Anchoring Fairness: The Art of Maritime Arbitration in Resolving High-Stake Disputes in Africa

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ABSTRACT

Maritime arbitration plays an increasingly critical role in for the resolution of disputes in an industry that supports over 90% of global international trade. The occupational risk of significant economic vulnerability, as exemplified by the 2021 Suez Canal blockage and resulting $9.6 billion dollars a day risk of loss from aggravated commerce, is crucial to understanding maritime arbitration effectiveness. The study analyzes the effectiveness of maritime arbitration in an African jurisdiction by assessing the adequacy of the relevant international legal tools, namely, the New York Convention of 1958 and the UNCITRAL Model Law of 2023, and also determining the issues of institutional, technological, and human barriers to ensure fair hearings. A mixed-methods approach (120 surveys of stakeholders: 18 interviews with experts; 10 case studies; and comparative legal analysis), demonstrated that arbitration has globally, an enforceability rate of 80%; whereas, for Africa the enforceability rate drops below 50%. Low enforceability rates and risk of resolution are often a result of inadequate enforcement mechanisms, weak institutional capacity of the institution, arbitrator bias, and failure to adopt digital enabling technologies - with findings that only 25% of arbitration centres reported using Artificial Intelligence (AI) or case management technologies. In comparison arbitration was 40% faster in terms of process, and would mitigate operational downtime by 25% in maritime disputes. The study proposes a hybrid arbitration model, specifically designed for Africa, to ensure an optimal legal framework - combining internationally recognised arbitration best practices with distinct for Africa traditional dispute resolution customs. The precedence of the international best practices is incorporated into the custom in order to optimise enforcement, create legal certainty, and enhance the positive moral obligation of sustainability in the environmental accountabilities assumed in maritime governance.

Keywords: African Maritime Law, Blue Economy Governance, Dispute Resolution Mechanisms, Environmental Accountability, Maritime Arbitration

INTRODUCTION

Maritime trade is the backbone of global trade, accounting for over 90% of international trade by volume. Given the fragmented nature of maritime trade - multiple laws and jurisdictions, many stakeholders often from different countries, and fragile marine environments- maritime trade is particularly susceptible to legal and operational disputes. Unresolved legal conflicts and disputes in the maritime domain often go unnoticed, but recent disruptions such as the blockage of the Suez Canal in 2021 show how serious their repercussions can be and we thus need improved means of dispute resolution.

Arbitration has emerged as a preferred method for resolving disputes, as it is quicker, more flexible and utilises sector experts. However, arbitration is hampered by enforcement issues, lack of institutions, and slow uptake of digital tools in the marine sector, particularly in African jurisdictions, where the challenges encountered in the sector are compounded by developmental issues, and widespread lack of trained legal professionals. As the blue economy matures in Africa, these challenges are only likely to become greater.

This study investigates the various aspects of maritime arbitration in general as they relate to Africa, and attempts to have three principal objectives; (1) assessing the adequacy of international and regional legal frameworks, such as the New York Convention and UNCITRAL Model Law; (2) identifying institutional,

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technological, and human barriers to fair and efficient arbitration; and (3) evaluating the practical impact of arbitration across contractual, environmental, and operational dispute types.

By combining legal analysis, stakeholder surveys, and expert interviews, this study aims to contribute both empirically and theoretically to ongoing debates about improving maritime arbitration in Africa.

Theoretical Framework

This study is based on the definition of Legal Pluralism, acknowledging the coexistence of a variety of legal systems (formal, informal, or other unspecified systems arising from societal norms within one jurisdiction), such as maritime arbitration, which exists between an international commerce model, national legal regimes, and customary practices. The existence of integration and pluralism makes legal pluralism an ideal framework for analysis. It is important to examine how arbitration is interpreted, administered, neglected, undermined, or enforced through various legal and cultural lenses, and how legal pluralism delineates an alternative framework for ongoing legal analysis and practice within arbitration.

An application is also made of Institutional Theory when examining how the behaviors, capabilities, and structures of arbitration institutions enhance or restrict their credibility and efficacy. Therefore, although differences in enforcement or levels of adoption of arbitration technologies across African countries are legal issues, they are also underpinned by either weak or strong institutional capacity or governance.

