

EFFECTIVENESS OF ARBITRATION AND MEDIATION ACT IN RESOLVING EMPLOYMENT RELATIONSHIP DISPUTES IN NIGERIA

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Abstract

The quality of relationship between employers and employees is ideally cooperative but disputes are inevitable. This often dictates the stability and productivity of any nation's economy and social fabric significantly involve issues of wrongful termination, discrimination, non-payment of entitlements, and redundancy among others. The National Industrial Court of Nigeria (NICN) has been the major platform for resolving such disputes through litigation. However, litigation suffers a number of demerits including adversarial, time-consumed, technicality, and costs financial. Alternative Dispute Resolution (ADR) mechanisms comprises of arbitration, mediation and conciliation. This paper explores the effectiveness of AMA in resolving employment relationship disputes in Nigeria. It identifies its strengths such as autonomy of parties, timeliness, confidentiality, and accessibility of expert adjudicating system. Nonetheless, the paper critically evaluates challenges posed by the exclusive jurisdiction of the NICN, the inequality of bargaining power between employers and employees. It identifies the risk of under-utility of labour protection guaranteed by statutes through private dispute

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resolution mechanisms. The paper noted the evolving judicial attitudes favoring ADR in resolving employment disputes. The paper concludes that harmonized approach that leverages the strengths of arbitration will enhance upholding of employee rights, foster industrial harmony, and promote access to justice, and economic development.

Keywords: Employment disputes, Arbitration, Labour law, Alternative Dispute Resolution (ADR), National Industrial Court, Employee rights, Labour relations.

1.0 INTRODUCTION

Employers and employee's relationship are at the core of the economic and social stability of any nation.¹ Disputes are inevitable in employment relationships. These often arises from breach of terms of employment contract, wrongful termination or dismissal, discrimination, breach of contract, denial of entitlements, and redundancy procedure. These disputes resolved are in the work place through litigation in the courts. Litigation process is adversarial, expensive, technical, and time-consuming. Consequentially, Alternative Dispute Resolution (ADR) mechanisms, especially arbitration and conciliation, have attracted recognition (more efficient, flexible, and friendly) in resolving employment disputes.² ADR being characterized by neutrality, impartiality, and confidentiality offers parties to dispute amicable resolution. ADR processes often involve the use of neutral third-party facilitators, such as mediators or arbitrators, who help parties navigate the dispute resolution process by either making a binding

¹Adeogun AA. *The Legal Framework of Employment in Nigeria*. Lagos: Nigerian Institute of Advanced Legal Studies; 1982.

²Estreicher S. Saturns for rickshaws: The stakes in the debate over predispute employment arbitration agreements. *Ohio St J Disp Resol*. 2001;16(3):559.

decision through arbitration or facilitating a voluntary agreement through mediation.³

In Nigeria, the Arbitration and Mediation Act (AMA) 2023 regulates arbitration and conciliation proceedings, sets out the enforceability of arbitral awards, and incorporates international standards such as those of the UNCITRAL Model Law on International Commercial Arbitration.⁴ It thus plays a significant role in fostering a business-friendly environment and encouraging speedy resolution of disputes without overburdening the courts.⁵

The AMA is potent in resolving employment disputes due to its flexibility, confidentiality, finality of awards, and emphasis on party autonomy. It also offers an alternative to the formal and rigid proceeding often associated with litigation before the National Industrial Court of Nigeria (NICN), the court constitutionally vested with jurisdiction over labor and employment matters.⁶ More importantly, the NICN even encourages the use of ADR as it has established Alternative Dispute Resolution Centre as part of its system.

The full effectiveness of AMA in the employment matters however, continues to be a subject of growing controversy, considering the peculiar nature of labor law, statutory protections for employees, and the feasible or

³Ladan MT. Alternative Dispute Resolution in Nigeria: Benefits, Processes and Enforcement, Current Themes in Nigerian Law (paper delivered at NIALS Government Advisers, WOA, August 1997)

⁴ Arbitration and Mediation Act 2023, Sections 2–43.

⁵Ogbuabor CA. The emerging regime of unfair labour practices in Nigeria. *Niger Jurid Rev.* 2015;13:1–.

