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Abstract

This article explores English arbitration law's contribution to resolving cross-border commercial disputes and the lessons it may offer Commonwealth jurisdictions. It focuses on the Arbitration Act 1996, as amended by the Arbitration Act 2025, the New York Convention, the UNCITRAL Model Law, and the roles of the Chartered Institute of Arbitrators and the London Court of International Arbitration. The article argues that England is an attractive arbitration forum because of party autonomy, minimal court interference, fair procedure, enforceability, court and law society expertise, and institutional support. But without adjustment, the English model is not one to copy. Commonwealth jurisdictions vary in court capacity, legal culture, arbitral institutions, enforcement practice, legal cost structure, and legal service expertise. The article therefore contributes to adaptation, not transplantation. It concludes that Commonwealth reform should focus on modern legislation, judicial training, arbitral capacity, enforceable awards, technology, diversity, and credible institutions.

Keywords: International Commercial Arbitration, English Arbitration Law, Arbitration Act 1996, Arbitration Act 2025, New York Convention, UNCITRAL Model Law, Commonwealth Jurisdictions, Cross Border Dispute Resolution, Arbitral Institutions, Enforcement of Awards

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English Arbitration Law and Cross Border Commercial Dispute Resolution: Lessons for Commonwealth Jurisdictions



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Abstract

This article explores English arbitration law's contribution to resolving cross-border commercial disputes and the lessons it may offer Commonwealth jurisdictions. It focuses on the Arbitration Act 1996, as amended by the Arbitration Act 2025, the New York Convention, the UNCITRAL Model Law, and the roles of the Chartered Institute of Arbitrators and the London Court of International Arbitration. The article argues that England is an attractive arbitration forum because of party autonomy, minimal court interference, fair procedure, enforceability, court and law society expertise, and institutional support. But without adjustment, the English model is not one to copy. Commonwealth jurisdictions vary in court capacity, legal culture, arbitral institutions, enforcement practice, legal cost structure, and legal service expertise. The article therefore contributes to adaptation, not transplantation. It concludes that Commonwealth reform should focus on modern legislation, judicial training, arbitral capacity, enforceable awards, technology, diversity, and credible institutions.

Keywords: *International Commercial Arbitration, English Arbitration Law, Arbitration Act 1996, Arbitration Act 2025, New York Convention, UNCITRAL Model Law, Commonwealth Jurisdictions, Cross Border Dispute Resolution, Arbitral Institutions, Enforcement of Awards*

Introduction

International commercial arbitration is now a central method for resolving cross border commercial disputes. It is widely used in trade, investment, finance, construction, shipping, technology, and infrastructure disputes because it offers party autonomy, procedural flexibility, neutrality, confidentiality, specialist decision making, and wider enforceability than many domestic court judgments. The expansion of global business has made it more likely that contracting parties will be in different jurisdictions, under different legal systems, and with a method of dispute resolution that can span jurisdictions. Arbitration addresses this need, in that parties may choose the seat of the arbitration and the procedural rules, governing law, language, ad hoc arbitrators and the mechanism of recognition and enforcement is provided by the Convention on the Recognition and Enforcement of Foreign Arbitral Awards, the so called New York Convention (Crowell, 2023; United Nations, 1958).

The aspects of English arbitration law are emphasised here as London is one of the world's premier arbitration centres. It is essentially based on the Arbitration Act 1996 (now amended Arbitration Act 2025), the New York Convention, and the actions of arbitral institutes such as CIARB



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and LCIA. Based on this framework, the article explores lessons for the Commonwealth jurisdictions that can be drawn from English arbitration law.

The UK is used as a model jurisdiction for international commercial arbitration here, but much of the discussion does apply to other Commonwealth jurisdictions and a good question might be whether or not there are lessons to be learned. But over the years, the United Kingdom has evolved into a prominent centre for arbitration because of its highly developed common law, experienced judges, a community of expert lawyers, its arbitral institutions, and the fairness of its arbitration procedures. This article's reference to "English arbitration law" applies primarily to arbitration in England and Wales (and, where applicable, Northern Ireland) under the Arbitration Act 1996, which has now amended by the Arbitration Act 2025. Does not go into detail on Scottish arbitration law (Arbitration Act [1996](#), as amended in 2025).

This article reasons that there is a persuasive English model that is not, however, readily transplantable in the Commonwealth jurisdictions. However, it is not just the Arbitration Act [1996](#) (as amended by that of 2025) that makes it strong; it is party autonomy, enforced, institutional and professional support that strengthens and sustains it. The principles of the English model should, therefore, be adopted somewhat flexibly within the legal, economic and institutional framework of the Commonwealth countries rather than merely adopted as a whole.

In this article, there are four set goals. It first examines the success of English arbitration law and its application to cross border commercial disputes. Second, it focuses on the key legal and procedural aspects of English arbitration such as 'party autonomy', procedural fairness, confidentiality, enforceability and limited court intervention. Third, it asks whether there are any lessons in English arbitration law that could be of use to selected Commonwealth jurisdictions. Fourth, it lists the necessary changes in arbitration in Commonwealth jurisdictions – such as harmonisation of the laws, judicial training, institutional development, technology, diversity, and enforcement of arbitration.

