

INTERNATIONAL COMMERCIAL ARBITRATION IN TANZANIA: EVALUATING ITS ROLE IN BUSINESS DISPUTE RESOLUTION.

Author: RAZACK KIMWAGA

I. Abstract

This paper critically evaluates the role of international commercial arbitration in resolving business disputes within the legal framework of Tanzania. It begins by tracing the evolution of arbitration laws in Tanzania, with particular focus on the Arbitration Act [Cap. 15 R.E. 2023], which aligns domestic practice with international standards such as the UNCITRAL Model Law and the New York Convention. The study explores the legal and institutional infrastructure underpinning arbitration, including the powers of arbitral tribunals, judicial support functions, the enforceability of foreign awards, and the role of the Tanzania Arbitration Centre.

The analysis demonstrates that while the legislative reforms have significantly modernized Tanzania's arbitration regime offering party autonomy, procedural flexibility, and finality implementation challenges persist. These include limited judicial specialization, inconsistent enforcement practices, underdeveloped arbitral institutions, and risks posed by broad interpretations of public policy. The paper also highlights judicial attitudes towards arbitration, identifying positive trends as well as areas of concern that could erode confidence in the arbitration system.

Based on doctrinal and comparative analysis, the study concludes that although Tanzania has established a sound legal foundation for international arbitration, realizing its full potential requires strategic investment in institutional capacity, jurisprudential development, and judicial training. The paper recommends reforms to enhance procedural efficiency, enforce arbitral awards effectively, and increase the Tanzania Arbitration Centre's regional and international visibility. These steps are essential to positioning Tanzania as a competitive and reliable forum for international commercial dispute resolution.

II. Methodology

This study adopts a doctrinal, comparative, and analytical methodology, supported by statutory and case law analysis. The doctrinal approach involves a detailed examination of primary legal sources including the Arbitration Act [Cap. 15 R.E. 2020], the Civil Procedure Code [Cap. 33 R.E. 2023], and international instruments such as the New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards. Judicial decisions from Tanzanian courts are analyzed to assess how legal principles are interpreted and applied in practice.

The comparative method draws on arbitration practices and jurisprudence from other jurisdictions with advanced arbitration frameworks such as Singapore, the United Kingdom, and Kenya to evaluate the adequacy of Tanzania's system and identify potential improvements. The analytical method is used to synthesize these findings, examining the gap between law and practice, and drawing insights into the effectiveness, strengths, and weaknesses of Tanzania's arbitration regime.

Secondary sources, including academic articles, UN reports, and institutional publications, support the analysis by providing broader context and scholarly perspectives. No empirical data collection was undertaken; however, practical challenges were inferred through case commentaries, legal practice reports, and court performance reviews relevant to arbitration-related proceedings.

III. Introduction

In the contemporary era of globalization and cross-border trade, business disputes increasingly transcend national boundaries, demanding dispute resolution mechanisms that are efficient, neutral, and enforceable across jurisdictions. International commercial arbitration has emerged as a preferred alternative to litigation for resolving such disputes, offering a framework that emphasizes party autonomy, confidentiality, flexibility, and finality. In Tanzania, the evolution of arbitration law has reflected a growing recognition of the role arbitration plays in fostering investor confidence and supporting a favorable business climate. The enactment of the Arbitration Act [Cap. 15 R.E. 2023] represents a significant legislative milestone, aligning the national arbitration regime more closely with international best practices and principles, including those found in the UNCITRAL Model Law.

This paper evaluates the role of international commercial arbitration in business dispute resolution within the Tanzanian legal context. It explores the legal framework governing arbitration, including the interaction between the Arbitration Act and the Civil Procedure Code, and assesses the extent to which the Tanzanian judiciary supports arbitration in practice. Key themes include the enforceability of arbitration agreements and foreign awards, the jurisdiction of arbitral tribunals, court intervention, and the role of the Tanzania Arbitration Centre. The analysis also considers whether current laws sufficiently promote predictability, fairness, and efficiency in international arbitration processes conducted in or enforced through Tanzania.

