

Guerrilla Tactics in Arbitration Practice in Nigeria: A Critical Analysis of the Legal and Institutional Framework

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Abstract

Arbitration has become an essential mechanism for resolving domestic and international commercial disputes due to its flexibility, confidentiality, party autonomy, and procedural efficiency. In Nigeria, the importance of arbitration as a means of promoting commercial certainty and investment protection has been reinforced by the enactment of the Arbitration and Mediation Act 2023 (AMA), which replaced the Arbitration and Conciliation Act 1988 and introduced reforms consistent with international arbitration standards, particularly the UNCITRAL Model Law. Despite these developments, arbitral proceedings remain susceptible to procedural abuses commonly described as guerrilla tactics. Guerrilla tactics involve deliberate attempts by parties or their representatives to obstruct, delay, or manipulate arbitration proceedings for strategic advantage. These practices may include frivolous challenges to arbitrators, excessive procedural applications, jurisdictional objections, non-compliance with tribunal orders, and efforts to frustrate the enforcement of arbitral awards. While procedural safeguards are necessary to protect fairness and due process, their misuse threatens the efficiency, credibility, and finality of arbitration. This article critically examines Nigeria's legal and institutional framework for addressing guerrilla tactics in arbitration, with particular emphasis on the Arbitration and Mediation Act 2023. It evaluates provisions relating to arbitrator challenges, tribunal powers, interim measures, enforcement mechanisms, and judicial support for arbitration, while also considering professional ethics, arbitration institutions, and international standards under the UNCITRAL framework. The article argues that legislative reform alone cannot effectively eliminate procedural abuse. Combating guerrilla tactics requires proactive tribunal management, ethical compliance by practitioners, institutional oversight, effective cost sanctions, and a balanced judicial approach. It concludes that Nigeria's modern arbitration regime provides a strong foundation for efficient dispute resolution, but its effectiveness depends on consistent enforcement of safeguards that preserve the integrity and finality of arbitral proceedings.

Keywords: Arbitration, Guerrilla Tactics, Arbitration and Mediation Act 2023, ADR, Nigeria, Professional Ethics, UNCITRAL Model Law.

Introduction

Alternative Dispute Resolution (ADR), particularly arbitration, has become an indispensable mechanism for resolving commercial disputes worldwide. Businesses increasingly prefer arbitration because it offers confidentiality, party autonomy, procedural flexibility, the expertise of arbitrators, and faster resolution of disputes than traditional court litigation. Nigeria has likewise embraced arbitration as a vital means of promoting commercial certainty and

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attracting foreign investment. This commitment was reinforced by the enactment of the Arbitration and Mediation Act 2023 (AMA), which replaced the outdated Arbitration and Conciliation Act 1988. The AMA introduced modern procedural innovations that are consistent with the UNCITRAL Model Law and contemporary international arbitration practice, reflecting Nigeria's commitment to establishing a more efficient, credible, and internationally competitive arbitration regime. Despite these legislative advancements, arbitration proceedings remain susceptible to procedural abuses commonly referred to as *guerrilla tactics*. Guerrilla tactics encompass a broad range of conduct, from blatant illegal or unethical behaviour to more subtle and underhand procedural manoeuvres designed to frustrate or manipulate the arbitral process³. To properly understand these tactics, three defining features must be considered: deviance, tactical conduct, and intent⁴. Deviance refers to conduct that departs from accepted standards of procedural fairness, good faith, or professional ethics. The tactical component requires that the conduct be deliberate rather than the result of coincidence or unforeseen developments. For instance, a heated argument at an evidentiary hearing that results in an assault could, in certain circumstances, be regarded as 'tactical' if a party deliberately executes or provokes the assault.⁵ A party engaging in guerrilla tactics selectively invokes procedural rules only when doing so serves its strategic interests while otherwise seeking to obstruct, delay, derail, or sabotage the arbitral proceedings in an attempt to secure a favourable outcome. A continuous and systematic use of challenges to the arbitrator, such as requests for extension of time and the submission of excessive amounts of proceedings, is being bent to their advantage and their intended purpose being defeated. Therefore, the intent behind a party's action forms a larger part of guerrilla tactics. This amounts to a party sometimes trying to use the rules to achieve a wrongful act, just to delay or defeat the arbitral process.

Against this background, this article critically analyses the legal and institutional frameworks governing arbitration in Nigeria and the international arbitration regime, with particular emphasis on the mechanisms established under the Arbitration and Mediation Act 2023. It evaluates whether these frameworks are sufficiently robust to deter guerrilla tactics while preserving the fundamental principles of fairness, due process, and party autonomy that underpin modern arbitration.

Understanding the Concept of Guerrilla tactics in Arbitration

Guerrilla tactics, in the context of arbitration practice, refer to the various strategies and techniques employed by parties to undermine, obstruct, or delay the arbitration process or the enforcement of an arbitral award.⁶ This term was first used by Michael Hwang, who described it as a strategy of a party seeking to exploit the procedural rules to their advantage and to the ultimate disadvantage of the other party and the dispute resolution mechanism.⁷ These tactics are often employed by parties who are dissatisfied or pessimistic about the outcome of the arbitration or who seek to gain an unfair advantage by circumventing the agreed-upon dispute resolution process.⁸ It is pertinent to note that Guerrilla tactics can manifest in various forms

³O.P Singh, 'Understanding Guerrilla Tactics in International Arbitration' *Christ University Law Journal*, (2021) 3(2), 69-84. <<https://doi.org/10.12728/culj.5.4>> accessed 11th January 2023

⁴ P.B Klaus, *Private Dispute Resolution in International Business: Negotiation, Mediation, Arbitration*, (3rd revised ed, Kluwer Law International 2015) 1.

⁵ C. Toutant, 'Arbitrator is Not Liable for Attorney's Alleged Assault of Party Court Says' *N.J.L.J.* 1 (2008); ICC Court Names New Secretary General, 7(3) *G.A.R.* 2 (2012).

⁶ N. Ahuja, "The Nature of Guerrilla Tactics in International Arbitration" in Navin Ahuja, *Taming the Guerrilla in International Commercial Arbitration Levelling the Playing Field* (Springer, 2022), 65.

