COMPARATIVE PERSPECTIVES OF THE PRACTICE AND PROCEDURE FOR THE ENFORCEMENT OF ARBITRAL AWARDS IN NIGERIA AND OTHER SELECTED JURISDICTIONS

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Abstract

The enforcement of arbitral awards represents the final and critical stage of the arbitration process. Despite the existence of international instruments such as the New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards 1958 and the adoption of modern arbitration statutes, enforcement practices remain uneven across jurisdictions. In Nigeria, procedural delays, and frequent objections by award debtors, among other factors, continue to undermine arbitral finality and efficiency. This paper aims to examine the practice and procedure for the enforcement of arbitral awards in Nigeria and selected jurisdictions. The study adopts doctrinal and comparative research methodology. The paper finds that Nigeria's enforcement framework under the Arbitration and Mediation Act 2023 substantially aligns with international arbitration standards, particularly through the adoption of limited and clearly defined grounds for refusing recognition and enforcement. Nigerian appellate courts increasingly demonstrate a pro-enforcement posture by emphasizing party autonomy and arbitral finality. However, enforcement practice at the trial court level remains affected by procedural delays,

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technical objections, and inconsistent application of statutory provisions. The study recommends stricter judicial adherence to the refusal grounds under the Arbitration and Mediation Act 2023, improved judicial training in arbitration law and the adoption of streamlined enforcement procedures to reduce delay among others.

Keywords: Arbitral Awards; Enforcement Procedure; Arbitration and Mediation Act 2023; New York Convention; Comparative Arbitration Law

1.0 INTRODUCTION

Arbitration is one of the most potent means of resolving commercial disputes, particularly in transactions involving parties from different jurisdictions. It is often preferred to litigation because it allows parties to choose their decision-makers, agree on flexible procedures and avoid the delays commonly associated with court processes. However, the usefulness of arbitration does not end with the conduct of arbitral proceedings. Its real value lies in the ability of the successful party to enforce the arbitral award, especially where the losing party refuses to comply voluntarily.[1] Without effective enforcement mechanisms, arbitration would amount to little more than an academic exercise.

The enforcement of arbitral awards is therefore a critical aspect of arbitration law. An arbitral award, whether domestic or foreign, has no practical effect unless it is recognized and enforced by a competent court.[2]

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[1] Redfern A and Hunter M, *Law and Practice of International Commercial Arbitration* (6th edn, Oxford University Press 2015) 1

[2] Gary B Born, *International Commercial Arbitration* (3rd edn, Kluwer Law International 2021) 3311.

This has led to the development of both international and domestic legal frameworks aimed at ensuring that arbitral awards are treated with a high level of respect by national courts. The most significant of these instruments is the convention on the Recognition and Enforcement of Foreign Arbitral Awards 1958 (the New York Convention) which obliges contracting states to recognize and enforce foreign arbitral awards subject to limited exceptions.[3]

Nigeria, like many other jurisdictions, has adopted arbitration as part of its dispute resolution system and is a party to the New York Convention. The recent enactment of the Arbitration and Mediation Act 2023 represents a major reform of Nigeria's arbitration regime, replacing the Arbitration and Conciliation Act and aligning Nigerian Arbitration Law more closely with international standards.[4] Despite this legislative development, the enforcement of arbitral awards in Nigeria has continued to face practical challenges, including delays in court proceedings, frequent applications to set aside awards and inconsistent judicial interpretation of key concepts such as public policy.[5]

The enforcement of arbitral awards represents the most critical stage of the arbitration process because an award has no practical value unless it can be effectively recognized and enforced by a competent court. Although Nigeria has modernized its arbitration regime through the Arbitration and Mediation Act 2023 and remains a signatory to the New

[3] Convention on the Recognition and Enforcement of Foreign Arbitral Awards (New York Convention) 1958
[4] Arbitration and Mediation Act 2023 (Nigeria)
[5] *Statoil (Nig) Ltd v Nigeria national Petroleum Corporation* (2023) 14 NWLR (Pt. 1373) 1

York Convention, enforcement in practice continues to face procedural and institutional challenges.

Despite the statutory adoption of limited grounds for refusing enforcement, enforcement proceedings in Nigeria are often prolonged by technical objections, jurisdictional challenges and interlocutory applications that extend beyond the narrow refusal grounds prescribed under section 58 of the Act. These procedural delays undermine arbitral finality and reduce the efficiency and advantages that arbitration is intended to provide.

Furthermore, inconsistencies in judicial interpretation particularly in relation to public policy and procedural fairness create uncertainty at the trial court level. While appellate courts increasingly demonstrate a pro-enforcement stance, the absence of uniform application across courts weakens predictability in enforcement outcomes.

This uneven enforcement practice raises concerns about investor confidence and Nigeria's competitiveness as an arbitration friendly jurisdiction especially when compared with jurisdictions such as the United Kingdom and Canada where enforcement proceedings are generally more streamlined and predictable.

Accordingly, the main issue addressed in this study is whether Nigeria's enforcement practice, despite its modern legislative framework, sufficiently guarantees arbitral finality, procedural efficiency and judicial consistency in line with international arbitration standards.
This paper examines the comparative perspective of the practice and procedure for the enforcement of arbitral awards in Nigeria and selected

jurisdictions, namely the United Kingdom, Canada, South Africa and Uganda. It seeks to identify gaps in Nigeria's enforcement regime and to draw lessons from other jurisdictions that may help improve the effectiveness of arbitral award enforcement in Nigeria.