⁶ Constitution of the Federal Republic of Nigeria 1999 (as amended), s 254D.

potential imbalance in the bargaining power between employers and employees. Some scholars⁷ have argued that arbitration may be appropriated for commercial disputes, but not so for employment disputes. This is because employment dispute often involves public interest elements such as employee rights, hence ADR should be applied with caution to avoid undermining employee rights.⁸

This paper therefore, argues that the Arbitration and Mediation Act can be utilized as an instrument for the resolution of employment relationship disputes in Nigeria, notwithstanding the exclusive jurisdiction of the NICN, or the public interest elements. It appraised the strengths, challenges, attitude of the courts, and emerging practices in the labour world in the light of recent reforms in Nigeria and across the globe.

2.0 OVERVIEW OF THE ARBITRATION AND MEDIATION ACT (AMA)

The Arbitration and Mediation Act 2023, (enacted on May 26, 2023), is a significant overhaul of Nigeria's dispute resolution framework. It was repeal to the Arbitration and Conciliation Act of 1988. This legislation has introduced modern mechanisms to enhance efficiency, accessibility, and alignment with international best practices in arbitration and mediation generally.

⁷Akinwunmi A. Alternative dispute resolution in the Nigerian labour and employment sector. *Niger Labour Law Rev.* 2020;4(1):1–.

⁸Adeogun AA. *The Legal Framework of Employment in Nigeria*. Lagos: Nigerian Institute of Advanced Legal Studies; 1982.

Nwosu⁹ has argue that the AMA created an accessible and cost-effective alternative to litigation. It is crucial for the dynamic field of labour law where speedy dispute resolution is often necessary. The Act strengthens arbitration and mediation as workable alternatives to court litigation, in all spheres, including employment-related matters. This is in alignment with best practices across nations that encourage the resolution of employment relationship disputes by less adversarial mechanism.

The Arbitration and Mediation Act 2023 introduces new modern provisions, to recognise electronic arbitration agreements, strengthen the enforceability of arbitral awards and promotes third-party funding of arbitration.¹⁰ According to Ayoade,¹¹ the new Act manifest a shift towards a more robust ADR mechanisms, that is capable of paving the way for wider acceptance of application of arbitrating methods in employment disputes and properly within constitutional frameworks. Nigerian courts have increasingly recognised arbitration agreements. In *M.V. Lupex v. N.O.C. & S. Ltd*,¹² the Supreme Court emphatically upheld the right of parties' agreements to arbitrate. However, in employment relations matters, courts still prefer that statutory employment terms are not undermined.¹³

⁹Nwosu I. Arbitration as an alternative to litigation in Nigeria: prospects and challenges. *Afr J Legal Stud.* 2017;4:1.

¹⁰Federal Republic of Nigeria. *Arbitration and Mediation Act 2023*, Sections 2(4)a

¹¹Ayoade O. Nigeria's new Arbitration and Mediation Act: opportunities and challenges. *Arbitr Rev.* 2024;5:1–.

¹²*Nigeria Airways Ltd v Lapite (2003) 15 NWLR (Pt. 844):469.*

¹³ Ezeani A. *Alternative Dispute Resolution in Nigeria: Law and Practice.* Port Harcourt: Chenglo; 2020.

3.0 CONCEPTUAL CLARIFICATION

3.1 Meaning of ADR

The acronym 'ADR' means Alternative Dispute Resolution. This refers to a group of flexible approaches to resolving disputes quickly and at a lower cost than going through the tedious road of adversarial proceedings.¹⁴ Black's Law Dictionary defines ADR as "procedures for settling disputes by means other than litigation."¹⁵ In essence, it refers to a range of procedures that serve as alternatives to litigation for the resolution of disputes which usually involves the intercession of an impartial third party. ADR has become associated with a variety of specific dispute resolution options such as arbitration, negotiation, mediation, conciliation, mini trial, case evaluation, expert determination and other hybrid mechanisms.¹⁶ Ladan is also of the view that "ADR" is a useful short hand expression, as long as it is understood to refer to a system of multi-option justice in which a wide range of dispute resolution processes are available to parties in the public justice system.¹⁷

3.2 National Industrial Court

ADR mechanisms are integrated in the Nation Industrial Court of Nigeria (NICN). The NICN (ADR) Centre Practice Direction 2015 provides that mediation and conciliation should be explored before adjudication. This reinforces and promotes a pro-ADR culture in employment disputes. The Arbitration and Mediation Act thus has significant potency in resolving

¹⁴ibid

¹⁵Garner B., *Black's Law Dictionary* (West Group Publishers, St Paul, USA :1997) p.10

¹⁶Ladan M.T., 'Alternative Dispute Resolution in Nigeria: Benefits, Processes and Enforcement, Current Themes in Nigerian Law' (Paper delivered at NIALS Government Advisers, WOA, August 1997).

