GROWTH AND ADVANCEMENT OF ARBITRATION AND OTHER FORMS OF ALTERNATIVE DISPUTE RESOLUTION MECHANISMS IN NIGERIA*

Abstract

Settlement of dispute through the law court is referred to as litigation but there is also an alternative to litigation[1]. Hence, dispute resolution in Nigeria has moved a considerable distance from a system built almost entirely around litigation towards one that gives real institutional weight to Alternative Dispute Resolution (ADR). However, many academics prefer to construe ADR as 'Appropriate Dispute Resolution' instead of 'Alternative Dispute Resolution'.[2] This doctrinal study examines the growth and advancement of arbitration and other ADR mechanisms in Nigeria. It traces the historical path from pre-colonial customary dispute settlement, through the reception of English law, to the recent enactment of the Arbitration and Mediation Act 2023, which repealed the decades-old Arbitration and Conciliation Act of 1988. Drawing on statutory provisions, judicial decisions and scholarly commentary, the paper assesses the institutionalisation of ADR, particularly through the Multi-Door Courthouse system now operating in a number of state jurisdictions. While the growth of ADR has helped attract foreign direct investment, eased pressure on court dockets and improved commercial efficiency, the study identifies continuing obstacles: unwarranted judicial interference in some cases, the high cost of arbitration, and the tendency of some legal practitioners to exploit procedural loopholes to delay enforcement. The paper concludes that although the legislative framework is commendable, fuller use of ADR will require a change in judicial attitude and sustained investment in building the capacity of stakeholders. Among other things, it recommends stricter judicial adherence to the principle of non-intervention and the extension of court-connected ADR to rural jurisdictions so as to widen access to justice.

Keywords: Arbitration, ADR, Growth and Advancement, Nigeria

1. Introduction

Dispute resolution is central to any functioning legal system: it underpins social stability and gives commerce the predictability it needs. For most of Nigeria's modern legal history, litigation through the regular courts has been the default mechanism for resolving civil and commercial disagreements. Yet the adversarial character of litigation, combined with long delays, high costs, rigid procedure and the chronic congestion of court dockets, has pushed the legal system towards other options.[3] Alternative dispute resolution mechanisms have, as a result, moved from the margins of practice to become not merely secondary but primary routes to timely and effective justice. The enactment of the Arbitration and Mediation Act 2023 is a significant moment in this trajectory: it repealed the outdated Arbitration and Conciliation Act of 1988 and brought domestic practice closer to international commercial norms and treaty obligations. Despite this legislative progress, the practical growth of these mechanisms continues to be held back by unwarranted judicial interference in some quarters and by a litigation mindset that persists among a section of the legal profession. This doctrinal study examines the growth, institutionalisation and advancement of arbitration and other dispute resolution mechanisms in Nigeria. Drawing on primary sources, namely statutes and judicial decisions, together with secondary material such as journal articles and textbooks, the paper considers how effective the current legal framework actually is. Its central aim is to identify the systemic obstacles to fuller use of these mechanisms and to propose practical recommendations for a more efficient, accessible and commercially credible justice sector in Nigeria.

2. Conceptual Clarifications and Jurisprudential Underpinnings

Before turning to the substance of this study, it is necessary to define the core terms it relies on. Although these mechanisms are grouped together under the umbrella of alternative dispute resolution, each has distinct procedural and substantive features. This becomes necessary as Professor Schmitthoff opines that 'It is a truism to state that arbitration is better than litigation, conciliation better than arbitration and preventation of legal disputes better than conciliation'[4].

Conceptual Clarifications

Arbitration: This refers to an adjudicatory process in which parties, usually under a prior agreement, submit their dispute to a neutral third party known as an arbitrator or arbitral tribunal, for a final and binding decision. Unlike the other, non-binding mechanisms discussed below, arbitration resembles litigation in one important respect: the resulting award is

***By Samuel Chinedu OYIGBO, LLB, BL, LLM, PDE, MSc (Peace Studies and Conflict Resolution), MCArb,** Chartered Arbitrator, Notary Public, Barrister and Solicitor of Supreme Court of Nigeria, Head of Chambers of S. C. Oyigbo & Associates, and PhD (in view), Faculty of Law, Nnamdi Azikiwe University, Awka, Nigeria. Tel: +2348033834178, Email: revbarroyigbosamuelc@gmail.com

[1] SC Oyigbo, How to Enforce Yours Rights (Ambassadors & Advocates Assembly (AAA) Inc., 2020) 76

[2] *Ibid*

[3] Ameh Ochojila, 'How Lack of Support for ADR Strains Nigeria's Legal System' *The Guardian* (Lagos, 2025) <https://guardian.ng/features/law/how-lack-of-support-for-adr-strains-nigerias-legal-system-2/> accessed 5 September 2026 (citing the Chief Justice of Nigeria's figure of 243,253 cases pending in Nigeria's superior courts as at the first quarter of 2024).

[4] G Ezejiofor, *The Law of Arbitration in Nigeria* (Longman Nigeria Plc, 1997) 8

enforceable by the courts in much the same way as a court judgment.[5] The court of law is duty bound to enforce the decision reached in arbitration and the parties are also bound by the decision of the arbitrators.[6] The Supreme Court of Nigeria, in the leading case of *Kano State Urban Development Board v Fanz Construction Ltd*, defined arbitration as the reference of a dispute between not less than two parties for determination, after hearing both sides in a judicial manner, by a person or persons other than a court of competent jurisdiction.[7] Its essential feature is the parties' mutual consent, usually recorded in an arbitration clause within a commercial contract or in a separate submission agreement.

