

## APPLICATION OF UNCITRAL ARBITRATION RULES IN UGANDA AND NIGERIA: COMPARATIVE DEDUCTIONS AND LESSONS

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### Abstract

*Arbitration has become a significant mechanism in modern dispute resolution, offering a flexible, efficient, and enforceable alternative to litigation. Arbitration is both domestic and international, cross border, subnational and transboundary in scope. The paper aims at making inquiry into application of UNCITRAL rules through the legal frameworks on arbitration in Uganda and Nigeria. The paper analyzes the inadequacy of the legal framework relating to arbitration in Uganda as well as an inquiry into the UNCITRAL Arbitration rules incorporated under the legal framework relating to Arbitration and Mediation Act 2023 laws of Nigeria. The paper adopted the doctrinal methodology by examining statutes, case laws, opinion of scholars among other secondary sources of legal research. The paper ends with recommendations on the need for Uganda to adopt subject to its local peculiarities the recent developments of legal and policy frameworks for arbitration in Nigeria*

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## **1.0 INTRODUCTION**

International and domestic commercial arbitration has become part and parcel of an international commercial dispute settlement in both Uganda and Nigeria simply because of economic globalization which has led to immense increase in a number of actors in the trade, investment and commerce. This increases the clientele with the need to arbitrate both at domestic and international commercial level.<sup>1</sup> The application of UNCITRAL Arbitration rules in Uganda has been insufficient, simply, because, the law relating to Arbitration in Uganda has provisions which are old, and insufficient. This law was transplanted to Uganda during colonialism and Uganda has only been in position to amend from the old Arbitration law to the Arbitration and Conciliation Act.<sup>2</sup> Later, this year also to the recent Amendment of cap 5 of 2025 in order to try and align with the international standards.<sup>3</sup> Nigeria also had old Arbitration laws that were transplanted during colonialism.<sup>4</sup> In Nigeria their inadequate Arbitration Law that was also transplanted during colonialism and it had provisions which were also insufficient like the Arbitration and Conciliation Act of 1988 which was amended into the new Arbitration and Mediation Act 2023

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<sup>1</sup> Strong S I, 'Research and Practice in International Commercial Arbitration: Sources and Strategies' (OUP 2009) 3

<sup>2</sup> Cap 4, Laws of Uganda

<sup>3</sup> Alike P.B & Mafabi Micheal, 'Uganda Arbitraion and Practice in Africa Arbitration Law' <http://arbitraion.com/Library/Uganda-arbitraion-Law-ad-particular-ara>, Accessed 21 July 2025. See also Samson M Sempasa, 'Obstacles to International Commercial Arbitration in Africa Countries' (1992) 41(2) *International Comparative Law Quarterly* 391, Watson A.J, 'Legal Transplants: An Approach to Comparative Law', Edinburgh 1974

<sup>4</sup> Eric Robine, Evolution of Commercial Arbitration Law in Nigeria and Practice. (unpublished, 2023)

which Act is wide and adequate enough thus aligns with UNCITRAL Model Law of 2006.<sup>5</sup> Nigeria recently took it a step further by initiating the National Policy on Arbitration, Alternative Dispute Resolution, 2024 to compliment the AMA 2023 through flexible policy framework in pursuance of smooth implement of AMA 2023. This paper therefore explores the legal and economic implication of the implementation of the UNCITRAL Rules in both jurisdictions.

## **2.0 OVERVIEW OF HISTORY OF ARBITRATION**

Arbitration can be traced back to early civilizations, where communities sought neutral third parties to resolve conflicts.<sup>6</sup>: Ancient Greece (5th Century BCE). The Greeks used arbitration to resolve disputes between city-states and merchants. Prominent philosophers like Aristotle and Plato acknowledged the role of arbitration in dispute resolution.<sup>7</sup> In the same vein, Roman law recognized arbitration under the term *compromissum*, where disputing parties agreed to abide by a neutral third party's decision. This laid the foundation for modern contractual arbitration.<sup>8</sup>

During the Middle Ages, arbitration played a role in trade and commerce, especially among merchants. The Lex Mercatoria (Law Merchant)

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<sup>5</sup> Banjo, Daniel et al. 'In Brief: Arbitration Formalities; Nigeria Brief Guide to the Basics of Arbitration' (Lexology, 1 June 2024) <https://www.lexology.com> accessed 20 July 2025

<sup>6</sup> Hudson, M. O., The Permanent Court of Arbitration at The Hague. *The American Journal of International Law* (1999) Accessed February 18, 2025.

<sup>7</sup> Berman, H.J., & Kaufman, C. (1978). "The Law Merchant and the Evolution of Contract Law." *Harvard Law Review*, 87(4), 637-681.