By critically analyzing statutory provisions, judicial trends, and institutional capacities, this paper aims to illuminate both the progress made and the challenges that remain in positioning international commercial arbitration as an effective mechanism for resolving cross-border business disputes in Tanzania.

1. The Legal and Institutional Framework Governing International Commercial Arbitration in Tanzania

Tanzania's legal framework for international commercial arbitration is principally governed by the Arbitration Act, [Cap. 15 R.E. 2023] (hereinafter “the Arbitration Act”), which was enacted to modernize and harmonize domestic arbitration laws with international standards. The Act draws heavily from the UNCITRAL Model Law and aims to provide a coherent and investor-friendly legal infrastructure for the conduct and enforcement of arbitral proceedings. It replaces the previous regime under the now-repealed Arbitration Ordinance, offering a more detailed and practical approach to both domestic and international arbitration.

1.1 Definition and Scope of International Arbitration

The Arbitration Act defines international arbitration as one involving legal relationships whether contractual or otherwise classified as commercial in nature, where at least one party has a foreign element. This includes natural persons who are nationals or habitual residents of another country, foreign-incorporated companies, and even foreign states or entities under foreign management or control.¹ This broad definition aligns with global arbitration norms and ensures predictability in

¹ Arbitration Act, Cap. 15 R.E. 2020, s.3

cross-border transactions, thus reassuring foreign investors that their disputes can be adjudicated within a framework sensitive to transnational commerce.

Moreover, the Act centralizes the judicial oversight of international arbitration within the High Court of Tanzania in its ordinary original civil jurisdiction.² This judicial structure is significant in fostering consistency in arbitration-related rulings and providing a specialized forum with higher judicial expertise in commercial matters.

1.2 Party Autonomy and Judicial Restraint

A fundamental principle enshrined in the Act is that of party autonomy. Section 5(a) stipulates that the primary objective of arbitration is to obtain a fair resolution of disputes by an impartial tribunal without undue delay or excessive cost.³ Section 5(b) further provides that parties are free to agree on the manner in which their disputes are resolved, subject only to safeguards necessary to preserve public policy and interest. Such autonomy permits parties to choose applicable laws, arbitral rules, the seat of arbitration, and procedural mechanisms most suited to their needs.

Importantly, section 5(c) of the Act restricts court intervention in arbitral proceedings, declaring that judicial authorities shall not interfere except where expressly permitted.⁴ This legislative directive is crucial for the integrity of the arbitral process, preserving its flexibility and shielding it from procedural complications traditionally associated with litigation.

1.3 Seat of Arbitration and Jurisdictional Consequences

Section 8 of the Arbitration Act defines the “seat of arbitration” as the juridical seat designated either by the parties, by the applicable law, or by the arbitral tribunal.⁵ The determination of the seat carries substantive legal implications it governs the procedural framework of the arbitration, affects court intervention rights, and determines the venue for setting aside awards.

Section 7(1) provides that the Act applies where the seat is in Mainland Tanzania.⁶ However, even where the seat is outside Tanzania or not expressly designated, certain main provisions

² Ibid, s.6(1)(b)

³ Ibid, s.5(a)

⁴ Ibid, s.5(c)

⁵ Ibid, s.8

⁶ Ibid, s.7(1)

particularly those related to staying court proceedings in favor of arbitration (section 15) and enforcing awards (section 73) remain applicable.⁷ This extraterritorial scope underscores Tanzania's commitment to supporting international arbitration, including cases with only limited connection to its jurisdiction.

1.4 Legal Recognition of Arbitration Agreements

The enforceability of arbitration agreements is given substantive weight under the Act. Section 14 requires Tanzanian courts to refer parties to arbitration where a valid arbitration agreement exists, provided that such an application is made before or at the time of submitting a substantive statement in the matter.⁸ The court must do so unless it finds that no valid agreement exists on its face a formulation that strongly favors upholding arbitration clauses.

Further, section 15 provides that where legal proceedings are instituted in breach of an arbitration agreement, the defendant may apply for a stay, and the court must grant such a stay unless the agreement is null, inoperative, or incapable of being performed.⁹ This strict judicial approach enhances the predictability and binding nature of arbitration agreements in commercial contracts.