2.0 CONCEPTUAL CLARIFICATION OF TERMS

Before engaging or go in-depth into the topic, it is important to clarify certain key terms that will be frequently used in this paper. These terms are;

2.1 Arbitration: It refers to a process of resolving disputes in which the parties agree to submit their disagreements to one or more impartial decision-makers called arbitrators, whose decision is binding on the parties.[6] It is a private dispute resolution mechanism typically chosen to avoid the delays and formalities of traditional court litigation. Arbitration can be domestic, where the parties and arbitration are located within the same jurisdiction or international, where the parties are from different countries and the dispute often has cross-border elements.

2.2 An Arbitral Award: Is the decision issued by an arbitrator or arbitral tribunal at the conclusion of an arbitration.[7] The award determines the rights and obligations of the parties and is intended to be final and binding. It can include declarations, monetary awards or orders to perform specific acts. Crucially, it is the arbitral award and not the arbitration

[6] Redfern A. and Hunter M. (n1) 3
[7] Gary B Born (n2) 3365

process itself that can be enforced in court if a party refuses to comply voluntarily.[8]

2.3 Enforcement of Arbitral Awards: Refers to the legal process by which a court recognizes and compels compliance with an arbitral award.[9] Enforcement may be domestic, where the award originates within the enforcing jurisdiction or foreign, where it is made in another country but recognized under instruments such as the New York Convention 1958. Enforcement ensures that the arbitral award has practical effect and that arbitration remains a credible alternative to litigation.

2.4 Recognition of arbitral awards is closely related to enforcement but has a slightly narrower meaning. Recognition refers to a court formally acknowledging the validity of an arbitral award, which is usually the first step before enforcement. Without recognition, enforcement proceedings cannot typically proceed.[10]

2.5 Public Policy; In the context of arbitral enforcement, public policy is a concept that allows courts to refuse enforcement of an award that conflicts with the fundamental legal principles, morals or societal values of the enforcing jurisdiction.[11] While most jurisdictions limit public policy exceptions to serious breaches, the interpretation can vary significantly from one country to another, affecting the efficiency and predictability of enforcement proceedings.

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[8] *Dallah Real Estate and Tourism Holding Co. v Ministry of Religious Affairs, Government of Pakistan* (2010) UKSC 46

[9] Convention on the Recognition and Enforcement of Foreign Arbitral Awards (n3)

[10] Ibid

[11] Arbitration and Mediation Act (n4) s 34(1); *Renusagar Power Co Ltd v General Electric Co (1994) 2* Lloyd's Rep 433

Finally, the practice and procedure for enforcement refers to the step-by-step mechanisms provided by law and rules of court for enforcing arbitral awards, including filing requirements, timelines, court jurisdiction and judicial supervision. Understanding this procedure is critical because even a valid award may fail to achieve its intended effect if the enforcement process is cumbersome, inconsistent or subject to unnecessary judicial interference.[12]

3.0 LITERATURE REVIEW

3.1 Scholarly Perspectives on Enforcement as a Procedural Stage of Arbitration

Contemporary arbitration literature consistently treats enforcement of arbitral awards as a distinct procedural phase that marks the transition from private dispute resolution to public judicial control. Scholars emphasizes that regardless of the autonomy of arbitral proceedings, enforcement necessarily occurs within the procedural framework of national courts. Redfern and Hunter conceptualize enforcement as the point at which arbitral finality is tested through domestic procedural mechanisms, particularly applications for recognition and enforcement before competent courts.[13] This position is largely doctrinal but highlights the centrality of court procedures in determining the effectiveness of arbitration

Born develops this argument further by situating enforcement within the procedural obligations imposed on national courts under international

[12] Redfern A. and Hunter M. (n1)445-448
[13] Gary B. Born (n2) 3311-3315

instruments. He argues that enforcement proceedings are not appeals but specialized judicial procedures govern by statute and convention, requiring courts to limit their inquiry strictly to recognized grounds for refusal.[14] This view is grounded not only in theory but also in a comparative assessment of judicial practice showing how courts operationalize enforcement through summary procedures rather than full trials.

However, Paulsson introduces a more cautious perspective, noting that enforcement procedures inevitably involve the coercive powers of the state, thereby justifying a limited but necessary level of judicial scrutiny.[15] His analysis is important procedurally because it explains why enforcement applications cannot be entirely automatic even in pro-arbitration jurisdictions. This theoretical tension between finality and judicial supervision underpins much of the procedural debate in enforcement literature.

These perspectives collectively highlight enforcement as a procedural stage where theory [16](finality vs. supervision) meets practice (judicial application). While Redfern, Hunter, and Born emphasize efficiency and restraint, Paulsson reminds us of the unavoidable role of state power.