Overall, both frameworks explain the systemic causes of arbitration outcomes and evaluate and critique any proposed reforms for research and academic purposes. By balancing the discourse between hegemonic global norms and local realities, the study contributes to the development of a suitable arbitration model for Africa on a regional level.

Legal Instrument on Maritime Abitration

The legal documents on which maritime arbitration in Africa is reliant consist of a range of international treaties, legislative regimes at the regional level and national law legislation. The legal documents seek to establish a common approach to the conduct of arbitration so that investor confidence and the resolution and enforcement of maritime disputes can occur across the different jurisdictions of Africa.

On the international level, the New York Convention on Recognition and Enforcement of Foreign Arbitral Awards (1958) is by far the most important instrument. The Convention establishes a binding regime for the recognition and enforcement of foreign arbitral awards. This is important as many contracts for maritime commerce will involve elements of foreign entities and consideration of international business practices for normalising domestic and deliberative processes within Africa (UNCITRAL, 2021). Over forty states have ratified the Convention across Africa, which demonstrates its dominancy in the arbitration conduct of the continent (Aluko, 2023). The UNCITRAL Model Law on International Commercial Arbitration (1985; amended 2019) has provided a standard for conducting arbitration at an internationally recognised level. Various countries across the continent have either adopted or modified the Model Law, to develop dependability in the conduct of arbitration regimes when dealing with maritime matters (Oba, 2022).The United Nations Convention on the Law of the Sea (UNCLOS) (1982), establishes a legal regime for regulating maritime activities and disputes. As specifically related to arbitration concerns, under annex VII of UNCLOS, a system of compulsory arbitration was established that is particularly relevant to maritime boundary disputes and issues of navigation concerning African coastal states (Churchill, 2019).

On the continental level, the Organisation for the Harmonisation of Business Law in Africa (OHADA) Uniform Act on Arbitration 2017 (the “Uniform Act”) is a noteworthy legal instrument. The Uniform Act applies to 17 Francophone countries. Still, its implementation can pave the way to a harmonised approach to statutory arbitration, as it recognised a consistent legal regime across refined initial provisions for the appointment of arbitrators, jurisdictional issues and enforcement of awards -- matters that will benefit from certainty and standardisation in the maritime dispute resolution sphere (Mbengue and Schacherer, 2020). In 2021, the AfCFTA Dispute Settlement Protocol was adopted in Bali. The Protocol established an institutional

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mechanism for resolving trade disputes at the continental level, although it is unlikely to be successful in relation to all kinds of arbitration disputes occurring as a result of maritime commerce. While still developing, the Protocol will serve an increasingly significant purpose dealing with intra African maritime disputes that encompass cross border shipping and logistics services (UNECA, 2022).

Many African states have also established national arbitration regimes that comply with international best practice. The most reflective of international standards is Nigeria's Arbitration and Mediation Act 2023 which adheres to many provisions provided by UNCITRAL principles and institutional or ad hoc provisions for arbitration including maritime contexts (Akpata, 2023). Both South Africa's International Arbitration Act 2017 and Kenya's Arbitration Act 2010, amended in 2021, set out expansive regimes for dealing with international arbitration or disputes including those of the maritime variety (Gachuhi, 2021).

The combination of these legal instruments represents a legal framework for maritime arbitration in Africa aimed at supporting formal-standard processes perceived to be efficient, neutral and enforceable.

METHODOLOGY

Research Design

This study uses a mixed-methods approach, combining qualitative and quantitative data to assess maritime arbitration in Africa's blue economy. It focuses on three objectives: evaluating legal frameworks (like the New York Convention and UNCITRAL Model Law), identifying barriers to dispute resolution, and assessing arbitration's impact on contractual, environmental, and operational disputes. Qualitative data from case studies and interviews were analyzed thematically with NVivo 15, while survey data (n=120) were statistically processed using SPSS 29 for correlation and comparison.

Data Collection

Case studies by examining 10 significant maritime arbitration cases, including 7 from Africa (e.g., 2016 Ghana oil spill) to examine legal application and outcomes. The survey targeted 120 stakeholders from African and global maritime sectors. Additionally, 18 interviews with arbitrators, port officials, and experts provided deeper insights.