⁷ M. Hwang 'Why is there Still Resistance to Arbitration in Asia?' in Aksen G. & Robert B., *Global Reflections on International Law, Commerce and Dispute Resolution* (ICC Publishing 2005) 401.

⁸ E. Gaillard, 'Abuse of Process in International Arbitration' (2017) *ICSID Review* 1–21.

in an arbitral proceeding. This could largely range from procedural maneuverings to outright non-compliance with the arbitral tribunal's orders or the final award. Some common examples of guerrilla tactics include frivolous challenges to the arbitral tribunal, obstructing the appointment of arbitrators, engaging in dilatory tactic such as unnecessary filibusters, and challenging arbitral awards.⁹

Key Provisions of the Arbitration and Mediation Act 2023 Relating to Arbitration Practice

The Arbitration and Mediation Act 2023 (AMA) marks a significant reform of Nigeria's arbitration regime, repealing the outdated Arbitration and Conciliation Act 1988 and introducing a modern legal framework consistent with international best practices, particularly the UNCITRAL Model Law¹⁰. The Act seeks to promote efficiency, transparency, fairness, and party confidence in arbitration and mediation while strengthening Nigeria's position as a preferred seat for domestic and international dispute resolution. Among its notable innovations are the introduction of the Award Review Tribunal (ART), broader powers for arbitral tribunals to grant enforceable interim measures, and mechanisms designed to minimize unnecessary judicial intervention¹¹. The AMA establishes a comprehensive framework for challenging arbitrators in order to safeguard the integrity and impartiality of arbitral proceedings. An arbitrator is under a continuing duty to disclose any circumstances that may reasonably give rise to doubts regarding his or her independence or impartiality, both before appointment and throughout the proceedings. Parties may challenge an arbitrator where such doubts exist or where the arbitrator fails to meet the qualifications agreed upon by the parties¹². The challenge must generally be made within fourteen days of becoming aware of the relevant circumstances. Consistent with the principle of *Kompetenz-Kompetenz*, the tribunal may initially determine challenges to its own competence, subject to review by the appointing authority or the court where appropriate¹³. While this approach aligns with international arbitration practice, it raises concerns regarding the *nemo iudex in causa sua* principle and may create opportunities for parties to deploy procedural challenges as guerrilla tactics capable of delaying proceedings. The AMA permits parties to challenge the jurisdiction of an arbitral tribunal, particularly on the basis of the existence or validity of the arbitration agreement¹⁴. Such objections must be raised at the earliest opportunity, preferably before substantive proceedings commence, thereby discouraging tactical delays. The Act also recognizes the doctrines of *Kompetenz-Kompetenz* and separability, empowering the tribunal to determine its own jurisdiction and to treat the arbitration clause as independent of the underlying contract¹⁵. Although judicial review of jurisdictional decisions remains available, the balance between tribunal autonomy and court supervision may still be exploited by parties seeking to frustrate arbitral proceedings through jurisdictional objections¹⁶. The grounds for setting aside arbitral awards under the AMA are deliberately limited and broadly consistent with international standards. An award may be challenged where the arbitration agreement is invalid, the tribunal exceeded its mandate,

⁹ *Ibid.*

¹⁰ A. I. Kekere, & G. Matthew, 'A Critique of The Concept Of Limitation Period under The Arbitration and Mediation Act, 2023.' (2024) 7(1) *Redeemer's University Nigeria Faculty of Law Journal (RUNLAWJ)*, 73.

¹¹ Section 56 of Arbitration and Mediation Act 2023.

¹² Section 8 of Arbitration and Mediation Act 2023.

¹³ C. Ekpensisi, P.A. Aidonojie, G.O Antai, A. Akinsulore, C. Okonji, & D.J John, 'Legal Issues Concerning the Role of Arbitration in Resolving Corporate Governance Dispute in Nigeria. (2024) 10(1) *NIU Journal of Legal Studie*, 5-14.

¹⁴ Section 2 of Arbitration and Mediation Act, 2023.

¹⁵ S. Eric., "The ICC Arbitration Rules and the Unictal Model Law" (1993) 9(3) *Arbitration International*, 234.

¹⁶ Section 16(5) of Arbitration and Mediation Act 2023.

serious procedural irregularities occurred, or other statutory grounds such as improper tribunal composition or incapacity are established. The Act reinforces the principle of finality by introducing the optional Award Review Tribunal, which provides an additional review mechanism where agreed by the parties and is required to determine matters within sixty days¹⁷. Although public policy remains a basis for judicial intervention, the restrictive grounds for setting aside awards are intended to preserve the certainty and effectiveness of arbitration while preventing abuse of court processes.

To ensure procedural fairness, the AMA permits parties to challenge procedural irregularities, including departures from agreed arbitral procedures and violations of natural justice¹⁸. The tribunal is required to determine such objections promptly before addressing the substantive dispute¹⁹. While these safeguards protect the parties' procedural rights and preserve the legitimacy of the arbitral process, the ability to raise procedural objections may equally be exploited by parties seeking to delay proceedings through guerrilla tactics if not carefully managed. The AMA reinforces party autonomy by requiring courts to stay judicial proceedings where a valid arbitration agreement exists, provided the application is made before substantive steps are taken in the litigation and the applicant demonstrates a genuine willingness to arbitrate²⁰. This approach limits unnecessary judicial interference, promotes respect for arbitration agreements, and strengthens arbitration as an effective alternative to litigation while discouraging parties from using court proceedings merely as a delaying strategy²¹.

The Act significantly expands the powers of arbitral tribunals to grant interim measures that are enforceable through the courts. It also empowers courts to grant interim protective relief in support of arbitration where necessary²². This dual mechanism ensures that parties have access to timely remedies capable of preventing irreparable harm while preserving the effectiveness of the arbitral process. The enhanced enforceability of interim measures further strengthens Nigeria's attractiveness as an arbitration-friendly jurisdiction²³.

