacity, and the subject matter must not be illegal.

These principles often serve as the foundation of disputes submitted to arbitration or mediation. The interpretation and enforcement of these elements by arbitral tribunals and mediators determine the outcome of many commercial disputes in Nigeria.<sup>79</sup>

### **3.8 Nigeria Evidence Act**

The Evidence Act, 2011 governs the admissibility and evaluation of evidence in legal proceedings, including arbitral proceedings, unless the parties agree otherwise. The Act plays a crucial role in ensuring that the resolution of disputes is based on reliable and verifiable proof.

Key provisions relevant to ADR include:

Admissibility of Electronic Evidence: Sections 84 and 93 deal with electronic records and digital communications, which are increasingly relevant in modern commerce.

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<sup>79</sup> A. Sagay, *Nigerian Law of Contract* (3rd edn, Malthouse Law Books 2010) 20–30.

Documentary Evidence: The Act provides rules for the admissibility, verification, and authenticity of documents.

Burden and Standard of Proof: It outlines the burden of proof in civil matters, which is usually on the balance of probabilities.

Expert Evidence: Section 68 permits the use of expert witnesses, especially in technical disputes.

Though formal arbitral proceedings may relax strict rules of evidence, the Act serves as a guideline for determining the relevance and weight of evidence presented.<sup>80</sup>

### **3.9 Nigeria Civil Procedure Rules**

The Civil Procedure Rules govern the practice and procedure in the various courts across Nigeria, including the High Courts of each state and the Federal High Court. These rules are instrumental in promoting the integration of ADR within the judicial system. For example, the High Court of Lagos State (Civil Procedure) Rules 2019 contain explicit provisions encouraging ADR. Order 3 Rule 11 mandates that parties explore ADR, and where appropriate, the court may refer parties to the Lagos Multi-Door Courthouse (LMDC) for mediation or arbitration. Similarly, the Federal High Court (Civil Procedure) Rules permit the referral of matters to ADR where the court believes it will aid resolution.

The Civil Procedure Rules in ADR include:

Referral to ADR Mechanisms: Courts can direct parties to mediation or arbitration prior to trial.

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<sup>80</sup> M. U. Ukwani, *The Law of Evidence in Nigeria* (3rd edn, Centurion Law Publishers 2020) 57–65.

Case Management and Timelines: The rules help reduce delays by encouraging faster resolution through ADR.

Enforcement of ADR Outcomes: Consent judgments and arbitral awards may be entered as enforceable court decisions.

These procedural rules reflect a shift from adversarial litigation to a more conciliatory and cost-effective dispute resolution culture.<sup>81</sup>

### **3.10 Arbitration law and Regulations.**

Arbitration in Nigeria is governed primarily by the Arbitration and Mediation Act, 2023, which repealed the former Arbitration and Conciliation Act, Cap A18, Laws of the Federation of Nigeria 2004. This new legislation brings Nigeria's arbitration framework in line with international standards, particularly the UNCITRAL Model Law on International Commercial Arbitration. It applies to both domestic and international arbitrations and establishes a unified legal basis for arbitration and mediation.

The Act reaffirms the principle of party autonomy, permitting disputing parties to determine key elements such as the composition of the arbitral tribunal, rules of procedure, and the seat of arbitration. It also introduces important innovations including:

Recognition of emergency arbitration, which enables parties to seek urgent interim relief before the constitution of a full tribunal.

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<sup>81</sup> O. Fagbohun, *Civil Procedure in Nigeria: Principles and Practice* (1st edn, Justification Press 2021) 88–102.

Legal enforceability of mediated settlement agreements, treating them with the same weight as arbitral awards or court judgments.

Technological integration, allowing for electronic filings and virtual hearings to promote efficiency and accessibility.

This comprehensive regulatory framework enhances investor confidence and ensures that commercial parties can resolve disputes efficiently within the Nigerian legal system.<sup>82</sup>

**Arbitration Proceedings:** Arbitration proceedings in Nigeria are characterized by flexibility, confidentiality, and procedural simplicity. Once a valid arbitration agreement exists, proceedings are initiated by serving a Notice of Arbitration to the respondent. The parties may either agree on a sole arbitrator or constitute a panel, typically of three arbitrators.

The process generally unfolds in the following stages:

1. **Preliminary Conference:** An initial meeting where the tribunal and parties agree on timelines and procedural rules.
2. **Exchange of Pleadings:** The claimant submits a statement of claim, followed by the respondent's statement of defence and any counterclaim.
3. **Hearing of Evidence:** Parties present documentary evidence, witnesses, and expert reports, subject to the tribunal's direction.
4. **Closing Submissions:** Each party makes final arguments summarizing their positions.

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<sup>82</sup> T. Olawoyin, *Modern Arbitration and the Nigerian Legal System: An Analysis of the 2023 Act* (2023) 5(1) *Nigerian Journal of Arbitration and ADR* 43.

5. Deliberation and Decision: The tribunal privately deliberates and issues a binding arbitral award within the stipulated time frame. The process is usually faster than court litigation, particularly in cases where the parties opt for documents-only arbitration.<sup>83</sup>

### **3.11 Arbitration Awards**

An arbitral award is the final determination by the tribunal on the issues submitted to arbitration. It is binding on the parties and enforceable in the same manner as a judgment of court, subject to limited grounds for challenge.