Mediation: This is a voluntary, non-adversarial and confidential process in which a neutral third party known as the mediator helps disputing parties communicate and negotiate towards a resolution they can both accept.[8] Unlike an arbitrator, a mediator has no power to impose an outcome: the mediator controls the process, but the parties control the result. Mediation is concerned less with strict legal entitlements than with the underlying interests and needs of the parties. The Arbitration and Mediation Act 2023 gave mediation a clear statutory footing for the first time in Nigeria, providing a framework for the enforcement of domestic and international mediated settlement agreements as binding contracts or as consent judgments of the court.[9] Part II of the Act also domesticates key principles of the United Nations Convention on International Settlement Agreements Resulting from Mediation (the Singapore Convention), bringing Nigerian practice closer to the emerging international consensus on the cross-border enforcement of mediated settlements.[10]

Conciliation: It is trite to state that this is closely related to mediation, though Nigerian practice has traditionally drawn a distinction between the two. A conciliator plays a more interventionist, evaluative role than a mediator: while a mediator mainly facilitates dialogue, a conciliator may assess the parties' respective cases, offer an expert opinion and propose specific settlement terms for the parties to accept or reject.[11] The repealed Arbitration and Conciliation Act of 1988 gave conciliation distinct statutory recognition, although the term was never defined in the Act itself, leaving its scope narrower than under the UNCITRAL Model Law.[12] Modern trends in the harmonisation of international trade law have since blurred the boundary between mediation and conciliation, and the Arbitration and Mediation Act 2023 does not retain conciliation as a separate category at all: it folds the practice into the broader statutory framework for mediation, bringing Nigerian law closer to the UNCITRAL Model Law on International Commercial Mediation.[13]

Negotiation: It is a settled fact that this is the most basic and widely used mechanism for resolving disputes. It is a direct, bilateral process between the disputing parties themselves, or their representatives, without any neutral third party.[14] Its object is to find common ground and reach a compromise. Negotiation underlies every other dispute resolution process; mediation, in particular, is often described simply as facilitated negotiation. Because it is informal and remains entirely within the parties' control, negotiation offers the greatest privacy, flexibility and cost-efficiency of any dispute resolution mechanism, although its success depends wholly on both parties' willingness to cooperate.

Jurisprudential Underpinnings of Alternative Dispute Resolution

The growth of these mechanisms in Nigeria rests on several jurisprudential foundations that strengthen the administration of justice.

The Principle of Party Autonomy: Party autonomy is the foundational idea behind arbitration and its related mechanisms: the legal doctrine that gives disputing parties the freedom to shape the dispute resolution process to their own needs. Parties may choose their arbitrators, fix the venue, select the language of proceedings and decide the substantive law that will govern the dispute. Nigerian courts have consistently upheld this principle, recognising that they must respect the parties' agreement to arbitrate rather than assume the jurisdiction of an arbitral tribunal. The Supreme Court reinforced this in *NNPC v Lutin Investments Ltd*, emphasising that arbitration depends on courts honouring the sanctity of what the parties themselves have agreed.[15]

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[5]Arbitration and Mediation Act 2023, s 57(1).

[6] See *Aye-fenus Ent. Ltd v Saipem Nig. Ltd* (2009) ALL FWLR (Pt 460) at 799 Paras A-B; *Ndah v Chiamuokwu* (2006) ALL FWLR (Pt 315) 169

[7]*Kano State Urban Development Board v Fanz Construction Ltd* (1990) 4 NWLR (Pt 142) 1 (SC) 32.

[8]J Olakunle Orojo and MA Ajomo, *Law and Practice of Arbitration and Conciliation in Nigeria* (Mbeyi & Associates 1991) 4–6.

[9]Arbitration and Mediation Act 2023, s 82(2).

[10]'A New Arbitration Regime in Nigeria: An Overview of the Arbitration and Mediation Act 2023' (Mondaq, 2023) <https://mondaq.com/nigeria/arbitration-dispute-resolution/1348948/a-new-arbitration-regime-in-nigeria-an-overview-of-the-arbitration-and-mediation-act-2023> accessed 5 September 2026.

[11]E Azinge and C Ani (eds), *Principles of Negotiation and Mediation* (NIALS Press 2012).

[12]John Funsho Olorunfemi, 'Resolving the Juridical Tangle on the Concept of Conciliation under the Nigerian Arbitration and Conciliation Act' (2022) 9(1) *NAU Journal of Contemporary Practice and Law* 14.

[13]'Key Innovations in Nigeria's Arbitration and Mediation Act 2023' (Lexworth Legal Partners) <https://www.lexworthlegal.com/key-innovations-in-nigerias-arbitration-and-mediation-act-2023/> accessed 5 September 2026.

[14]Chimezie Kingsley Okorie, 'Alternative Dispute Resolution in Nigeria: Issues and Challenges' *Nigerian Journal of Legal Studies* 11.

[15]*Nigerian National Petroleum Corporation v Lutin Investments Ltd* (2006) 1 All NLR 235 (SC).

Access to Justice: Section 36 of the Constitution of the Federal Republic of Nigeria 1999 (as amended) guarantees the right to a fair hearing within a reasonable time. Because the traditional court system, hampered by inadequate infrastructure and procedural bottlenecks, often fails to deliver justice within a reasonable period, so that the familiar maxim that justice delayed is justice denied still rings true, alternative dispute resolution widens the constitutional idea of access to justice by offering additional, faster and more accessible routes to redress. This thinking gave rise to the Multi-Door Courthouse system in Nigeria, which built these mechanisms directly into the judicial architecture. In these Multi-Door Court Houses, any of the Alternative Dispute Resolution mechanisms, like arbitration or mediation, may be adopted[16] save where otherwise stated.