The AMA recognizes the role of interlocutory injunctions in preserving the subject matter of disputes pending arbitration. Parties may seek urgent injunctive relief from the courts without waiving their right to arbitrate, thereby maintaining the balance between judicial assistance and arbitral autonomy²⁴. This provision addresses situations requiring immediate intervention and reinforces confidence in arbitration as an effective dispute resolution mechanism capable of providing meaningful interim protection. The Act prescribes procedures for arbitral hearings that are consistent with the principles of fairness, equality of treatment, and natural justice. It requires arbitral awards to be reasoned, comprehensive, and responsive to the issues submitted by the parties while permitting the correction of clerical or accidental errors²⁵. These provisions enhance the transparency, legitimacy, and enforceability of arbitral awards and reduce the likelihood of successful post-award challenges²⁶.

One of the most significant innovations introduced by the AMA is the Award Review Tribunal (ART), an optional mechanism that enables parties to agree that an arbitral award may be

¹⁷ Section 64 of Arbitration and Mediation Act 2023.

¹⁸ Section 30(1) of Arbitration and Mediation Act 2023.

¹⁹ Section 14 of Arbitration and Mediation Act 2023.

²⁰ Section 5 of Arbitration and Mediation Act 2023.

²¹ See the case of *UBA Plc v. Trident Consulting Limited*, (2023) LPELR-60643(SC).

²² Section 20 of Arbitration and Mediation Act 2023.

²³ O.O Olatawura, Nigeria's appellate courts, arbitration and extra-legal jurisdiction: Facts, problems, and solutions. (2023) 28(1) *Arbitration International*, 28(1), 63-76.

²⁴ *Ibid* Section 20 of Arbitration and Mediation Act 2023.

²⁵ Section 38 of Arbitration and Mediation Act 2023.

²⁶ Section 49 of Arbitration and Mediation Act 2023.

reviewed by a second tribunal before enforcement²⁷. The ART must conclude its review within sixty days, during which enforcement proceedings are stayed²⁸. This mechanism seeks to improve the quality, consistency, and credibility of arbitral awards while preserving efficiency and enhancing confidence in Nigeria's arbitration framework.

Complementary Legal and Institutional Frameworks Regulating Arbitration and Dispute Resolution in Nigeria

Beyond the Arbitration and Mediation Act 2023, several constitutional, statutory, and procedural instruments shape the operation of arbitration and alternative dispute resolution (ADR) in Nigeria. These frameworks collectively promote access to justice, procedural fairness, and efficient dispute resolution while also containing procedural mechanisms that may, if abused, facilitate guerrilla tactics. Accordingly, this section examines the principal legal and institutional frameworks governing arbitration and related dispute resolution processes in Nigeria, assessing the extent to which they discourage procedural abuse while preserving the fundamental principles of fairness, party autonomy, and judicial efficiency.

The Constitution of the Federal Republic of Nigeria 1999 (as amended) provides the foundation for Nigeria's legal and judicial system. It guarantees fundamental principles such as the right to fair hearing, access to justice, and judicial independence, which are essential elements in ensuring the legitimacy of arbitration and other dispute resolution mechanisms²⁹. Although arbitration is primarily regulated by statute, constitutional values influence arbitral proceedings by requiring that parties are treated fairly and afforded adequate opportunity to present their cases. Section 19(d) further recognizes arbitration as part of Nigeria's international dispute resolution policy by promoting the settlement of international disputes through negotiation, mediation, and arbitration³⁰. However, constitutional protections may sometimes be exploited by parties seeking to frustrate dispute resolution processes. For instance, challenges based on alleged breaches of fair hearing rights or jurisdictional objections may be employed as delaying strategies. While these safeguards are necessary to prevent injustice, excessive reliance on constitutional remedies can undermine the efficiency and finality that arbitration seeks to achieve. The Trade Disputes Act establishes a specialized framework for resolving industrial disputes through mechanisms such as negotiation, conciliation, and arbitration³¹. The Act encourages parties in labour-related disputes to seek amicable settlement before resorting to prolonged litigation and empowers appropriate authorities to refer unresolved disputes to arbitration³². The Act reflects the broader Nigerian policy of promoting alternative dispute resolution as a means of reducing pressure on the courts and achieving speedy settlement of disputes. However, procedural challenges, objections to arbitral jurisdiction, and appeals against decisions may create opportunities for parties to delay resolution. Despite these challenges, statutory procedures and the binding nature of arbitral decisions provide safeguards against excessive procedural abuse³³. The Nigerian Co-operative Societies Act provides mechanisms for resolving disputes arising within cooperative societies, particularly disputes involving members, societies, and their governing bodies. The Act permits disputes to be referred for determination through administrative processes and arbitration mechanisms³⁴.

²⁷ Section 56 of Arbitration and Mediation Act 2023.

²⁸ *Ibid.*

²⁹ Section 36 of Constitution of the Federal Republic of Nigeria 1999 (as amended) hereinafter referred to as the Constitution or CFRN 1999.

³⁰ Section 19(d) of the Constitution.

³¹ Trade Disputes Act, Cap T8, Laws of the Federation of Nigeria 2004.

³² SS 3-7 of Trade Disputes Act 2004.

³³ Section 36 of Trade Disputes Act 2004.

³⁴ SS 49-51 of Nigerian Co-operative Societies Act, Cap N98, Laws of the Federation of Nigeria 2004.

Although this framework promotes accessible and cost-effective dispute resolution, certain procedural weaknesses may create opportunities for delay. The availability of appeals and the absence of strict timelines for completing dispute resolution processes may allow dissatisfied parties to prolong proceedings. Consequently, stronger procedural controls are required to prevent the misuse of statutory dispute resolution mechanisms.

The High Court Civil Procedure Rules regulate civil proceedings before State High Courts and provide procedural mechanisms aimed at ensuring efficient case management and timely determination of disputes. In jurisdictions such as Lagos State, the Rules encourage active judicial management, settlement initiatives, and procedural discipline among litigants³⁵. However, procedural flexibility under the Rules may sometimes be exploited through repeated applications for adjournments, amendments of pleadings, and interlocutory applications designed primarily to delay proceedings. While these procedures are important for ensuring justice, excessive or strategic use of such mechanisms may constitute a form of procedural abuse similar to guerrilla tactics in arbitration. The Federal High Court (Civil Procedure) Rules 2019 introduce modern case management principles aimed at improving efficiency and reducing delays in federal judicial proceedings. The Rules encourage compliance with timelines, effective case management, and alternative dispute resolution where appropriate³⁶. Although parties may attempt to exploit procedural rights through unnecessary applications or requests for adjournments, the Rules provide safeguards through judicial discretion, sanctions for non-compliance, and strict procedural requirements. These measures contribute to limiting opportunities for parties to engage in delaying tactics.