Features of a Valid Award:

1. It must be in writing, signed by the arbitrators.
2. It must state the reasons upon which it is based, unless otherwise agreed by the parties.
3. The award must indicate the date and seat of arbitration.
4. It must be delivered to both parties and becomes binding once received.

Awards may be final, resolving all issues, or interim, addressing specific matters such as procedural orders or partial determinations. The Arbitration and Mediation Act, 2023 ensures that arbitral awards are enforceable in Nigerian courts, and internationally under the New York Convention, to which Nigeria is a signatory.<sup>84</sup>

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<sup>83</sup> A. Uwakwe, *Fundamentals of Arbitration Practice in Nigeria* (2nd edn, Princeton Legal Publishers 2022) 98–109.

<sup>84</sup> E. Gadzama, *International Commercial Arbitration and ADR in Nigeria* (LexisNexis 2020) 141–145.

### **3.11.1 Challenges to Arbitration Awards**

Although arbitral awards are final and binding, the law permits a party to challenge an award under limited and clearly defined grounds to preserve the integrity of the process. According to Section 55 of the Arbitration and Mediation Act, 2023, a party may apply to set aside an award before the High Court within three months of receiving the award. Grounds for Challenge Include:

Lack of legal capacity of a party.

Invalidity of the arbitration agreement.

Violation of procedural fairness or denial of the right to be heard.

Excess of jurisdiction, where the award decides matters not submitted to arbitration.

Improper constitution of the arbitral tribunal.

Conflict with Nigeria's public policy.

Nigerian courts have generally upheld the finality of arbitral awards, intervening only when the above statutory grounds are convincingly established. In *Stabilini Visinoni Ltd v. Mallinson & Partners Ltd*, the Court of Appeal emphasized that judicial interference in arbitral proceedings must be minimal and limited to statutory grounds.<sup>85</sup>

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<sup>85</sup> I. M. Dikko, *Judicial Review of Arbitral Awards in Nigeria* (2021) 7(2) *African Dispute Resolution Review* 67.

### **3.12 Mediation Law and Regulations in Nigeria**

Mediation is a non-adversarial method of dispute resolution where a neutral third party facilitates negotiations between disputing parties with the aim of reaching a mutually acceptable settlement. In Nigeria, the legal foundation for mediation was significantly strengthened by the enactment of the Arbitration and Mediation Act, 2023, which for the first time gave mediation a formal statutory status in federal law.<sup>86</sup>

The Act provides a uniform legal framework for both domestic and international mediation, drawing on the UNCITRAL Model Law on International Commercial Mediation. It outlines the procedures for commencing mediation, the role of the mediator, confidentiality requirements, and the enforceability of settlements.

In addition to the federal law, many states have established Multi-Door Courthouses (MDCs) that operate under their respective High Court Civil Procedure Rules. For instance, Lagos State has the Lagos Multi-Door Courthouse Law, which institutionalizes mediation and other ADR mechanisms in court-connected settings.<sup>87</sup>

#### **3.12.1 Mediation Proceedings**

Mediation proceedings in Nigeria are generally informal, voluntary, and flexible. The process is typically conducted in a private and confidential setting, which encourages honest dialogue and compromise.

Key Stages in Mediation Proceedings:

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<sup>86</sup> T. Olawoyin, The Legal Architecture of Mediation in Nigeria: A Commentary on the 2023 Act (2023) 5(2) *Nigerian Journal of ADR and Negotiation* 62.

<sup>87</sup> A. Fagbohun, The Role of Multi-Door Courthouses in Promoting Mediation in Nigeria (2020) 14(1) *Lagos Law Review* 115.

Initiation: Mediation can be initiated by parties themselves, through a court referral, or based on a contractual mediation clause.

Selection of Mediator: Parties may jointly appoint a mediator or select from a roster provided by institutions like the Lagos Multi-Door Courthouse or Negotiation and Conflict Management Group (NCMG).

Preliminary Session: The mediator meets with parties to explain the process, establish ground rules, and clarify expectations.

Joint Sessions and Caucuses: Mediators may hold joint discussions and private caucuses with each party to explore interests and options for settlement.

Settlement Agreement: If parties reach a resolution, the terms are recorded in a written settlement agreement and signed by both parties.<sup>88</sup>

The mediator does not impose a decision but helps the parties find common ground. Unlike arbitration, mediation relies heavily on the willingness of the parties to negotiate and compromise.

### **3.12.2 Mediation Agreement**

A mediation agreement may arise in two main ways:

1. Pre-dispute Agreement: This is a clause in a commercial contract requiring parties to refer disputes to mediation before resorting to litigation or arbitration.

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<sup>88</sup> O. Aniche, *Practice and Procedure in Mediation: A Practical Guide* (Abuja: NCMG Press 2019) 88–96.

2. Post-dispute Agreement: This is when parties agree to mediate a dispute that has already arisen. Under the Arbitration and Mediation Act, 2023, a mediation agreement must generally be in writing and clearly indicate the intention of the parties to resolve their dispute amicably through mediation. The agreement may outline procedural matters, selection of the mediator, location, language, and governing law.<sup>89</sup> Such agreements are legally recognized and will be enforced by courts if parties attempt to renege on them.