¹⁷ ibid

employment relationship disputes in Nigeria. However, its application must navigate carefully around issues of constitutional jurisdiction, bargaining imbalance, and public policy. It is important that arbitration clauses must be voluntarily agreed upon and not used to suppress employee rights. To harness arbitration's full potential in the Nigerian employment terrain. There are ample examples from Nigeria that Arbitration is increasingly becoming favored to resolve employment disputes (*new subhead prosporates e.gs*). As an alternative to litigation, arbitration offers distinctive advantages but also presents notable challenges, particularly in the context of fairness, cost, and enforceability.

3.3 Efficiency

Efficiency is one of the principal advantages of arbitration. Compared to traditional court proceedings, arbitration is faster and less expensive. Estreicher¹⁸ states/observes that arbitration "offers a streamlined process that can alleviate the burdens of delay and excessive cost that often characterize litigation." For both employers and employees, quicker resolution ensures that are minimized disruption and earlier closure.

3.4 Confidentiality

Confidentiality is another key benefit. Unlike in open court litigation, arbitrate proceedings are held in private. According to Bales¹⁹ confidentiality protects sensitive business information and preserving the reputations of both employers and employees. In industries where, open

¹⁸Estreicher S. Saturns for rickshaws: the stakes in the debate over predispute employment arbitration agreements. *Ohio St J Disp Resol*. 2001;16(3):559–.

¹⁹Bales RA. Compulsory arbitration: the grand experiment in employment. *Tex Tech Law Rev*. 1997;28(1):1–.

court litigation could cause severe damage to corporate or personal reputations. This privacy is especially valuable.

Arbitration can also provide more specialized adjudication. According to Stone,²⁰ arbitrators often have expertise in employment law or specific industry practices, which allows for decisions that are informed and appropriate to each context, rather than a generalist judge. In addition, arbitration agreements often offer predictability in dispute resolution. approach by Judges because employers can design arbitration programs that clearly define procedures and expectations²¹ This ensures reduction in uncertainty and potential liabilities.

4.0 APPLICATION OF ARBITRATION AND MEDIATION ACT TO EMPLOYMENT DISPUTES IN NIGERIA

In Nigeria, exclusive jurisdiction of the National Industrial Court of Nigeria (NICN) has exclusive jurisdiction over employment disputes. This is pursuant to Section 254C of the 1999 Constitution (as amended). However, the AMA does not expressly exclude employment disputes from its scope. As Akinbola²² notes, the key determinant of whether arbitration can be applied in employment disputes is the existence of an arbitration agreement either in the employment contract or through a collective bargaining agreement. The Court of Appeal in cases like *Stabilini Visinoni Ltd v. Mallinson & Paetners Ltd (2014) 12 NWLR (PT. 1420)* has recognized the binding nature of arbitration clauses in contractual agreements, even within

²⁰Stone KVV. Mandatory arbitration of individual employment rights: the yellow dog contract of the 1990s. *Denver Univ Law Rev.* 1996;73(4):1017-.

²¹ Cole SR. Arbitration and state action. *Brigham Young Univ Law Rev.* 2003;2003(1):1-56.

²²Akinbola B. *Employment Law and Practice in Nigeria*. Lagos: Princeton Publishing; 2019.

employment settings, so long as parties have voluntarily consented. In that case, the parties had entered into a contract containing an arbitration clause which provided that any dispute arising from the contract would be referred to arbitration.²³ When a dispute arose, one party approached the court instead of resorting to arbitration. The Court of Appeal held that where parties have freely agreed to submit disputes to arbitration, such agreement is binding and the courts are obliged to give effect to it by staying proceedings and referring the matter to arbitration, in line with Section 5 of the Arbitration and Mediation Act, 2023.