[14] Nigel Blackaby and others, *Redfern and Hunter on International Arbitration* (6th edn, Oxford University Press 2015) 611-613

[15] Gary B. Born (n2) vol3, 3609-3616

[16] Jan Paulsson, *The Idea of Arbitration* (Oxford University Press 2013) 151-154

3.2 The New York Convention as a Procedural Enforcement Framework

Scholars such as Born moves beyond textual analysis to examine judicial application of the convention. He observes that while the convention prescribes a streamlined procedure, national courts differ significantly in adherence.[17] Some treat enforcement as near-automatic while others expand hearings through extensive evidentiary review especially under the public policy exception.

3.3 Nigerian Literature on Enforcement Practice and Procedure

Following the enactment of the Arbitration and Mediation Act 2023**,** more recent literature has been put in place which focuses on how enforcement applications are initiated, processed and determined by Nigerian courts as well as the extent to which the new legislative framework aligns domestic enforcement practice with international standards.

Olawoyin argued that the Act represents a deliberate attempt to reposition Nigerian Courts as facilitators rather than obstacles to enforcement by narrowing the scope of judicial intervention and aligning refusal grounds with those recognized under the New York Convention.[18] Olawoyin further highlighted the simplification of enforcement applications, particularly the removal of unnecessary procedural hurdles that previously allowed losing parties to frustrate enforcement through technical objections. His analysis is largely doctrinal relying on statutory interpretation but it is procedurally significant because it clarifies how courts are expected to approach enforcement proceedings under the new regime.

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[17] Gary B. Born (n2) 3595-3610

[18] Olawoyin Oladapo, 'Enforcement of Arbitral Awards under the Arbitration and Mediation Act 2023' (2023) 4 *Nigerian Arbitration Law Review 1,* 9-14

Adewumi's contribution, though focused primarily on mediation, is relevant to enforcement practice because it examines the enforceability mechanisms introduced by the Arbitration and Mediation Act 2023 and their procedural implications. He observes that the Act strengthens court-assisted enforcement by providing clear pathways for converting ADR outcomes into enforceable court orders.[19] Adewumi's work is largely normative, arguing that enforceability provisions reflect Nigeria's intention to align with global ADR and arbitration standards. While this analysis does not yet rely on extensive judicial data, it contributes to enforcement literature by highlighting how procedural certainty enhances confidence in ADR mechanisms more broadly.

From a practice-oriented standpoint, Gadzama examines the enforcement of arbitral awards under the Arbitration and Mediation Act 2023 with particular emphasis on how Nigerian courts are expected to handle enforcement applications in practice. He argues that the Act modernizes enforcement practice by reducing opportunities for delay tactics during court proceedings and by reinforcing the finality of arbitral awards.[20] Gadzama's analysis is partly opinion-based but grounded in practical experience and comparative observation, particularly in his discussion of how Nigerian enforcement procedures compare with those in established arbitration jurisdictions. He notes that legislative reform alone cannot guarantee efficient enforcement without consistent judicial application, a point that underscores the persistent gap between procedural law and procedural practice.

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[19] Abdulrazaq Adewumi, 'Enforceability of ADR Outcomes under the Arbitration and Mediation Act 2023' (2023) 2 *Nigerian Journal of Dispute Resolution* 67, 74-77

[20] J O Gadzama, 'Practical Issues in the Enforcement of Arbitral Awards in Nigeria' (2023) 1 *African Arbitration Practice Review 101, 109-113*

Ojo adopts a practitioner-oriented approach in examining the enforcement of arbitral awards under the Arbitration and Mediation Act 2023, focusing on the procedural steps involved in initiating and prosecuting enforcement applications before Nigerian courts. He outlines the documentation required, the role of the enforcing court and the limited grounds upon which enforcement may be restricted[21]. Ojo's analysis is significant because it moves beyond abstract statutory interpretation to consider how enforcement proceedings are likely to unfold in practice. However, his conclusions remain largely anticipatory, reflecting the early stage of post-Arbitration and Mediation Act judicial interpretation.

Olawoyin and Gadzama both cautioned that Nigerian courts have historically exhibited inconsistent attitudes towards arbitral enforcement, particularly in the interpretation of public policy and procedural fairness. These concerns are not purely theoretical; they reflect observed judicial tendencies under the previous arbitration regime and raise questions about whether the Arbitration and Mediation Act 2023 will achieve uniform enforcement practice across jurisdictions.

A critical gap in the Nigerian literature is the absence of empirical studies examining post-2023 enforcement outcomes such as times for enforcement applications, rates of refusal and consistency of judicial reasoning. Much of the existing commentary is predictive relying on statutory intent rather than observed court behaviour. This limitation underscores the need for continued scholarly engagement with enforcement practice as Nigerian courts begin to apply the Arbitration and Mediation 2023 in concrete cases.

Overall, recent Nigerian literature demonstrates a clear awareness of the centrality of procedure in arbitral enforcement. While the AMA 2023 is

[21] Babatunde Ojo, 'Procedure for the Enforcement of Arbitral Awards under Nigerian Law' (2024) 5 *Nigerian Law and Practice Journal* 88, 95-98

widely praised for aligning Nigeria's enforcement framework with international standards, scholars agree that the true measure of success lies in judicial practice rather than legislative design.