Ethical Considerations

All qualitative research activities complied with ethical research standards. Participants in interviews were informed about the study's purpose and gave written consent. Data confidentiality was ensured by anonymising responses, and interviewees were allowed to withdraw at any time.

Study Limitations

This study demonstrated insightful evidence of maritime arbitration in Africa; however, limitations were present. The geographical scope was limited to Anglophone and a few selected Francophone countries and does not capture the diversity of legal and institutional practices across Africa. As participants voluntarily participated, we also could not capture all stakeholders in the study and noted that access to digital communication tools for some stakeholders and in some areas was limited. Finally, the evidence gathered is a snapshot in time and does not account for trends in legal reform and rapid change in innovation and the application of technology. Future studies could expand the sample to include more African jurisdictions as well as examining change over time to assess delivery and durable effects of proposed reform.

Data Analysis Techniques

Literature Review

To establish a theoretical foundation for all objectives, the research begins with a literature review. This involves analysing international legal frameworks such as the New York Convention (1958), UNCITRAL

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Model Law (2023), Hague-Visby Rules, and MARPOL Convention, alongside national regulations from Africa (e.g., Nigeria, South Africa) and global comparators (e.g., U.S. Jones Act, EU directives). Academic and industry sources, including IMO reports (2025a) and African Union projections (2023), will be synthesized to explore arbitration's role, barriers, and impacts. Using databases like JSTOR and LexisNexis, this step provides a foundational understanding of legal applications and contextual challenges, particularly in Africa.

Case Studies

This study used ten relevant maritime arbitration cases to explore the topic, with seven cases in Africa and three with relevance internationally. The African cases that were reviewed are the Ghana Oil Spill Case (2016); Durban Port Congestion Dispute (2020–2022); MV Tai Shan Charter Dispute (2019); Nigeria LNG Vessel Delay Arbitration (2021); Sierra Leone Bauxite Export Case (2017); Mozambique Ship Collision Dispute (2020); and the South Africa Coastal Fishing Rights Case (2015). These cases are of a variety of contract, environment and operation disputes. The non-African and comparative cases are the Ever Given Arbitration (2021) that involved a worldwide disruption at the Suez Canal; Icon Stella cargo damage case (2018) that was adjudicated in Singapore; and Kenya Port Fees Arbitration (2022), that included an international party but was resolved in an African jurisdiction. Each case was examined for the legal frameworks that were used; the dispute resolution processes; and the enforcement outcomes to assist in the study objectives.

Surveys and Interviews

Stakeholders are selected using purposive sampling to ensure relevance to the study's objectives and Africa's blue economy context. For surveys, 120 respondents comprising arbitrators (25%), legal professionals (25%), shipping firms (30%), and regulators (20%) are chosen based on: (1) direct involvement in maritime disputes (e.g., cases from 2016-2025), (2) geographic diversity (minimum 30% from African hubs like Nigeria, South Africa, Kenya), and (3) representation across scales (e.g., multinational firms vs. local operators). For interviews, 18 experts were selected for their specialised experience (e.g., 5+ years in arbitration) and roles (e.g., 50% arbitrators, 30% port officials, and 20% legal scholars), prioritising African perspectives (e.g., Lagos, Durban) and global comparators. Selection leverages industry networks (e.g., IMO, AU contacts) and public arbitration records, ensuring a balanced mix of public-private and small-large scale actors. Sample sizes reflect resource constraints and statistical viability (e.g., 95% confidence level, 10% margin of error for surveys), with oversampling to mitigate non-response risks in Africa's data-scarce context.

Comparative Analysis

A comparative analysis enhances Objectives 2 and 3 by contrasting African and non-African arbitration practices (e.g., enforcement challenges) and arbitration versus litigation (e.g., time, cost, and compliance). Using case studies, literature (e.g., Bennett, 2021), and survey data, this step employs qualitative and quantitative metrics to contextualize arbitration's effectiveness and highlight Africa-specific dynamics.

Measuring Stakeholder Trust in Arbitration

Quantitative Measurement (Surveys)

Method:

Likert-scale questions in surveys (e.g., 1–5 ratings) asked stakeholders (arbitrators, lawyers, shipping firms and regulators) to assess:

- Confidence in arbitration's fairness (*"How much do you trust arbitration to deliver fair outcomes?"*)
- Perceived effectiveness of legal frameworks (*"Rate the adequacy of the New York Convention in ensuring enforceable awards."*)
- Satisfaction with dispute resolution speed and costs.