Table 1

Research Objectives

Objective	Focus of analysis
Objective 1	To assess the effectiveness of English arbitration law in resolving cross border commercial disputes.
Objective 2	To examine the main legal and procedural features of English arbitration, including party autonomy, due process, confidentiality, enforceability, and limited court intervention.
Objective 3	To evaluate whether English arbitration law can offer useful lessons for selected Commonwealth jurisdictions.
Objective 4	To identify the main reforms needed in Commonwealth jurisdictions, including legal harmonisation, judicial training, institutional capacity, technology, diversity, and enforcement.

There's demand for this question because cross border conflicts are becoming more frequent and increasingly complex. International commercial arbitration cannot be a speedy substitute for litigation; in fact, it is one of the components of the legal system, which enables international trade and investment. It has particular significance for the Commonwealth countries, since they have a legal history, common law techniques and traditions, and commercial links with England. This

common ground is an opportunity to learn from each other. But the article does not presume that this arbitration system would work in the same manner in other parts of the world. The study recognised that the challenges of direct transplantation include political, economic, institutional, and cultural considerations within the Commonwealth. However, it should also be noted that a model jurisdiction's strengths in its legal and social environment need to be distinguished and can be transferred to the receiving jurisdiction's context.

The overall theme of this article is that the smooth functioning of English arbitration law is largely due to clarity of the law, judicial restraint, institutional support, professional expertise, and international enforceability. Meanwhile, every amendment to the Commonwealth's arbitration principles that models the English arbitration system should be attuned to local circumstances. Legislation on its own, as is evident in India and Pakistan, will not lead to effective arbitration unless there are minimal court delays, a peaceful environment for court enforcement, expertise, and strong institutional practices.

Literature Review

From this literature, one can see that international commercial arbitration plays an important role in addressing weaknesses in cross border litigation. Domestic litigation is likely to involve a slower pace of discovery and publicity, is costlier, and is coupled with a possible lack of familiarity and home court advantage for the foreign party. Arbitration is appreciated for the flexibility it offers both parties regarding the procedures to be followed, as well as for the ability to choose arbitrators with commercial or technical experience. It may also help parties resolve disputes while preserving commercial relationships and protecting confidential information. In arbitral proceedings, 'equal treatment and fair opportunity' (Bantekas, [2020](#)) is of paramount importance, and procedural fairness is not merely extrinsic to arbitration but integral to its legitimacy. Other literature discusses the enforceability, flexibility and usefulness of international dispute resolution mechanisms in maintaining transnational commerce (Karton, [2020](#); Zhang, [2022](#)).

The second major theme in the literature concerns international enforceability. According to the United Nations ([1958](#)), the New York Convention is one of the pillars of the international arbitration system, as it promotes, among other things, the enforcement and recognition of arbitration agreements and foreign arbitration awards between contracting parties. Case studies analysing the Convention and the enforcement of awards state that its international popularity stems from its greater likelihood of enforcement than a domestic court judgment in many cross border situations (Crowell, [2023](#); Khalilova, [2020](#); Zhang, [2022](#)). This enforceability is closely linked to legal certainty in cross border commerce. The commercial value of arbitration is severely diminished if the parties are unsure whether their award will be recognised.

The UNCITRAL Model Law provides an additional harmonising effect. It offers a legislative model for States that wish to modernise their arbitration law and has been adopted in various parts of the world as well, such as: arbitration agreement, composition of the tribunal, jurisdiction of the tribunal, interim measures, assistance of the courts, award recognition, and causes for setting aside an award (UNCITRAL, [2006](#)). One aspect of comparative scholarship of particular interest regarding the Model Law is its role in jurisdictions seeking to reduce uncertainty and harmonise their regulations with international standards (Boele Woelki et al., [2018](#); Odeibat, [2023](#)). The Arbitration Act 1996 has incorporated a number of principles from the UNCITRAL Model Law, such as party autonomy, limited court involvement, fair procedure, competence of the tribunal, and enforcement of the award (Lembo, [2010](#)).

Statutory stability, judicial help and institutional capacity are the main concepts in the literature on English arbitration law. Basic Arbitration Act 1996 priorities are: Arbitration is to be

conducted "without unreasonable delay or expense" and must be conducted in a "fair manner" (Arbitration Act 1996); Parties can agree how arbitration is to be conducted (Arbitration Act 1996); Court interventions (unless specifically provided for in the Act) are generally to be discouraged (Arbitration Act 1996). The new arbitration legislation (Arbitration Act 2025) reflects improvements of the 1996 Act, but maintains the fundamental principles of party autonomy, procedural fairness, minimal court involvement, and enforceability. This system is conducive to pursuing legal security. Also, other literature emphasises the role of the London Court of International Arbitration (LCIA) and the Chartered Institute of Arbitrators (CIArb) as institutions that support arbitration. LCIA's annual reporting on casework illustrates the ongoing international nature of its work: it received 387 referrals for its services in 2021, including 322 for arbitration under the LCIA Rules (London Court of International Arbitration, [2022](#)). Institutional capacity shows that English arbitration depends not only on legislation, but also on administrators, arbitrators, practitioners, professional bodies, and institutional networks that support arbitration practice.