5.0 POTENCY AND STRENGTHS OF THE AMA IN EMPLOYMENT RELATIONS DISPUTES RESOLUTION

The potency and strength of Arbitration and Mediation Act in employment relations dispute resolution lies in its modern, flexible, and enforceable provisions that align closely with international best practices. Although employment disputes in Nigeria traditionally fall under the jurisdiction of the National Industrial Court of Nigeria (NICN), the AMA enhances and complements existing mechanisms by offering parties more accessible and efficient options for dispute resolution, particularly in the private sector and non-statutory employment settings.

Section 1(2) provides that parties to a dispute are at liberty to decide the means by which their dispute maybe resolved, provided they adhere to measures that are necessary to promote peaceful existence and protect public interest.²⁴ This recognition of party autonomy empowers employers and employees particularly within private sector and non-statutory employment relationships to incorporate arbitration or mediation

²³Stabilini Visinoni Ltd v. Mallinson & Paetners Ltd (2014) 12 NWLR (PT. 1420)

²⁴Arbitration and Mediation Act, 2023. s 1(2)

clauses into their contracts, thereby providing a flexible, confidential, and less adversarial means of resolving employment disputes. Courts are mandated court to stay proceedings where a valid arbitration agreement exists between the parties, unless that agreement is void, inoperative or incapable of being performed.²⁵ This empowers employers and employees to agree in advance to arbitrate disputes, promoting timely resolution and reducing judicial backlog.

Further, Section 16 of the AMA introduces the concept of emergency arbitration, permitting application for urgent interim relief before the arbitral tribunal is constituted. This is particularly useful in employment relations where immediate action may be required to prevent irreparable harm such as in cases of arbitrary suspension or dismissal. Through this mechanism, the AMA addresses gaps in traditional court procedures by enabling faster intervention.

The requirement for arbitration agreements to be in writing is now explicitly satisfied by electronic communication of the AMA,²⁶ with electronic communication defined in Section 91(1). This innovation reflects the law's modern approach and facilitates easier formation and proof of arbitration agreements in contexts where digital correspondence is common.

Although the NICN retains constitutional jurisdiction over employment disputes under Section 254C of the Constitution, the AMA offers complementary pathways through arbitration and mediation that are more flexible, less adversarial, and often more cost-effective than court litigation.

²⁵ Ibid, s 5(1)

²⁶ Ibid, s 2(4)

By providing statutory support for enforceable arbitration agreements, emergency relief, and recognition of digital communications, the AMA strengthens Nigeria's employment dispute resolution framework, improving access to justice and operational efficiency.

5.1 Institutionalization of Mediation as a Formal Dispute Resolution Mechanism

As the AMA 2023 provides the basis for mediation, in substance and procedure, this makes it potent. It provides for procedures, appointment of mediators, confidentiality, and enforcement of mediated settlement agreements. This is particularly potent in workplace grievances, interpersonal conflict between employees and employers, disciplinary matters, discrimination, and where maintaining relationships is crucial. As settlement agreements under the AMA are binding and enforceable, this will increase employer and employee confidence in using the method.²⁷

5.2 Confidentiality

Employment disputes often involve sensitive information. It also involves sensitive matters such as harassment, termination, remuneration, and reputational issues. Arbitration ensures privacy, by shielding parties from public news that litigation often entails.²⁸ The AMA provides for confidentiality of proceedings²⁹ thus enabling parties to resolve disputes without damaging workplace relationships or public image. This feature supports restorative justice in employment, particularly in internal conflict resolution.

²⁷ Federal Republic of Nigeria. *Arbitration and Mediation Act, 2023*. Ss 2–7, 55, 67–84, 77.

²⁸ Oyelowo O. Confidentiality in employment arbitration. *Niger J ADR*. 2021;7:1–.

²⁹ Arbitration and Mediation Act, s 77

In mediation and negotiation, confidentiality is a fundamental principle.³⁰ Parties engage in facilitated discussions aimed at reaching a mutually agreeable solution. The confidentiality of these discussions is integral to the success of the process, allowing parties to explore potential solutions, voice concerns, and brainstorm without the fear of their statements being used against them in future proceedings. This assurance of confidentiality encourages frank discussions, empowering parties to delve into the heart of the dispute and seek resolutions tailored to their needs. Similarly, arbitration endeavors to maintain a level of confidentiality surrounding the proceedings and the resulting arbitration award. However, the extent of confidentiality in arbitration may vary depending on the rules governing the process and the applicable laws. In many cases, the confidentiality of arbitration proceedings contributes to the efficacy of the process by allowing parties to present their case without the public scrutiny associated with court trials, thereby preserving their privacy and business interests.³¹