3.4 Literature Review on Enforcement Practice and Procedure in Selected Jurisdictions

3.4.1 United Kingdom

Academic writing on the enforcement of arbitral awards in the United Kingdom is largely centred on the Arbitration Act 1996. This is unsurprising given that the Act is often described as one of the most arbitration-friendly statutes globally. However, much of the literature does not stop at explaining the provisions of the Act. Rather, scholars have been concerned with how English courts have applied these provisions in actual enforcement proceedings.

Born's work is frequently relied upon in discussions of enforcement practice in England. He observes that English courts generally approach enforcement with a strong presumption in favour of upholding arbitral awards, particularly foreign awards governed by the New York Convention[22]. Importantly, his analysis distinguishes between the formal principles of non-intervention embedded in the Act and the way those principles play out in court. From the cases examined, refusals of enforcement appear to be rare and are usually limited to clear procedural defects or well-established public policy grounds. This suggests that in practice, English Courts are reluctant to reopen matters already determined by arbitral tribunals.

[22] Gary B. Born (n2)

A more procedure-focused contribution is offered by Merkin and Flannery who examined enforcement under sections 66 and 101-103 of the Arbitration Act 1996[23]. Their analysis is particularly useful for this study because it treats enforcement primarily as a court process rather than an abstract principle. They discuss applications for leave, documentary requirements and the narrow scope of judicial review. While their work is largely doctrinal, the frequent reliance on decided cases gives insight into how enforcement applications are actually handled by English courts.

More recent literature has begun to interrogate the limits of this pro-enforcement approach especially in cases involving allegations of fraud or jurisdictional defects. Moses for instance notes that although English Court remain supportive of enforcement, they have shown a willingness to scrutinize awards more closely where serious procedural concerns are raised[24]. This does not necessarily undermine the pro-arbitration stances of English law but it indicates that enforcement practice is not entirely mechanical.

Taken together, the UK literature suggests that there is relatively close relationship between enforcement theory and enforcement practice. While challenges do arise, English courts appear largely consistent in applying a restrained and predictable approach to enforcement proceedings.

3.4.2 Canada

The literature on arbitral enforcement in Canada reflects the country's Federal structure and the widespread adoption of the UNCITRAL Model Law at the provincial level. A recuring theme in Canadian scholarship is judicial restraint particularly in the context of enforcing arbitral awards.

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[23] Robert Merkin and Louis Flannery, *Arbitration Act 1996* (6th edn, Informa Law 2019)

[24] Margaret L Moses, *The Principles and Practice of International Commercial Arbitration* (4th edn, CUP 2022)

Binnie and McLachlin writing from both judicial and academic perspectives emphasize that Canadian courts generally avoid interfering with arbitral outcomes at the enforcement stage[25]. Their analysis draws on decided case to demonstrate that enforcement applications are rarely defeated on technical grounds. This approach they argue reflects a conscious effort by the courts to respect party autonomy and the finality of arbitral awards. The strength of their work lies in its reliance on judicial practice rather than abstract endorsement of arbitration.

From a more practical standpoint, McEwan and Herbst examine the procedural steps involved in enforcing both domestic and foreign arbitral awards. Their discussion of evidentiary requirements, timelines, and court procedure is particularly relevant to this paper. Unlike more theoretical works, their analysis highlights the practical realities faced by parties seeking enforcement, including procedural delays and strategic resistance by losing parties[26].

Some recent studies suggest that Canadian Courts have become increasingly efficient in enforcement proceedings, especially in international commercial disputes. However, the literature also notes that while the legal framework is supportive, procedural complexity can still affect enforcement outcomes.

In all, Canadian Scholars presents enforcement practice as broadly supportive of arbitration, though not entirely immune from procedural challenges.

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[25] Ian Binnie and Beverley McLachlin, 'Judicial Independence and Arbitration' (2019) 58 *Canadian Bar Review* 1

[26] John McEwan and Ludmila Herbst, *Commercial Arbitration in Canada* (3rd edn, JurisNet 2019)

3.4.3 South Africa

The literature on the enforcement of arbitral awards in South Africa shows that the country has experienced major legislative changes especially with the introduction of the International Arbitration Act 15 of 2017. Much of the academic discussion focuses on whether this legislative reform has actually improved the way courts handle the enforcement of arbitral awards in practice rather than merely aligning the law with international standards on paper.

Butler is regarded as the leading scholar on the post-2017 framework. He argues that the 2017 Act represents a clear departure from the earlier judicial approach which was something skeptical and interventionist towards arbitration[27]. Based on an analysis of post-reform cases, Butler suggests that South African Courts have become more supportive of arbitration by limiting their involvement during enforcement proceedings and by adhering more closely to the principles of the New York Convention**.** His work is important because it highlights the distinction between having a modern statutory framework and the willingness of courts to apply it in a manner that promotes finality of arbitral awards.

However, not all scholars share this optimistic view. Ndanga adopts a more cautious position, questioning whether legislative reform alone can guarantee effective enforcement in practice[28]. While he acknowledges that the 2017 Act brings South Africa in line with international best practices, he points out that enforcement proceedings may still suffer from procedural delays and inconsistent judicial approaches particularly at the lower court level. Ndanga's analysis is grounded in observed judicial

[27] Michael J Butler, *Arbitration in South Africa: Law and Practice* (2nd edn, Juta 2020)
[28] Thando Ndanga, 'Enforcement of Foreign Arbitral Awards in South Africa' (2021) 38 *South African Mercantile Law Journal* 245

practice and suggests that the practical realities of enforcement may not always reflect the progressive intent of the statute.