Restorative Justice versus Adversarial Justice: Litigation is inherently adversarial: it operates on a retributive, winner-takes-all basis that often damages the underlying commercial or personal relationship between the parties. Mediation and negotiation, by contrast, draw on the jurisprudence of restorative justice, aiming to repair harm, restore relationships and keep business ties intact. By shifting attention from apportioning blame and enforcing rigid legal rights towards practical, mutually acceptable solutions, alternative dispute resolution has much in common with the communal, restorative approach to dispute settlement long practised in African societies.[17]

3. Historical Evolution of Arbitration and Alternative Dispute Resolution in Nigeria

The modern framework for dispute resolution in Nigeria is best understood against its historical background. The evolution of these mechanisms spans three distinct periods, namely the pre-colonial era, the colonial administration, and the post-independence period, each of which shaped the normative and institutional development of dispute settlement in the country.

Customary Dispute Settlement in Precolonial Nigerian Societies

Long before British colonial administration and the reception of English law, indigenous Nigerian communities had developed effective mechanisms of their own for resolving disputes, woven into the cultural, social and religious fabrics of their societies. The guiding philosophy of dispute resolution in traditional African societies was the restoration of communal harmony and the preservation of relationships, rather than the attribution of blame or the exacting of retribution.[18] Disputes over land, marriage or commercial debts were resolved through negotiation and mediation led by family heads, councils of elders, age grades and traditional rulers. Customary arbitration was a distinct and well-respected feature of this system: disputing parties would voluntarily submit their grievance to a neutral third party or a panel of elders, agreeing in advance to be bound by the outcome. The finality of the decision was often reinforced by the taking of oaths and by the moral authority of traditional institutions.

Nigerian courts have consistently recognised the validity and binding effect of customary arbitration. In the landmark decision of *Agu v Ikewibe*, the Supreme Court set out the essential ingredients of a valid customary arbitration.[19] It held that where parties voluntarily submit a dispute to a non-judicial body or a customary arbitrator, and a decision is given and accepted by the parties, that decision operates as an *estoppel per rem judicatam* binding on the parties, provided the relevant custom is not repugnant to natural justice, equity and good conscience. It must not also be incompatible with any existing law for the time being in force or contrary to public policy.[20] This judicial recognition means that traditional restorative mechanisms remain a living part of the Nigerian legal system today.

The Colonial Era and the Introduction of Statutory Arbitration

The annexation of Lagos and the 1914 amalgamation of the Northern and Southern Protectorates introduced English common law and the adversarial court system into Nigeria, marking a significant turning point for dispute resolution. The colonial administration established formal courts as the primary avenue for justice, relegating customary dispute settlement to a secondary status subject to the repugnancy test. To meet the commercial needs of British merchants and the colonial administration, formal statutory arbitration was introduced through the Arbitration Ordinance of 1914, closely modelled on the English Arbitration Act of 1889.[21] This was the first formal statutory framework for commercial arbitration in Nigeria, and it created a dual system in which regulated statutory arbitration existed alongside indigenous customary arbitration. The Ordinance was, however, limited in scope: it was localised, procedurally rigid and ill-suited to the more complex international commercial transactions that began to emerge towards the end of colonial rule.

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[16] SC Oyigbo, *How to Enforce Yours Rights*, (Ambassadors & Advocates Assembly (AAA) Inc., 2020) 78.

[17] BR Akinbola, 'Restorative Justice and its Reflections in the Administration of Justice under Nigerian Customary Law' (2016) 9 *University of Ibadan Journal of Private and Business Law* 303.

[18] Emeka Ekhator and Newman U Richards, 'The Continuing Relevance of Customary Arbitration in Nigeria: Critical Evaluation of Contemporary Developments' (2024) 32(2) *African Journal of International and Comparative Law* 165.

[19] *Agu v Ikewibe* (1991) 3 NWLR (Pt 180) 385 (SC).

[20] *Mojekwu v Mojekwu* (1997) 7 NWLR (Pt 512) 283, *Akpalakpa v Igboibo* (1996) 8 NWLR (Pt 468) 533. See also Constitution of the Federal Republic of Nigeria 1999 (as amended), S. 1(3).

[21] Adedoyin Rhodes-Vivour, *Commercial Arbitration Law and Practice in Nigeria through the Cases* (LexisNexis Africa 2016) ch 1.

Post-Independence Developments and the Arbitration and Conciliation Act

Following independence in 1960, the rapid growth of the Nigerian economy, which was driven in large part by the discovery and commercialisation of crude oil, called for a more modern dispute resolution framework. Foreign investors and multinational corporations wanted a neutral, efficient and internationally recognised mechanism for resolving complex commercial disputes, and were often reluctant to submit to the jurisdiction of Nigerian courts.

To meet these expectations, the Federal Military Government promulgated the Arbitration and Conciliation Decree No 11 of 1988, later codified as the Arbitration and Conciliation Act, Chapter A18, Laws of the Federation of Nigeria 2004.[22] This was substantially modelled on the UNCITRAL Model Law on International Commercial Arbitration, and its enactment marked an important advance in Nigerian legal history. For the first time, Nigerian law offered a single, comprehensive framework covering both domestic and international commercial arbitration. The 1988 Act also gave conciliation statutory recognition as a distinct ADR mechanism, laying the ground for the later institutionalisation of non-adversarial justice. The Act governed the Nigerian commercial landscape for thirty-five years, establishing the foundational jurisprudence on party autonomy, limited judicial intervention and the enforcement of arbitral awards, and setting the stage for the reforms that culminated in the 2023 legislation.

4. The Contemporary Legislative and Institutional Framework

The current framework for arbitration and mediation in Nigeria rests on federal legislation, complementary state laws, and a small but growing number of specialised institutions.