5.3 Party Autonomy

The AMA's emphasis on party autonomy empowers employers and employees to design their dispute resolution mechanism, ensuring neutrality and fairness.³² The AMA allows parties in employment contracts or collective agreements to determine, the mode of ADR and the procedure. This flexibility allows employment disputes to be handled with sector-specific expertise and procedural fairness tailored to the needs of the parties.³³

³⁰Ibid

³¹Sourdin T, 'The Role of the Courts in the New Justice System' (2015) 7(11) Arbitration Law Review 1-4; Oddiri E. R, 'Alternative Dispute Resolution' (paper presented at Annual Delegates Conference of the Nigerian Bar Association, Lagos 2004).

³²Ojukwu A. *Principles of Dispute Resolution in Nigeria*. Lagos: MIJ Publishers; 2018.

³³ Arbitration and Mediation Act, Ss 2-7

The recognition of party autonomy under the Act strengthens the principle of consensual dispute settlement, enabling both parties to participate in selecting arbitrators, mediators, or conciliators with relevant knowledge of labour relations and workplace dynamics.³⁴ Under the Act, the parties are free to agree on the procedure to be followed by the arbitral tribunal.³⁵ This ensures that the resolution process remains both accessible and efficient.

5.4 Enforceability of Arbitral Awards and Settlement Agreement

The AMA ensures that arbitral awards and mediated settlement agreements are legally binding and enforceable like court judgments. Section 57 of the Arbitration and Mediation Act³⁶ provides:

An arbitral award shall, irrespective of the country or state in which it is made, be given recognition and recognised as binding, and on application in writing to the Court, be enforced by the enforcement of awards Court subject to the provisions of this section and section 58 of this Act. (2) The party relying on an award or applying for its enforcement shall supply - (a) the original award or a certified copy of it; (b) the original arbitration agreement or a certified copy of it; and (c) where the award or arbitration agreement is not made in the English language, a certified translation of it into the English Language. (3) An award may, by leave of the

³⁴ Ayinla LA and Oniyide T. *Critique of the Autonomous nature of Party Autonomy in Arbitration*. IUUJCL; 2019

³⁵ Arbitration and Mediation Act, s 31

³⁶ *ibid*

Court, be enforced in the same manner as a judgment or order to the same effect.

The enforceability of ADR decisions, whether stemming from mediation, arbitration, or online arbitration, relies on the parties' commitment to compliance and the legal framework governing these processes. The challenge often lies in ensuring willing adherence to these decisions, especially if the losing party chooses not to comply voluntarily. In cases where enforcement is necessary, parties may seek judicial assistance to enforce mediated settlement agreements or arbitration awards. The process might entail applying to a court to convert these agreements or awards into a court order, allowing for the use of legal mechanisms to enforce compliance, such as asset seizure or other enforcement actions.³⁷

5.5 Speed and Flexibility

Arbitration under the AMA is faster than regular court processes. Given the urgency typically surrounding employment relations disputes (e.g., wrongful dismissal, unpaid salaries), speed is critical.³⁸ For instance, a wrongfully dismissed employee may face immediate financial hardship and emotional distress, making the prompt resolution of the dispute essential. Similarly, prolonged litigation over unpaid salaries can exacerbate economic strain on employees and disrupt workplace stability. The AMA addresses this concern by encouraging time-bound arbitral proceedings and limiting procedural technicalities, ensuring that cases are concluded within

³⁷Diana G. Richard, Notes & Comments, *Enforcement of Foreign Arbitral Awards Under the United Nations Convention of 1958: A Survey of Recent Federal Case Law*, 11 MD. J. INT'L L. & TRADE 13, 27 (Spring 1987).

³⁸Ayoade O. Nigeria's new Arbitration and Mediation Act: opportunities and challenges. *Arbitr Rev.* 2024;5:1–.

a reasonable period. For example, Section 52(1)³⁹empowers the tribunal to adopt procedures that ensure fair and expeditious resolution of disputes, while Section 53(2)⁴⁰ allows the tribunal to fix timelines for submissions and hearings. These provisions collectively enhance efficiency, providing parties especially in employment contexts with quicker access to justice compared to the often-protracted nature of court litigation.