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Qualitative Validation (Interviews & Case Studies)

Method:

Semi-structured interviews (n=18) with arbitrators, port officials, and lawyers explored:

- *"What factors influence your trust in arbitration?"*
- *"Can you recall cases where trust was eroded? Why?"*

Case study analysis (e.g., *Ever Given*, Ghana oil spill) examined:

- Compliance with awards (enforcement = proxy for trust).
- Stakeholder reactions (media reports, post-resolution feedback).

LITERATURE REVIEW

Maritime arbitration is an essential tool for resolving disputes in a field that is the cornerstone of the global economy, facilitating over 90% of the global trade volume (IMO, 2025a). The transport business is the lifeblood of world trade, transporting everything from natural resources such as oil, coal, and grain to final goods such as electronics, clothing, and automobiles through the vast ocean. As with vast obligations come proportionately significant difficulties, disputes often arise that threaten the interruption of trade routes, the destruction of delicate maritime biomes, and the stability of diplomatic relations. These disputes may be caused by a wide range of problems, such as failures of charter party arrangements over vessel hire or cargo delivery times, natural events like catastrophic oil spills or illegal waste dumping, or operational misfortunes like collisions, groundings, or port congestion. The fiscal stakes are astonishing, often involving tens of thousands of dollars in holdings, trade losses, and liability claims, while the social and natural consequences may last decades (Gold, 2020).

Valid and Procedural Standard Structure for Maritime Arbitration in Africa

The legal framework for maritime arbitration includes transnational conventions, national laws, and industry-specific contracts (Tetley, 2019). The most pertinent convention is the New York Convention (1958), which has now been ratified by more than 160 states and has established enforceability across jurisdictions, a very pertinent requirement for parties to a dispute in maritime contexts, where people and assets can be separated geographically. For example, cargo damage between an Asian shipper and an Australian exporter is decided by an arbitrator in Singapore, and that award can be enforced in Australia. The New Law on International Commercial Arbitration Model Law (2023) provides procedural uniformity while still affording the flexibility required to account for the individual facets of maritime disputes. For example, arbitration in maritime contexts needs to accommodate the unique maintenance standards for vessels or obligations regarding charter parties while safeguarding fairness (Blackaby et al., 2020). Frequently parties to a maritime contract agree to arbitration under a specified governing authority, in which case arbitrators ordinarily need the necessary maritime knowledge. But hesitation over how to interpret procedural benchmarks can lead to inconsistency and unpredictability (Tetley, 2019).

Nonetheless, while maritime arbitration has compelling elements, there are still procedural and practical challenges, especially in the emerging maritime jurisdictions in Africa. Arbitral awards don't create binding precedent which leads to inconsistency in decisions on similar disputes (Bennett, 2021). Moreover, enforcement is more challenging where legal systems are underdeveloped, and judges and courts are not willing, or able, to uphold decisions made by an arbitrator (Force & Davy, 2022). In Africa, disputes being exceptionally difficult for example in Nigeria, Ghana, or Kenya where commercial activity is increasing faster than the legal infrastructure can support.

Technological factors have a role to play in the future of arbitration, and in arbitration generally. The process of arbitration, although it became the accepted norm in some industries following incarceration by the COVID-

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19 pandemic, has had limited uptake of advanced technology (Force & Davy, 2022). Digital technology, specifically blockchain that facilitates smart contracts, has only limited uptake. Technology that accommodates full online arbitration also has high potential for adoption - subject to industry acceptance. Human factors also complicate the process. Arbitrators can also be biased either consciously or subconsciously, specifically with their links to parties involved in a dispute (Smith, 2022), or where the pace of change with regard to elements affecting maritime operations such as emission changes or autonomous operations are happening faster than Canberra, for example, can get upskilling and educate some arbitrators, questioning their trust in the arbitration system itself (Jones, 2023).

For African states looking to become arbitration-friendly maritime hubs, including some of the procedural standards, enhancing judicial capacity, and technology acceptance, amongst others, are required. This will provide a transparent, reliable, consistent, and technologically influenced arbitration system to support Africa to resolve maritime disputes better and gain international confidence for their commercial dispute resolution systems.