There is also strong evidence in the literature linking arbitration to comparative legal development. Arbitration is international and necessarily sensitive to the various approaches of different legal systems, commercial expectations, and enforcement cultures (Karton, [2020](#)). Independent of this trend, the growth of new dispute resolution centres also indicates that states are beginning to actively offer incentives through arbitration friendly legislation, new facilities, and special arbitration courts to attract international commercial disputes (Erie, [2019](#); Gu & Tam, [2021](#)). The trade and investment regime in Asia Pacific also demonstrates a growing trend towards countries seeking to revamp arbitration under the guise of bolstering regional business confidence and strengthening dispute resolution infrastructure (Nottage & Jetin, n.d.). The growth suggested that other arbitration centres might still have lessons to teach the Commonwealth jurisdictions, particularly the English experience, given their common law bonds. However, in the expectations of international commercial parties, the other centres (Singapore, Hong Kong, Dubai, etc.) have an impact. However, there is particular relevance to the United Kingdom among Commonwealth countries because of the development of the common law and the history of these countries' legal systems, and how they relate to the United Kingdom.

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It is helpful, however, to consider a number of Commonwealth jurisdictions which have opted to modify international arbitration concepts in their legal systems, such as Australia and New Zealand. Once more, their experience demonstrates that common law jurisdictions are not necessarily replications of the English model and can accommodate party autonomy, neutrality, judicial restraint, and enforcement by convention. This thus helps advance the broader claims that reforms to the Commonwealth should take an adaptive rather than transplantation approach (Melbourne University Law Review [2020](#)). The central topic is the same whether a focus on neutrality, independence, and impartiality is the foundation of arbitral justice, as emphasised by Feehily ([2019](#)), or whether the tools for increasing the use of international arbitration are discussed. As shown by the greater reach of education in the Commonwealth on arbitration, as noted by Chong (2021) and Kurasha ([2022](#)), the litigation process may be neither sophisticated nor fast, and it may not be an appropriate forum for transnational cases.

The situation is not as straightforward when it comes to India and Pakistan. India has arbitration laws harmonised with international standards, yet bureaucracy, court delays, inconsistent court enforcement, and a litigation culture remain significant obstacles (Pathak et al., [2022](#)). Pakistan is also depicted as viewing arbitration as a key factor in trade and investment, but there are real world and institutional barriers to overcome. Boele Woelki et al. ([2018](#)) argue that common heritage law experiences can help with harmonisation but warn that this does not mean there is an absence of political, economic, court capacity, or legal cultural differences. The relationship between arbitration and the courts must therefore be carefully managed so that

arbitration does not become another layer of ordinary litigation in light of Bookman ([2021](#)) and Kurasha ([2022](#)).

A related current of literature focuses on issues of technology, accessibility, affordability and diversity. There are many ways that technology can improve and streamline arbitration, including online case management, virtual hearings, electronic filing of documents, and/or utilising remote participation for hearings (Benton & Andersen, [2020](#); Samberg, [2022](#)). Meanwhile, there are fears that technology is also increasing issues related to cybersecurity, digital inequality and procedural justice. In addition, diversity literature suggests the value of greater diversity in arbitral appointments, not only in terms of gender and region but also in professional background (Dodson, [2019](#); Spigelman, [2020](#)). The study also presented the literature on algorithmic decision making and artificial intelligence to demonstrate how technology can impact the future of dispute resolution, without concluding that arbitrators should be replaced by artificial intelligence (Ioannidis, 2022; Kim & Routledge, 2021). The article's point of view that the modernisation process must strengthen the legitimacy is substantiated by these sources.

The research gap lies in the difference between legal transplantation and practical adaptation. This study highlights that, while there is ample literature on the success of English arbitration law, it pays less attention to whether it can be replicated in the Commonwealth countries, which have different modes of operation, legal cultures, institutional arrays, and economic conditions. This article seeks to fill this gap and put forward the view that the reform of the Commonwealth ought not merely to copy the English system in form but to focus on adapting to its core principles (Boele Woelki et al., [2018](#); Lembo, [2010](#); Global Arbitration Review, [2023](#)).

Research Methodology

In this article, both doctrinal and comparative legal research has been used. The doctrinal section analyses the legal literature, including statutes, conventions, policy rules of preventive organisations, case law, and academic commentary. This is an appropriate method, as the article is about the meaning, structure, and functioning of arbitration law rather than first hand interview data. This attitude enabled the systematic analysis of rules, institutions, and procedural principles in legal research, rather than merely describing their experiences (Alharahsheh & Pius, 2020).

The research is based upon four basic arguments as follows. Firstly, party autonomy lies at the heart of international commercial arbitration. Second, enforceability of arbitral awards constitutes a key value of arbitration. Third, there is a higher degree of certainty in cross border conflicts due to the characteristics of finality and limited judicial intervention. Fourth, institutional capacity affects the practical success of arbitration. These propositions are examined in the context of English arbitration law and selected Commonwealth jurisdictions (Stacey, 2019; Tittle Ind et al., 2022).

The study adopts a qualitative legal approach because the topic requires interpretation of statutes, conventions, institutional materials, scholarly commentary, and comparative legal practice. Qualitative research can be used in situations where the goal is to gain insight into the meaning of the law, its procedures, the behaviour of institutions, and the interaction between the law and commercial practice. No primary interview data was collected. Rather, secondary sources: books, journal articles, as well as institutional reports, statutes, international instruments, and pertinent materials available on the internet were used. However, secondary analysis was suitable as international commercial arbitration is of a technical legal nature and had a wealth of documentary sources (Ruggiano & Perry, [2019](#)).