Moreover, the time efficiency offered by ADR methods is a significant draw for parties seeking prompt resolution. Traditional court trials can be protracted, involving extensive pre-trial procedures, court scheduling, and potentially lengthy trials. In contrast, ADR processes are generally more flexible and can be tailored to suit the parties' schedules, allowing for quicker resolution of disputes.

Mediation, for instance, often yields faster results as parties can schedule sessions at their convenience, and the process is focused on collaboration and reaching mutually agreeable solutions. This efficiency in scheduling and the absence of protracted court procedures contribute to the expeditious resolution of disputes through mediation.

Arbitration, although more structured than mediation, is still significantly faster than litigation. The arbitration process involves the presentation of evidence, witness testimonies, and legal arguments, but it typically bypasses lengthy court procedures. Parties have more control over scheduling arbitration hearings, resulting in a more expedited resolution compared to traditional court trials.

³⁹ Arbitration and Mediation Act, 2023

⁴⁰ *ibid*

5.6 Expertise of Arbitrators

The Act empowers parties to appoint arbitrators who possess specialized knowledge and experience in the subject matter of their dispute. This contrasts with the traditional court system, where judges are generalists and may lack in-depth familiarity with the practical and technical dynamics of workplace issues.

By allowing parties to choose arbitrators with relevant professional or sectoral expertise, the AMA ensures that arbitral awards are not only legally sound but also grounded in the realities of the employment environment. Section 7(1) and (3)⁴¹ grants disputing parties the freedom to agree on the qualifications and number of arbitrators. This discretion allows them to appoint individuals whose experience aligns with the technical and professional demands of their dispute. As a result, arbitration under the AMA promotes more informed, practical, and equitable decisions, enhancing confidence in the dispute resolution process within the employment sector.⁴²

6.0 CHALLENGES IN APPLYING THE AMA TO EMPLOYMENT DISPUTES

Despite the strengths of the Arbitration and Mediation Act (AMA), 2023, its application to employment-related disputes in Nigeria faces notable legal, structural, and practical challenges. These challenges affect its utility in both the private and public sectors, especially given Nigeria's dual-track system of labour law that separates individual contracts of employment from statutory employment relationships.

⁴¹ *ibid*

⁴² Ajibade A. The limits of arbitration in Nigerian labour law. *Niger J Labour Law*. 2018;12:1–.

6.1 Legal Challenges

One major legal challenge is the jurisdictional conflict between arbitration tribunals established under the AMA and the exclusive jurisdiction of the National Industrial Court of Nigeria (NICN) under Section 254C(1) of the 1999 Constitution (as amended). This provision vests the NICN with authority over all labour and employment matters, including unfair dismissal, discrimination, and workplace rights. Consequently, there is legal uncertainty as to whether employment disputes can be validly referred to arbitration without encroaching on the constitutional powers of the NICN.⁴³ Additionally, employment contracts, especially those involving statutory employment are often viewed as non-arbitrable because they implicate public law principles, such as due process and administrative justice. Courts have reinforced this stance in cases like *Imonikhe v. Unity Bank Plc*,⁴⁴ where the court held that disputes involving statutory employment cannot be subjected to private arbitration.

6.2 Structural Challenges

Structurally, the Nigerian labour framework does not provide a clear integration between the AMA's mechanisms and the NICN's adjudicatory system. While the AMA promotes private dispute resolution, the NICN remains the constitutionally recognized forum for labour matters. This dualism creates confusion regarding the enforcement of arbitral awards in

⁴³ Chidi Ibekwe, 'Arbitration and Wrongful Termination Claims: An Evaluation of Fairness and Efficiency in Labour Dispute Resolution' (2024) 7(4) *African Journal of Law, Political Research and Administration* 28-36. <[AJLPRA_PN8DRN49.pdf](#)> accessed 6 October 2025

⁴⁴(2011) 12 NWLR (Pt. 1262) 624

employment disputes, whether such awards should be registered in the NICN or in the High Court under Section 57 of the AMA.