Impacts on Contractual, Environmental, and Operational Disputes

Maritime arbitration provides a specialised and flexible approach to resolving contractual, environmental, and operational disputes. This distinguishes it from conventional litigation, particularly within the complex framework of maritime commerce (Bennett, 2021). Contractual disputes are the most common and intricate, often involving matters such as liability for cargo spoilage due to improper stowage or cost allocation following delays caused by port strikes or unforeseen events (Gold, 2020). Arbitration allows for the appointment of arbitrators with industry-specific expertise in areas such as cargo logistics, marine insurance, or charter party management, thereby improving the precision and relevance of decisions (Blackaby et al., 2020). A notable example is the *Icon Stella* case in 2018, where an expert arbitrator resolved a stowage-related damage claim in under nine months, approximately 40 percent faster than traditional court proceedings (Bennett, 2021). Nonetheless, the absence of a unified interpretative standard sometimes results in inconsistent rulings, particularly in relation to force majeure clauses, which can reduce predictability for parties involved (Tetley, 2019).

Environmental disputes, though less frequent, carry significant consequences and test arbitration's ability to reconcile commercial imperatives with ecological responsibility (Mondello and Rossi, 2021). Arbitration has demonstrated effectiveness in this domain. The *Exxon Valdez* oil spill of 1989, for instance, was resolved through arbitration more swiftly than litigation would have allowed, enabling the timely disbursement of compensation and environmental restoration within 11 months (Mondello and Rossi, 2021; Bennett, 2021). Similarly, the 2016 Ghana oil spill case concluded with the imposition of ten million dollars in fines and remedial actions (African Union, 2023). These efficiencies are enabled by arbitration's procedural flexibility, which prioritises practical outcomes over protracted litigation. However, confidentiality often limits transparency in arbitration. In the case of *Exxon Valdez*, the shielding of commercial details also restricted public scrutiny, raising concerns about arbitration's ability to serve the public interest when environmental damage is involved (Force and Davies, 2022). Scholars have called for reforms such as public reporting mechanisms to ensure greater accountability in arbitration proceedings with ecological implications (Mbengue and Schacherer, 2024).

Operational disputes, involving incidents such as vessel collisions, port congestion, and route blockages, further reveal the strengths and limits of arbitration (Trapani and Smith, 2023). A prominent example is the *Ever Given* incident in March 2021, when a 400-metre Panamanian container ship ran aground in the Suez Canal. For six days, it obstructed one of the world's most vital trade arteries, delaying nearly 400 vessels and halting trade worth an estimated 9.6 billion dollars per day (Suez Canal Authority, 2021; BBC, 2021). The disruption sparked a succession of legal claims between ship owners, insurers and canal authorities. Maritime arbitration arrived at an agreement with deferred payments, preferential passage arrangements, and pragmatic compensation. This reduced the downtime by 25 percent, where stakeholders profited by just under five million dollars per claim (Bennett, 2021; Trapani and Smith, 2023). Despite these evident successes, some

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systemic issues, especially poor port infrastructure, are yet to see resolution. For port authorities in Durban who face continuous backlogged cargo and logistical problems, arbitration in many cases, will not overcome the underlying infrastructure problems. For 67 percent of respondents in the survey, arbitration has not resolved the systemic problems that meant they lost possessions and time at sea, owing to the inherent inefficiencies within the maritime sector (Force and Davies, 2022; World Bank, 2022). Conversely, in instances like the oil spill case in Ghana (2016); arbitration can allow for some reconciliation between corporate responsibility and environmental protection. This shows that while pursuing sustainable outcomes and future resilience can coexist within an arbitration context (African Alliance, 2023).

Maritime arbitration offers valuable advantages in terms of speed, specialisation, and procedural flexibility across diverse dispute types. Yet its limitations in consistency, transparency, and systemic reform indicate a need for complementary legal and institutional measures, particularly within developing maritime jurisdictions.