These provisions align Tanzania with Article II(3) of the 1958 New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards, to which it is a party, reinforcing the country's compliance with international obligations to recognize arbitration agreements and stay court proceedings accordingly.¹⁰

1.5 Institutional Support: The Tanzania Arbitration Centre

Part X of the Arbitration Act establishes the Tanzania Arbitration Centre (TAC) as the official arbitral institution for administering arbitration within Tanzania.¹¹ The Centre is tasked with providing administrative services, setting rules, accrediting arbitrators, and promoting awareness and usage of arbitration as a dispute resolution mechanism.

⁷ Ibid, s.7(2)-(4)

⁸ Ibid, s.14(1)

⁹ Ibid, s.15(4)

¹⁰ Convention on the Recognition and Enforcement of Foreign Arbitral Awards (New York, 1958), Art. II(3).

¹¹ Arbitration Act, Cap. 15 R.E. 2020, s.82

Section 82 of the Act affirms the Centre's role in enhancing arbitration practice in Tanzania and enabling the country to serve as a regional hub for resolving both domestic and international commercial disputes.¹² However, the success of the Centre will depend on its administrative capacity, credibility, and ability to maintain neutrality in handling cross-border disputes. There is limited data published on the Centre's performance metrics, arbitrator panels, and caseloads, which presents a research and policy gap requiring attention.

1.6 Interaction with the Civil Procedure Code

Although arbitration proceedings are governed principally by the Arbitration Act, the Civil Procedure Code [Cap. 33 R.E. 2023] continues to play a supportive role. Under Order VIII, Rule 35 of the Civil Procedure Code, courts are empowered to direct parties to arbitration where such mechanisms have been agreed upon.¹³ This reinforces the judiciary's duty to respect arbitration clauses embedded within contracts.

Further, sections under Part V and Order XXII of the Civil Procedure Code provide the procedural backbone for enforcement of arbitral awards, particularly in cases where execution of a judgment is sought through Tanzanian courts.¹⁴ These provisions ensure that awards can be given full legal effect as if they were court judgments, thereby reinforcing the utility and authority of arbitration as a binding dispute resolution method.

2. Recognition and Enforcement of Foreign Arbitral Awards in Tanzania

The recognition and enforcement of foreign arbitral awards is a cornerstone of international commercial arbitration. Without an effective enforcement mechanism, the practical value of arbitration diminishes significantly. Tanzania, like many jurisdictions seeking to attract foreign investment and foster a stable commercial environment, has integrated provisions into its legal system to enable and regulate the recognition and enforcement of arbitral awards made outside its territory. This section critically examines the legal procedures, grounds for refusal, and the practical implications of the Tanzanian regime on the enforcement of foreign arbitral awards.

¹² Ibid.

¹³ Civil Procedure Code, Cap. 33 R.E. 2019, Order VIII Rule 35

¹⁴ Ibid, Part II and Order XXI

2.1 Legal Basis and International Commitments

Tanzania is a signatory to the Convention on the Recognition and Enforcement of Foreign Arbitral Awards, also known as the New York Convention, having acceded to it on 13 October 1964. The Convention mandates that contracting states must recognize and enforce arbitral awards made in other contracting states, subject only to limited exceptions.¹⁵ Tanzania has incorporated these principles into its domestic law through Part XI of the Arbitration Act [Cap. 15 R.E. 2020], which governs the recognition and enforcement of both domestic and foreign arbitral awards.

Section 83 of the Arbitration Act provides that foreign arbitral awards shall be recognized and enforced in the same manner as judgments of Tanzanian courts, provided they are final, binding, and not contrary to public policy.¹⁶ Section 84 further clarifies that once recognized, an arbitral award is deemed a decree of the High Court and is enforceable as such, without the need for fresh litigation on the merits of the case.¹⁷ These provisions not only demonstrate Tanzania's commitment to international arbitration norms but also provide reassurance to foreign investors and businesses engaged in transnational contracts.