A doctrinal and comparative analysis method was used for legal analysis. Through doctrinal analysis, the Arbitration Act 1996, as amended by the Arbitration Act 2025, the New York

Convention, the UNCITRAL Model Law, and the principles of autonomy, enforcement, confidentiality, due process, and judicial support are analysed. Comparative analysis is used to examine selected Commonwealth jurisdictions, particularly Australia, New Zealand, India, and Pakistan, with attention to legal, institutional, administrative, and enforcement conditions. The comparison was not designed to make a simplistic comparison of jurisdictions; rather, it was intended to examine issues of transferability and institutional capacity and to provide a realistic outlook for future legal harmonisation.

The analysis is based on themes related to the key research questions at the beginning of the article. Effectiveness, legal framework and procedure, English arbitration as a Commonwealth model, opportunities for reform and challenges to implementation are the main themes. The thematic organisation permits linking the legal doctrine with the analysis of the institutions and in comparison with other legislation.

Conceptual Framework: Law, Institutions, and Commercial Confidence

The key elements, interdependent and closely linked, around which the conceptual framework is developed are: clear arbitral legislation, attention to international enforcement standards, availability of specialist arbitral skills, commercial confidence and the impartial procedure itself. These are all in collaboration with each other. A clear statute helps parties trust that arbitration agreements will be respected. International enforcement rules support confidence that awards can be recognised beyond the seat of arbitration. Skilled arbitrators and institutions improve procedural quality. Impartiality and due process give the system legitimacy.

Having institutional administration reduces procedural uncertainties. The system is impartial and follows due process, which validates it. These elements, the reasons one defends the use of arbitration in international commerce, not merely for the singular purpose of adjudicating specific disputes, should be considered by any arbitrator.

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The first is to ensure legal predictability. Commercial parties will be more inclined to choose the seat of arbitration where a statute guides the enforceability of arbitration agreements, the jurisdiction of arbitrators, interim relief, arbitrator bias and challenges, and the enforceability of awards. This makes the predictability of arbitration under the Arbitration Act 1996. In particular, where the laws governing the arbitration mechanism do not provide clarity to investors in a Commonwealth state, the number of challenges to awards heard by local courts could prompt foreign counterparties to reconsider investment relations with the Commonwealth prior to arbitration.

The second concerns international enforceability. If arbitration is viewed as a transnational enforcement mechanism, the New York Convention has done more than just fundamentally redefine arbitration from a private contractual mechanism. In its absence, arbitration could frequently result in an award which would then necessitate troublesome litigation in another State. Although the Convention does not eliminate all grounds for refusal, it does provide a common legal framework for courts in other jurisdictions (United Nations, 1958). It reduces the grounds for denial and restricts enforcement procedures. To form a robust arbitration framework in Commonwealth countries, it is necessary to pay attention to signing up to international acts as well as to stable implementation at the domestic level.

Third institutional & professional capacity. This article, focusing on the LCIA and CIArb, demonstrates the lived reality of arbitration law – that arbitration law is about people and institutions. Parties require arbitrators to have a legal grasp of procedure and commerce, as well as administrators with expertise in managing timetables, appointments, fees, emergency applications, and communications. A lack of these capacities can make even well drafted legislation of little

consequence for dispute resolution. Hence, formulation of the United Kingdom as an ecosystem rather than just a statute.

The fourth and fifth elements are: confidence in investment and impartiality. Arbitration helps investment as it will minimise the threat posed by being sucked into unaccustomed courts or even politically sensitive litigation. But this self-assurance is based on being neutral. Neutrality, independence and impartiality are fundamentally connected to arbitral justice as aptly pointed out by Feehily (2019). An arbitration system that is not impartial, whether in its appointment system or in its procedures, would not be described as such in the terminology of international arbitration, nor would it be appealing, as an alternative to a national version of arbitration under the ADR Act, in the eyes of many. Such a system, without impartial tribunals, without transparency in its appointment process, without any credible enforcement mechanism, would not be called an arbitration system, unless it were using the language of international arbitration, and would not be an agreeable alternative to an arbitration system under the ADR Act to many. As a whole, the concept is instrumental in underpinning the article's thesis that legal transplantation requires institutional trust.

Findings and Discussion

Effectiveness of the English Arbitration Framework

The first major finding is that English arbitration law provides an effective framework for resolving cross border commercial disputes. This effectiveness is facilitated through statutory, procedural, judicial and institutional enablers. The Arbitration Act 1996 (as amended by the Arbitration Act 2025) emphasises that it allows parties to determine the rules and procedures of their arbitration, whilst maintaining fairness, due process and public interest protections. It affords flexibility to the procedure for the parties, and promotes limited judicial interpretation of the Act. The speed, finality, commercial certainty and arbitration are potentially all at risk because arbitration may be a precursor to litigation (Arbitration Act 1996/Arbitration Act 2025/Allahhi 2016).