<sup>8</sup> Born, G. B. *International Commercial Arbitration*. (Wolters Kluwer, (2021) 25

governed trade disputes through merchant arbitration rather than national courts.<sup>9</sup>

The English Arbitration Act of 1697 formalized arbitration, giving legal recognition to arbitrator decisions. The modern arbitration system emerged as international trade expanded. The Hague Conventions (1899, 1907): established the Permanent Court of Arbitration (PCA) for resolving international disputes.<sup>10</sup> The Federal Arbitration Act (FAA) of 1925 (USA) Provided a legal framework for enforcing arbitration agreements in the United States. United Nations and UNCITRAL Model Law (1985, revised 2006) created a uniform standard for international arbitration adopted by many countries. (UNCITRAL Model Law, United Nations)<sup>11</sup>

Both Uganda and Nigeria are members of the United Nations and both countries were colonized and ruled by the British. Uganda, a British protectorate achieved its independence on 9<sup>th</sup> Oct 1962 from British rule, while Nigeria a British protectorate too, was also ruled from mid-ninth century until 1<sup>st</sup> October 1960 when it attained its independence from the British rule.<sup>12</sup> As member states of UNCITRAL, Uganda and Nigeria

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<sup>9</sup> Berman, H.J., & Kaufman, C. (1978). "The Law Merchant and the Evolution of Contract Law." *Harvard Law Review*, 87(4), 681.

<sup>10</sup> Hudson, M. O. (1919). *The Permanent Court of Arbitration at The Hague*. The American Journal of International Law.

<sup>11</sup> UNCITRAL Model Law on International Commercial Arbitration (1985, amended 2006). United Nations.

<sup>12</sup> Uncitral. Basic Facts About United Nations Commission on International Trade Law. General Assembly Resolution 2205(xx1) of 17 December 1966 (2013) which provides that, pursuant to the General Assembly Resolution 22 05(xx1) of 17<sup>th</sup> Dec 1966 member of the Commission are Elected by General Assembly for a term of six years, the term of half of the members expires every three years, .See Uganda member of United Nations from 25<sup>th</sup> Oct 1962 and adopts Uncitral from 1980-186;1992-2016.Nigeria become United

have recognized that the activity of international trade could itself provide a basis for friendly relations if it were structured by common set of rules.<sup>13</sup>

## 2.0 CONCEPTUAL CLARIFICATION

### 2.1 Arbitration

Arbitration is the fair resolution of a dispute between two or more parties by a person or persons other than by a court of law. It is the reference of a dispute by parties thereto for settlement by a person or tribunal of their own choice rather than the court. Arbitration is a contract-based form of binding dispute resolution. In other words, a party's right to refer a dispute to arbitration depends on the existence of an agreement (the "arbitration agreement") between them and the other parties to the dispute that the dispute may be referred to arbitration. Arbitration is a process whereby a dispute arising between two or more parties is settled by a tribunal chosen by them.

In the American case of *Gates v Arizona Brewing Co*<sup>5</sup>, the court explained the essence of arbitration as a contractual proceeding whereby the parties to any controversy or dispute, in order to obtain an inexpensive and Speedy final disposition of the matter involved, select judges of their own choice and by consent submit their controversy to such judges for determination, in the place of the tribunal provided by the

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Nations member on 7<sup>th</sup> Oct 1960, <https://en.wikipedia.org> > accessed 1<sup>st</sup> June 2024. Nigeria adopts Uncitral model in 1988 through ACA Decree No 11/1988, available at <https://www.aceislaw.com>, see also Makubuya Apollo, 'Protection, Patronage or Plunder? British Machination and Uganda's struggle for Independence, Cambridge Scholars Publishing" (2019)

<sup>13</sup> Corrine Motineri, 'The UNCITRAL Arbitration Rules and their use in Ad-hoc Arbitration'.

ordinary process of law''. In the Nigerian case of *Kano State Urban Development Board (KSUDB) v Fan* <sup>2</sup><sup>14</sup>, arbitration was described as a reference of a dispute or difference 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.

## **2.2 United Nations Commission on International Trade (UNCITRAL)**

The term UNCITRAL as used in this paper means United Nations Commission on International Trade Law (UNCITRAL),<sup>15</sup> is the body responsible for drafting UNCITRAL Arbitration rules.<sup>16</sup> However, it is not solely an Arbitration institution and it does not administer arbitration.<sup>17</sup> It implies an acronym for the United Nations Commission on International Trade established by the General Assembly of the United Nations in 1966.<sup>18</sup>

UNCITRAL's main purpose as an American organization was to emphasize modernization and harmonization of the rules of any international business. The organization is also responsible to facilitate international trade and investment.<sup>19</sup> As a result of facilitating international trade and investment, this motivated the international community

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<sup>14</sup> Nigeria SC 4/1988

<sup>15</sup> UNCITRAL. Available at: <https://uncitral.un.org/text/fa> (accessed 20 June 2024).

<sup>16</sup> United Nations of International Trade Law, UNCITRAL, <http://uncitral.un.org>, accessed 20<sup>th</sup> March 2024

<sup>17</sup> Pieter Sanders, The Work of UNCITRAL' (2005) 2<sup>nd</sup> Edition vol 15 (1) United Nations Commissions on International Trade Law.