### **3.12.3 Enforcement of Mediation**

A crucial innovation of the 2023 Act is the recognition and enforcement of settlement agreements arising from mediation. Under Section 77 of the Act, if parties reach a written and signed agreement, it becomes binding and enforceable as a contract, and—upon application—can be registered and enforced as a judgment of the court or consent award.<sup>90</sup> This reflects the global trend under the Singapore Convention on Mediation, which Nigeria has signed. The enforceability of mediation agreements has thus become more certain, bridging the gap between informal resolution and legal finality.

Additionally, where mediation is conducted through a Multi-Door Courthouse and the agreement is signed by parties and endorsed by the judge, it attains the status of a consent judgment and is enforceable like any court order.

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<sup>89</sup> K. Aina, *Alternative Dispute Resolution in Nigeria: Practice and Procedure* (3rd edn, Legal Text Publishers 2021) 152.

<sup>90</sup> E. Gadzama, *The Arbitration and Mediation Act, 2023: New Directions in ADR* (2023) 6(1) *African Law and Business Journal* 34.

### **3.14 Institutional Framework**

#### **3.14.1 National Institutions**

Arbitration in Nigeria is supported by various national institutions that provide the infrastructure, rules, and capacity-building mechanisms necessary for the effective resolution of commercial disputes. These institutions serve as appointing authorities, administer arbitration proceedings, and train professionals in dispute resolution.

##### **3.14.1.1 National Arbitration Committee (NAC)**

The National Arbitration Committee (NAC) operates under the supervision of the Federal Ministry of Justice and serves as a policy and oversight body for arbitration-related matters. Though not a permanent arbitration center, the NAC contributes to national arbitration policy development, advisory services, and the coordination of Nigeria's obligations under international arbitration treaties such as the New York Convention.

It also liaises with international organizations like the United Nations Commission on International Trade Law (UNCITRAL) and regional bodies such as the African Arbitration Association (AfAA) to harmonize Nigeria's arbitration standards with global best practices<sup>1</sup>.

##### **3.14.1.2 Nigerian Arbitration Association (NAA)**

The Nigerian Arbitration Association (NAA) is a professional and administrative body established to promote the use of arbitration and other Alternative Dispute Resolution (ADR) mechanisms across Nigeria. It offers services such as:

1. Maintaining a panel of experienced arbitrators;
2. Providing rules of arbitration for domestic disputes;

3. Facilitating the training and accreditation of arbitrators;
4. Acting as an appointing authority in arbitrations where the parties have not named one;
5. Offering mediation and arbitration facilities for the conduct of proceedings.

Although not as widely used as international institutions like the ICC or LCIA, the NAA has significantly contributed to building local expertise and advancing the cause of arbitration in Nigeria.

### **3.14.1.3 Institute of Chartered Arbitrators of Nigeria (ICarb Nigeria)**

The Institute of Chartered Arbitrators (Nigeria Branch) is a leading professional body for arbitrators in Nigeria. It is affiliated with the Chartered Institute of Arbitrators (CI Arb), UK, and operates independently to:

Provide certification and membership at various levels (Associate, Member, and Fellow);

1. Organize regular training programmes, seminars, and practical workshops in arbitration, mediation, and adjudication;
2. Maintain a roster of accredited dispute resolution professionals;
3. Publish journals and guidance notes on arbitration law and practice;
4. Collaborate with judiciary and corporate bodies to enhance the use of ADR in commercial transactions.

The Institute has played a central role in capacity building, judicial sensitization, and the promotion of best practices in arbitration, making it one of the most respected ADR institutions in Nigeria.

### **3.15 Arbitration Institutions**

Arbitration institutions in Nigeria play a central role in administering arbitration proceedings, maintaining panels of qualified arbitrators, and providing physical and procedural infrastructure for dispute resolution. These institutions also contribute to building trust in arbitration by offering neutrality, procedural certainty, and enforcement support. Among the prominent institutions operating in Nigeria are the Nigerian Institute of Chartered Arbitrators (NICArb), the Lagos Court of Arbitration (LCA), and the Abuja Arbitration Centre (AAC).

#### **3.15.1 Nigeria Arbitration Institute**

Nigerian Institute of Chartered Arbitrators (NICArb)

The Nigerian Institute of Chartered Arbitrators (NICArb), established in 1979 and chartered in 2020, is the first indigenous arbitration body in Nigeria. It was founded to promote the practice and procedure of arbitration and other alternative dispute resolution (ADR) mechanisms. NICArb offers training, accreditation, and continuous professional development for arbitrators across Nigeria.<sup>91</sup>

The Institute plays a critical role in:

1. Certifying arbitrators through structured training programmes;
2. Organizing annual arbitration conferences and workshops
3. Providing model arbitration clauses and standard rules of procedure;

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<sup>91</sup> B. Osinowo, The Role of NICArb in Nigeria's Arbitration Development (2023) 11(1) *Journal of Commercial Dispute Resolution* 45.

Administering domestic and international arbitration disputes.

NICArb supports the objectives of the Arbitration and Mediation Act, 2023, by creating an ecosystem for professional, timely, and cost-effective resolution of commercial disputes.

### **3.15.1.2 Lagos Court of Arbitration (LCA)**

The Lagos Court of Arbitration (LCA) was established under the Lagos State Arbitration Law, 2009, and serves as a modern, independent arbitration centre with a strong institutional presence in West Africa. Its aim is to provide efficient and cost-effective dispute resolution services to commercial actors both within and outside Nigeria.