One of the main virtues of the English arbitration model is that of judicial assistance. The courts are accommodating of arbitration by enforcing arbitration agreements, granting interim relief as necessary, assisting tribunals in exercising their powers, and recognising and enforcing arbitral awards. Simultaneously, they tend to stay on general terms of debate, avoiding reopening any of them. This balance ensures the finality of arbitration while maintaining safeguards against procedural unfairness, excess of jurisdiction, fraud, and violations of public policy. In this way, the English courts do contribute to the use and expansion of arbitration, although they don't treat it as a "normal court case" (Bookman, 2021; Global Arbitration Review, 2023; Greeno, 2021).

The New York Convention does so to the extent that the awards can be enforceable outside of the seat of the arbitration. If an award is recognisable and the asset to which the award relates is located in another jurisdiction, the enforceability of the award will be important in the context of cross border trade. Thus, enforceability of the convention, one of the best attributes of international commercial arbitration, is the subject of this study. The United Kingdom's participation in this helps make arbitral bodies' decisions predictable and aligned with expectations in international trade (Crowell, 2023; United Nations, 1958). This is still an asterisked statement. However, the grounds for refusal of recognition and enforcement by national courts may be limited to the absence of a valid arbitration agreement, unfairness, lack of jurisdiction, and/or public policy. Despite these restrictions, the Convention offers a uniform enforcement mechanism, which is also frequently missing in cross border litigation.

While English arbitration law has a statutory framework, the UNCITRAL Model Law nevertheless applies in assessing its effectiveness. Although the Model Law was not adopted by

England and Wales in its entirety, there is nonetheless a broad convergence between the principles of the Model Law and the arbitration law in England and Wales, particularly regarding party autonomy, arbitrators' competence, minimal court involvement, fair procedures, and awards. In Commonwealth jurisdictions, this can enable a step by step approach to reforming the system; ideally, the goal of reform should be to apply fundamental international principles while adjusting to the local legal and institutional context (Lembo, [2010](#)).

Legal Framework, Procedure, and Institutional Support

The second concerns the procedural aspects that make England attractive as the seat of arbitration. English arbitration law is one about party autonomy. Parties have the option to select the substantive law, the arbitrators, the language, or the venue. Independence would not be absolute; however, it would be subject to boundaries regarding due process, equality of treatment, and public policy. There is always a fundamental principle of fairness in arbitration: the two sides should be treated equally. Deliberating/refusing to give in due course an equal chance to present its case to the arbitrators may impair the arbitral process itself (Bantekas [2020](#)). A commercial flexibility with legal certainty in the arbitral process is the reason for the effectiveness of the English model.

Confidentiality is another advantage of arbitration in practice for certain types of cases, such as those involving financial data, trade secrets, technology, reputations and/or long term commercial relationships. But elements of confidentiality should not be put forward as a universal duty, underpinned by statute. Confidentiality can be contractual, based on the rules of arbitration or grounded in the common law. The superior position is that the rule of confidentiality is conducive to the development of confidence in business dealings, provided that the principles of fairness in procedure, public policy, and the necessity of superimposing a limited judicial imperative are also maintained where necessary.

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The third attribute is expertise. Commercial disputes can be in complex areas such as banking, energy, construction & infrastructure, shipping, commodities, insurance, technology, or finance, and may involve international elements and parties. Arbitration allows parties to select arbitrators with industry expertise. The system is supported by institutions such as the LCIA, which provides internationally recognised rules and administrative support, and CI Arb, which contributes through training, accreditation, ethics, and professional development. With its London location, the LCIA also conducts arbitration and other alternative and non judicial dispute resolution (ADR) proceedings, no matter where the arbitration takes place, or which system of laws is used by the parties concerned (London Court of International Arbitration [2020](#), LCIA Rules 2022 & 2024, Arbitration Act 1996). Statutory change is a component of the institutional "system", but it is difficult to replicate this in a short time frame, so statutory change must not be the only consideration in thinking about and working towards Commonwealth reform.

Technological flexibility is the 4th quality. Digital case management, along with online dispute resolution tools and virtual hearings, can help eliminate costs, delays, and geographic and other limitations, the study states. In recent years, technology, in particular, has been a new component to the arbitration landscape. With everything that came with the COVID 19 era, the use of technology for remote hearings and electronic communication was embraced. Benton & Andersen ([2020](#)) and Samberg ([2022](#)) put forward the idea of using technology to broaden access and enhance efficiency. But the study is very clear that there are new risks of technology to consider. In less developed jurisdictions, reliable internet connectivity, Internet security measures, or Internet literacy might be lacking. Second, in an arbitration challenge, the information to be shared in a business dispute may be sensitive, making cybersecurity a major consideration. Instead, technology ought to be viewed as a tool and a process that enable and enhance a sense of procedural fairness.

English Arbitration Law as a Commonwealth Model

The third is that there are lessons to be learned from English arbitration law for Commonwealth jurisdictions, but it is a 'soft model'. These have common law traditions, adversarial proceedings, and common institutional ties with England and many other common law countries. The commonalities may render English ideas of arbitration more relatable and understandable. But there are many exceptions to that common legal heritage that can cause problems for successful transplantation. The supply of efficient courts, legal culture, reliable processes, professional capacity, funding, and trust in the commercial system is critical to arbitration, too.