2.2 Procedural Requirements for Enforcement

The procedure for seeking enforcement of a foreign award in Tanzania is relatively straightforward, though not without technical requirements. The applicant must file an application before the High Court, supported by the original or certified copy of the arbitral award and the arbitration agreement, along with authenticated translations if these are not in English or Kiswahili.¹⁸ These documents are intended to demonstrate the award's authenticity and that it was issued in accordance with the procedural rules agreed upon by the parties.

Furthermore, the application must establish that the award is final and binding under the laws of the country in which it was made. If the award is still subject to appeal or has been set aside in

¹⁵ United Nations Convention on the Recognition and Enforcement of Foreign Arbitral Awards (New York, 1958), Article I(1).

¹⁶ Arbitration Act, Cap. 15 R.E. 2020, s.83(1).

¹⁷ Ibid, s.8

¹⁸ Ibid, s.83(3)

the seat of arbitration, its enforcement may be declined or postponed by the Tanzanian courts.¹⁹ The procedural model adopted reflects both the New York Convention standards and general comparative practices found in arbitration-friendly jurisdictions.

2.3 Grounds for Refusal of Enforcement

Despite the pro-enforcement stance of the Arbitration Act, Tanzanian courts may refuse to recognize or enforce a foreign arbitral award under certain limited conditions. These grounds, laid out in section 83(2) of the Act, mirror Article V of the New York Convention and include: incapacity of a party or invalidity of the arbitration agreement under the applicable law, lack of proper notice or inability of a party to present their case, the award dealing with matters beyond the scope of the submission to arbitration, procedural irregularities in the composition of the tribunal or arbitral procedure, the award not yet being binding or having been annulled or suspended at the seat of arbitration.²⁰

Additionally, courts may refuse enforcement if the award is contrary to public policy in Tanzania.²¹ This public policy exception, while often invoked as a safeguard, must be construed narrowly to avoid undermining the finality and integrity of arbitration. In *Modern Holdings Ltd v Tanzania Petroleum Development Corporation*, the High Court emphasized that public policy should not be interpreted to defeat the legitimate expectations of commercial parties unless there is a manifest violation of core legal or moral standards.²²

2.4 Public Policy and Judicial Attitudes

The concept of public policy as a ground for refusing enforcement has traditionally raised concerns due to its indeterminate scope. However, Tanzanian courts have demonstrated a balanced approach in this regard. The public policy exception is not meant to serve as a mechanism for substantive review of the arbitral award or to challenge errors of fact or law.

¹⁹ Ibid, s.83(2)(f)

²⁰ Ibid, s.83(2)

²¹ Ibid, s.83(2)(b)(ii)

²² *Modern Holdings Ltd v Tanzania Petroleum Development Corporation* (2021) (unreported), High Court of Tanzania

Instead, it is reserved for cases involving fundamental illegality, fraud, or awards that offend basic principles of Tanzanian justice and morality.²³

Tanzanian courts have also shown increasing willingness to adopt international best practices and narrow the use of discretionary powers to refuse enforcement. For instance, in interpreting procedural fairness and due process under arbitration, the courts have applied principles of natural justice rather than imposing strict evidentiary standards applicable in litigation.²⁴ This judicial attitude aligns with the objectives of the Arbitration Act, which discourages unnecessary court intervention and seeks to uphold the autonomy of the arbitral process.²⁵

2.5 Practical Challenges in Enforcement

Despite a strong statutory and international framework, practical challenges in the enforcement of foreign arbitral awards persist in Tanzania. These include procedural delays in the High Court, insufficient specialization in arbitration among judicial officers, and lack of a streamlined enforcement registry. Furthermore, while the Arbitration Act deems awards enforceable as court decrees, actual execution may still be subject to procedural hurdles under the Civil Procedure Code, such as issues of attachment and satisfaction of judgment under Order XXI.²⁶

Another concern is the risk of excessive reliance on public policy grounds by lower courts, which may lack sufficient guidance or training in international arbitration standards. Institutional bottlenecks, such as limited access to certified translators and delays in serving foreign parties, also contribute to the complexity of enforcement proceedings. Nonetheless, the general trend remains positive, and continued judicial capacity building, along with procedural reforms, may help overcome these constraints.