<sup>18</sup> Supra

<sup>19</sup> Ibid

(UNCITRAL) to come up with Arbitration Rules. However, then how far do domestic laws of nations accommodate arbitration rules.?<sup>20</sup>

The arbitration rules under examination in this paper are directed at actual parties to a dispute.<sup>21</sup> UNCITRAL Arbitration rules as noted here, refers to a set of procedural rules aimed at resolution of international disputes. These rules enumerate the procedural aspects which parties may agree when it comes to conducting an arbitral proceeding. These rules can be adhered to by the parties during beginning of their arbitral process as the same is a proceeding which arises as a result of their prevalent commercial relationship and these rules could be adhered to while carrying out ad-hoc as well as institutional arbitration. These rules deal with all the stages in arbitration proceedings, right from making of the arbitration agreement, to the composition and at the same time it also takes under its ambit the jurisdictional powers that have been conferred upon the arbitral tribunals.<sup>22</sup> The Arbitration rules apply when parties to a dispute have specifically agreed to and chosen the arbitration rules to resolve their dispute. The parties may also agree that in their contract that the existing or future disputes should be settled in relation to arbitral proceedings which will be conducted in accordance with the Arbitration rules as well the arbitral rules are selected by parties either as part of their contract or after a dispute arises, to control the conduct of an arbitration or dispute between themselves.<sup>23</sup>

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<sup>20</sup> Cali Ojimba, The Impact and Application of the UNCITRAL Rules in Domestic Jurisdiction, (Faculty of law, Anambra University, Igbariam, unpublished)

<sup>21</sup> UNCITRAL <https://uncitral.un.org/text/faq>, Accessed 20 March 2024

<sup>22</sup> UNCITRAL 'Arbitration Rules: Fundamentals Framework of the Arbitration.

'<http://uncitral.un.org/text/faq>

<sup>23</sup> UNCITRAL, <https://Uncitral.Un.Org/tess/faq> accessed 20<sup>th</sup> march 2024

#### **4.0 AN OVERVIEW OF THE ARBITRATION LAW AND PRACTICE IN UGANDA AND NIGERIA**

So, in relation to Arbitration, this means that, the law relating to arbitration in both countries evolved from English legislation.<sup>24</sup> In Uganda, Arbitration was adopted during the colonial period and adopted the use of the United Kingdom Arbitration Act of 1934 and 1950 for implementation as noted earlier<sup>25</sup> Nigeria having been also colonized by the British as noted earlier, they went ahead and adopted the UK Arbitration Act of 1996, which is now reflected in their current law, the Arbitration and Mediation Act 2023.<sup>26</sup>

Both Uganda and Nigeria are members of the United Nations and both countries were colonized and ruled by the British. Uganda, a British protectorate achieved its independence on 9<sup>th</sup> Oct 1962 from British rule, while Nigeria a British protectorate too, was also ruled from mid-ninth century until 1<sup>st</sup> October 1960 when it attained its independence from the British rule.<sup>27</sup> As member states of UNCITRAL, Uganda and Nigeria

<sup>24</sup> 1914Nigeria Ordinance, Orders and Regulation, 199 (1923), Issued as Chapter 9 of the Laws of the Federation of Nigeria. *supra*

<sup>25</sup> Semakula Shadat M, ‘A Critical Analysis of Arbitration and Conciliation Act of Uganda’(2019) 6( 1) *Comparative Law Journal*, Islamic University in Uganda; See also Christine M.N, ‘Challenges in the Implementation of Arbitration in the Resolution of Commercial Disputes in Uganda.’ (2010).

<sup>26</sup> The Arbitration Act 1996 (UK) c23, [https://en.wikipedia.org/wiki/Arbitraion\\_Act\\_1996](https://en.wikipedia.org/wiki/Arbitraion_Act_1996). See also Fowowe Adetomiwa “UK Arbitration Act 2025: what Nigeria’s Arbitration Regime Can Adopt from UK Reforms” Available at <https://www.researchgate.net>. Accessed 20 August 2025

<sup>27</sup> UNCITRAL. Basic Facts About United Nations Commission on International Trade Law. General Assembly Resolution 2205(xx1) of 17 December 1966 (2013) which provides that, pursuant to the General Assembly Resolution 22 05(xx1) of 17<sup>th</sup> Dec 1966 member of the Commission are Elected by General Assembly for a term of six years, the term of half of the members expires every three years, .See Uganda member of United Nations from 25 October 1962 and adopts UNCITRAL from 1980-186;1992-2016.Nigeria become United Nations member on 7 October 1960, <https://en.wikipedia.org>>accessed 1<sup>st</sup>

have recognized that the activity of international trade could itself provide a basis for friendly relations if were structured by common set of rules.<sup>28</sup>

So, in relation to Arbitration, this means that, the law relating to arbitration in both countries evolved from the English legislation.<sup>29</sup> In Uganda, Arbitration was adopted during the colonial period and adopted the use of the United Kingdom Arbitration Act of 1934 and 1950 for implementation as noted earlier<sup>30</sup> Nigeria having been also colonized by the British as noted earlier, they went ahead and adopted the UK Arbitration Act of 1996, which is now reflected in their current law, the Arbitration and Mediation Act 2023.<sup>31</sup>

The application of Arbitration rules has been adopted by both Uganda and Nigeria in order to solve both domestic and international conflicts arising out of trade and commerce through their domestic legislation,<sup>32</sup> simply

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June 2024. Nigeria adopts UNCITRAL model in 1988 through ACA Dedure N0 11/1988, available at <https://www.aceislaw.com>, see also Makubuya Apollo, 'Protection, Patronage or Plunder? British Machination and Uganda's struggle for Independence, Cambridge Scholars publishing" (2019)

<sup>28</sup> Corrine Motineri, 'The UNCITRAL Arbitration Rules and their use in Ad-hoc Arbitration'.

<sup>29</sup> 1914 Nigeria Ordinance, Orders and Regulation, 199 (1923), Issued as Chapter 9 of the Laws of the Federation of Nigeria.