Key features of the LCA include:

1. A state-of-the-art arbitration complex equipped with hearing rooms and secretariat services;
2. A Panel of Neutrals comprising Nigerian and international arbitrators;
3. Administration of both ad hoc and institutional arbitrations under the LCA Rules;
4. Specialized services for international commercial arbitration, investment arbitration, and mediation.<sup>92</sup>

The LCA has contributed significantly to positioning Lagos as an arbitration hub in sub-Saharan Africa, thus advancing the objectives of the federal Arbitration and Mediation Act, 2023 by supplementing state-level institutional support.

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<sup>92</sup> A. Fagbohun, Lagos Court of Arbitration and the Future of ADR in Nigeria (2022) 9(3) Lagos Law Review 99.

### **3.15.1.3 Abuja Arbitration Court (AAC)**

The Abuja Arbitration Centre (AAC), though still emerging in prominence, functions as a key arbitration facility within the Federal Capital Territory. It complements the work of national institutions by offering local and international businesses a neutral forum for dispute resolution close to the seat of government.

The AAC provides:

- Facilities for arbitration and mediation hearings;
- Support for government-related and regulatory disputes;
- A platform for arbitrator appointment and training.<sup>93</sup>

### **3.16 International Institutions**

International Arbitration Institutions and Their Relevance to Nigeria. While Nigeria has developed robust local arbitration institutions, international arbitration bodies continue to play a crucial role in resolving commercial disputes involving Nigerian parties, especially in cross-border contracts. These institutions are known for their neutrality, procedural clarity, global recognition, and enforceability of awards under international conventions such as the New York Convention (1958). Prominent among them are the International Chamber of Commerce (ICC), the London Court of International Arbitration (LCIA), and the International Centre for Dispute Resolution (ICDR).

**3.16.1 International Chamber of Commerce (ICC)** The International Chamber of Commerce (ICC), headquartered in Paris, is one of the oldest and most widely used arbitral institutions

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<sup>93</sup> T. A. Yusuf, Arbitration Practice in Nigeria's Capital: The Abuja Arbitration Centre Experience (2021) 8(2) *Nigerian Journal of Legal Practice* 73.

worldwide. Its International Court of Arbitration administers commercial arbitrations under the ICC Arbitration Rules, which are recognized for their procedural clarity, confidentiality, and strong enforcement mechanisms.

Nigerian parties—especially in sectors such as oil and gas, construction, and international trade—frequently include ICC arbitration clauses in their contracts. This preference is due to:

1. The perceived neutrality and independence of ICC panels;
2. A well-established track record of enforcing ICC awards in various jurisdictions;
3. The ability to appoint arbitrators with sector-specific expertise.

Despite Nigeria's local arbitration framework, the ICC remains a preferred forum for high-value international disputes, especially where one party is a foreign investor.

**3.16.1.1 London Court of International Arbitration (LCIA)** The London Court of International Arbitration (LCIA) is another leading arbitral institution with a strong reputation for efficiency and impartiality. The LCIA Rules offer a balanced and streamlined procedure, often seen as more flexible than the ICC Rules. Nigerian businesses have increasingly used the LCIA for international transactions, particularly those governed by English law.

## CHAPTER FOUR

### EFFECTIVENESS OF AMA IN RESOLVING COMMERCIAL DISPUTES

#### 4.1 Awareness and Utilization of the Arbitration and Mediation Act (AMA) in Nigeria

The enactment of the Arbitration and Mediation Act (AMA) in 2023 marked a critical turning point in Nigeria's alternative dispute resolution (ADR) landscape. The Act, which repealed the Arbitration and Conciliation Act, Cap A18 Laws of the Federation 2004, was designed to align Nigeria's arbitration and mediation framework with international best practices, particularly the UNCITRAL Model Law.<sup>94</sup> However, the effectiveness of this reform depends significantly on the extent to which legal practitioners, businesses, and the public are aware of and actively utilize its provisions.

Despite growing interest in ADR mechanisms, general awareness of the AMA outside legal and corporate circles remains limited. While ADR professionals and law firms in urban centres such as Lagos, Abuja, and Port Harcourt have begun to implement the provisions of the AMA, its utilization across smaller cities and among informal commercial players is still minimal.<sup>95</sup> This disparity is due in part to inadequate public sensitization, insufficient government-led awareness campaigns, and the general preference for litigation among non-specialists. Institutions such as the Nigerian Institute of Chartered Arbitrators (NICArb) and the Lagos Court of Arbitration (LCA) have contributed to awareness-building by hosting seminars, updating practitioner toolkits, and integrating the AMA into arbitration training modules.<sup>96</sup> The Nigerian Bar Association (NBA) has also hosted discussions on the implications of the AMA at its conferences, particularly with a focus

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<sup>94</sup> . UNCITRAL, Model Law on International Commercial Arbitration, with Guide to Enactment and Use 2006 (New York: United Nations, 2006).

<sup>95</sup> T. A. Ojo, Overview of the Arbitration and Mediation Act, 2023: Commentary and Analysis (Lagos: Law Nigeria Publications, 2024) 38.