3. The Role of Tanzanian Courts in Supporting and Supervising Arbitration Proceedings

While arbitration is fundamentally a private dispute resolution mechanism, the judiciary remains an essential partner in its effectiveness. In international commercial arbitration, the role of national courts is twofold: supportive and supervisory. Supportive functions enable the smooth

²³ Ibid.

²⁴ See Arbitration Act, s.5(a)

²⁵ Ibid, s.5(c)

²⁶ Civil Procedure Code, Cap. 33 R.E. 2019, Order XXI

operation of arbitral proceedings, while supervisory functions ensure that the integrity of the process is maintained without undermining its autonomy. The Arbitration Act [Cap. 15 R.E. 2023] clearly delineates the limited but crucial involvement of Tanzanian courts in arbitration. This section examines that role, analyzing relevant provisions and judicial trends in supporting, supervising, and, where necessary, intervening in the arbitral process.

3.1 Judicial Support for Arbitral Proceedings

The Tanzanian judiciary plays a significant role in facilitating arbitration by providing assistance in various aspects of the arbitral process. These supportive powers include the appointment of arbitrators, grant of interim measures, and assistance in the taking of evidence.

Under section 20 of the Arbitration Act, where parties fail to agree on the appointment of an arbitrator, the court may intervene and make the appointment on behalf of the parties.²⁷ This provision is crucial in preventing deadlocks in multi-party commercial disputes that could otherwise frustrate the arbitration process. Similarly, section 51 authorizes the court to grant interim protective measures such as injunctions, security for costs, or orders preserving assets even when the seat of arbitration is outside Tanzania.²⁸ This ensures that parties do not resort to court only as a last resort but rather as a procedural aid to protect their rights during arbitration.

Courts also assist in enforcing procedural steps within arbitration. Under section 50, the arbitral tribunal may request the court's assistance in securing the attendance of witnesses, thereby reinforcing the tribunal's authority.²⁹ This judicial support strengthens the tribunal's procedural efficacy without compromising its independence.

3.2 Supervisory Jurisdiction over Arbitral Tribunals

Supervision by Tanzanian courts arises primarily in matters related to the jurisdiction of the arbitral tribunal and the challenge or setting aside of arbitral awards. Section 34 of the Arbitration Act affirms the tribunal's competence to rule on its own jurisdiction (the “Kompetenz-Kompetenz” principle), but section 35 allows a dissatisfied party to object to the

²⁷ Arbitration Act, Cap. 15 R.E. 2020, s.20

²⁸ Ibid, s.51

²⁹ Ibid, s.50

tribunal's jurisdiction before a court.³⁰ Such supervision is necessary to prevent abuse of arbitral authority and to ensure adherence to the limits of the arbitration agreement.

The court's supervisory role is most prominent when reviewing awards. Under section 74, a party may apply to the High Court to challenge an award on the grounds that the tribunal lacked substantive jurisdiction.³¹ Additionally, section 75 permits a challenge for “**serious irregularity**,” which includes procedural misconduct, breach of natural justice, or excess of authority.³² These narrowly defined grounds reflect the Tanzanian legislature's intent to balance finality in arbitration with minimum judicial oversight.

It is notable that section 80 of the Act imposes a waiver rule, whereby a party who fails to raise timely objections to procedural irregularities during arbitration may lose the right to challenge the award later.³³ This reinforces the importance of procedural discipline and discourages parties from undermining the arbitration process by remaining silent until after an unfavorable award is rendered.

3.3 Stay of Proceedings and Reference to Arbitration

Sections 14 and 15 of the Arbitration Act provide for the stay of judicial proceedings in favor of arbitration where an arbitration agreement exists. The court is required to refer the dispute to arbitration upon a party's application made before entering a substantive defense.³⁴ This not only protects the sanctity of arbitration agreements but also promotes judicial economy by diverting matters away from the litigation track when arbitration has been contractually agreed.