<sup>30</sup> Semakula Shadat M, 'A Critical Analysis of Arbitration and Conciliation Act of Uganda' (2019) 6 (1) *Comparative Law Journal*, Islamic University in Uganda. See also Christine M.N, 'Challenges in the Implementation of Arbitration in the Resolution of Commercial Disputes in Uganda.' (2010).

<sup>31</sup> The Arbitration Act 1996 (UK) c23, [https://en.wikipedia.org/wiki/Arbitraion\\_Act\\_1996](https://en.wikipedia.org/wiki/Arbitraion_Act_1996). See also Fowowe Adetomiwa "UK Arbitration Act 2025: what Nigeria's Arbitration Regime Can Adopt from UK Reforms" Available at <https://www.researchgate.net>. Accessed 12 October 2025

<sup>32</sup> Uganda, Arbitration and Conciliation Act cap 5/2025 See First Schedule Part V11 (1) Uganda, Incorporated the UNCITRAL See also Nigeria, Arbitration and Mediation Act 2023, First Schedule, Incorporating UNCITRAL Model/ Arbitration Rules

because these two economies have attracted both domestic and foreign investment which has contributed to these fast -growing economies. These economies especially of Nigeria and a sub- Saharan African state like Uganda has improved its business environment however an increase in investments and trade both at the domestic and an international level globally has resulted into an important increase in business conflicts and also means an increase in disputes, raising questions of how disputes should be resolved.<sup>33</sup>

In Uganda, the law governing arbitration, is known as the Arbitration and Conciliation Act cap 5/2025 (Uganda). It covers both domestic arbitration and domesticates the New York and ICSID Convection.<sup>34</sup> In Nigeria the current law governing arbitration is the Arbitration and Mediation Act of 2023 (Nigeria).<sup>35</sup> It is also the established legal framework for resolving disputes at a national and an international level.<sup>36</sup> Nigeria is also a party to the convention of foreign and recognition of foreign Arbitral Awards (also known as the 1958 New York Convention and Convention on Settlement of Investment disputes between states and national of other states also known as the 1965/Washington.<sup>37</sup>

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<sup>33</sup>International Monetary Fund, Regional Economic Report: Africa (2<sup>nd</sup> November 2016), <https://www.imf.org/external/pubs/ft/reo/reoreptsasp?dd1year=1&dd1REGIONS=11>,  
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<sup>34</sup> See Part 111, Section 39-43 on Enforcement of New York Convention Award and part 1v, Section 4547 on Enforcement ICSID Convention award in the Arbitration and Conciliation Act Cap 4/2009 Uganda

<sup>35</sup> The Arbitration Act 1996 (c23), Uk :

[https://en.wikipedia.org/wiki/Arbitration\\_Act\\_1996](https://en.wikipedia.org/wiki/Arbitration_Act_1996) accessed 1 June 2025).

<sup>36</sup> Ibid.

<sup>37</sup> Oboarenegbe Idornigie Paul, The Legal Regime of International Commercial Arbitration (PhD Thesis, University of Jos 2010)

The Ugandan Arbitration and Conciliation Act cap 5 of 2025 has incorporated UNCITRAL Arbitration Rules and is also based on UNCITRAL model Law of 1985 just like the Nigerian Arbitration and Mediation Act 2023 although Nigeria revised the Model Law from that of 1985 to the UNCITRAL Model law of 2006.<sup>38</sup>

The Arbitration and Conciliation Act cap 5 of 2025 (Uganda) is important because it integrates the UNCITRAL Model Law of 1985. The Arbitration Rules of 1976.<sup>39</sup> The purpose was to establish Arbitration and Conciliation procedures for all parties involved and addresses the loop holes which are evolving practice in international arbitration.<sup>40</sup> The Arbitration Rules in Nigeria are provided in the first schedule of the Arbitration and Mediation Act 2023.<sup>41</sup>

The Nigeria's Arbitration and Mediation Act 2023 is indeed based on the 2006 version of the UNCITRAL Model Law on international arbitration. This adoption provides a standardized globally recognized framework for resolving international commercial disputes through arbitration in Nigeria.<sup>42</sup>

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<sup>38</sup> Fifth Schedule provides for Arbitration Rules, ACA (Uganda), s. 68(b) the Functions of CADER are specified in the Uncitral Arbitration Rules of 1976, See also Banjo Afolasade et al, "Arbitration Formalities in Nigeria." Uncitral Model Law is the Arbitration Law based on the Uncitral Model Law?2003, Lexology.com accessed 1<sup>st</sup> June 2025

<sup>39</sup> See Cross reference of the Arbitration and Conciliation Act Cap 5 Laws of Uganda.

<sup>40</sup> Kakoza A.C, 'Arbitration, Conciliation &Mediation in Uganda: A Focus on the Practical Aspect'. (SSRN, 2010) <https://doi.org/102139/ssrn1715664>

<sup>41</sup>Supra

<sup>42</sup>.Banjo,Afolasade et al, "Arbitration Formalities in Nigeria."Lexology.com(2003, accessed 1st June 2025

The Arbitration rules in Nigeria in first schedule serve as the guiding framework for resolving disputes brought under the Act.<sup>43</sup> The Nigerian Arbitration and Mediation Act Cap 2023 of Nigeria, repealed the Arbitration and Conciliation Act of 1988 which is also known as the (ACA).<sup>44</sup> The Arbitration and Mediation Act 2023 incorporates to a bigger extent the revised UNCITRAL Model Law of 2006 as noted above.