With respect to the application of international arbitration norms, certain relatively benign situations also exist for Australia and New Zealand. They are both developed common law jurisdictions and signatories to the New York Convention. The study takes a hands on approach to them as cases of alternative jurisdiction of the Commonwealth that offer alternatives to neutrality, efficiency, party choice, and enforcement of arbitral awards within the arbitration system. In their experience, the advantages of arbitration are generally further enhanced when parties seek an impartial forum and when both parties and courts are prepared to respect outcomes reached by arbitrators (Chong, 2021; Feehily, [2019](#); Melbourne University Law Review, [2020](#)). The lesson's message is not that Australia and New Zealand simply imitate the English model. Instead, they have observed that international arbitration norms can be accommodated within a common law jurisdiction without sacrificing legal identity or legal practice.

It is more complicated to make the India vs Pakistan comparison. It sheds light on the significance of arbitration as a mechanism for settling disputes in international trade and investment, a practice accepted by both jurisdictions. In India, there are also moves to enact legislation that would introduce India to international arbitration laws, and arbitration is gradually gaining traction among India's judiciary as an alternative to the court process. But the issues remain bureaucratic delays, case backlogs, regional variations in enforcement, a lack of expertise and mediators, and avoidance of litigation, which is also prevalent in the culture (Pathak et al., [2022](#)). There are comparable challenges in institutional development, faith in the rule of law and access to competent and effective arbitrators in Pakistan. None of the above problems detracts from the importance of arbitration; rather, they demonstrate the need for administrative reform, judicial training, investment in institutions, and the development of a stronger commercial arbitration culture.

The comparative features coming from research are summarised in Table 2. The juxtaposition highlights that the United Kingdom model is best viewed as a set of principles: that of entities holding a hierarchical position enforced by law, that of courts avoiding implementing overly intrusive regulations, that of acceptability of administrative decisions by public servants, that of professional competence, that of adaptability of technology and that of adherence to due process. This is because these principles can be carried along with greater mobility than particular institutional forms. A transparent set of rules, a transparent process for appointing appropriate counsel, streamlined case management, ethical standards, and training programs don't have to be copied from the LCIA if they are appropriate to the legal market of a particular Commonwealth country.

Table 2*Comparative Features of English and Selected Commonwealth Arbitration Systems*

Feature	United Kingdom	Australia and New Zealand	India and Pakistan
Legal foundation	Mature statutory framework centred on the Arbitration Act 1996.	Common law systems that support arbitration and convention based enforcement.	Arbitration is recognised as important, but implementation may be affected by delay, procedural complexity, and uneven enforcement.
Judicial role	Generally supportive and non interventionist, subject to statutory safeguards.	Courts can support arbitration within developed legal systems.	Court backlog and litigation culture may reduce arbitral efficiency.
Institutional capacity	Strong specialist institutions, including LCIA and CIArb linked professional development.	Developed legal profession and access to international norms.	Need for deeper institutional capacity and larger pools of specialist arbitrators.
Transferability	Provides a persuasive model, especially on autonomy, due process, and court restraint.	Demonstrates adaptation within comparable common law settings.	Requires cautious adaptation: institutions, judicial training, administrative reform, and investment.

The English legal system has a wealth of legal experience, an established commercial bar, a rich array of arbitral institutions, and longstanding court experience in handling arbitral matters. There might be effective legal resources, but other Commonwealth jurisdictions with common law language might not have built out courts, the same level of willingness to cooperate, or commercial infrastructure. A reform programme which merely transcribes the literal language of statute can therefore result in superficially like new statutes which are nevertheless meaningless in practice. But the developmental lesson is a more persuasive one: Restoring arbitral mechanisms is a more compelling argument as legal norms, practice, institutional administration, training, and users' trust in the process all grow and develop together. For India and Pakistan, it should encompass legislative modernisation, case backlog, implementation delays, implementation disparities, and a lack of specialised arbitrators. Small Commonwealths might prefer to develop regional cooperative joint institutional facilities or procedures available online rather than expensive national institutions. The English principles can guide Commonwealth reform, but their practical application must reflect local legal, economic, and institutional conditions. might thus be best thought of as a blueprint for a coordinated legal structure.

Challenges and Opportunities for Commonwealth Arbitration

The fourth finding of the research concerns the possibilities and pitfalls of enhancing cross border dispute resolution through arbitration in Commonwealth countries. The key area is legal harmonisation. One way to improve the predictability of a Commonwealth country is to align its domestic arbitration law with international law, particularly the New York Convention and the UNCITRAL Model Law. Harmonisation reduces uncertainty for foreign investors/commercial parties. It also ensures ease of judicial interpretation, as Courts can benefit from international

materials and comparisons of case law. However, there is a risk of assailing harmonisation with uniformity. Domestic constitutional frameworks, judicial systems, languages, trade customs, and issues of public interest and policy ought to be addressed by local laws and regulations (Boele Woelki et al., [2018](#); Odeibat, [2023](#)).

A second chance is in capacity building. Reliable arbitration seats require trained arbitrators, judges, lawyers, tribunal secretaries, and institutional staff in the Commonwealth jurisdictions interested in making the leap to become reliable arbitrators. All arbitrators listed below should be included in the training: Arbitration procedure, ethics, independence, impartiality, interim measures, award writing, enforcement, digital evidence, cybersecurity, and diversity. Even good arbitration laws can have a very limited impact if they lack a professional dimension.