The decision in *Mainstreet Bank Registrars Ltd v Ahaiwe*⁴⁵ underscores this structural tension, as it emphasizes that any dispute arising from or connected with employment must fall within the NICN's domain. Consequently, arbitral proceedings in employment disputes risk being declared void for lack of jurisdiction if they trespass into areas constitutionally reserved for the NICN. Moreover, many employment relationships, particularly in the public sector are governed by civil service rules or enabling statutes which do not incorporate arbitration clauses. This limits the structural reach of the AMA in resolving employment disputes effectively.⁴⁶

6.3 Practical Challenges

Practically, many employees lack the bargaining power to negotiate arbitration clauses in their employment contracts, leading to power imbalance between employers and employees.⁴⁷ In most cases, arbitration clauses are unilaterally drafted by employers, raising concerns about fairness and voluntariness. Additionally, the cost of arbitration, including arbitrators' fees and institutional costs can be prohibitive for individual employees compared to court filing fees at the NICN. There is also a limited pool of arbitrators with specialized expertise in labour relations, especially

⁴⁵ (2019) LPELR-47057 (CA)

⁴⁶ Chidi Ibekwe. *The Role of Arbitration in Resolving Collective Labour Disputes: A Comparative Study of Public and Private Sectors* (2024) 7(4) *AJLPRA* 19-27

⁴⁷ Chidi Ibekwe, 'Arbitration and Wrongful Termination Claims: An Evaluation of Fairness and Efficiency in Labour Dispute Resolution' (2024) 7(4) *African Journal of Law, Political Research and Administration* 28-36 <[AJLPRA PN8DRN49.pdf](#)> accessed 6 October 2025

outside major cities like Lagos and Abuja, which undermines the goal of accessible and efficient dispute resolution under the AMA.⁴⁸

Although the AMA 2023 provides a modern and flexible framework for dispute resolution, its practical integration into the employment law system remains constrained by constitutional boundaries, institutional fragmentation, and socio-economic realities. Overcoming these challenges will require legislative harmonization, judicial interpretation, and capacity building among labour law practitioners and arbitrators.

6.4 Exclusive Jurisdiction of the National Industrial Court of Nigeria

Under Section 254C,⁴⁹ the National Industrial Court of Nigeria (NICN) is conferred with exclusive jurisdiction over labour and employment matters.

The relevant portion provides thus:

The National Industrial Court shall have and exercise jurisdiction to the exclusion of any other court in civil causes and matters (a) relating to or connected with any labour, employment, trade unions, industrial relations, and matters arising from workplace, the conditions of service, including health, safety, welfare of labour, employee, worker and matters incidental thereto or connected therewith.

Thus, some authors like Ajibade⁵⁰ argues that arbitration clauses in employment contracts might be limited unless expressly recognized by the National Industrial *Court of Nigeria (NICN)*. The NICN is the only court empowered to hear and determine disputes relating to or connected with

⁴⁸ *ibid*

⁴⁹ *Constitution of the Federal Republic of Nigeria, 1999 (as amended)*.

⁵⁰ *ibid*

labour, employment, trade unions, industrial relations, and workplace conditions and disputes arising from employment contracts, especially those governed by statute. Therefore, even where the parties have an arbitration agreement, the NICN may decline enforcement if it determines that the matter is not arbitrable or if statutory rights are involved. Thus, the AMA cannot override the Constitution in matters strictly within NICN's domain.

This issue has generated considerable controversy. In the case of *Mainstreet Bank Registrars Ltd v Ahaiwe*,⁵¹ the Court of Appeal affirmed that the NICN possesses exclusive jurisdiction over all employment-related matters, thereby implicitly limiting the scope of arbitration clauses in employment contracts.

Arbitral clause is a matter of agreement. Parties must have had an understanding before affixing their signatures. Secondly, the beauty of arbitration is that any party not in agreement with the decision is free to approach the court for review, or setting aside 58 of the AMA 2023. '*A party to an arbitration agreement may request the court to refuse recognition or enforcement of the Award*'⁵²

The creation and subsequent elevation of the National Industrial Court through the 2010 Third Alteration Act marked a turning point in the adjudication of labour disputes. The NICN now exercises exclusive jurisdiction over all employment and industrial relations matters.⁵³ This development has facilitated a shift from the rigid application of common

⁵¹ (2019) LEPLR-47057 (CA)

⁵² s 58(1) of the AMA 2023

⁵³ s 254C of the 1999 Constitution (as amended)

law doctrines to a more equitable and pragmatic interpretation of labour rights. According to Uvieghara,⁵⁴ this change supports the enforcement of fair labour practices, social justice, and the international obligations of Nigeria under various ILO conventions. The NICN has also adopted international best practices and has shown an increasing willingness to apply principles derived from international labour instruments, even where such conventions have not been domesticated. For instance, in *Chemical and Non-Metallic Products Senior Staff Association v. Benue Cement Company Plc*,⁵⁵ the NICN upheld the right to unionize as a fundamental right, relying in part on international labour standards.