Africa's Maritime Context: Opportunities and Challenges

The main ports of the continent, such as Lagos in Nigeria and Durban in South Africa, are essential for international trade, serving as the main gateway between Africa and Asia and the Americas (World Depositary, 2022). The African Alliance expects the continent's blue economy, including transport, fishing, and offshore energy, to reach $ 405 million by 2035 (African Union, 2020), based on trade agreements such as the African Continental Free Trade Area (AfCFTA) and asset export. The current economic growth inevitably increases the need for efficient conflict resolution, as the increasing congestion at sea inevitably leads to clashes exceeding port fees, transport contracts, and natural influences of increased workload (Okonkwo, 2021). Still, arbitration in the continent should be the subject of useful obstacles such as limited institutional capacity, incoherence with the New York Convention, and advanced shortcomings which limit its own power (SOAS Arbitration Report, 2020; Kigen, 2022). For instance, only 42 out of 54 African nations have signed the recent New York Convention, which complicates cross-border enforcement, while enforcement rates are close to approximately 50 percent compared to Europe's 85 percent (merged Nations, 2023). This institutional weakness is mirrored in other African jurisdictions, where digital infrastructure lags and outdated manual procedures remain prevalent (Kigen, 2022). The same roadblock is exacerbated by the lack of computerized foundations, such as protected Web pages or data-driven circumstance management, which leaves arbitration to rely on outdated manual procedures (Kigen, 2022).

The African Union (2023) estimates that Africa's blue economy, which includes transport, fishing, and offshore energy, could grow to 405 billion dollars by 2030. This projected growth is being driven by expanding trade partnerships and increasing resource exports. With such rapid development, the risk of disputes naturally increases, making strong systems for resolving them more important than ever. Arbitration is becoming a key part of this process. It not only helps settle commercial disagreements, such as those over port fees or shipping contracts, but also plays a role in protecting the continent's maritime environment. As Africa's maritime activities continue to expand, there is a growing need to ensure fairness and clarity in how conflicts are managed.

Encouraging signs of progress are beginning to appear. The AfCFTA Dispute Resolution Protocol (2023) presents a promising step forward by offering a unified approach to arbitration across the region. It introduces clear procedures for handling both disputes between states and those involving private businesses, which could simplify how maritime conflicts are resolved across the continent (African Union, 2023). Local institutions are also making strides. For instance, the Lagos Court of Arbitration has seen a 15 percent increase in cases involving African parties between 2020 and 2022, reducing the continent's dependence on foreign arbitration centres like those in London or Paris (LCA Annual Report, 2022). A strong example of arbitration's potential is the 2016 oil spill in Ghana. The case was resolved through arbitration, resulting in ten million dollars in fines and establishing an important precedent for balancing corporate responsibility with environmental protection. This outcome offers a model for how similar disputes could be managed in the future (African Union, 2023).

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Integrating sustainability into arbitration could align itself with the continent's blue economy aspirations and position it as a future leader in the present situation (Mbengue & ampere; Schacherer, 2024). The 2016 Ghana case demonstrates arbitration's authority to impose environmental sanctions, 60 % of which were imposed within 12 months, supporting the African Federation's vision for an environmentally friendly maritime economy (African coalition, 2023). The development of Distributed Ledger Technology (DLT) tools for protected contract execution, together with a pilot enterprise in southern motherland that demonstrated a 15 % decrease in conflict resolution intervals (Shin & ampere; Lee, 2022), could further enhance performance. If the continent addresses it's institutional and advanced weaknesses through increased support, widespread ratification of the New York Convention, and digital adoption, it could achieve planetary arbitration standards within ten years (Onyema, 2022). The continent's growing fiscal authority, together with calculated improvements, has the potential to use arbitration not only to resolve disputes but also to promote the reliance and resilience of an expanding maritime industry, in line with global trade demands (earth lender, 2022).

Addressing Gaps in the Literature

The literature on maritime arbitration in Africa usually often highlight enforcement issues, ineffective technology deployment, and inconsistent application of legislation but generally fails to advance realistic and contextualised solutions. As such, this study aims to address these gaps by utilizing empirical data, which includes case studies, stakeholder surveys, and expert interviews in order to examine how arbitration works in practice. Furthermore, by incorporating technology assessments, and primary insights, the study scales beyond merely defining problems, to scope practical reforms specifically for Africa's maritime landscape.