This third chance is in creating institutional development. Good arbitration bodies have sound rules, appoint arbitrators with transparency, verify arbitrators' credibility, set arbitrators' fees favourably, and have emergency, case management, and professional administration procedures. But more is needed than the creation of a named centre to develop institutions. The institution should be independent, credible, affordable, transparent, and should be professionally managed. Erie ([2019](#)) and Gu and Tam (2021) demonstrate that dispute resolution hubs are established within broader legal service ecosystems. It is, therefore, important that any reform of arbitration in Commonwealth countries be accompanied by legal education, court modernisation, commercial law reform, and international business policy.

Cost and access remain major challenges in international arbitration. Arbitration is frequently touted as quicker and less expensive than litigation, but it may not be. The costs associated with complex international arbitration include those of the arbitrators and institutions involved, as well as expert and legal counsel, travelling, transcription, translation and hearing fees. Cole ([2017](#)) casts doubt on the unfulfilled promise of arbitration for accessibility, citing costs and process complexity. Arbitration might be as out of reach for the small and medium sized enterprise as litigation. Therefore, expedited procedures, limits on fees in the handling of smaller claims, online hearings, early determination, a mediation arbitration provision, if warranted, and the cost rules should be considered with the Commonwealth reform of the civil process rules.

The projects also face challenges related to diversity and inclusion. Locating all arbitrator appointments, including a handful of repeat arbitrators from leading jurisdictions, may raise questions about their legitimacy. Having regional, gender and professional diversity fosters confidence and adds an even broader range of perspectives when approaching dispute resolution. The researchers' concern for the need to be more representative in appointment practices for both is supported by Spigelman ([2020](#)) and Dodson ([2019](#)). This is also reflected in the LCIA's reporting efforts on gender diversity (London Court of International Arbitration, [2022](#)). The diversity within institutions can be built in from the beginning, rather than treated as a corrective measure later in the process, as in the case of Commonwealth countries.

A lack of uniformity in enforcement remains a significant hurdle. Even if countries ratify the New York Convention, there is variation among domestic courts in the speed, consistency, and sophistication of their recognition of awards. Inconsistencies in enforcement create a lack of predictability and can affect the parties' choice of seat/business centre and/or enforcement forum. However, studies indicate that the recognition of awards is not limited to membership in treaties but also extends to judicial practice and national procedural law, as in Khalilova ([2020](#)) and Zhang ([2022](#)). This can be achieved through judicial training, model rules of procedure, frequent reporting, and the establishment of networks for the exchange of arbitration case law, with the cooperation of the Commonwealth. The opportunities and challenges identified in the study are listed in Table

3.

Table 3: Opportunities and Challenges of Arbitration in Commonwealth Countries

Area	Opportunity	Challenge
Legal harmonisation	Align national laws with the New York Convention and UNCITRAL Model Law principles.	Uniform rules may fail if local courts, procedures, and institutions remain weak.
Capacity building	Train arbitrators, judges, counsel, and administrators in international arbitration practice.	Shortage of experienced arbitrators can reduce quality and confidence.
Institutional development	Establish credible arbitration centres with transparent rules and efficient administration.	New institutions may lack independence, funding, reputation, or international trust.
Technology	Use online case management, virtual hearings, and digital filing to reduce delay and cost.	The digital divide, cybersecurity risks, and uneven technical readiness may create unfairness.
Access and cost	Introduce expedited procedures, proportionate fees, and user friendly rules.	High legal and institutional costs may exclude smaller businesses.
Diversity and legitimacy	Broaden appointments across gender, region, age, and professional background.	Repeat appointments and concentrated networks may weaken confidence.

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Overall, it is found that the arbitration reform in the Commonwealth must be systemic. There is a need for statutory change, but that alone is not sufficient. A successful arbitration also calls for efficient institutions, competent and independent arbitrators, informed commercial parties and consistent enforcement, an aspect in which Courts play a key role. The use of the English model should therefore not be regarded as a template, but as good practice.

Policy Implications

The policy implication is that Commonwealth jurisdictions should seek a harmonisation based on principle, rather than mechanical uniformity. Legislatures should review domestic arbitration law, taking into account the New York Convention and the UNCITRAL Model Law, and remove any inconsistencies that could give rise to doubts or lead to judicial intervention. The arbitration agreement, the arbitrator's jurisdiction, interim measures, the appointment of the arbitrator, the challenge of the arbitrator, equal treatment, the finality of the award, grounds for setting aside and recognition and enforcement are the aspects that need to be harmonised. These reforms can boost investor confidence and reduce procedural litigation in advance.

The implication is that judicial capacity is vital for arbitration reform. The courts play a vital role in enforcing arbitration agreements, providing interim protection, enforcing an award, and providing limited supervisory review. Where courts approach arbitration with distrust or reopen the merits too readily, arbitration loses finality and commercial value. Commonwealth countries therefore need to train their specialists in arbitration law, interpretation of the convention, public policy and overriding public interest limitations, and pro enforcement principles. There are also other lists, such as commercial or arbitration lists, that can enhance consistency.