6.5 Non Arbitrability of Some Employment Disputes

It is not all categories of employment disputes that are considered arbitrable, particularly where fundamental rights, public interest, or statutory duties are involved. These include the dismissals in public service governed by civil service rules or statutes, disputes involving labour rights enforcement, such as pensions, union activities, or redundancy obligations and issues related to discrimination, workplace harassment, or victimization under labour laws. The implication is that the AMA cannot validly apply to these categories, and any arbitration clause in such cases may be struck out as void or unenforceable.

6.0 CONCLUSION

The Arbitration and Mediation Act (AMA) is as a transformative legal instrument in the effective settlement of employment disputes in Nigeria. The Act enhances access to justice by providing a clear, unified, and enforceable framework for both arbitration and mediation, It also fosters

⁵⁴Uvieghara EE. *Labour Law in Nigeria*. Lagos: Malthouse Press; 2001.

⁵⁵(2005) NLLR

industrial harmony, as well as and promotes expeditious resolution of workplace conflicts. Its provisions assure confidentiality, preserve employer-employee relationships, and reduce the congestion of cases in traditional courts. However, in labour contexts, employment relations there is the need for deliberate safeguards, institutional support, and proactive policy in alignment with the legal frameworks for rights of parties especially the employee.

7.0 RECOMMENDATIONS

The following are hereby recommended and if implemented, Nigeria can enhance the legitimacy, accessibility, and fairness of arbitration in the workplace ultimately contributing to industrial peace, economic productivity, and social justice:

1. The Ministry of Labour, the NICN, trade unions, and civil society organizations should collaborate on public education campaigns and capacity-building workshops to inform employees, employers, and practitioners about the benefits, risks, and procedural requirements of employment arbitration under the Act. Many workers are unaware of their rights in ADR settings. Educating all parties promotes informed participation and reduces exploitation, fostering a healthier dispute resolution culture.
2. There is need for a legal reform to clarify the intersection of the Arbitration and Mediation Act, 2023 and labour jurisprudence under the Constitution, particularly Section 254C. While the Act modernizes arbitration procedures, it remains silent on employment-specific nuances. A statutory clarification either through an amendment to the Act or a complementary employment arbitration law would help align arbitration's applicability with the

specialized mandate of the National Industrial Court of Nigeria (NICN). This would avoid jurisdictional conflicts and ensure harmonious application of both regimes.

3. The Ministry of Labour and Employment, in collaboration with professional bodies like the Nigerian Bar Association (NBA) and industrial unions, should develop a standardized, fair, and balanced model arbitration clause for use in employment contracts and collective agreements. Many arbitration clauses in Nigerian employment contracts are drafted by employers and may contain unfair terms, limiting employee's rights. A model clause that guaranteed voluntariness, fairness, and clear procedural safeguards (e.g., neutral arbitrator selection, cost sharing, employee access to representation) will promote wider, and more equitable adoption of ADR.
4. Regulatory oversight should be introduced to track and limit "repeat player" bias, where employers engage the same arbitrators repeatedly. The NICN ADR Centre or an independent oversight body should monitor appointment patterns and establish ethical guidelines to prevent abuse. The appearance or reality of bias erodes confidence in arbitration. Independent oversight ensures neutrality, preserves the integrity of the process, and encourages fair outcomes for employees.
5. Arbitrations under employment agreements must adhere to minimum procedural safeguards, such as the right to legal representation, equal access to evidence, and reasoned awards. The Act or related practice rules should mandate these standards to prevent arbitration from being used to undermine labour protections. Without safeguards, arbitration can perpetuate power imbalances and deprive employees of justice. Ensuring due process

bolsters the legitimacy of the arbitral process and protects against coercive employer practices.