Arbitration and Mediation Act 2023: A Legislative Milestone

The most important recent development in Nigerian dispute resolution is the Arbitration and Mediation Act 2023, signed into law on 26 May 2023.[23] The Act repealed the outdated Arbitration and Conciliation Act of 1988 and was designed to align Nigerian law with current global commercial practice and the UNCITRAL Model Law.[24] It introduced several notable innovations that have reshaped commercial dispute resolution in Nigeria. First, the Act put third-party funding of arbitration on a lawful footing.[25] Historically, the common law doctrines of maintenance and champerty prevented outside parties from funding litigation or arbitration in exchange for a share of the proceeds. Sections 61 and 62 of the Act abolish the application of these torts to arbitral proceedings, while requiring the funded party to disclose the funder's identity to the other parties, the tribunal and, where applicable, the arbitral institution.[26] This is intended to improve access to justice by allowing under-resourced claimants to pursue valid claims without bearing the full cost of the proceedings themselves. Second, the Act created the Award Review Tribunal, an opt-in mechanism under section 56 that allows parties to agree that any challenge to an award will first go to a second arbitral tribunal rather than directly to the regular courts.[27] Where the Award Review Tribunal upholds the original award, the courts may set it aside only on the narrow grounds of non-arbitrability or public policy. This is intended to reduce unwarranted judicial interference, promote finality and preserve the confidentiality of the process. Part II of the Act, meanwhile, sets out a comprehensive framework for mediation, domesticating the core principles of the Singapore Convention. Mediated settlement agreements, whether domestic or international, may now be enforced by Nigerian courts as binding contracts, as consent judgments, or as consent awards.[28]

Constitutional and State Legislative Frameworks

The Constitution of the Federal Republic of Nigeria 1999 (as amended) provides the ultimate validation for alternative dispute resolution. While judicial power is vested in the courts, the Constitution also promotes non-adversarial conflict resolution: section 19, which sets out Nigeria's foreign policy objectives, expressly requires the state to seek the settlement of international disputes by negotiation, mediation, conciliation, arbitration and adjudication.[29] The constitutional guarantee of a fair hearing within a reasonable time likewise supports the use of faster, alternative mechanisms where the courts are congested. At the subnational level, several states have enacted their own arbitration laws. The Lagos State Arbitration Law 2009 was a pioneering intervention, modelled substantially on the English Arbitration Act 1996.[30] Reflecting Lagos's status as Nigeria's commercial centre, the state legislature introduced provisions, including court

[22]Arbitration and Conciliation Act, Cap A18, Laws of the Federation of Nigeria 2004 (now repealed).

[23]'A Review of the Arbitration and Mediation Act 2023: Charting a New Course in Nigeria' (Lexology, 2023) <https://www.lexology.com/library/detail.aspx?g=54a7ae2a-4b58-40ac-87c1-324a0da2d4ad> accessed 5 September 2026.

[24]'New Arbitration Regime Comes into Force in Nigeria' (White & Case, 2023) <https://www.whitecase.com/insight-alert/new-arbitration-regime-comes-force-nigeria> accessed 5 September 2026.

[25]Arbitration and Mediation Act 2023, s 61.

[26]Clement Ighodargho Osuya, 'Third-Party Funding as a Panacea for an Amicable Adjudication of International Arbitration Disputes in Nigeria under the Arbitration and Mediation Act 2023' (2023) 33(3) *Journal of Arbitration Studies* 95.

[27]Arbitration and Mediation Act 2023, s 56.

[28]*Ibid*, s 82(2).

[29]Constitution of the Federal Republic of Nigeria 1999 (as amended), s 19(d).

[30]Lagos State Arbitration Law 2009 (Lagos); see also 'International Arbitration Comparative Guide: Nigeria' (Mondaq, 2019) <https://www.mondaq.com/Nigeria/Litigation-Mediation-Arbitration/793826/International-Arbitration-Comparative-Guide> accessed 5 September 2026.

powers to grant interim measures and to consolidate concurrent arbitrations, that anticipated many of the innovations later adopted in the federal 2023 Act.

Institutional Drivers of Alternative Dispute Resolution

Statutes alone cannot drive the growth of alternative dispute resolution without competent institutions to administer them. Growth in Nigeria has depended heavily on specialised bodies that provide administrative support, procedural rules, neutral venues and ongoing training. There is no gainsaying the fact that the Nigerian Institute of Chartered Arbitrators (NICArb), which was founded in 1979 and incorporated in 1988, drives Alternative Dispute Resolution (ADR) in Nigeria by setting professional standards, training practitioners, and providing institutional case management. Besides partnering with educational institutions like Covenant University to integrate ADR into higher education, NICArb serves as a premier body advancing arbitration, mediation, and conciliation across West Africa. The Regional Centre for International Commercial Arbitration, Lagos (RCICAL) was first established in Lagos in 1989 under the auspices of the Asian-African Legal Consultative Committee (now the Asian-African Legal Consultative Organization, AALCO), and was given statutory recognition and legal personality in Nigeria by the Regional Centre for International Commercial Arbitration Act 1999.[31] The Centre provides a neutral, well-equipped forum for domestic and international commercial disputes and has helped strengthen investor confidence in the region.[32] Just like NICArb that offers industry-recognized training, workshops, and professional certifications in arbitration and mediation for lawyers, engineers, bankers, and academics, the Chartered Institute of Arbitrators (UK), Nigeria Branch, has been also instrumental in professionalising the sector, training and certifying lawyers, engineers, accountants and other professionals in dispute resolution practice. The Lagos Chamber of Commerce International Arbitration Centre (LACIAC), affiliated with the Lagos Chamber of Commerce and Industry, similarly provides dispute resolution services tailored to the needs of the local and international business community.[33] Together, these institutions help translate the theoretical provisions of the law into practical, accessible justice.

5. The Multi-Door Courthouse System: A Catalyst for Alternative Dispute Resolution Growth

The most practical and institutionalised expression of alternative dispute resolution in Nigeria is the Multi-Door Courthouse system. Before the turn of the millennium, alternative mechanisms operated mostly at the margins of the formal justice sector: they were largely private, expensive, and used chiefly by multinational corporations. The Multi-Door Courthouse changed this by building these mechanisms directly into the public judicial system, offering a state-backed avenue for dispute settlement that was both comprehensive and genuinely accessible. Matters may be referred to the Multi-Door Court House either by a court or the parties[34].