The Lagos Multi-Door Courthouse (LMDC) represents one of Nigeria's most significant institutional developments in ADR. Established to provide an integrated platform for mediation, arbitration, negotiation, and other dispute resolution processes, the LMDC promotes speed, confidentiality, affordability, and party autonomy³⁷.

The introduction of Online Dispute Resolution (ODR) mechanisms has further expanded access to ADR by allowing disputes to be resolved through digital platforms. The ODR Guidelines provide procedural standards aimed at ensuring efficiency, transparency, and reliability in online dispute resolution³⁸. However, technological difficulties, delays in electronic submissions, and challenges relating to digital participation may create opportunities for procedural obstruction. Effective supervision and technological improvement remain necessary to prevent such abuses. The Supreme Court Rules 2024 and Court of Appeal Rules 2021 regulate appellate proceedings and establish procedures intended to promote the timely resolution of appeals. They prescribe filing requirements, timelines, and sanctions for procedural non-compliance in order to minimize unnecessary delays³⁹. Nevertheless, appellate procedures may sometimes be exploited through repeated applications, interlocutory appeals, or requests for extensions of time aimed at frustrating final determination of disputes. While the right to appeal remains an essential component of justice administration, courts must balance this right against the need to prevent abuse of judicial processes⁴⁰.

Overall, these complementary legal and institutional frameworks demonstrate Nigeria's commitment to promoting efficient dispute resolution through arbitration and ADR. However, while they preserve fundamental principles of fairness, due process, and party autonomy,

³⁵ Rules 2,3 and 5 of High Court of Lagos State (Civil Procedure) Rules 2019.

³⁶ Rules 1,2,3 and 9 of Federal High Court (Civil Procedure) Rules 2019.

³⁷ SS 4-6 of Lagos Multi-Door Courthouse Law 2007.

³⁸ Lagos Multi-Door Courthouse, *Online Dispute Resolution (ODR) Guidelines* (Lagos Multi-Door Courthouse 2021).

³⁹ Rules 2,3 and 7 of Supreme Court Rules 2024, Rules 1,2,4 and 18 of Court of Appeal Rules 2021.

⁴⁰ See the case of *MV Lupex v Nigerian Overseas Chartering and Shipping Ltd* (2003) 15 NWLR (Pt 844) 469 (SC).

certain procedural safeguards may be manipulated by parties seeking to delay proceedings. Strengthening judicial case management, imposing effective sanctions for abuse, and maintaining a balance between procedural rights and efficiency are therefore essential to curbing guerrilla tactics in arbitration⁴¹.

International Framework Governing Arbitration

The international framework governing arbitration is primarily anchored on two major instruments: the UNCITRAL Model Law on International Commercial Arbitration and the UNCITRAL Arbitration Rules. These instruments have significantly influenced the development of modern arbitration by promoting uniformity, predictability, and efficiency in the resolution of international commercial disputes⁴². The UNCITRAL Model Law, adopted in 1985 and amended in 2006, was developed to assist states in modernising their arbitration laws by providing a harmonised legislative framework that reflects internationally accepted principles of arbitration practice⁴³. It regulates various stages of the arbitral process, including the arbitration agreement, composition and jurisdiction of arbitral tribunals, procedural conduct, interim measures, and the recognition and enforcement of arbitral awards⁴⁴.

The primary objective of the Model Law is to reduce disparities between national arbitration laws and create a stable legal environment capable of facilitating international trade and investment. It applies principally to international commercial arbitration, particularly where the parties have their places of business in different states or where the subject matter of the dispute has a substantial connection with more than one jurisdiction⁴⁵. By providing a flexible framework capable of accommodating different legal systems, the Model Law has become a global benchmark for arbitration legislation and has influenced numerous national arbitration statutes, including Nigeria's Arbitration and Mediation Act 2023.

A fundamental feature of the UNCITRAL Model Law is its recognition of party autonomy, which remains one of the central principles of international arbitration⁴⁶. The Model Law permits parties to determine the procedure applicable to their arbitration, select arbitrators, and agree on the substantive law governing their dispute⁴⁷. It also recognises the validity of arbitration agreements contained in contractual clauses or separate agreements, including agreements formed through modern means of communication⁴⁸. These provisions reinforce the consensual nature of arbitration and allow parties to design a dispute resolution process suited to their commercial needs. Furthermore, the Model Law establishes important procedural safeguards aimed at ensuring fairness and due process. It requires equal treatment of parties and guarantees that each party is given a full opportunity to present its case⁴⁹. It also empowers arbitral tribunals to grant interim measures where necessary to preserve the rights of parties or prevent irreparable harm before the issuance of the final award⁵⁰. This ability is particularly significant in complex commercial disputes where delay may undermine the effectiveness of

⁴¹ Nigel Blackaby, Constantine Partasides, Alan Redfern and Martin Hunter, *Redfern and Hunter on International Arbitration* (7th edn, Oxford University Press 2022).

⁴² Gary B Born, *International Commercial Arbitration* (3rd edn, Kluwer Law International 2021) 77–80.

⁴³ United Nations Commission on International Trade Law (UNCITRAL), *UNCITRAL Model Law on International Commercial Arbitration 1985 with Amendments as Adopted in 2006* (United Nations 2008).

⁴⁴ Articles 5-36 of United Nations Commission on International Trade Law (UNCITRAL).

⁴⁵ Article 1(3) of UNCITRAL Model Law

⁴⁶ Redfern and Hunter, *Redfern and Hunter on International Arbitration* (7th edn, Oxford University Press 2023) para 2.01.

⁴⁷ Articles 19 and 28 of UNCITRAL Model Law.