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The above Model law provisions seeks to ensure that member states like Uganda and Nigeria who are members states to the United Nations as noted earlier adopt and have a uniform legal system governing commercial arbitration however in Uganda the Arbitration and Conciliation Act cap 5 of 2025 is still narrow missing out on the new versions of arbitration rules of the 2006 version which version align with the Arbitration and Conciliation Act cap 5 laws of Uganda and at the same time to meet the international standards of international commercial arbitration.<sup>46</sup>

Since it is on this basis that the mode law has become a measuring instrument in determining whether a particular country's arbitration laws meet the international standards of international commercial arbitration.<sup>47</sup> Notably the fact that both countries adopted the UNCITRAL Model law as well as the arbitration rules implies that such countries have tried to meet

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<sup>43</sup> Aderoju Tiwalade, 'The Nigerian Arbitration and Mediation Act 2023: A Comparison with the Arbitration and Conciliation Act 2004 and Global Practice.' (2023).

<sup>44</sup> Nigeria, Arbitration and Mediation Act of (2023), 90

<sup>45</sup> Supra

<sup>46</sup> Jose Angelo Estrella, 'Legal Harmonization Through Model Law: The Experience of the UNCITRAL Law (2005) 18-22 <http://www.justice.gov.za/alraesa/conference/2005sa/papers/s5-fara12.pdf> accessed 1 April 2025.

<sup>47</sup> A Asouza, . 'Arbitration and Judicial Powers in Nigeria.' (2001) 18(6) *Journal of International Arbitration* 616, 635–636.

the international standards relating to both domestic and international commercial arbitration.<sup>48</sup>

The term UNCITRAL under this research proposal means United Nations Commission on International Trade Law (UNCITRAL),<sup>49</sup> which UNCITRAL is responsible for drafting UNCITRAL Arbitration rules<sup>50</sup> however it is not an Arbitration institution and it does not administer arbitration.<sup>51</sup> It implies an Acronym for the United Nations Commission on International Trade established by the General Assembly of their United Nations in 1966 Vide.<sup>52</sup>

The arbitration rules talked of in this study are directed at actual parties to a dispute.<sup>53</sup> UNCITRAL Arbitration rules as noted here, refers to a set of procedural rules aimed at resolution of international disputes. These rules enumerate the procedural aspects which parties may agree when it comes to conducting an arbitral proceeding. These rules can be adhered to by the parties during beginning of their arbitral process as the same is a proceeding which arises as a result of their prevalent commercial relationship and these rules could be adhered to while carrying out ad-hoc as well as institutional arbitration. These rules deal with all the stages in arbitration proceedings, right from making of the arbitration agreement, to the composition and at the same time it also takes under its ambit the jurisdictional powers that

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<sup>48</sup> Supra

<sup>49</sup> UNCITRAL. Available at: <https://uncitral.un.org/text/fa>. Accessed 20 June 2025

<sup>50</sup> United Nations of International Trade Law, uncitral, <http://uncitral.un.org>. Accessed 20 March 2025

<sup>51</sup> Pieter Sanders, 'The Work of Uncitral' (2005) 2<sup>nd</sup> edn Vol 15 (1) United Nations Commissions On International Trade Law.

<sup>52</sup> Supra

<sup>53</sup> UNCITRAL ,<https://uncitral.un.org>text>fa>,accesed 20 March 2025

have been conferred upon the arbitral tribunals.<sup>54</sup> The Arbitration rules apply when parties to a dispute have specifically agreed to and chosen the arbitration rules to resolve their dispute. The parties may also agree that in their contract that the existing or future disputes should be settled in relation to arbitral proceedings which will be conducted in accordance with the Arbitration rules as well the arbitral rules are selected by parties either as part of their contract or after a dispute arises, to control the conduct of an arbitration or dispute between themselves.<sup>55</sup>

Note that, these arbitration rules that were adopted in 1976 by both jurisdictions and have been used for the settlement of a broad range of disputes, including disputes between private commercial parties where no arbitral institution is involved, investor-state disputes, state to state disputes and commercial disputes administered by arbitral institutions.<sup>56</sup>

In a Ugandan case the adoption of UNCITRAL rules was illustrated in *Heritage Oil & Gas Limited vs Uganda Revenue Authority*.<sup>57</sup> In this case, the parties entered into a production sharing agreement for petroleum exploration development and production with the government of Uganda on 1<sup>st</sup> July 2004. the said agreement contained an arbitration clause to the effect that disputes which could not be amicably settled within 60 days would refer to arbitration in accordance with UNCITRAL arbitration rules. Later on the appellant sold its interest under the agreement to Tullow

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<sup>54</sup> UNCITRAL ‘Arbitration Rules: Fundamentals Framework of the Arbitration.  
'<http://uncitral.un.org/text/faq>

<sup>55</sup> UNCITRAL ,<https://Uncitral.Un.Org/tess/fa> accessed 20 March 2025

<sup>56</sup> UNCITRAL, ‘Expedited Arbitration  
Rules’<https://Uncitral.Un.Org/en/contnt/expedited-arbitraionrules>, Accessed 20 March 2025

<sup>57</sup> Tax Appeal Tribunal, App NO TAT 28/2010

Uganda Ltd a company under a sale and purchase agreement.so as a result of the said sale and under the authority of income tax, the respondent Uganda Revenue Authority issued a tax assessment of capital gains which the appellant Ltd objected to and filled two applications in the tribunal that is the application No.2 of 2010.Counsel for the appellant submitted 2 separate arbitration proceeding have been launched in London by the appellant against the government.