Recent scholarly writing has also examined how South Africa can treat public policy as a ground for refusing enforcement. the literature indicates that courts are increasingly reluctant to interpret public policy broadly thereby reducing the risk of excessive judicial interference with arbitral awards. Nevertheless, some scholars observe that the application of the public policy exception is developing and that judicial approaches are not yet entirely uniform.

Overall, the literature suggests that South Africa is moving towards a more arbitration-friendly enforcement regime, but the system is still evolving. While the statutory framework now reflects international standards, practical challenges such as delays and inconsistencies in judicial reasoning mean that enforcement practice has not fully matured. This makes South Africa an important comparative jurisdiction for assessing how legislative reform translates into actual enforcement practice.

3.4.4 Uganda

Uganda's scholarly writing on the enforcement of arbitral awards is relatively modest but conceptually grounded in broader discussions on judicial power, party autonomy, and statutory interpretation. Much of the literature does not address enforcement in isolation; rather, it situates arbitral enforcement within the general role of courts in supervising alternative dispute resolution mechanisms under the Arbitration and Conciliation Act.

Justice George W. Kanyeihamba provides an important theoretical foundation for understanding judicial restraint in Uganda. In his broader writings on adjudication and constitutionalism, he consistently argues that

courts must respect the outcomes of consensual dispute resolution processes freely entered into by parties.[29] Although his work does not focus exclusively on arbitration, scholars frequently draw from his reasoning to support the view that enforcement proceedings should not be converted into an avenue for rehearing the merits of arbitral disputes. His position reinforces the principle that judicial intervention at the enforcement stage ought to be exception rather than routine.

A related judicial perspective is found in the extra-judicial writings of Justice James Ogoola, who examines the limits of judicial discretion in modern adjudication.[30] Ogoola cautions against expansive interpretations of judicial supervisory powers that undermine finality in dispute resolution. In the context of arbitral enforcement, scholars rely on his analysis to explain why courts should confine themselves to the statutory grounds for refusal provided under the Arbitration and Conciliation Act particularly where the parties have clearly elected arbitration as their preferred dispute resolution mechanism.

From an academic standpoint, Ben Turyamusiima Kabumba contributes a critical lens through his analysis of statutory interpretation and judicial behaviour in Uganda.[31] Kabumba observes that Ugandan courts occasionally prioritizes procedural formalism sometimes at the expense of efficiency and commercial certainty. Scholars applying his analysis to arbitration enforcement argues that his tendency may explain delay and technical objections raised during enforcement proceedings even where

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[29] George W Kanyeihamba, *Constitutional and Political History of Uganda: From 1894 to the Present* (Centenary Publishing House 2002) 287-292.

[30] James Ogoola, *The Role of the Judge in a Modern Society* (Fountain Publishers 2006) 113-118

[31] Ben Turyamusiima Kabumba, *Judicial Review and Administrative Law in Uganda* (Fountain Publishers 2008) 201-207

the statutory framework itself is arbitration-friendly. His work therefore bridges the gap between legislative intent and judicial practice.

In addition to the above scholarly writings, postgraduate research conducted within Uganda Universities forms an important part of the literature. These studies generally affirm that Uganda's enforcement regime substantially aligns with international arbitration standards particularly in its recognition of limited grounds for reusing enforcement. However, they also identify practical challenges such as procedural delays, uneven application of public policy objections and variation in judicial familiarity with arbitral principles. These studies are empirical in nature and distinguish clearly between normative statutory provisions and observed enforcement outcomes.

Judicial decisions themselves have also attracted scholarly attention. Courts have repeatedly affirmed the binding nature of arbitral awards and have emphasized that enforcement proceedings are not an opportunity to revisit substantive issues already determined by arbitral tribunals. Scholars analyzing these cases note a gradual but cautious shift towards an enforcement-supportive posture while acknowledging inconsistencies at lower court levels.

Overall, the Ugandan literature portrays enforcement practice as legally structured but institutionally cautious. While scholars generally agree that the statutory framework supports enforcement, they also highlight the decisive role of judicial attitude and procedural discipline in determining whether arbitral awards achieve effective finality in practice. Uganda therefore emerges in the literature as a jurisdiction with a sound enforcement regime in principle but one whose practical application continues to evolve.

4.0 PRACTICE AND PROCEDURE FOR ENFORCEMENT OF ARBITRAL AWARDS IN NIGERIA

The enforcement of arbitral awards in Nigeria represents the culmination of the arbitration process, translating the tribunal's decision into a judgement that can be executed by the courts. While an arbitral award is final and binding on the parties, an arbitral tribunal lacks coercive power; it is the courts that provide the mechanism for enforcement and execution. The modern framework for this process is primarily contained in the Arbitration and Mediation Act 2023 (AMA 2023), which repealed earlier legislation and harmonizes Nigeria's enforcement regime with international norms such as the New York Convention.[32]