The Genesis and Mechanics of the Lagos Multi-Door Courthouse

Court-connected alternative dispute resolution in Africa began with the Lagos Multi-Door Courthouse (LMDC), launched on 11 June 2002 as a public-private partnership between the High Court of Justice of Lagos State and the Negotiation and Conflict Management Group (NCMG), a non-profit organisation founded by the lawyer Kehinde Aina.[35] The idea was to turn the traditional courthouse, which had previously been a venue for litigation alone, into a dispute resolution centre offering multiple 'doors' to justice. These doors include mediation, arbitration and early neutral evaluation. The Lagos Multi-Door Courthouse Law of 2007 gave the centre statutory backing.[36] Under this framework, disputes reach the centre through three main routes: court referrals, where a judge identifies a case suitable for amicable settlement and directs the parties to explore ADR; direct walk-ins, where parties approach the centre voluntarily before any court action is filed; and direct interventions, where the centre reaches out proactively in high-profile or public-interest disputes.[37] Where a settlement is reached, it is forwarded to an Alternative Dispute Resolution Judge, who enters it as a consent judgment of the High Court, giving it the full coercive force of the state.

National Replication and Subnational Administrative Integration

The success of the Lagos experiment triggered nationwide replication, reshaping the administration of justice across several states. The Federal Capital Territory established the Abuja Multi-Door Courthouse in 2003, and other states,

[31]Regional Centre for International Commercial Arbitration Act 1999; Emilia Onyema, 'Regional Centre for International Commercial Arbitration, Lagos (Lagos RCICA)' in *World Arbitration Reporter* (2nd edn, JurisNet) <https://arbitrationlaw.com/node/34281> accessed 5 September 2026.

[32]PO Idornigie, *Commercial Arbitration Law and Practice in Nigeria* (LawLords Publications 2015) 112.

[33]'Interview with Our Editors: Nigeria and Lagos Chamber of Commerce International Arbitration Centre in the Spotlight with Abimbola Akeredolu SAN' (Kluwer Arbitration Blog, 2023) <https://legalblogs.wolterskluwer.com/arbitration-blog/interview-with-our-editors-nigeria-and-lagos-chamber-of-commerce-international-arbitration-centre-in-the-spotlight-with-abimbola-akeredolu-san/> accessed 5 September 2026.

[34] SC Oyigbo, *How to Enforce Yours Rights* (Ambassadors & Advocates Assembly (AAA) Inc., 2020) 78.

[35]'LMDC is the First Court Connected ADR Centre in Africa' *ThisDay* (Lagos, 4 April 2023) <https://thisdaylive.com/index.php/2023/04/04/lmdc-is-the-first-court-connected-adr-centre-in-africa> accessed 5 September 2026.

[36]Lagos Multi-Door Courthouse Law 2007 (Lagos), s 3.

[37]'The Mediators Promoting Justice for All in Nigerian Courts' (Pathfinders for Peaceful, Just and Inclusive Societies, 30 January 2020) <https://www.sdg16.plus/resources/the-mediators-promoting-justice-for-all-in-nigerian-courts> accessed 5 September 2026.

including Kano, Enugu, Rivers and Anambra, have since followed, with at least fourteen states having adopted the model in some form.[38] The Anambra State Multi-Door Courthouse, based in Awka, illustrates this trend at the state level. Anambra's dense commercial activity and large civil service have historically placed a heavy burden on the ordinary court system, particularly in relation to trade disputes, tax grievances and contractual disagreements. A functioning Multi-Door Courthouse in Awka offers a restorative outlet for these disputes, helping to resolve matters that might otherwise cripple the finances of small and medium enterprises, and increasingly serves as a channel for resolving administrative and labour disputes within the civil service confidentially and quickly, without disrupting government business.

Impact on Judicial Decongestion and Commercial Efficacy

The Multi-Door Courthouse system has produced real gains for the Nigerian justice system. Chief among these is the easing of pressure on court dockets: Nigerian courts have long struggled with backlogs, and civil and commercial cases have sometimes taken more than a decade to resolve.[39] Diverting a significant volume of cases into mediation and arbitration tracks frees the regular courts to focus on the constitutional, criminal and fundamental rights matters that genuinely require a full trial. From a commercial standpoint, court-connected ADR has helped support investor confidence. Foreign direct investment tends to favour jurisdictions where contracts can be enforced swiftly and predictably; the World Bank's last Doing Business assessment, for instance, ranked Nigeria 73rd of 190 economies on 'enforcing contracts', reflecting the continuing importance of faster dispute resolution channels to the investment climate.[40] By preserving confidentiality, protecting business relationships and reducing the cost of protracted litigation, the Multi-Door Courthouse system supports economic growth and the wider modernisation of Nigeria's legal framework.

6. Judicial Attitude towards Arbitration and Alternative Dispute Resolution in Nigeria

The growth of alternative dispute resolution in any jurisdiction is closely tied to the disposition of its judiciary. Arbitral tribunals and mediation centres lack the coercive powers of the state: they cannot attach property, garnish accounts or commit anyone to prison for contempt. The practical value of these mechanisms therefore depends heavily on the willingness of the regular courts to enforce agreements, stay proceedings in favour of arbitration, and recognise final awards. The attitude of Nigerian courts has changed considerably over the decades, moving from open suspicion to firm institutional support.