## **5.0 COMPARATIVE DEDUCTIONS ON UNCITRAL MODEL LAW FROM NIGERIA AND UGANDA**

However, Uganda's legislation on arbitration which incorporates the Arbitration rules is insufficient thus is still based on some provisions that was introduced by colonial government in 1933 even though Uganda has tried to amend the law.<sup>58</sup>So this Arbitration and Conciliation Act Cap 5 laws of Uganda, has also not yet incorporated some UNCITRAL Model Law of 2006 in order to align with the law in place or those provisions which caters for today's arbitration practice yet Nigeria made amendments to its former Arbitration and Conciliation Act of 1988 and came up with a new law, the current Arbitration and Mediation Act 2023 which incorporated the model law of 2006 thus caters for those new provisions.<sup>59</sup> Therefore, Uganda Law Reform Commission together with the judiciary, parliament, has the mandate to ensure that the Arbitration and Conciliation Act cap 5 of 2025 laws of Uganda is again reviewed since a few sections where amended therefore it is similar to the former cap 4 of 2000 which was not wide enough in order to cater for today's arbitration practice just

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<sup>58</sup>Kizza Robert, 'Recognition and Enforcement of International Arbitral Awards: A Comparative Analysis of UK and Ugandan Law and Practice' (LLM Dissertation, Oxford Brookes University 2012).

<sup>59</sup> Uganda Arbitration and Conciliation Act, Cap 5 (2025).

like the way Nigeria amended its former Arbitration and Conciliation Act of 1988 to the new Arbitration and mediation Act 2023<sup>60</sup>

Under the Arbitration and Mediation Act 2023, the first schedule contains arbitration rules serving as the guiding framework for resolving disputes brought under the jurisdiction of the Act.<sup>61</sup> However the Arbitration and Conciliation Act cap (Uganda) is salient on that issue but provides an institution which is Center for Arbitration and Dispute Resolution (Cader) that performs function specified in the UNCITRAL Arbitration rules of 1976.<sup>62</sup> Also a few provisions that illustrated arbitration rules as well as model law.<sup>63</sup>

The Arbitration and Conciliation Act of Nigeria of 1988 and the Arbitration and Conciliation Act cap 5 (Uganda) do not provide for mediation in detail.<sup>64</sup> However, provides for an institution to perform A D R which is known as Centre for Arbitration and Dispute Resolution (CADER)<sup>65</sup>. The Arbitration and Conciliation Act cap 5 laws of Uganda provides for Conciliation proceedings not mediation in general.<sup>66</sup> It regulates conciliation procedures, as well as the behavior of conciliator and arbitrator in the conduct of resolving disputes.<sup>67</sup>

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<sup>60</sup> Ibid.

<sup>61</sup> Nigeria, Arbitration and Mediation Act, 2023

<sup>62</sup> Norton Rose Fulbright, <https://www.nortonrosefulbright.com> Accessed 20 July 2025.

<sup>63</sup> Uganda, Arbitration and Conciliation Act Cap 5/2025

<sup>64</sup> Uganda Arbitration and Conciliation Act cap 5 (2025) See section 67-69 , see also Nigeria ,Arbitration and Conciliation Act of (1988) . See *Musisi v Housing Finance Bank Ltd, Civil Appeal N0 22/2010*, where it was urged there was limited use of mediation.

<sup>65</sup> Uganda, Arbitration and Conciliation Act, Cap 5, (2025).

<sup>66</sup> Ibid. Part v

<sup>67</sup> Ibid.

The Arbitration and Mediation Act 2023, Nigeria provides for third party funding which implies that, a holder in an international arbitration can claim to finance the cost associated with pursuing that arbitration in exchange for providing capital to cover arbitration cost so that the funder will stand to receive a portion of the final award if the dispute is decided in the claimants favour.<sup>68</sup> However the Ugandan Act has no provision for such Provision<sup>69</sup>

Under the Arbitration and Conciliation Act of 1988 Nigeria, torts of maintenance and champerty were abolished.<sup>70</sup> However under the Arbitration and Mediation Act 2023 (Nigeria) Champerty and Maintenance agreement is allowed and its legal while in Uganda it is illegal in our civil procedure and Arbitration law<sup>71</sup>

The Arbitration and Mediation Act 2023 together with the Lagos Arbitration Law of 2009, provides for joinder of parties<sup>72</sup> that were not originally a party to the proceeding but because the other party has consented, such a party joins the proceeding.<sup>73</sup> However, in Uganda such a provision is not provided for under the Arbitration and Conciliation Act cap5/2025.<sup>74</sup>

<sup>68</sup> 'Clients advisories: What is Third Party Funding? How is it used in international Arbitration'(2024)

<sup>69</sup> Uganda, Arbitration and Conciliation Act cap 5 (2025)

<sup>70</sup> Ibid; see also Uganda, Arbitration and Conciliation Act, Cap 5, (2025).