⁴⁸ Articles 7 and 8 of UNCITRAL Model Law.

⁴⁹ Article 18 of UNCITRAL Model Law.

⁵⁰ Articles 17 and 17J of UNCITRAL Model Law.

arbitration. Another important aspect of the Model Law is its provisions on the recognition and enforcement of arbitral awards. Articles 35 and 36 align closely with the principles of the Convention on the Recognition and Enforcement of Foreign Arbitral Awards 1958 (New York Convention)⁵¹, thereby facilitating the international enforceability of arbitral awards⁵². This enforcement mechanism is one of the reasons arbitration remains an attractive dispute resolution mechanism for international businesses, as parties can obtain awards that are capable of recognition and enforcement across multiple jurisdictions.

Complementing the Model Law are the UNCITRAL Arbitration Rules, which provide detailed procedural guidelines for the conduct of arbitration proceedings. Unlike the Model Law, which serves as a legislative framework adopted into national arbitration statutes, the UNCITRAL Arbitration Rules operate as procedural rules that parties may voluntarily incorporate into their arbitration agreements. The Rules were first adopted in 1976 and subsequently revised in 2010 and 2013 to reflect developments in international arbitration practice, with the current framework providing a comprehensive structure for both institutional and ad hoc arbitration⁵³. The UNCITRAL Arbitration Rules regulate several critical aspects of arbitration, including the commencement of proceedings, appointment and replacement of arbitrators, submission of pleadings, presentation of evidence, interim measures, and the issuance of arbitral awards⁵⁴. For instance, the requirement for a notice of arbitration ensures that the respondent receives adequate information regarding the nature of the claim, the relief sought, and the basis of the arbitration, thereby promoting transparency and procedural fairness from the commencement of proceedings⁵⁵. The Rules also grant arbitral tribunals considerable procedural flexibility. Under the framework, tribunals have discretion to determine the appropriate manner in which proceedings should be conducted, provided that parties are treated equally and afforded a reasonable opportunity to present their cases⁵⁶. This flexibility allows tribunals to adopt procedures that correspond with the complexity, urgency, and nature of individual disputes, thereby improving efficiency while maintaining due process⁵⁷.

Additionally, the UNCITRAL Arbitration Rules empower tribunals to determine the admissibility, relevance, and weight of evidence, as well as order interim measures where necessary to protect the subject matter of the dispute⁵⁸. These provisions contribute to the effectiveness of arbitration by allowing tribunals to prevent unnecessary delays, control procedural excesses, and ensure that proceedings remain focused on resolving the substantive issues between the parties. Despite their significant contributions to arbitration practice, the UNCITRAL Arbitration Rules have attracted some criticism. One concern is that they provide limited guidance on complex issues such as document production and discovery, which may create uncertainty in disputes involving extensive documentary evidence⁵⁹. Similarly, the absence of detailed provisions on the consolidation of related arbitrations may create procedural difficulties where multiple proceedings arise from interconnected disputes.

⁵¹ Articles III-V of Convention on the Recognition and Enforcement of Foreign Arbitral Awards (New York, 1958).

⁵² Articles 35 and 36 of UNCITRAL Model Law.

⁵³ Albert Jan van den Berg, *The New York Arbitration Convention of 1958: Towards a Uniform Judicial Interpretation* (Kluwer Law International 1981) 1–3.

⁵⁴ Articles 3–43 of UNCITRAL Arbitration Rules.

⁵⁵ Article 3 of UNCITRAL Arbitration Rules.

⁵⁶ Article 17 of UNCITRAL Arbitration Rules.

⁵⁷ Emmanuel Gaillard and John Savage (eds), *Fouchard Gaillard Goldman on International Commercial Arbitration* (Kluwer Law International 1999) 645–650.

⁵⁸ Articles 27 and 29 of UNCITRAL Arbitration Rules.

⁵⁹ Catherine A Rogers, ‘Transparency in International Commercial Arbitration’ (2006) 54 *Kansas Law Review* 1301, 1315.

Nevertheless, the flexibility of the Rules remains one of their greatest strengths, enabling parties and tribunals to adapt procedures to the specific circumstances of each case.

Overall, the UNCITRAL Model Law and UNCITRAL Arbitration Rules represent the foundation of contemporary international arbitration practice. Their emphasis on party autonomy, procedural fairness, efficiency, and enforceability has contributed significantly to the growth of arbitration as a preferred mechanism for resolving international commercial disputes. The influence of these instruments is particularly evident in Nigeria's Arbitration and Mediation Act 2023, which incorporates several international best practices derived from the UNCITRAL framework in an attempt to strengthen Nigeria's position as an arbitration-friendly jurisdiction.

Institutional and Regulatory Framework for Professional Ethics in Arbitration

The Legal Practitioners Act (LPA) of 2004 governs the practice of law in Nigeria, establishing the framework for the regulation of legal practitioners and the ethical standards they must adhere to. The Act is pivotal in ensuring that legal practitioners maintain high standards of professionalism and integrity in their practice⁶⁰. While the LPA is not the enabling statute for the Nigerian Bar Association (NBA), it recognises the Association, which plays a crucial role in regulating the conduct of legal practitioners, setting professional standards, providing training, and supporting disciplinary mechanisms against errant practitioners⁶¹.

The Act outlines the requirements for admission into the legal profession, including the necessity of obtaining recognised legal qualifications and completing the mandatory professional training at the Nigerian Law School, ensuring that only qualified individuals are permitted to practise law in Nigeria⁶². The LPA also provides for disciplinary procedures through the Legal Practitioners Disciplinary Committee, which investigates complaints against practitioners and may impose sanctions, including suspension or removal from the roll of practitioners, thereby safeguarding the integrity of the legal profession⁶³.

The Act emphasises the importance of ethical conduct among legal practitioners, requiring adherence to principles of honesty, integrity, and fairness in dealings with clients, courts, and other professionals. This commitment to ethical practice is essential for maintaining public confidence in the legal profession and ensuring the proper administration of justice⁶⁴. Additionally, the regulatory framework encourages professional development and continuing legal education to ensure that practitioners remain competent and responsive to developments in legal practice⁶⁵. By establishing standards for admission, professional responsibility, and disciplinary control, the LPA provides the foundation upon which ethical legal practice in Nigeria is built. It ensures that lawyers perform their duties with professionalism and integrity, thereby maintaining confidence in the justice system and promoting effective dispute resolution mechanisms, including arbitration.