4.1 Recognition and Enforcement Under Nigerian Law

Under Section 57(1) of the AMA 2023, an arbitral award "shall, irrespective of the country or state in which it is made, be recognized as binding and on application in writing to the court be enforced by the court" subject to conditions in sections 57 and 58 of the Act.[33] This provision highlights two distinct but related concepts; recognition and enforcement. Recognition involves the court acknowledging the award as valid and final, creating a protective shield against rehearing of the dispute. Enforcement transforms that recognition into a court judgment, enabling court execution against the losing a party.[34]

Section 91(1) of AMA 2023 defines "Court" for this purpose to include the High Court of a State, the High Court of the Federal Capital Territory, Abuja, and the Federal High Court, giving the award creditor flexibility in

[32] Arbitration and Mediation Act (n4) ss 57-58
[33] Ibid
[34] Ibid

choosing the appropriate venue for enforcement.[35] In practice, enforcement applications are brought by Motion on Notice supported by an affidavit and requisite exhibits, including the original award, arbitration agreement and certified translations where necessary.[36]

The Arbitration Proceedings Rule 2020 reinforces this procedure, specifying the contents of the supporting affidavit and requiring clear evidence that the award has not been complied with.[37] Additionally, civil procedure rules as the High Court of the Federal Capital Territory (Civil Procedure) Rules 2025, require the motion to state the grounds and attach the authenticated original award or certified copies thereof.[38] These procedural layers reflect a deliberate effort to ensure that enforcement applications are transparent, notice-based and procedurally fair, rather than ex parte or sudden.

The courts have emphasized this requirement through judicial decisions. For example, in *CITEC International Estates Ltd v Federal Housing Authority (FHA),* the Appellate Court held that a motion ex parte is inappropriate for enforcement applications because it denies the respondent an opportunity to be heard.[39] This upholds the procedural fairness that underpins enforcement proceedings and guards against surprise enforcement judgments.

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[35] *Emerald Energy Resources Ltd v Signet Advisors Ltd* (2021) 8 NWLR (Pt 1779) 1 (CA)

[36] Mondaq (Nigeria), 'Arbitration Proceedings Rules 2020; Enforcement of Arbitral awards under the Provisions of the Arbitration and Mediation Act' (2023) https://www.mondaq.com accessed 6 February 2026.

[37] Chambers and Partners, 'Enforcement of Judgements 2025- *Nigeria's Global Practice Guides (2025)* https://practice guides.chambers.com accessed 6 February 2026

[38] Ibid

[39] Ibid

4.2 Enforcement of Domestic Arbitral Awards

For domestic arbitral awards, the procedure under the AMA 2023 reflects the philosophy that party autonomy and contractual certainty should be respected, with minimal judicial interference. For the enforcement of a domestic award by virtue of sections 57-60 of the Arbitration and Mediation Act, a party that wants to enforce a domestic award will file a motion on notice annexed with the original award and the arbitration agreement in the High Court, seeking recognition and enforcement. Once recognized by the court, the award is enforced like a judgment of the court unless the other party can prove any of the grounds provided under 58 of the Arbitration and Mediation Act. These grounds are;

a) **Incapacity of a party;** Under **section 58 (2)(a)(i),** enforcement may be refused where a party to the arbitration agreement was under some incapacity at the time the agreement was made. Incapacity refers to a legal inability to enter into a binding agreement such a minor, mental incapacity lack of authority in the case of corporate entities. This ground is narrowly construed. Nigerian courts have made it clear that mere unwillingness or refusal to participate in arbitration does not amount to incapacity. The burden lies on the party resisting enforcement to establish that the incapacity existed at the time of entering the arbitration agreement and that it materially affected consent. In *Statoil (Nig) Ltd v. Nigerian National Petroleum Corporation***,** the Court of Appeal rejected the argument that a party's refusal to participate in arbitration amounted to incapacity.[40] The court held that incapacity must relate to a legal inability not strategic or commercial unwillingness. This decision reinforces the narrow scope of this ground and discourages abuse by award debtors.

[40] *Statoil (Nig) Ltd v NNPC* (2023) 14 NWLR (2013) 14 NWLR (Pt 1373) 1

b) **Invalid arbitration agreement: Section 58 (2)(a)(ii),** allows refusal where the arbitration agreement is not valid under the law to which the parties subjected it or failing such indication under Nigerian law. This ground focuses on the legal validity of the arbitration clause rather than the substantive dispute. An arbitration agreement may be invalid due to illegality, lack of consent, uncertainty or failure to comply with statutory requirements. However, Nigerian courts generally adopt a pro-severability approach, recognizing arbitration clauses as autonomous from the main contract. Consequently, invalidity of the underlying contract does not automatically invalidate the arbitration agreement. In *Nigeria Agip Exploration Ltd v. Nigerian National Petroleum Corporation,* the Supreme Court affirmed the doctrine of separability, holding that an arbitration clause survives even where the main contract is alleged to be invalid.[41] The main implication for enforcement is that an award will not be set aside merely because the underlying contract is disputed unless the arbitration agreement itself is shown to be invalid.

c) **Lack of Proper Notice or inability to present case; Section 58(2)(a)(iii)** addresses procedural fairness. Enforcement may be refused if the party against whom the award is invoked was not given proper notice of the appointment of the arbitrator or the arbitral proceedings or was otherwise unable to present their case. This ground embodies the principle audi alteram partem. However, courts require proof of actual prejudice. Where a party deliberately ignores notices or chooses not to participate, courts are unlikely to regard this as a denial of fair hearing. In *Baker Marine (Nig) Ltd v Chevron (Nig) Ltd,*[42] the Supreme Court held that a party who was given adequate notice but chose not to participate in the arbitral