<sup>71</sup> Nigeria, Arbitration and Mediation Act (2023) s 61. See also Uganda, Arbitration and Conciliation Act, Cap 5, (2025)

<sup>72</sup> Ibid.

<sup>73</sup> Idigbe Elizabeth et al, International Arbitration (2<sup>nd</sup> ed, GLI International, 2017) 19

<sup>74</sup> ACA Cap 5/2025 (Uganda)

Power of an arbitral tribunal to order interim measures for protection is applicable under the Nigerian arbitration legal regime. The Arbitration and Mediation Act 2023 through UNCITRAL Model Law, grants an arbitral tribunal the power to order interim measures.<sup>75</sup> However, in Uganda under the former Arbitration and Conciliation cap 4 of 2000 a tribunal had no powers to order interim measures, but in the amended Arbitration and Conciliation Cap 5 of 2025 a few amendments to that provision was made and interim measures can be awarded by an arbitral tribunal though there is unlimited authority of court to order for interim measures and the powers are not broad enough for tribunal to order interim measures protection.<sup>76</sup> These provisions are yet to be judicially tested in our appellate courts in both jurisdictions.

The Arbitration and Mediation Act of 2023 applicable in Nigeria, and Lagos Arbitration Act 2009 introduced the provision of arbitrators' immunity, which acknowledges and grants immunity to arbitrators, appointing authorities and arbitral institutions carrying out their duties.<sup>77</sup> This provision is not found in the former old Arbitration Act of 1988 (Nigeria) neither was it provided for under Uganda's former Arbitration and Conciliation Act Cap 4 of 2000 thus the current Arbitration and Conciliation Act cap 5/2025.<sup>78</sup>

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<sup>75</sup> Adedapo Tunde-Olowu *et al*, Commercial Arbitration: Nigeria 2025, <https://arbitrationreview.com>

<sup>76</sup> Uganda Arbitration and Conciliation Act Cap 5 (2025) s. 6(b), and s. 17

<sup>77</sup> Nigeria, Lagos Arbitration Act of (2009) s. 18 provides an arbitrator is not liable for anything done or omitted in discharge of his or her function unless the act is determined to have been done in bad faith.

<sup>78</sup> Uganda, Arbitration and Conciliation Act cap 5 (2025), see also Nigeria Arbitration and Mediation Act 2023

Under the Nigerian Arbitration and Mediation Act 2023, parties can review or constitute another tribunal to review an arbitral award that has been delivered.<sup>79</sup> However, under the Ugandan Arbitration and Conciliation Act of 2025, once an arbitral award is delivered there is no appeal yet in Nigeria one can appeal a change the decision.<sup>80</sup> In essence, in Nigeria, an award review, under the Arbitration and Mediation Act 2023, an arbitral award can be reviewed by a panel or tribunal or one can constitute another tribunal to review an arbitral award.<sup>81</sup> Unlike in Uganda because once an arbitral award is granted or delivered, there is no appeal.<sup>82</sup> In Nigeria,<sup>83</sup> the grounds for setting aside an arbitral award are limited and challenging as well strict grounds are in place that require one to prove<sup>84</sup>.

The Arbitration and Mediation Act, the Lagos State Arbitration Law and Delta State Arbitration Law provides that parties may agree to consolidate arbitral proceedings.<sup>85</sup> In Nigeria there is Consolidation of arbitral proceedings which is provided for under the Arbitration and Mediation Act.<sup>86</sup> Consolidation as well as concurrent hearing, parties are allowed to consolidate arbitral proceedings involving different party<sup>87</sup> or concurrent hearings as it may be agreed. This means more than one suit of the same

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<sup>79</sup> Arbitration and Mediation Act, 2023 s 55(3)

<sup>80</sup> Uganda Arbitration and Conciliation Act Cap5 (2025), and Nigeria Arbitration and Mediation Act (2023)

<sup>81</sup> Nigeria, Arbitration and Mediation Act (2023)

<sup>82</sup> Ibid.

<sup>83</sup> Uganda Arbitration and Conciliation Act cap 5 (2025) s 34

<sup>84</sup> Ibid

<sup>85</sup> Ibid (n 75)

<sup>86</sup> Nigeria Arbitration and Mediation Act (2023) s 39

<sup>87</sup> Ibid. s 39 (1)

matter can be heard since it saves cost the mere fact that arbitration is expensive.<sup>88</sup>

### **5.1 Joinder of Parties**

The AMA 2023(Nigeria) provides for Joinder of parties.<sup>89</sup>It provides that the arbitral tribunal shall have powers to allow an additional party to be joined to the arbitration, provided that *prima facie*, the additional party is bound by the arbitration agreement giving rise to the arbitration. However, under the Arbitration and Conciliation Act cap 5 of 2025 Uganda does not allow such joinder of parties to take part in the Arbitration process.<sup>90</sup>

### **5.2 Recognition of Electronic Form of Writings in Arbitration**

The Arbitration Mediation Act 2023 introduced the forms of written agreement so the word writing as a requirement for a valid arbitration agreement was broadened under the Arbitration and mediation Act laws of Nigeria, which provides that an arbitration agreement shall be considered to be in writing if its content is recorded in any form, regardless of whether the agreement or contract or by any means.<sup>91</sup> This new forms of written agreements meets the writing requirement whereby agreements can be considered valid if they are to be written through electronic communication accessible electronic communication which allows agreements to be formed through exchange of letter, telex telegram or other modes of communication.<sup>92</sup>However, the Arbitration and Conciliation Act Uganda does not provide for such proceedings in detail.<sup>93</sup>