The Rules of Professional Conduct for Legal Practitioners (RPC) 2023 constitute the principal ethical code regulating the conduct of lawyers in Nigeria. The Rules provide comprehensive standards governing the professional responsibilities of lawyers towards clients, the courts, fellow legal practitioners, regulatory authorities, and the public⁶⁶. The RPC also contains

⁶⁰ SS 1-2 of Legal Practitioners Act 2004 (Cap L11, Laws of the Federation of Nigeria 2004).

⁶¹ Section 3 of Legal Practitioners Act 2004.

⁶² SS 4-5 of Legal Practitioners Act 2004; Nigerian Law School Act 1962 (Cap N83, Laws of the Federation of Nigeria 2004).

⁶³ SS 10-12 of Legal Practitioners Act 2004; Legal Practitioners Disciplinary Committee Rules.

⁶⁴ Rules 1-2 of Rules of Professional Conduct for Legal Practitioners 2023.

⁶⁵ Nigerian Bar Association Continuing Professional Development Policy.

⁶⁶ Rules of Professional Conduct for Legal Practitioners 2023.

provisions concerning financial accountability and reporting obligations aimed at preventing unethical financial practices, including conduct associated with money laundering⁶⁷.

In relation to Alternative Dispute Resolution (ADR) and arbitration, the RPC requires lawyers to advise their clients on available dispute resolution options beyond litigation, including arbitration, where appropriate⁶⁸. This obligation reflects the increasing recognition of arbitration as an effective mechanism for resolving disputes and places a responsibility on legal practitioners to facilitate rather than obstruct efficient dispute resolution.

Furthermore, legal practitioners are required to conduct themselves with honesty, integrity, and professionalism in the representation of their clients and to refrain from any conduct that undermines the proper administration of justice⁶⁹. These ethical obligations extend to arbitration proceedings, where counsel is expected to facilitate the fair and efficient resolution of disputes by complying with procedural requirements and discouraging tactics that unnecessarily delay or obstruct the arbitral process. Accordingly, lawyers should not assist or encourage clients to engage in strategic conduct aimed at frustrating arbitration, such as deliberate delay, refusal to cooperate with procedural directions, or attempts to undermine the authority of the arbitral tribunal. Such conduct may constitute professional misconduct under the Rules of Professional Conduct for Legal Practitioners 2023.

The RPC also prohibits lawyers from engaging in conduct that may improperly influence or mislead proceedings. A legal practitioner must not encourage a client to frustrate arbitration proceedings or employ tactics aimed solely at transferring a dispute back into litigation through unnecessary obstruction. Such conduct would undermine the fundamental objectives of arbitration, particularly efficiency, party autonomy, and finality.

Additionally, legal practitioners have a duty to ensure that lawful procedures are followed during arbitration proceedings. While lawyers owe confidentiality obligations to their clients, they must not participate in the concealment, falsification, or manipulation of evidence intended to mislead an arbitral tribunal⁷⁰. Lawyers are therefore expected to balance their duty of zealous representation with their overriding obligations to justice and the integrity of the dispute resolution process. Although arbitration does not always require legal representation due to its flexible and less formal nature compared with court litigation, the involvement of legal practitioners remains valuable in assisting parties to effectively present their cases. Consequently, the RPC provides an ethical framework to ensure that lawyers contribute positively to arbitration rather than undermine its objectives.

The Architects Registration Council of Nigeria (ARCON) is the statutory body responsible for regulating architectural practice in Nigeria pursuant to the Architects (Registration, Etc.) Act⁷¹. The Act establishes requirements relating to education, professional training, registration, and competence necessary for the practice of architecture in Nigeria⁷². It also empowers ARCON to supervise professional standards and discipline practitioners who violate established ethical obligations⁷³. A significant component of the regulatory framework is the ARCON Code of Conduct, which establishes ethical requirements governing professional behaviour among registered architects. The Code requires architects to act honestly, objectively, and diligently in carrying out their professional responsibilities. It prohibits the dissemination of false,

⁶⁷ Rule 57 of Rules of Professional Conduct for Legal Practitioners 2023.

⁶⁸ Rule 15(3) (d) of Rules of Professional Conduct for Legal Practitioners 2023.

⁶⁹ Rules 5, 15, 30 and 52 of Rules of Professional Conduct for Legal Practitioners 2023.

⁷⁰ Rules 19, 30 and 31 of Rules of Professional Conduct for Legal Practitioners 2023.

⁷¹ Cap A19, Laws of the Federation of Nigeria 2004.

⁷² SS 2-4 of Architects (Registration, Etc.) Act 2004.

⁷³ SS 8-9 of Architects (Registration, Etc.) Act 2004.

misleading, or deceptive information and requires practitioners to maintain professional integrity in their dealings with clients, colleagues, and regulatory institutions.

The Code's emphasis on impartiality and professional responsibility is particularly relevant to arbitration involving construction and architectural disputes. Architects frequently serve as expert witnesses, consultants, or technical advisers in arbitral proceedings; therefore, their obligation to provide independent and objective professional opinions is essential to preserving the fairness of arbitration⁷⁴.

The disciplinary mechanisms available under the Act, including reprimands, suspension, removal from the register, and other sanctions, reinforce compliance with professional standards⁷⁵. These measures discourage unethical conduct and prevent professionals from engaging in strategies designed to manipulate dispute resolution processes.

The ethical prohibition against misleading conduct is particularly significant in addressing guerrilla tactics, which involve strategic behaviour intended to obstruct or distort professional or legal proceedings. By requiring architects to exercise independent professional judgment and avoid improper influence, the ARCON framework contributes to maintaining the credibility and integrity of arbitration proceedings involving architectural expertise.