Judicial practice in Tanzania generally favors the enforcement of arbitration agreements. Courts have interpreted these provisions strictly to prevent forum shopping or unnecessary litigation. In *Zuberi Mussa v United Insurance Company Ltd* (2006), the Court of Appeal held that where a valid arbitration clause exists, judicial proceedings instituted in violation thereof should be stayed promptly and unconditionally.³⁵

³⁰ Ibid, ss.34–35

³¹ Ibid, s.74

³² Ibid, s.75

³³ Ibid, s.80

³⁴ Ibid, ss.14–15

³⁵ *Zuberi Mussa v United Insurance Company Ltd* [2006] TLR 391

3.4 Enforcement of Tribunal Orders and Awards

Tanzanian courts are instrumental in enforcing both interim and final arbitral awards. Under section 73 of the Arbitration Act, an arbitral award whether domestic or foreign may be enforced through the High Court as if it were a court decree, subject to compliance with procedural requirements.³⁶ The Civil Procedure Code [Cap. 33 R.E. 2019] complements this by outlining execution procedures under Order XXI, including the attachment and sale of property, garnishee proceedings, and arrest of judgment debtors in exceptional cases.³⁷

In terms of enforcement of interim orders, section 49 allows the arbitral tribunal to make “peremptory orders,” and if not complied with, the tribunal or the party may seek enforcement from the court.³⁸ This power ensures that even before the final award, parties have recourse to enforce compliance with procedural directives, such as document disclosure or security provisions.

3.5 Challenges in Judicial Practice

Despite the statutory clarity, challenges remain in judicial support and supervision of arbitration in Tanzania. A major concern is the lack of specialization among judges handling arbitration-related matters. Unlike dedicated commercial courts found in other jurisdictions, arbitration applications in Tanzania are often heard by generalist High Court divisions. This can result in inconsistent jurisprudence or delay in disposing of urgent applications, such as interim measures or stays of proceedings.

Moreover, there have been occasional instances where courts, despite a valid arbitration agreement, entertain substantive issues under the guise of interpreting the scope of the arbitration clause. Such judicial overreach risks eroding confidence in Tanzania’s pro-arbitration legal environment.

That said, recent reforms including the establishment of the Commercial Division of the High Court signal a progressive shift towards enhanced commercial dispute resolution capacity, including arbitration. Continuous training of judges and harmonization of arbitration-related

³⁶ Arbitration Act, Cap. 15 R.E. 2020, s.73

³⁷ Civil Procedure Code, Cap. 33 R.E. 2019, Order XXI

³⁸ Arbitration Act, s.49

jurisprudence through judicial circulars and appellate guidance would further solidify the supportive role of Tanzanian courts in international commercial arbitration.

4. Advantages and Limitations of International Commercial Arbitration in Tanzania

International commercial arbitration in Tanzania presents a range of strengths that align the country with global trends in cross-border dispute resolution. The 2020 Arbitration Act has created a legal regime that facilitates efficient resolution of commercial conflicts while addressing the needs of both domestic and foreign parties. However, the practical implementation of arbitration mechanisms continues to face significant constraints. This section evaluates the core advantages and persistent limitations of international arbitration in Tanzania, using legislative analysis and observed judicial practices.

4.1 Advantages

4.1.1 Party Autonomy and Flexibility

One of the most acclaimed advantages of international commercial arbitration in Tanzania is the recognition of party autonomy. Section 5(b) of the Arbitration Act affirms the freedom of parties to determine the rules governing their disputes, the composition of the tribunal, and the substantive and procedural law to be applied.³⁹ This autonomy is especially beneficial in cross-border trade, where parties often seek neutral rules and customized dispute resolution processes tailored to their commercial expectations.

The Act also permits parties to choose institutional arbitration such as through the Tanzania Arbitration Centre or foreign arbitral institutions or to design ad hoc procedures.⁴⁰ This flexibility accommodates a wide range of commercial needs and transaction types, thereby enhancing the attractiveness of Tanzania as a venue for dispute resolution.

4.1.2 Enforceability of Awards

A critical benefit of arbitration lies in the enforceability of awards both domestically and internationally. Under sections 83 and 84 of the Arbitration Act, foreign arbitral awards are recognized and enforced in the same manner as domestic court judgments, and once registered,

³⁹ Arbitration Act, Cap. 15 R.E. 2020, s.5(b)

⁴⁰ Ibid, ss.9–10

they are deemed to be High Court decrees.⁴¹ This legal position is consistent with Tanzania's obligations under the New York Convention, providing certainty and finality to arbitral decisions across jurisdictions.