The Paradigm Shift from Judicial Hostility to Judicial Support

Historically, common law courts were markedly hostile to arbitration. Judges tended to see arbitration clauses as unlawful attempts to oust the courts' constitutional jurisdiction[41], reflecting a belief that only the sovereign courts had the mandate to adjudicate and dispense justice. Early Nigerian decisions occasionally reflected this conservatism, with courts intervening in arbitral proceedings at the slightest invitation from a disgruntled party. The rapid growth of global commerce, together with the sheer volume of cases before Nigerian courts, eventually forced a change of approach. The Supreme Court, in particular, has increasingly adopted a pro-arbitration stance, most notably in *Mekwunye v Imoukhuede*, where it unanimously upheld an arbitral award on the reasoning that parties who enter into an arbitration agreement are bound by it, including by any technical defects they had, in effect, waived or condoned, and set aside a more interventionist Court of Appeal decision that had found the arbitrator's appointment invalid on narrow technical grounds.[42] Modern courts now generally treat alternative dispute resolution as a partner in, rather than a rival to, the administration of justice, and enforce the principle that once parties have chosen to submit their dispute to arbitration, the courts should respect that choice and refrain from unwarranted interference.

Enforcement of Arbitral Awards and the Principle of Non-Intervention

At the heart of modern Nigerian arbitration law lies the principle of non-intervention. Section 64(1) of the Arbitration and Mediation Act 2023, which in this respect is materially identical to section 34 of the repealed 1988 Act, provides that a court shall not intervene in matters governed by the Act except where the Act expressly permits it.[43] This limitation is

[38]ibid; Roli Daibo Harriman, 'Speech on the Occasion of the Inauguration of Edo State Multidoor Court' (Edo State Judiciary) <https://edojudiciary.gov.ng/wp-content/uploads/2017/01/SPEECH-BY-H0N.-JUSTICE-ROLI-DAIBO-HARRIMAN-LLM-ON-THE-OCCASSION-OF-THE-INAUGURATION-OF-EDO-STATE-MULTIDOOR-COURT-BY-THE-OUTGOING-CHIEF-JUDGE-HON.-JUSTICE.-C.-O.-IDAHOSA..pdf> accessed 5 September 2026.

[39]Ochojila (n 1).

[40]World Bank, *Doing Business 2020: Comparing Business Regulation in 190 Economies* (World Bank 2019); 'Nigeria Moves 15 Places in World Bank's Ease of Doing Business Ranking' *Ripples Nigeria* (25 October 2019) <https://ripplesnigeria.com/nigeria-moves-15-places-in-world-banks-ease-of-doing-business-ranking-why-it-matters> accessed 5 September 2026.

[41] CFRN, s.6

[42]*Mekwunye v Imoukhuede* (SC/851/2014, Supreme Court of Nigeria, 7 June 2019); see Okechukwu Umemuo, 'Does Judicial Intervention Aid or Undermine Arbitration in Nigeria?' (Kluwer Arbitration Blog, 13 August 2019) <https://arbitrationblog.kluwerarbitration.com/2019/08/13/does-judicial-intervention-aid-or-undermine-arbitration-in-nigeria/> accessed 5 September 2026.

[43]Arbitration and Mediation Act 2023, s 64(1); see 'Interventions of Courts in Aid of the Smooth Administration of Arbitral Proceedings in Nigeria' (Mondaq) <https://admin.mondaq.com/nigeria/arbitration-dispute-resolution/1664774/interventions-of-courts-in-aid-of-the-smooth-administration-of-arbitral-proceedings-in-nigeria> accessed 5 September 2026.

intended to prevent losing parties from using the courts to frustrate arbitration through frivolous injunctions and prolonged appeals. Nigerian courts have firmly defended this principle. In *Statoil (Nigeria) Ltd v Nigerian National Petroleum Corporation*, the Court of Appeal held that the legislature's intention in enacting the non-intervention provision was to protect arbitration from direct judicial control outside the specific circumstances the statute allows, and that an ex parte interim injunction restraining arbitral proceedings fell outside those exceptions.[44] The courts have equally made clear that they will not sit as an appellate forum over an arbitral award: an award cannot be set aside merely because the arbitrator made a mistake of fact or law, provided the arbitrator acted within the scope of the parties' submission and there was no breach of natural justice. In *City Engineering (Nigeria) Ltd v Federal Housing Authority*, the Supreme Court confirmed that a valid arbitral award is final and binding and, once within the applicable limitation period, will be enforced in the same manner as a judgment of the court.[45]

The Doctrine of Stay of Proceedings

A further sign of judicial support for alternative dispute resolution is the courts' consistent application of the doctrine of stay of proceedings. Where a party attempts to bypass a valid arbitration clause by rushing to commence litigation, the other party may apply to the court to halt the action and compel the parties to honour their arbitration agreement. The governing principles were laid down by the Supreme Court in the classic case of *Obembe v Wemabod Estates Ltd*.[46] The Court held that an arbitration clause does not entirely oust the court's jurisdiction, but that where a party applies for a stay, the court may exercise its discretion to grant one, provided the applicant shows that it has taken no step in the proceedings and remains ready and willing to do all things necessary for the proper conduct of the arbitration. The precise content of these conditions has continued to generate debate, most recently in relation to the Court of Appeal's decision in *Mekwunye v Lotus Capital Ltd*, whose approach to the 'readiness and willingness' requirement attracted significant academic criticism.[47] Even so, by granting stays in appropriate cases, Nigerian courts continue to send a clear signal to the commercial sector that agreements[48] to arbitrate or mediate are to be respected, discouraging forum shopping and reinforcing the structural integrity of the ADR framework.

7. Challenges Hindering the Optimal Advancement of Alternative Dispute Resolution in Nigeria

Despite the progressive legislative framework introduced by the Arbitration and Mediation Act 2023, and the institutional success of the Multi-Door Courthouse system, the fuller advancement of alternative dispute resolution in Nigeria remains held back by several practical, cultural and systemic challenges. These problems threaten to erode the core advantages of speed, cost-effectiveness and finality that these mechanisms are meant to provide.