Estate surveyors and valuers play an important role in arbitration, particularly in disputes involving property valuation, land acquisition, rent review, construction projects, and commercial property transactions. They frequently appear as expert witnesses and may also serve as arbitrators in disputes requiring specialised knowledge of real estate valuation. Their professional conduct is regulated by the Estate Surveyors and Valuers Registration Board of Nigeria (ESVARBON) established under the Estate Surveyors and Valuers (Registration, etc.) Act⁷⁶ as well as the professional standards of the Nigerian Institution of Estate Surveyors and Valuers (NIESV). The professional obligations imposed on estate surveyors and valuers restrict behaviour capable of undermining arbitral proceedings. The NIESV Rules of Professional Conduct require members to maintain the highest standards of honesty, integrity, competence, and independence in the performance of their professional duties⁷⁷. These obligations are particularly relevant where an estate surveyor acts as an expert witness because the expert's overriding responsibility is to provide objective professional assistance rather than merely advance the position of the appointing party.

A surveyor who deliberately inflates property values, manipulates valuation methods, suppresses unfavourable market information, or prepares a misleading expert report may engage in conduct analogous to guerrilla tactics⁷⁸. Such conduct violates the professional obligation of integrity and objectivity imposed on members of the profession. The requirement of professional independence also prevents estate surveyors from acting as partisan advocates disguised as experts, as their primary obligation is to provide accurate and impartial professional opinions. Furthermore, estate surveyors are required to avoid conflicts of interest and disclose circumstances that may affect their independence. Failure to disclose a previous relationship with a party, financial interest in the subject matter of the dispute, or any other factor capable of creating bias may compromise the legitimacy of the arbitral process. This obligation aligns with the wider principle of impartiality applicable to arbitrators and experts under the Arbitration and Mediation Act 2023, particularly the requirement that arbitrators maintain independence and impartiality throughout arbitral proceedings.

⁷⁴ International Chamber of Commerce (ICC), *ICC Arbitration and ADR Commission Report on Construction Industry Arbitration* (2019).

⁷⁵ SS 10-12 of Architects (Registration, Etc.) Act 2004.

⁷⁶ Cap E13, Laws of the Federation of Nigeria 2004.

⁷⁷ Article 23.1(a) of the Constitution of the Nigerian Institution of Estate Surveyors and Valuers (2023)

⁷⁸ Article 28.3.2 of Constitution of the Nigerian Institution of Estate Surveyors and Valuers (2023).

Accountants frequently participate in arbitration as forensic accounting experts, financial advisers, valuation specialists, and tribunal-appointed experts. Their professional conduct is governed by the ICAN Professional Code of Conduct and Guide for Members, which incorporates the ethical principles of integrity⁷⁹, objectivity⁸⁰, professional competence and due care⁸¹, confidentiality⁸², and professional behaviour⁸³. These principles serve as safeguards against guerrilla tactics by requiring accountants to act honestly, independently, competently, and ethically in arbitral proceedings. Accordingly, accountants must not manipulate financial records, provide misleading expert reports, conceal material information, allow conflicts of interest to influence their judgment, disclose confidential information, or engage in conduct that may frustrate or undermine the integrity of arbitration.

Institutional Frameworks and the Management of Guerrilla Tactics

The institutional framework governing arbitration consists of various international and domestic institutions established to provide structured mechanisms for the fair, efficient, and effective resolution of disputes. These institutions provide procedural rules, administrative support, and safeguards aimed at promoting impartiality, party autonomy, and procedural fairness. However, despite these safeguards, arbitration institutions and courts remain susceptible to guerrilla tactics, which involve strategic procedural actions adopted by parties to delay proceedings, increase costs, or obtain an unfair advantage⁸⁴.

At the international level, institutions such as the International Chamber of Commerce (ICC), London Court of International Arbitration (LCIA), American Arbitration Association/International Centre for Dispute Resolution (AAA/ICDR), and Permanent Court of Arbitration (PCA) have developed comprehensive procedural frameworks to regulate arbitration proceedings⁸⁵. These institutions provide mechanisms for appointing arbitrators, managing evidence, controlling proceedings, and ensuring enforceability of awards. However, parties may exploit procedural protections through tactics such as unfounded challenges to arbitrators, excessive document production requests, unnecessary jurisdictional objections, repeated applications for extensions of time, and excessive evidentiary submissions⁸⁶.

The ICC Arbitration Rules, for instance, empower tribunals to actively manage proceedings and promote efficiency, but parties may still attempt to manipulate procedural safeguards by raising meritless objections or delaying applications⁸⁷. Similarly, the LCIA Rules provide tribunals with extensive powers to control proceedings, including determining procedural matters, limiting unnecessary evidence, and managing challenges to arbitrators⁸⁸. Nevertheless,

⁷⁹ Section 110 of Institute of Chartered Accountants of Nigeria (ICAN), *Professional Code of Conduct and Guide for Members* (ICAN).

⁸⁰ Section 111 of Institute of Chartered Accountants of Nigeria (ICAN), *Professional Code of Conduct and Guide for Members* (ICAN).

⁸¹ Section 113 of Institute of Chartered Accountants of Nigeria (ICAN), *Professional Code of Conduct and Guide for Members* (ICAN).

⁸² Section 114 of Institute of Chartered Accountants of Nigeria (ICAN), *Professional Code of Conduct and Guide for Members* (ICAN).

⁸³ Section 115 of Institute of Chartered Accountants of Nigeria (ICAN), *Professional Code of Conduct and Guide for Members* (ICAN).

⁸⁴ Catherine A Rogers, 'Fit and Function in Legal Ethics: Developing a Code of Conduct for International Arbitration' (2002) 23 *Michigan Journal of International Law* 341, 343.

⁸⁵ Gary B Born (n 40) 135-140.

⁸⁶ Nigel Blackaby and others, *Redfern and Hunter on International Arbitration* (7th edn, Oxford University Press 2023) paras 6.80–6.120.

⁸⁷ Articles 23-24 of International Chamber of Commerce, *ICC Arbitration Rules 2026*.

⁸⁸ Articles 14, 22 and 25 of London Court of International Arbitration, *LCIA Arbitration Rules 2020*,

procedural flexibility may create opportunities for parties acting in bad faith to prolong arbitration through repeated applications and procedural objections⁸⁹.