[41] Nigeria Agip Exploration Ltd v NNPC (2016) 6 NWLR (Pt 1500) 150
[42] supra

proceedings cannot later rely on denial of fair hearing to resist enforcement.[43] The court emphasized that fair hearing does not protect parties who deliberately stay away from proceedings.

d) **Award is outside the submission or excess of authority;** Under **Section 58(2)(a)(iv),** an award may be refused enforcement if it deals with matters not contemplated by or falling outside the scope of submission to arbitration. This ground protects party autonomy by ensuring that arbitrators do not exceed their mandate. Where only part of the award exceeds jurisdiction, the Act allows for partial enforcement provided the offending portion can be severed without affecting the rest of the award. In *Ras Pal Gazi Construction Co. Ltd v. Federal Capital Development Authority,* the Supreme Court held that held that an arbitral tribunal derives its authority strictly from the submission agreement and that any award made beyond that authority is liable to be set aside.[44] This case remains a leading authority on jurisdictional limits and continues to guide courts under the AMA 2023.

e) **Improper Composition of the Arbitral tribunal; Section 58(2)(a)(v)** permits refusal where the composition of the arbitral tribunal or the arbitral procedure was not in accordance with the parties' agreement. This ground recognizes the contractual foundation of arbitration. However, not every procedural irregularity will suffice. Courts require that the irregularity must be substantial and capable of affecting the outcome of the arbitration. In *City Engineering (Nig) Ltd v Federal Housing Authority,* the Court of Appeal held that minor procedural deviations do not justify setting aside an award unless they occasion a miscarriage of justice.[45] This decision underscores the principle that enforcement should

[43] Baker Marine (Nig.) Ltd v Chevron (Nig) Ltd (2000) 12 NWLR (Pt 681) 393 (SC)
[44] *Ras Pal Gazi Construction Co. Ltd v FCDA* (2001) 10 NWLR (Pt 722) 559
[45] *City Engineering (Nig.) Ltd v FHA* (1997) 9 NWLR (Pt 520) 224

not be frustrated by technical objections that do not affect the fairness of proceedings.

f) **Award not yet binding or has been set aside at the seat;** pursuant to Section 58(2)(a)(vi), enforcement may be refused where the award has not yet become binding on the parties or has been set aside or suspended by a competent authority in the country where it was made. This ground is particularly relevant to foreign awards. Nigerian courts generally defer to decisions of the supervisory court at the seat of arbitration, but may still exercise discretion where the setting aside decision is manifestly inconsistent with international arbitration norms.

g) **Subject Matter is not arbitrable; Section 58(2)(b)(i),** empowers the court to refuse enforcement where the subject matter of the dispute is not capable of settlement by arbitration under Nigerian law. Matters involving criminal liability, matrimonial causes and certain statutory rights are typically regarded as non-arbitrable. This ground is invoked by the court on its own motion and reflects public interest considerations rather than party conduct. In *Ebokam v Ekwenibe & Sons Trading Co Ltd,* the Supreme Court affirmed that disputes involving criminal allegations are not arbitrable and that any award purporting to resolve such matters would be unenforceable.[46]

h) **Award violate public policy;** Finally, Section 58(2)(b)(ii) allows refusal where enforcement of the award would be contrary to the public policy of Nigeria. Courts have consistently held that public policy should be interpreted restrictively to avoid undermining arbitration. Public policy objections are usually upheld only in cases involving fraud, corruption, illegality or serious violations of fundamental principles of justice. Mere errors of law or fact do not constitute a public policy violation. In *Statoil*

[46] IPCO (Nig) Ltd v NNPC (2015) 15 NWLR (Pt. 1481) 513

(Nig) Ltd v NNPC, the Court of Appeal stressed that public policy does not include mere errors of law or fact.[47] The court held that enforcement will only be refused where the award is fundamentally offensive to Nigeria's legal or moral standards, such as cases involving fraud or illegality.

From the analysis, it is clear that the grounds under section 58 of the AMA 2023 demonstrate a deliberate legislative effort to balance judicial supervision with arbitral finality. By confirming judicial review to specific and narrow grounds, the Act aligns Nigeria with International best practices and reinforces its pro-enforcement stance. In practice, the success of this framework depends largely on judicial discipline in resisting invitations to review the merits of arbitral awards under procedural disguises.

Enforcement of domestic award is made via an application to a court by way of motion on notice supported by an affidavit, the original copy of the award or certify true copy, the arbitration agreement and translations where applicable. The court will grant leave to enforce the award in the same manner as a judgment or order where the statutory criteria are satisfied.[48]

In practical terms, once recognition is confirmed and award is enforced, the successful party may seek various mechanisms such as;

a) Garnishee orders or
b) Writs of fieri facia

[47] Ebokam v Ekwenibe & Sons Trading Co Ltd (1999) 10 NWLR (Pt. 622) 242
[48] *Statoil (Nig) Ltd v NNPC* (n56)

To give effect to the award's monetary or non-monetary reliefs.[49] These mechanisms are the same as those used for ordinary court judgements, reinforcing the notion that once enforced, arbitral awards enjoy the same effect and enforceability as court judgements.