The Paradox of Litigating Arbitration and Excessive Challenges to Awards

The most serious challenge facing commercial arbitration in Nigeria is the persistent practice of litigating arbitral awards. Arbitration is meant to bring a dispute to a definitive end, yet Nigerian practice often shows the opposite: arbitration becomes merely a costly prelude to protracted litigation. Under the repealed 1988 Act, a broadly worded 'misconduct' ground was frequently stretched to cover simple errors of law or fact by the arbitrator, opening the door to extensive re-litigation of the merits. The Supreme Court's own decision in *Taylor Woodrow (Nigeria) Ltd v Suddeutsche Etna-Werk GmbH* became something of a byword for this problem, having been read as recognising errors of law and fact as legitimate grounds to set aside an award, a reading that generated years of speculative challenge applications.[49] The Arbitration and Mediation Act 2023 was designed, in part, to close this loophole: section 55(3) no longer contains a freestanding 'misconduct' ground, and instead lists specific, narrower grounds for setting aside an award, namely the incapacity of a party, invalidity of the arbitration agreement, lack of proper notice, an award dealing with matters beyond the scope of the submission, an improperly constituted tribunal or procedure, non-arbitrability, and conflict with public policy.[50] Even so, practitioners continue to press novel arguments, often framed around public policy or procedural irregularity, in an attempt to secure a route into court.

This tactic forces the winning party to defend the award through the High Court, the Court of Appeal and ultimately the Supreme Court, a process that can take over a decade. The Supreme Court condemned this attitude in *Taylor Woodrow*, holding that parties who voluntarily submit to arbitration must accept the arbitrator's decision, for better or worse, and

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[44] *Statoil (Nigeria) Ltd v Nigerian National Petroleum Corporation* (2014) 14 NWLR (Pt 1373) 1 (CA).

[45] *City Engineering (Nigeria) Ltd v Federal Housing Authority* (1997) 9 NWLR (Pt 520) 224 (SC).

[46] *Obembe v Wemabod Estates Ltd* (1977) All NLR 130 (SC).

[47] Olasupo Shasore and Orji A Uka, 'The Conditions for the Grant of Stay of Proceedings Pending Arbitration under Nigerian Law: Revisiting Mekwunye v Lotus Capital Ltd' (ALP NG & Co) <https://www.alp.company/sites/default/files/The%20Conditions%20for%20the%20grant%20of%20Stay%20of%20Proceedings%20pending%20Arbitration%20under%20Nigerian%20Law_0.pdf> accessed 5 September 2026.

[48] *Pacta sunt servanda* meaning that agreements must be kept.

[49] *Taylor Woodrow (Nigeria) Ltd v Suddeutsche Etna-Werk GmbH* (1993) 4 NWLR (Pt 286) 127 (SC); see also the case comment at Kluwer Arbitration Blog <https://arbitrationblog.kluwerarbitration.com/?p=19439> accessed 5 September 2026, discussing the decision's continuing influence on set-aside applications in Nigeria.

[50] Arbitration and Mediation Act 2023, s 55(3).

should not expect the courts to act as an appellate forum.[51] Similarly, in *Savoia Ltd v Sonubi*, the Court held that an award cannot be set aside simply because a judge might have reached a different conclusion on the same facts.[52] Despite these repeated judicial admonitions, frivolous applications[53] to set aside awards remain a significant bottleneck, frustrating commercial parties and deterring foreign investors.

Prohibitive Costs and the Scarcity of Specialized Arbitrators

A central aim of alternative dispute resolution is to provide access to justice at reasonable cost. Court-connected mediation is heavily subsidised, but private commercial arbitration in Nigeria has, somewhat paradoxically, become an elite mechanism that is often more expensive than litigation. This financial burden restricts access for small and medium enterprises, which form the backbone of the Nigerian economy. The costs of commercial arbitration include arbitrators' professional fees, the administrative charges of institutions such as RCICAL, the cost of venue hire, and the logistics of witnesses and experts. Because specialised arbitrators with expertise in fields such as maritime law, oil and gas, and international taxation remain relatively scarce in Nigeria, their fees are correspondingly high. The Arbitration and Mediation Act 2023 introduces third-party funding as one answer to this problem, but the domestic market for litigation funders is still in its infancy, and commentators have noted that gaps remain in the new regime.[54] Many commercial disputants who cannot afford the upfront costs demanded by arbitral tribunals are consequently forced back into the congested and slow-moving court system.

Cultural Resistance from Traditional Litigation Lawyers

The human element remains a real barrier to the growth of alternative dispute resolution. Legal education in Nigerian universities and at the Nigerian Law School still focuses overwhelmingly on the adversarial system: trainee lawyers are drilled extensively in cross-examination and technical pleading, but rarely in the restorative skills of negotiation, active listening and conflict management. This orientation feeds a degree of resistance among litigation lawyers, some of whom see mediation and arbitration as a threat to their income. Where billing depends on appearance fees for every court session over several years, a mechanism that resolves a dispute in a few weeks disrupts that model, and it is not unusual for counsel to steer clients away from settlement and towards preliminary objections and interlocutory appeals instead. The Nigerian Bar Association has itself acknowledged the scale of the problem, with its leadership recently calling for a more deliberate shift towards ADR to ease pressure on an already overburdened judiciary.[55] Overcoming this resistance will likely require changes to the legal curriculum, alongside a move towards milestone or value-based billing that rewards lawyers for the swift resolution of disputes.