The AAA and its international division, the ICDR, also provide efficient frameworks for resolving domestic and international disputes. Their rules emphasise party autonomy, procedural fairness, and effective case management. However, these institutions may experience similar challenges, including excessive discovery requests, manipulation of arbitrator appointment procedures, late submissions, and unnecessary postponement applications⁹⁰. The PCA, particularly in investor-state disputes, faces comparable challenges where parties may raise jurisdictional objections, dispute consent to arbitration, or engage in extensive procedural manoeuvres intended to delay proceedings⁹¹.

Although the International Court of Justice (ICJ) is not an arbitral institution, its procedures demonstrate similar concerns regarding strategic litigation behaviour. Parties before the Court may employ jurisdictional objections, admissibility challenges, reliance on diplomatic immunities, or non-compliance with provisional measures as strategies capable of prolonging dispute resolution⁹². These practices highlight the broader challenge of balancing legitimate procedural rights with the need to prevent abuse of dispute resolution mechanisms.

Within Nigeria, the domestic institutional framework reflects similar developments. Institutions such as the Lagos Multi-Door Courthouse (LMDC) and the Lagos Court of Arbitration (LCA) were established to promote alternative dispute resolution and reduce pressure on traditional courts. The LMDC provides mediation, arbitration, negotiation, and conciliation services, thereby supporting faster and more flexible dispute resolution⁹³. However, parties may still engage in delaying strategies, including excessive information requests, failure to comply with procedural requirements, and prolonged negotiations without genuine intention to settle⁹⁴.

The Nigerian court system, including the Federal High Court, State High Courts, Court of Appeal, and Supreme Court, also experiences delays caused by procedural abuse. Common tactics include forum shopping, filing frivolous interlocutory applications, unnecessary adjournment requests, misuse of preliminary objections, and excessive reliance on technical procedural arguments⁹⁵. These practices contribute to case backlogs, increased litigation costs, and reduced public confidence in the justice system.

The Lagos Court of Arbitration represents Nigeria's effort to strengthen its arbitration infrastructure and position the country as an arbitration-friendly jurisdiction. Its Arbitration Rules provide mechanisms for managing proceedings, challenging arbitrators, granting interim measures, and controlling procedural conduct⁹⁶. However, similar to international institutions, the LCA remains vulnerable to guerrilla tactics such as repeated procedural applications, unnecessary challenges to arbitrators, and attempts to delay proceedings through excessive submissions.

⁸⁹ Julian D M Lew, Loukas A Mistelis and Stefan Kröll, *Comparative International Commercial Arbitration* (Kluwer Law International 2003) 710.

⁹⁰ Articles 21-24 of International Centre for Dispute Resolution, *ICDR International Dispute Resolution Procedures 2021*.

⁹¹ Campbell McLachlan, Laurence Shore and Matthew Weiniger, *International Investment Arbitration: Substantive Principles* (2nd edn, Oxford University Press 2017) 112–150.

⁹² Shabtai Rosenne, *The Law and Practice of the International Court 1920–2015* (5th edn, Brill Nijhoff 2016) 560.

⁹³ Lagos Multi-Door Courthouse, *History and Development of the LMDC*.

⁹⁴ Christopher W Moore, *The Mediation Process: Practical Strategies for Resolving Conflict* (4th edn, Jossey-Bass 2014) 45.

⁹⁵ Civil Procedure Rules of the Federal High Court of Nigeria 2019; see the case of *Madukolu v Nkemdilim* [1962] 2 SCNLR 341.

⁹⁶ Articles 10, 22-25 of Lagos Court of Arbitration, *Lagos Court of Arbitration Rules 2013*

Overall, the institutional framework demonstrates that while arbitration institutions and courts have developed sophisticated procedures to protect fairness and efficiency, guerrilla tactics remain a significant challenge. Effective case management, ethical obligations of legal practitioners, sanctions for procedural abuse, and proactive tribunal intervention remain essential in ensuring that arbitration fulfils its purpose as an efficient and reliable dispute resolution mechanism⁹⁷.

Recommendations

To further strengthen Nigeria's arbitration framework against guerrilla tactics, several reforms deserve consideration. First, courts should impose realistic cost sanctions against parties who institute frivolous procedural applications designed solely to delay proceedings. Second, arbitral institutions should adopt stricter case management procedures that limit unnecessary interlocutory applications and repeated adjournments. Third, the Nigerian Bar Association (NBA) and other professional bodies whose members participate in the arbitral process such as the Nigerian Institution of Estate Surveyors and Valuers (NIESV), the Institute of Chartered Accountants of Nigeria (ICAN), the Association of National Accountants of Nigeria (ANAN), the Nigerian Society of Engineers (NSE), and other relevant professional associations, should strengthen disciplinary measures against members who deliberately engage in unethical arbitration practices, whether as counsel, arbitrators, experts, or party representatives. Fourth, greater emphasis should be placed on continuous professional education concerning arbitration ethics and international best practices across all professions involved in arbitration. Finally, Nigerian courts should continue adopting a pro-arbitration approach by limiting judicial interference while ensuring that procedural fairness is preserved.

Conclusion

The Arbitration and Mediation Act 2023 has undoubtedly transformed arbitration practice in Nigeria by introducing progressive reforms consistent with international standards. The Act strengthens party autonomy, enhances tribunal powers, improves enforceability of arbitral decisions, and modernizes Nigeria's arbitration landscape. Nevertheless, the persistence of guerrilla tactics demonstrates that legislative reform alone cannot guarantee efficient arbitration. Ethical compliance, institutional vigilance, judicial discipline, and professional responsibility remain indispensable in preventing procedural abuse. Ultimately, preserving the integrity of arbitration requires a balanced approach that protects procedural fairness without permitting parties to weaponize procedural rules against the very objectives arbitration seeks to achieve. Nigeria possesses a robust legal and institutional foundation; the challenge now lies in ensuring that these frameworks are effectively implemented to discourage guerrilla tactics while promoting efficient, transparent, and credible arbitration practice.

⁹⁷ Paragraph 26 of IBA Guidelines on Party Representation in International Arbitration (2013).

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