<sup>96</sup> Nigerian Institute of Chartered Arbitrators, ADR Awareness Report (Lagos: NICArb Press, 2023) 12.

on the enforceability of awards and the changes in arbitral procedure.<sup>97</sup> However, reports show that many contract drafters continue to use outdated arbitration clauses referencing the repealed Arbitration and Conciliation Act. This suggests a gap between legal reform and its uptake in commercial practice<sup>98</sup>. Moreover, some judicial officers are yet to fully interpret and apply the new provisions, particularly with regard to interim measures and the formal structure for mediation as set out under Part II of the AMA.<sup>99</sup> Internationally, the Act has been received positively. Arbitration clauses in cross-border contracts now increasingly reference the AMA, with some parties expressing confidence in the improved legal environment it fosters for dispute resolution.<sup>100</sup> Nevertheless, many public institutions still rely on litigation rather than incorporating the AMA's dispute resolution mechanisms in public procurement or concession agreements.<sup>101</sup> In sum, while professional stakeholders in arbitration and corporate law are increasingly adopting the AMA, its utilization is not yet uniform across sectors or geographical zones. Bridging this gap will require targeted stakeholder education, judicial training, and harmonized contract practices across industries.

#### **4.2 Challenges Facing the Effective Implementation of the Arbitration and Mediation Act (AMA)**

The enactment of the Arbitration and Mediation Act, 2023 (AMA) represents a landmark reform in Nigeria's dispute resolution regime. It repealed the Arbitration and Conciliation Act (ACA)

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<sup>97</sup> Nigerian Bar Association, Proceedings of the 2023 Annual General Conference (Abuja: NBA Secretariat, 2023) 77.

<sup>98</sup> B. Osinowo, "The Role of NICArb in Nigeria's Arbitration Development" (2023) 11(1) *Journal of Commercial Dispute Resolution* 45

<sup>99</sup> A. A. Adeyemi, *Arbitration and Mediation in Nigeria: Law and Practice* (Lagos: Dee-Sage Nigeria Ltd, 2021) 126.

<sup>100</sup> F. Adegbite, "The ICC and the Resolution of International Commercial Disputes: Lessons for Nigeria" (2022) 10(2) *Nigerian Journal of Commercial Arbitration* 61.

<sup>101</sup> Y. G. Oshi, "An Overview of Alternative Dispute Resolution Mechanisms in Nigeria" (2019) 6(4) *Nigerian Bar Journal* 33.

1988 and sought to modernize the legal framework governing both arbitration and mediation in line with international standards. However, despite its progressive provisions, several implementation challenges continue to impede the effectiveness of the Act, particularly in relation to resolving commercial disputes.

#### Judicial Interference and Lack of Consistent Court Support

A major obstacle to the effective implementation of the AMA is the persistent judicial interference in arbitration proceedings. Although the Act seeks to protect party autonomy by limiting unnecessary judicial intervention, in practice, courts still occasionally overstep their supervisory role. For instance, some judges continue to entertain applications for interlocutory injunctions that disrupt ongoing arbitration proceedings — a practice inconsistent with the pro-arbitration spirit of the AMA.<sup>102</sup>

Furthermore, Nigerian courts are not always consistent in interpreting the provisions of the AMA. This judicial inconsistency undermines legal predictability and confidence in the arbitral process. While the Act provides for the enforcement of arbitral awards with minimal court involvement, some judges still apply the standards of the repealed ACA or rely on outdated procedural principles.<sup>103</sup> This judicial lag poses a serious threat to the integrity of the arbitration regime.

#### Inadequate Infrastructure and Capacity in ADR Institutions

Another challenge is the lack of well-equipped and accessible arbitration and mediation centres, especially outside urban commercial hubs. Many states in Nigeria still lack institutional

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<sup>102</sup> A. A. Adeyemi, *Arbitration and Mediation in Nigeria: Law and Practice* (Lagos: Dee-Sage Nigeria Ltd, 2021) 88.

<sup>103</sup> O. D. Amokaye, “Judicial Intervention in Arbitration under Nigerian Law: Reconciling the Old and the New” (2023) 17(2) *University of Lagos Law Review* 66.

frameworks capable of administering modern arbitration proceedings in line with the AMA. Most existing institutions, such as the Lagos Court of Arbitration (LCA) and the Abuja Multi-Door Courthouse, are concentrated in a few cities, leaving other regions without practical access to ADR mechanisms.<sup>104</sup>

Furthermore, some of these centres suffer from poor funding, limited technical capacity, and insufficient staffing. As a result, proceedings conducted under institutional rules may be delayed or poorly managed, discouraging parties from opting for arbitration or mediation<sup>i</sup>.

#### Lack of Training and Awareness Among Practitioners and the Public

Despite the enactment of the AMA, many legal practitioners and contract drafters are not fully conversant with its provisions, especially those relating to emergency arbitrators, interim measures, and the enforceability of mediation agreements. Lawyers continue to draft arbitration clauses referencing repealed legislation or omitting critical elements such as seat of arbitration, choice of law, or institutional rules.<sup>105</sup> This knowledge gap is further compounded by a general lack of public awareness about arbitration and mediation. Many small and medium enterprises (SMEs) still view litigation as the primary mechanism for resolving disputes, due to limited education and exposure to ADR processes.<sup>106</sup>

#### Institutional Fragmentation and Federalism Challenges

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<sup>104</sup> Nigerian Institute of Chartered Arbitrators, Annual Report on ADR Infrastructure in Nigeria (Lagos: NICArb Press, 2023) 17.