The third implication follows from the above: institutional development should be credible and independent. Arbitration centres should provide their rules and fee structure, case appointment procedures, procedures for challenging appointments, recommended model clauses, and, wherever possible, statistics on the number of cases. They should also be responsible consumers of technology, for example by establishing safe filing systems and practices for virtual hearings. Casework reporting is an example of how institutional transparency can promote trust while maintaining confidentiality (London Court of International Arbitration, [2022](#)).

A fourth implication is that the access/cost issue should be tackled directly. If arbitration is reserved for big corporations, the general needs of this Commonwealth's trade cannot be met. Potential measures available to policymakers and institutions include: expediting the process for smaller claims; providing opportunities for early dismissal of claims with no meritorious case; cost budgeting; introducing a mediation window; introducing online exchange of documents; and simplifying rules for small and medium sized enterprises. There should be safeguards for due process with a minimisation of unnecessary costs.

The fifth implication is the need to coordinate capacity building at a regional level as a profession. Universities, bar associations, arbitral institutions, and professional bodies, among others, from various Commonwealth jurisdictions can join forces to train arbitrators, counsel, tribunal secretaries, and judges. Programmes need to cover ethics, independence, impartiality, writing awards, emergency arbitration, digital evidence and cyber security, diversity, and enforcement. The exchange of experience and know how among the regions can help minimise reliance on a limited pool of foreign experts and increase confidence in arbitration within the region.

The final implication is to foster diversity amid reform. It is important that there is a mix across genders, regions, generations, professional background and that the appointment practice fosters such representation. Diversity is not merely symbolic: it facilitates legitimacy, minimises perceptions of closed networks, and enhances arbitration's responsiveness to diverse commercial contexts. In particular, Commonwealth jurisdictions that are starting to establish arbitration institutions have a unique opportunity to build inclusive arbitration systems up from scratch.

Conclusion

This article explored English arbitration law as a potential source of law for cross border commercial dispute resolution for the Commonwealth jurisdictions. It made the point that the vitality of the English arbitration system is not just in the Arbitration Act 1996 (as amended by the Arbitration Act 2025) but in the greater legal and institutional fabric that supports arbitration. It is easy to understand why England – indeed London in particular – remains an appealing forum for international commercial arbitration, as the combination of party autonomy, procedural fairness, limited court involvement, enforceability, specialist knowledge and institutional support makes it so.

The discussion has demonstrated that the success of English arbitration stems from its integration into a larger arbitration system. Legislation cannot create the process, however – courts need to appreciate their supervisory roles, institutions need to run the process smoothly, arbitrators need to have the commercial know how and commercial parties need to have faith in the process. The New York Convention enhances this system by providing for recognition and enforcement of arbitral awards in the international arena. Even though it was not fully adopted in England and Wales, the UNCITRAL Model Law remains relevant, as it mirrors international concepts adopted by many jurisdictions when modernising their arbitration laws.

The article has also demonstrated that it is not a model that the Commonwealth jurisdictions can mechanically copy and implement in their contexts. Although the common law roots of arbitration make some aspects of English arbitration familiar, there are also dissimilarities. Countless differences exist among Commonwealth jurisdictions in terms of courts, enforcement culture, institutional performance, professional skills, expenses, IT and ready accessibility, and commercial confidence. The differences indicate that reform needs to be built on adaptation, and nothing else. The most valuable teachings of English arbitration law have thus been not the specific features of London arbitration institutions, but general principles of legal certainty, due process, minimal court involvement, strong enforcement and competence.

Past comparisons with Commonwealth jurisdictions also demonstrate the necessity for arbitral reform to be practical and systemic. The incorporation of international arbitration principles in the common law jurisdictions of Australia and New Zealand is a good example of how to do this while retaining one's own legal identity. As evidenced by India and Pakistan, even if an arbitration law is enacted, delays in the courts, institutional practices, specialisation, and inconsistent application of arbitration will still plague the process. These examples show the importance of a two part process: determinants of the law and of legal culture for the success of arbitration.

The policy implication is that Commonwealth jurisdictions should seek reform through a process of balance and sensitivity at the local level. That said, modern arbitration laws would benefit from all necessary auxiliary components—such as judicial training, credible arbitral institutions, professional development, reliance on strong tribunals and procedures, the use of affordable technology, and a variety of appointment practices. But reform must not just fill the needs of big business – it must do the same for small and medium sized businesses. However, if arbitration remains too costly or overly complicated, it may not meet the broader demands of cross border trade.

This article thus concludes that English arbitration law offers an appeal but not a complete blueprint for Commonwealth arbitration reform. The real essence lies in the principles it shows, not in any cornered institutional shape that can be simply replicated. Commonwealth jurisdictions can enhance their arbitration mechanisms by tailoring these elements to their legal, economic and institutional environment. This reform can help build trust in arbitration, facilitate international trade and investment, and resolve cross border commercial disputes effectively.

The following points should be studied in the future using an empirical approach and by comparing them. Gleanings from the views of judges, arbitrators, attorneys, institutional representatives, and business practitioners would provide a useful practical snapshot of arbitration in operation across the various jurisdictions of the Commonwealth. Additional studies could also involve a comparison between London and other key arbitration hubs, such as Singapore, Hong Kong and Dubai. Technology, cybersecurity, diversity, cost, and access to arbitration are also topics that require further study. These regions will be relevant to the development of arbitration systems that are not only legally valid but also accessible, trustworthy, and responsive to modern business needs.

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