The enforcement regime is further strengthened by the limited grounds upon which recognition or enforcement can be refused, ensuring that parties cannot delay or frustrate enforcement on substantive grounds already resolved through arbitration.⁴²

4.1.3 Confidentiality and Neutrality

Arbitration offers confidentiality an essential feature for businesses concerned with protecting trade secrets, reputational interests, or sensitive commercial information. Sections 39 to 41 of the Arbitration Act impose strict duties on the tribunal and courts to preserve the confidentiality of information related to arbitral proceedings and awards.⁴³ This statutory protection contrasts with the public nature of litigation and is particularly valuable in industries such as banking, telecommunications, extractives, and mergers and acquisitions.

In addition, international arbitration offers a neutral venue. Parties from different countries can avoid perceived home-court advantage by submitting disputes to impartial tribunals seated in Tanzania but not subject to domestic bias, especially if arbitrators are jointly selected or sourced internationally.⁴⁴

4.1.4 Efficiency and Finality

Compared to litigation, arbitration is generally faster and more cost-effective, especially in complex commercial disputes. Although this advantage is sometimes diminished in practice (as discussed below), the Arbitration Act reinforces efficiency through strict timelines, tribunal powers to control proceedings, and a prohibition on excessive judicial interference.⁴⁵ Awards are final and binding, and judicial review is limited to narrow grounds, as provided in sections 74

⁴¹ Ibid, ss.83–84

⁴² Ibid, s.83(2)

⁴³ Ibid, ss.39–41

⁴⁴ Ibid, s.19

⁴⁵ Ibid, s.45

and 75.⁴⁶ This finality reduces the likelihood of protracted appeals and multiple levels of review, thereby minimizing the opportunity costs of legal uncertainty.

4.2 Limitations

4.2.1 Limited Institutional Capacity

A significant limitation is the underdevelopment of Tanzania's arbitral institutions. While the Tanzania Arbitration Centre was established under section 82 of the Arbitration Act to promote and administer arbitration, its operational visibility and case administration capacity remain limited.⁴⁷ There is little available data on the Centre's caseload, accredited arbitrators, procedural rules, or dispute resolution outcomes. This institutional opacity may deter high-value international disputes from being administered locally.

Further, unlike well-established international centers such as the ICC, LCIA, or SIAC, the Tanzanian institution is yet to gain regional or global recognition. For businesses unfamiliar with the local legal environment, this presents a credibility gap that may influence forum selection in cross-border contracts.

4.2.2 Lack of Judicial Specialization

Another challenge lies in the limited specialization within the Tanzanian judiciary concerning arbitration. Although the High Court is the competent authority for arbitration-related matters, most judges presiding over such cases are generalists without specific training in international commercial arbitration. This can result in delays, inconsistent decisions, or an overly interventionist approach contrary to the non-interference principle articulated in section 5(c) of the Act.⁴⁸

In some cases, courts have taken expansive views of their supervisory powers, including revisiting the merits of arbitral awards, contrary to the restricted review grounds under sections

⁴⁶ Ibid, ss.74–75

⁴⁷ Ibid, s.82

⁴⁸ Ibid, s.5(c)

74 and 75.⁴⁹ Such judicial unpredictability undermines confidence in arbitration as a neutral and independent dispute resolution mechanism.

4.2.3 Procedural Delays and Execution Challenges

Although arbitration is designed to be faster than litigation, procedural delays in enforcement proceedings can negate this advantage. The execution of awards whether domestic or foreign is governed by the Civil Procedure Code, particularly Order XXI, which imposes procedural steps that may be time-consuming and susceptible to technical objections.⁵⁰ Inadequate court infrastructure, administrative inefficiencies, and difficulties in locating and attaching assets can cause delays in the realization of arbitral awards.

In addition, parties seeking to resist enforcement sometimes file appeals or constitutional petitions, even where the grounds do not fall within the scope of permissible challenges. Such procedural tactics, though legally unsound, can create unnecessary delays unless courts enforce cost penalties or case management measures effectively.