<sup>105</sup> I. Olaniyan, “Drafting Arbitration Clauses under the AMA: Key Pitfalls to Avoid” (2023) 8(1) *Nigerian Business Law Review* 39.

<sup>106</sup> E. O. Ojeaga, “ADR and Commercial Disputes in Nigeria: The Knowledge Gap Dilemma” (2022) 6(3) *African Commercial Law Journal* 52.

Although the AMA is a federal enactment applicable throughout Nigeria, its implementation requires the procedural cooperation of state courts and institutions. However, some state civil procedure rules remain outdated and do not adequately reflect or incorporate the innovations introduced by the AMA. This creates a fragmented legal environment where parties face conflicting procedural standards depending on the jurisdiction.<sup>107</sup>

Additionally, enforcement of arbitral awards or recognition of mediation settlements often requires cooperation from state-level institutions. Where state institutions lack expertise or alignment with federal ADR policy, the result is procedural delays and increased transaction costs.<sup>108</sup>

#### Cultural Resistance and Preference for Litigation

Another challenge is the cultural preference for litigation, which remains deeply ingrained among Nigerian businesses and even within the legal profession. Many view court decisions as more authoritative, final, or legitimate, especially when dealing with high-value commercial disputes. Mediation is often misunderstood as being non-binding or informal, while arbitration is perceived as elitist or expensive.<sup>109</sup>

This resistance is also influenced by clients who pressure lawyers to pursue litigation due to its familiarity. As a result, even where the AMA provides efficient mechanisms for commercial resolution, parties often revert to litigation as the default route.

#### Delays in the Enforcement of Awards and Mediation Agreements

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<sup>107</sup> 7. J. E. Ogbodo, “Federalism and the Enforcement of Arbitration Laws in Nigeria” (2022) 9(2) *Nigerian Journal of Public and Private Law* 59.

<sup>108</sup> Nigerian Bar Association, Report of the ADR Committee on State-Level Challenges (Abuja: NBA Secretariat, 2023) 21.

<sup>109</sup> E. U. Nwosu, “Cultural Barriers to Mediation in Nigeria: An Empirical Analysis” (2021) 7(3) *African Dispute Resolution Review* 41.

Even though the AMA seeks to simplify the enforcement of arbitral awards and mediation settlements, enforcement remains a problematic area. Parties who lose arbitration frequently exploit court processes to delay enforcement, often filing frivolous applications to set aside awards. In some instances, courts grant such applications on procedural technicalities, thereby undermining finality and frustrating the purpose of ADR.<sup>110</sup>

Enforcement of mediation settlements — which the AMA now recognizes as binding and enforceable — also suffers from the slow pace of Nigeria’s judicial system. These systemic delays reduce the attractiveness of ADR, especially in commercial matters where speed and certainty are critical.

#### **4. 3 Case Studies of Arbitration Proceedings under the Arbitration and Mediation Act (AMA)**

The Arbitration and Mediation Act (AMA), 2023 has introduced a comprehensive and modern legal framework aimed at improving the conduct of arbitration in Nigeria. To assess its effectiveness, it is instructive to examine select case studies where the AMA has been applied in practice, as well as older cases that illustrate the challenges the new Act seeks to correct. These case studies highlight both the progress made and the areas still requiring reform.

MTN Nigeria Communications Ltd v. Corporate Communication Investment Ltd & Ors

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<sup>110</sup> O. A. Oyebanji, “Enforcement of Arbitral Awards in Nigeria: Progress and Pitfalls” (2020) 6(4) Commercial Law Reports of Nigeria 33.

In this landmark case, MTN challenged the jurisdiction of an arbitral tribunal on the grounds that the dispute arose from tortious interference, which was outside the arbitration clause. The tribunal ruled that the matter was arbitrable. MTN proceeded to the High Court, seeking to set aside the tribunal's interim ruling. The court declined to interfere, citing the principle of kompetenz-kompetenz — now codified in Section 16 of the AMA.<sup>111</sup>

This case reflects the increasing deference of Nigerian courts to arbitral autonomy, a trend reinforced by the AMA which empowers tribunals to rule on their own jurisdiction without premature court intervention. The court's decision aligns with international best practices and signals a positive step toward strengthening the legitimacy of arbitral proceedings in Nigeria.

#### *Statoil Nigeria Ltd v. Nigerian National Petroleum Corporation (NNPC)*

Though decided before the AMA, this case underscores systemic delays in enforcement that the Act seeks to remedy. Here, an international arbitration award was granted in favour of Statoil against NNPC under the ICC Rules. However, enforcement in Nigerian courts was stalled by prolonged litigation, raising concerns over Nigeria's commitment to respecting international arbitral awards.<sup>112</sup>

Under the AMA, provisions relating to the enforcement of arbitral awards (Sections 56–60) have been clarified and streamlined. The Act provides for a more predictable procedure and limits the grounds for setting aside or refusing enforcement, bringing Nigeria more closely in line with the New York Convention, to which it is a party.

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<sup>111</sup> MTN Nigeria Communications Ltd v. Corporate Communication Investment Ltd & Ors (2023) LPELR–CA/L/564/2022.