It is also important to note that enforcement applications must be made within applicable limitations periods; while the AMA 2023 does not contain its own limitation provision, local limitation laws such as the limitation law of Lagos State generally impose a six years period within which enforcement must be sought.[50] This limitation ensures that enforcement actions are pursued with reasonable expedition, preserving commercial certainty.

4.3 Enforcement of Foreign Arbitral Awards in Nigeria

Foreign arbitral awards are enforceable under the AMA 2023 in line with Nigeria's obligations under the New York Convention 1958, to which Nigeria is a signatory.[51] The AMA 2023 codifies the Convention's principles, ensuring that foreign awards are recognized and enforced in the same manner as domestic awards provided statutory requirement are met. Enforcement of foreign awards in Nigeria is procedural, requiring motion on notice, affidavits, exhibits of the award, arbitration agreement and translations where applicable just the enforcement of domestic award[52]

[49] Mondaq (n52)
[50] Chambers and Partners (n53)
[51] Ibid
[52] Ibid

Nigerian courts are pro-enforcement but retain the authority to refuse recognition in limited circumstances as provided under Section 58 of the AMA 2023 which has been listed above.

Courts interpret these grounds narrowly to uphold the finality of awards. In *Emerald Energy Resources Ltd v Signet Advisors Ltd,* the Court of Appeal enforced a foreign award from the London Centre for International Arbitration, emphasizing that the merits of the underlying dispute could not be revisited.[53]

Enforcement grants the award the same force as a judgment of the court, allowing execution through standard judicial processes. Nigerian courts have enforced substantial foreign awards, including multimillion-dollar commercial claims, demonstrating confidence in arbitration as a mechanism for dispute resolution.[54]

In certain specialized cases, such as the International Centre for Settlement of Investment Disputes (Enforcement of Awards) Act, enforcement procedures can vary. The Act provides that ICSID awards once filed at the Supreme Court are treated as final judgments of that court, enabling direct enforcement of investment treaty awards. This reflects Nigeria's broader commitment to facilitating the enforcement of international arbitration outcomes. [55]

5.0 SUMMARY OF FINDINGS

After the comparative analysis of the practice and procedure for the enforcement of arbitral awards in Nigeria & other selected jurisdictions, the research found that:

[53] *Emerald Energy Resources Ltd v Signet Advisors Ltd* (n51)
[54] Chambers and Partners (n53)
[55] Ibid

i. The study finds that Nigeria's legal framework under the Arbitration and Mediation Act 2023 substantially aligns with international arbitration standards, particularly the New York Convention. The Act adopts limited and clearly defined grounds for refusing recognition and enforcement reflecting the principles of party autonomy, minimal judicial intervention and arbitral finality.
ii. Despite the strong statutory framework and supportive appellate guidance, enforcement practice at the trial court level remains affected by procedural delays, interlocutory applications, technical objections and inconsistent interpretation of public policy and procedural fairness. These challenges create a gap between legislative intention and practical enforcement outcomes.

Finally, the study finds that the effectiveness of arbitral enforcement depends less on the existence of modern legislation and more on consistent judicial application, procedural efficiency and disciplined interpretation of statutory refusal grounds. The principal weakness in Nigeria's enforcement regime lies not in the law itself but in uneven procedural practice and institutional execution.

6.0 RECOMMENDATIONS

Based on the above challenges, this paper hereby makes the following recommendations;

i. Streamlining Enforcement Proceedings: To address persistent delays, enforcement of arbitral awards should be treated strictly as a summary process. Trial court should discourage interlocutory applications that fall outside the limited grounds for refusal and ensure that enforcement applications are determined expeditiously. This approach would align

enforcement practice with the pro-enforcement stance already evident at the appellate court.

ii. **Promoting Consistent Interpretation of Enforcement Standards;** Judicial consistency should be strengthened through clearer appellate guidance on the interpretation of enforcement standards especially in relation to public policy and procedural fairness. Lower courts should be guided to apply these concepts narrowly in line with the Arbitration and Mediation Act 2023 and Nigeria's obligations under the New York Convention.

iii. **Enhancement Uniformity and Predictability in Enforcement Practice;** Institutional measures such as continuous judicial training on arbitration enforcement and the development of practice directions should be encouraged to promote uniform enforcement practice. Greater consistency in judicial approach would enhance predictability and strengthen confidence.

7.0 CONCLUSION

The enforcement of arbitral awards is central to the credibility and effectiveness of arbitration as a dispute resolution mechanism. This study has shown that Nigeria's enforcement framework under the Arbitration and Mediation Act 2023 largely aligns with international standards particularly the New York Convention by limiting judicial intervention and promoting arbitral finality. However, practical challenges such as procedural delays and inconsistent trial-court approaches continue to undermine effective enforcement. Comparative analysis with jurisdictions such as the United Kingdom, Canada, South Africa, and Uganda demonstrates that consistent judicial restraint and procedural discipline are critical to successful enforcement. Strengthening judicial practice is therefore essential to realizing the full benefits of arbitration in Nigeria.