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<sup>88</sup> *Ibid.* s 39(1)(b)

<sup>89</sup> Nigeria, Arbitration and Mediation Act (2023) s 40

<sup>90</sup> Uganda Arbitration and Conciliation Act cap 5/2025

<sup>91</sup>Nigeria, Arbitration and Mediation Act (2023) s 2(2)

<sup>92</sup> Nigeria AMA (2023) s 2(4)

<sup>93</sup> Uganda, Arbitration and Conciliation Act Cap 5/2025

### 5.3 Award of Costs

Cost are specifically provided for in the Arbitration and Mediation Act laws of Nigeria,<sup>94</sup> in Nigeria, the arbitral tribunal shall fix the cost of arbitration in its award and the cost include cost of obtaining third party funding.<sup>95</sup> However, under the Arbitration and Conciliation Act, Laws of Uganda, the cost was mentioned in passing though parties can apply for cost of arbitration.

UNCITRAL arbitration rules of 1976 and 2010 together with the 1985 New York convention on international commercial arbitration as well with the 1985 model law on international commercial arbitration and its revision of 2006 are without doubt the most successful and influential instrument in International Commercial Arbitration and the 1976 rules have been successful for many reasons and the rules are designed for ad hoc arbitration with no institution guidance and have been used to solve disputes.<sup>96</sup> The development of the rules have contributed to arbitration activities of many arbitral institutions in all parts of the world as recognized by the 2012 UNCITRAL recommendations to assist arbitral institutions and other bodies with regard to arbitration under 2010 arbitration rules.<sup>97</sup>

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<sup>94</sup> Nigeria, Arbitration and Mediation Act (2023) 50

<sup>95</sup> Ibid s 52(1)

<sup>96</sup> Pilar Perales Viscasila, The Role of Arbitral Institutions under the 2010 UNCITRAL Arbitration Rules, [www.uncitral.org](http://www.uncitral.org) accessed 20 July 2025

<sup>97</sup> Ibid

## **6.0 DEDUCIBLE LESSONS FROM COMPARISON OF ARBITRATION PRACTICE IN NIGERIA AND UGANDA**

From the analysis above, Nigeria appears to have a more robust arbitral regime than Uganda. Since the United Kingdom which is Uganda and Nigeria's colonialist has had its legislation on arbitration updated as recent as 1966. However, the Arbitration and Conciliation Act of Uganda cap 5 of 2025 is still based on some provisions that were introduced during colonial government in 1933. Uganda's law on arbitration is out dated and needs urgent overhaul.<sup>98</sup> The Arbitration and Conciliation Act of Uganda does not reflect the present circumstances of Uganda's arbitration regime and this needs to be reviewed urgently to suit the modern developments in arbitration jurisprudence.<sup>99</sup>

There is need for Uganda to engage in diffusion, which means Uganda can voluntarily borrow legal orders or Laws on Arbitration from Nigeria and also Nigeria can refine its Arbitration and Mediation Act since its colonizer the United Kingdom has chosen to refine its arbitration laws more globally with the Arbitration Act of 2025. In the United Kingdom Arbitration Act of 2025, there are also other innovations that both countries can borrow from to complement their just implemented Arbitration system an arbitration hub in Africa.<sup>100</sup>

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<sup>98</sup> Ibid.

<sup>99</sup> Oyekunle T., 'The Importance of Arbitration in Trade with Developing World' (unpublished) Vol 111

<sup>100</sup> Fowowe Adetoniwa, 'Arbitration Act 2025: What Nigeria's Arbitration Regime Can Adopt From UK Reforms' ,<https://www.researchgate.net> accessed 20 July 2025

## **7.0 CONCLUSION AND RECOMMENDATION**

This paper has attempted a comparative analysis of the application of arbitration rules in Uganda and Nigeria. References to United Kingdom was made because both countries are former colonies of Britain. This area is considered because there is need for Uganda to review and widen its lethargic legal regime on arbitration which is the Arbitration and Conciliation Act cap 5 of 2025 which law is integrated with the UNCITRAL arbitration rules just like Nigeria amended its Arbitration and Conciliation Act of 1988 in order to cater for the current international standards. Subsequently, Nigeria further amended the Arbitration and Conciliation Act 1988 by enacting into law the Arbitration and Mediation Act 2023. In 2024 and in pursuance of policy reforms, Nigeria formulated the National Policy on Arbitration, Alternative Dispute Resolutions 2024 to give Nigeria a robust and investor friendly arbitration and ADR practice. Uganda has just amended the Arbitration and Conciliation Act cap 4 of 2000 to a newly amended Arbitration and Conciliation Act cap 5 of 2025, little has changed in the amendment and still this new law is still narrow until Uganda Law Reform Commission before amending the Arbitration and Conciliation Act. Uganda should examine other Arbitration laws for example the Nigerian Arbitration and Mediation Act 2023 plus the UK Arbitration Law in order to come up with a detailed Arbitration Act, then, we shall consider the Ugandan law to be efficient.