4.2.4 Public Policy Ambiguity

Although public policy is a globally accepted ground for refusing the enforcement of foreign arbitral awards, its interpretation in Tanzania remains unsettled. Section 83(2)(b)(ii) allows refusal of enforcement where the award is contrary to public policy.⁵¹ While courts have in some cases adopted a narrow approach restricting its scope to violations of fundamental morality or public interest there is no clear jurisprudential consensus.

As a result, there is a risk that lower courts may expand the doctrine to encompass issues of substantive law or contract interpretation, which should ordinarily fall within the exclusive domain of the arbitral tribunal. Such expansion could jeopardize the finality and neutrality of arbitration.

⁴⁹ See *Tanzania Revenue Authority v Meghji & Sons Ltd* [2022] (unreported)

⁵⁰ Civil Procedure Code, Cap. 33 R.E. 2019, Order XXI

⁵¹ Arbitration Act, Cap. 15 R.E. 2020, s.83(2)(b)(ii)

5. Conclusion and Recommendations

5.1 Conclusion

International commercial arbitration has gained global prominence as an effective, flexible, and enforceable mechanism for resolving transnational business disputes. In Tanzania, the enactment of the Arbitration Act [Cap. 15 R.E. 2023] marks a decisive legal transformation aligning the national arbitration framework with international norms, particularly those embodied in the UNCITRAL Model Law and the New York Convention. The Act affirms party autonomy, limits court intervention, ensures enforceability of awards, and introduces institutional support through the Tanzania Arbitration Centre.

Despite this progressive statutory framework, the practical effectiveness of international arbitration in Tanzania remains moderated by institutional, procedural, and judicial limitations. While courts have generally respected the integrity of arbitration agreements and awards, sporadic instances of judicial overreach, inconsistent jurisprudence, and delays in enforcement processes pose challenges to Tanzania's aspiration of becoming a regional arbitration hub.

Furthermore, institutional weaknesses such as the underutilization of the Tanzania Arbitration Centre and limited judicial specialization—diminish the potential advantages of arbitration, especially for foreign investors who prioritize predictability, neutrality, and procedural efficiency. Nonetheless, with continued reforms, strategic investment in capacity building, and clear jurisprudential development, Tanzania is well-positioned to consolidate arbitration as a primary mechanism for resolving cross-border business disputes.

5.2 Recommendations

5.2.1 Strengthen Institutional Capacity and Visibility

The Tanzania Arbitration Centre, established under section 82 of the Arbitration Act, should be capacitated both administratively and substantively to handle complex international disputes. This includes the development of modern arbitration rules, creation of a transparent database of accredited arbitrators, and public reporting of case management statistics. Partnerships with global arbitration bodies and regional institutions could further enhance its credibility and international appeal.

5.2.2 Judicial Training and Specialization

Specialized judicial training in international arbitration law and practice should be institutionalized, particularly for judges handling matters under sections 14, 20, 50, and 73 of the Arbitration Act⁵. The establishment of dedicated arbitration benches or assigning arbitration-related cases to the Commercial Division of the High Court would promote consistency and competence in decision-making.

5.2.3 Develop Arbitral Jurisprudence

To ensure predictability, the High Court and Court of Appeal should adopt a consistent jurisprudential approach to arbitration cases, grounded in the principle of minimal intervention under section 5(c). Judgments interpreting core provisions such as those dealing with jurisdictional challenges, serious irregularity, or public policy should be published and disseminated to foster clarity among legal practitioners, investors, and arbitrators.

5.2.4 Streamline Enforcement Procedures

The enforcement of arbitral awards, especially foreign ones under section 83, should be expedited through procedural reforms. This may include establishing a dedicated registry for arbitral awards, reducing unnecessary documentary requirements, and leveraging technology to track and manage enforcement cases under the Civil Procedure Code [Cap. 33 R.E. 2023], particularly Order XXI.

5.2.5 Promote Arbitration Awareness and Education

A national program promoting awareness of arbitration among businesses, government agencies, and legal practitioners would improve uptake. Academic institutions and legal training centers should incorporate arbitration modules into their curricula to ensure future professionals are well-equipped to support and engage with arbitration mechanisms.