ANALYSIS AND RESULTS

This section presents the core findings of the study based on the three stated objectives: assessing the adequacy of legal frameworks for maritime arbitration, identifying barriers to effective dispute resolution, and evaluating arbitration's impact on different categories of maritime disputes. The analysis is based on a triangulation of data sources: ten case studies, a structured survey involving 120 stakeholders, and 18 expert interviews. These are supplemented by a review of arbitration technologies and a comparative analysis of African and global arbitration systems.

Objective 1: Adequacy of Legal Frameworks

Survey and case study findings show that international instruments such as the New York Convention (1958) and the UNCITRAL Model Law (2023) are widely adopted in maritime arbitration, featuring in 9 out of the 10 case studies analyzed. However, interviews with arbitrators and legal experts revealed that enforceability depends heavily on the capacity and willingness of local courts. One arbitrator based in Lagos noted, *"Global rules are only as good as the local systems that enforce them."*

Survey results reinforce this: 75% of respondents (90 out of 120) agreed that international legal frameworks are effective in theory, but 60% also indicated that they face significant challenges aligning these frameworks with domestic legal procedures. This tension was evident in the Ever Given case, where conflicting interpretations of "force majeure" under Egyptian law and international arbitration principles led to a 12-week delay in resolution.

In the Ghana oil spill arbitration, although MARPOL standards were referenced, weak enforcement mechanisms led to a six-month delay in payment execution. These cases show that while the legal instruments are available and often referenced, their practical value in Africa is constrained by inconsistent domestic application.

Objective 2: Barriers to Effective Dispute Resolution

Analysis of the survey and interviews revealed three major categories of barriers: human, institutional, and technological.

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Human Barriers: Survey responses show that 45% of participants rated arbitrator expertise as moderate or low, especially in relation to technical maritime knowledge. Among the 18 experts interviewed, 9 cited arbitrator bias and lack of specialization as a recurrent problem. In the Durban port congestion dispute, for instance, the assigned arbitrators lacked experience with port logistics, which led to a prolonged 8-week deliberation period.

Institutional Barriers: Institutional weaknesses were commonly cited, especially in African arbitration centres. Survey data showed that 30% of respondents had experienced enforcement failures or delays. This was echoed in interviews, where several participants emphasized the underfunding of arbitral institutions and inconsistent judicial cooperation. In Lagos, arbitration cases took 20% longer on average than comparable proceedings in London, according to comparative data from surveyed professionals.

Technological Barriers: Digital tools remain underutilised in African maritime arbitration. Only 25% of survey participants reported using AI-based tools or digital case management systems in arbitration. None of the interviewed arbitrators had experience with blockchain applications, despite their benefits for transparency and contract execution. One interviewee, a maritime legal consultant in Kenya, remarked, *"We are still using paper files. That alone delays proceedings by weeks."*

These barriers contribute significantly to the reduced efficiency and credibility of arbitration in the African context.

Objective 3: Impact of Arbitration on Maritime Disputes

The impact of arbitration was assessed across three categories of maritime disputes: contractual, environmental, and operational. Data was drawn from case studies and validated with survey responses and expert commentary.

Contractual Disputes: These were the most common and showed the strongest performance. The Icon Stella cargo claim was resolved in 9 months, which is about 40% faster than typical litigation timelines. According to the survey, 80% of stakeholders felt arbitration provided timely and cost-effective resolution in commercial disputes. Interviews supported this, with a Ghana-based port official stating that arbitration offered *"predictable outcomes without the bureaucracy of courtrooms."*

Environmental Disputes: While arbitration has been effective in assigning responsibility and penalties, enforcement lags are frequent. In the Ghana oil spill case, although $10 million in fines were imposed, only 60% of the sanctions had been enforced within the first year. Interviews pointed to the confidential nature of arbitration as a barrier to public accountability. Nonetheless, 70% of surveyed stakeholders considered arbitration a fair tool for resolving environmental claims, provided enforcement mechanisms are strengthened.

Operational Disputes: These included incidents such as port delays and vessel collisions. In the Ever Given arbitration, deferred payments and compensatory arrangements helped reduce average downtime by 25%. However, in operational contexts like Durban, survey respondents (67%) and several interviewees noted that arbitration often could not address systemic logistical or infrastructure failures. While it helped resolve specific disputes, it did little to solve root operational problems.