Infrastructural Deficits and Enforcement Bottlenecks

The geographical spread of alternative dispute resolution infrastructure in Nigeria remains uneven. While commercial centres such as Lagos, Abuja, Port Harcourt and Awka have functioning Multi-Door Courthouses and private arbitral centres, most rural and semi-urban judicial divisions have no formal ADR infrastructure at all, leaving disputants there entirely reliant on the regular courts. A further structural problem arises at the enforcement stage. Arbitral tribunals and mediators have no coercive powers of their own; where a losing party refuses to comply voluntarily, the winning party must apply to the regular courts for enforcement. In *Ras Pal Gazi Construction Co Ltd v Federal Capital Development Authority*, the Supreme Court confirmed that an arbitral award must be enforced in the manner of a court judgment, while also cautioning that a court has no jurisdiction to convert an award into its own judgment or to impose additional terms, such as interest, going beyond what the award itself provides.[56] Subjecting enforcement to the ordinary court process means the winning party still faces the bureaucratic delay, and in some cases the inefficiency, of court registries that it sought to avoid by choosing arbitration in the first place. Until the enforcement machinery of the Nigerian judiciary is modernised and digitised, the practical value of alternative dispute resolution will remain limited in real terms.

8. Conclusion and Recommendations

The path of dispute resolution in Nigeria has changed a great deal, moving from the restorative mechanisms of pre-colonial customary societies, through the more rigid, adversarial system introduced under colonial rule, to the modern institutionalisation of alternative dispute resolution. This study has shown that arbitration, mediation and negotiation are no longer peripheral options but genuine, primary avenues for achieving commercial and civil justice. The Arbitration and Mediation Act 2023 is a significant legislative achievement: by domesticating the Singapore Convention on mediation, introducing the Award Review Tribunal, and putting third-party funding on a lawful footing, the legislature

[51]Taylor Woodrow (n 39) 142.
[52]*Savoia Ltd v Sonubi* (2000) 12 NWLR (Pt 682) 539 (SC) 550.
[53] *De minimis non curat lex* meaning that the law does not concern itself with trifles.
[54]David Tarh-Akong Eyongndi and Faith N Opara, 'Arbitrating During and Post Covid-19: Nigeria and the Imperativeness of Adopting a Legal Framework on Third-Party Funding' (2021) 6(1) *Strathmore Law Journal* 1.
[55]'NBA President Calls for Greater Utilisation of ADR to Ease Court Congestion at NICArb 2025 Annual Conference' (Nigerian Bar Association Blog, 2025) <https://blog.nigerianbar.org.ng/?p=8066> accessed 5 September 2026.
[56]*Ras Pal Gazi Construction Co Ltd v Federal Capital Development Authority* (2001) 10 NWLR (Pt 722) 559 (SC).

has brought the domestic framework much closer to global practice and the needs of modern commerce.[57] The extension of these mechanisms into the public judicial system through the Multi-Door Courthouse system has also done much to widen access to justice. It offers a structured, state-backed platform for the amicable settlement of disputes, easing the chronic congestion of court dockets and supporting a business environment more conducive to foreign direct investment. Yet the elegance of the legislative framework is continually tested against practical reality.

This paper has found that the fuller advancement of these mechanisms is held back by a persistent litigation mindset among some legal practitioners, who continue to look for statutory gaps through which to mount challenges against arbitral awards, and by the continuing cost of private arbitration and the uneven spread of ADR infrastructure outside the major cities. Ultimately, the success of alternative dispute resolution in Nigeria depends not only on legislative reform but on a genuine shift in attitude among all stakeholders: the judiciary must continue to defend the principle of party autonomy, legal practitioners must place their clients' commercial interests ahead of protracted adversarial contests, and the state must commit to expanding restorative justice infrastructure.

To build on the progress made so far, and to address the challenges identified above, the following recommendations are proposed:

Judicial Reforms and Strict Adherence to Non-Intervention
The Nigerian judiciary must deepen its commitment to the principle of non-intervention. Judges should be ready to sanction legal practitioners who file applications intended solely to frustrate the enforcement of arbitral awards or mediated settlement agreements. The Supreme Court and the Court of Appeal should issue clear practice directions confirming a narrow reading of the grounds for setting aside an award under section 55(3) of the Arbitration and Mediation Act 2023, so that courts do not inadvertently become appellate tribunals for arbitral awards. The process for enforcing awards should also be digitised and expedited, removing the bureaucratic bottlenecks associated with regular court registries.

Legislative and Institutional Capacity Building
While the federal government has enacted the Arbitration and Mediation Act 2023, state houses of assembly should domesticate its provisions to ensure uniformity across the federation. State governments should also invest in the infrastructural development of Multi-Door Courthouses, extending these facilities beyond state capitals to rural and semi-urban judicial divisions. Institutional bodies such as the Chartered Institute of Arbitrators and RCICAL should decentralise their operations and offer subsidised training to grow the pool of specialised local arbitrators, thereby reducing the cost of proceedings for small and medium enterprises.

Review of Legal Education and Professional Remuneration
The Council of Legal Education and the Nigerian Law School should reconsider a curriculum still weighted heavily towards adversarial litigation. Dispute resolution, covering the psychology of negotiation, mediation advocacy and arbitral practice, should become a core, mandatory course at the undergraduate level and in professional training. The Nigerian Bar Association should also encourage a shift in billing culture: moving from appearance-based fees towards milestone or value-based billing would remove the financial incentive to prolong disputes and encourage lawyers to pursue swift, restorative outcomes for their clients.

Public Sensitization and Corporate Compliance
There is a clear need for public enlightenment campaigns, led by the ministries of justice and non-governmental organisations, to educate the public on the benefits of restorative justice. Corporate entities, regulatory agencies and government parastatals should also insert multi-tiered dispute resolution clauses into commercial contracts, employment agreements and public procurement documents as standard practice, ensuring that mediation and arbitration are exhausted before recourse is made to litigation.

[57]Chima Josephat Ubanyionwu, 'Novel Provisions of the Arbitration and Mediation Act, 2023' (Nigerian Journals Online) <https://mail.nigerianjournalsonline.com/index.php/FBJ/article/view/4247> accessed 5 September 2026.