<sup>112</sup> *Statoil Nigeria Ltd v. Nigerian National Petroleum Corporation (NNPC)* (2013) 14 NWLR (Pt. 1373) 1.

B. V. Scheep v. M. V. “S. Araz”

This case emphasized the importance of finality in arbitration. The Supreme Court held that arbitral awards are binding and can only be set aside on very limited grounds, such as misconduct, lack of jurisdiction, or public policy.<sup>113</sup> The AMA reinforces this principle in Section 55, specifying limited grounds for setting aside awards, consistent with Article 34 of the UNCITRAL Model Law. By codifying strict criteria for challenge, the AMA limits frivolous objections and empowers parties to have confidence in the finality and enforceability of arbitral awards. This statutory protection enhances Nigeria’s attractiveness as an arbitration-friendly jurisdiction.

#### Recent AMA-Governed Cases at the Lagos Court of Arbitration (LCA)

Since the enactment of the AMA in 2023, the Lagos Court of Arbitration has reported a marked increase in disputes resolved through emergency arbitration and expedited proceedings. One notable case involved a contractual dispute between two fintech companies, where a party successfully obtained emergency relief to prevent asset dissipation before the constitution of the full tribunal.<sup>114</sup>

This case exemplifies the practical utility of Section 16 and Section 28 of the AMA, which provide for emergency arbitrators and interim reliefs. Parties were able to achieve resolution within six months — a significant improvement over court timelines. Such proceedings demonstrate the capacity of the AMA to support commercial efficiency, especially in time-sensitive sectors.

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<sup>113</sup> B. V. Scheep v. M. V. “S. Araz” (2000) 15 NWLR (Pt. 691) 622 SC.

<sup>114</sup> Lagos Court of Arbitration, Annual Dispute Resolution Report (Lagos: LCA Publications, 2024) 12.

## Multi-Door Courthouse Mediation Settlements

The Multi-Door Courthouses (MDCs) in Lagos, Abuja, and Port Harcourt have integrated AMA provisions into their mediation frameworks. For example, in 2024, a high-profile commercial real estate dispute involving an international property developer and a Nigerian investor was resolved through mediation at the Abuja MDC under the AMA.<sup>115</sup>

Thanks to Section 75 of the AMA, which recognizes mediation settlement agreements as binding and enforceable, the mediated agreement was entered as a consent judgment at the FCT High Court. This quick resolution saved both parties the cost and delay of prolonged litigation and shows how AMA has enhanced confidence in mediation as a legitimate commercial resolution tool.

### **4.4 Assessment of the Arbitration and Mediation Act's (AMA) Effectiveness in Resolving Commercial Disputes**

The Arbitration and Mediation Act (AMA), 2023 was enacted to strengthen the legal framework for alternative dispute resolution in Nigeria, especially for commercial disputes. Its effectiveness is best assessed by considering a range of factors including speed of resolution, party autonomy, cost-efficiency, enforceability of outcomes, institutional support, and public trust in the system.

#### Speed and Efficiency in Dispute Resolution

One of the AMA's primary strengths is its promotion of expedited proceedings. The Act introduces timelines for certain stages of arbitration and explicitly allows for emergency arbitration and interim reliefs — critical tools for commercial parties needing quick intervention. For instance,

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<sup>115</sup> Abuja Multi-Door Courthouse, 2024 Report on AMA-Based Mediations, available at <https://abujamdcn.org/reports> (accessed 12 June 2025).

Section 16 empowers arbitral tribunals to determine their own jurisdiction, helping avoid protracted preliminary disputes. Additionally, mediation agreements can be enforced swiftly as consent judgments under Section 75, reducing the burden on the courts.

Where litigation may take years due to adjournments and technical delays, arbitration and mediation under the AMA offer more time-bound procedures, especially when administered by experienced institutional frameworks such as the Lagos Court of Arbitration or Abuja Multi-Door Courthouse. This enhances the attractiveness of ADR as a dispute resolution mechanism for time-sensitive commercial relationships.

#### Party Autonomy and Flexibility

The AMA reinforces party autonomy, a cornerstone of modern arbitration and mediation. Parties are free to determine the seat of arbitration, the applicable procedural rules, the number of arbitrators, and even the language of proceedings. This level of flexibility gives commercial entities control over the process and outcome of their disputes.

In mediation, the law allows parties to appoint neutral mediators and design their own procedures, making the process more collaborative and tailored to the commercial realities of the dispute. By embedding these principles into legislation, the AMA enhances business confidence in Nigeria's dispute resolution framework.

#### Cost-Effectiveness

While arbitration can be expensive — especially when compared to litigation — the AMA has taken steps to ensure cost efficiency, particularly through provisions allowing for single arbitrator

tribunals, simplified procedures, and expedited hearings in appropriate cases. These features help to reduce legal and administrative costs associated with prolonged litigation.

Similarly, mediation offers a significantly more cost-effective model, and its promotion under the AMA has led to greater acceptance of early settlement options in business circles, particularly among SMEs who may lack the resources to pursue lengthy trials.

#### Enforceability of Awards and Settlements

One of the most significant achievements of the AMA is the improved recognition and enforcement of arbitral awards and mediated settlement agreements. In line with the New York Convention and the Singapore Convention on Mediation, the AMA ensures that outcomes from ADR mechanisms are legally binding and enforceable in Nigerian courts.