Comparative Insights and Summary of Findings

Globally, arbitration consistently outperformed litigation in terms of time, cost, and stakeholder trust. In Africa, however, this advantage was moderated by lower enforcement rates (50% in Africa vs. 85% in Europe) and slower institutional support. Even so, 65% of African stakeholders preferred arbitration over litigation, particularly for complex commercial disputes.

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Aspect	Global Finding	Africa-Specific Finding	Primary Data Source
Enforcement Rate	80% of arbitral awards enforced in practice	50% enforcement rate across African jurisdictions	Case studies, survey (30% report enforcement failure)
Resolution Time	9 months average in mature jurisdictions (e.g., Singapore, London)	12 months average in African centres (e.g., Lagos)	Case studies (Ever Given, Icon Stella), expert interviews
Arbitration Cost	~$200,000 USD per case (lower than litigation)	~$200,000 USD per case (also lower than local litigation at ~$285,000)	Bennett, 2021; Interview with arbitrator in Nigeria
Stakeholder Trust	80% of global stakeholders trust arbitration	65% of African respondents trust arbitration over litigation	Survey (n=120); Interviews (n=18)
Technology Use	40–50% of practitioners in developed systems use AI or e-tools	Less than 25% of African arbitration centres report use of digital platforms	Survey, interviews, Force & Davy, 2022; Kigen, 2022

The research shows how international instruments like the New York Convention and the UNCITRAL Model law were used in many African jurisdictions, but because these instruments were often not reasonably implemented and have inconsistent domestic application, the effect is compromised. The frameworks in the majority of maritime disputes that were cited in the study were not without their challenges. Their utility in practice would be very much dependent on court enforcement in the local jurisdiction as well judicial cooperation and support. There were human resource challenges which included bias of arbitrators and a lack of experience with maritime disputes; for example, 45% of respondents rated the competence of arbitrators as moderate or low. Institutional challenges were perhaps more pronounced with 30% of stakeholders reporting failure enforcement or procedural delays as a result of non-funded arbitration centres and uncooperative national judiciaries. Furthermore, the adoption of digital technology was also very low, less than a quarter of arbitration institutions indicated using technologically based systems even in limited fashion such as artificial intelligence or using a digital case management system that had contributed to delays in case handling and processes.

From a practical perspective the research showed that arbitration was the most successful in the contractual disputes, with case resolution averaging 40% faster than court litigation. Environmental disputes were effective from a standard of assigning liability, but often ended up with poor enforcement and limited transparency. Operational disputes like port delays, vessels collisions benefited from speed and flexibility from arbitration processes but the systemic infrastructure issues behind the disputes were often absent. Overall it suggests despite the arbitration presents a still advantageous cost benefit ratio and time to that of litigation, African jurisdictions lag behind global barriers to entry with the distribution of arbitrator income, enforcement gaps and institutional decay notwithstanding strong stakeholder preference for arbitration (often times, for comparatively high value commercial disputes, arbitrators income appears cheaper to litigation).

CONCLUSIONS AND RECOMMENDATIONS

The study illustrates that maritime arbitration a viable and increasingly important option for the resolution of complex disputes in Africa's emerging blue economy. Weak enforcement, institutional underdevelopment, and limited uptake of technological advancements limit the effectiveness of the maritime arbitration process. International legal norms are critical for establishing the process but are insufficient without the support of local enforcement and developing local institutional capacity. In order to achieve the desired level of potential, there needs to be norms developed for the region, uniquely tailored to Africa's legal pluralism and customary practices for dispute resolution.

The study recommend developing a hybrid arbitration model that combine global legal norms with locally-cultured mechanisms for legitimacy and access to dispute resolution. Reformed institutions should focus on arbitrator training and building sustainable funding for institutions like arbitration centres. Asset building in the form of dedicated resources to technology to develop digital case management systems and online dispute resolution enhancements would improve transparency and efficiency. Increased action should be taken to unify

national laws with international instruments that are endorsed such as the New York Convention. Comprehensive strategies should be taken to unify and build public trust (i.e. transparency and accountability) particularly in the context of environmental cases. Given considered reform and support arbitration could be the foundation for effective and sustainable maritime governance in Africa.

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