The codification of rules regarding refusal of enforcement only on limited grounds — such as fraud, public policy, or lack of jurisdiction — brings clarity and predictability, essential for commercial certainty. This makes Nigeria a more credible seat for arbitration, especially in cross-border business transactions.

#### Institutional Development and Capacity

The implementation of the AMA has been supported by leading institutions such as the Nigerian Institute of Chartered Arbitrators (NICArb), Lagos Chamber of Commerce International Arbitration Centre (LACIAC), and others, which have developed training programs to promote compliance with the new legal framework. These institutions now offer certified training for arbitrators and mediators, improving the quality and professionalism of dispute resolution services in Nigeria.

Despite these gains, challenges remain, particularly in building institutional capacity outside major cities and ensuring uniform training standards across states.

### Public Awareness and Uptake

Although awareness of ADR has improved, especially among large corporations and legal practitioners, uptake remains low among small business owners and the general public. Many commercial actors are still more familiar with litigation, and the perception persists that court judgments are more authoritative than arbitral awards or mediated settlements.

Efforts by institutions such as the Multi-Door Courthouses and the Nigerian Bar Association (NBA) are gradually closing this awareness gap. Nevertheless, the full benefits of the AMA can only be realized when all stakeholders — including judges, lawyers, businesses, and public institutions — are actively sensitized to its advantages.

## CHAPTER FIVE

### SUMMARY, RECOMMENDATIONS AND CONCLUSION.

#### 5.1 Summary of Findings

This study undertook a critical evaluation of the Arbitration and Mediation Act 2023 (AMA) in the context of resolving commercial disputes in Nigeria. It examined the legal, institutional, and practical frameworks governing arbitration and mediation under the AMA, and assessed the extent to which these mechanisms contribute to efficient, accessible, and effective dispute resolution.

The research established that the AMA represents a significant legislative advancement in Nigeria's alternative dispute resolution (ADR) framework. By consolidating the law on arbitration and introducing comprehensive provisions on mediation, the Act aligns with global standards such as the UNCITRAL Model Law, the New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards 1958, and the Singapore Convention on Mediation 2019.<sup>1</sup>

Key findings include:

The AMA has modernised Nigeria's dispute resolution landscape and has enhanced investor confidence by providing a more predictable and enforceable framework for resolving commercial disputes.

National institutions such as the Lagos Court of Arbitration and the Abuja Multi-Door Courthouse have improved the accessibility of ADR processes, although their reach remains largely urban-centred.

Despite legal improvements, utilization of ADR remains low among small and medium enterprises (SMEs) due to inadequate awareness, cultural preferences for litigation, and limited legal literacy.<sup>2</sup>

Challenges such as judicial interference, procedural inconsistencies, limited enforcement mechanisms, and infrastructural deficits continue to hamper the Act's full effectiveness.

Case studies reviewed showed that where arbitration and mediation are properly utilized, the outcomes are more efficient, less adversarial, and more cost-effective than litigation.

## **5.2 Recommendations for Improving the Effectiveness of the AMA**

**Public Awareness and Education:** Government agencies, legal associations, and ADR institutions should develop sustained awareness campaigns to educate the business community—particularly SMEs—on the benefits and procedures of ADR under the AMA.

**Judicial Training and Orientation:** The National Judicial Institute should intensify capacity-building programmes to familiarise judges with the principles and goals of ADR, thereby reducing instances of unnecessary judicial interference.<sup>5</sup>

**Procedural Harmonisation:** State and federal civil procedure rules should be aligned with the provisions of the AMA to ensure uniformity in referring disputes to ADR, and to streamline enforcement of arbitral and mediated outcomes.<sup>6</sup>

**Institutional Development:** More multi-door courthouses and regional arbitration centres should be established to promote geographical equity in access to ADR services.

**Professional Capacity Building:** There should be continuous training and certification of mediators and arbitrators to maintain high professional standards and ensure confidence in ADR outcomes.

**6. Efficient Enforcement Mechanisms:** The enforcement process for both arbitration awards and mediated settlement agreements should be simplified to encourage party compliance and reduce post-resolution litigation.

### **5.3 Suggestions for Future Research**

A comparative study of the enforcement of arbitration and mediation outcomes in Nigeria and other African jurisdictions, such as Ghana, Kenya, and South Africa.

An empirical analysis of ADR usage and satisfaction rates among Nigerian commercial entities.

The potential for integrating online dispute resolution (ODR) mechanisms within the AMA framework.

### **5.4 Conclusion**

The Arbitration and Mediation Act 2023 is a landmark reform in Nigeria's legal system. It bridges the gap between outdated ADR mechanisms and modern commercial realities, providing a dual legal framework that promotes both arbitration and mediation. The inclusion of enforceable mediated settlements and clearer procedural guidance enhances legal certainty and encourages broader participation by commercial actors.

However, despite its robust legal architecture, the practical effectiveness of the AMA remains contingent on systemic improvements. The judiciary's role in supporting rather than obstructing ADR, the training of skilled neutrals, and the establishment of infrastructure in underserved areas are critical to the Act's success. Ultimately, the AMA's potential lies not only in its legal provisions but in the willingness of stakeholders to adopt it as a primary mechanism for resolving commercial disputes.

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