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THE INFLUENCE OF THE UNCITRAL MODEL LAW ON DOMESTIC ARBITRATION REGIMES: A COMPARATIVE STUDY OF THE UNITED KINGDOM AND THE UNITED STATES

UNCITRAL MODEL KANUNU'NUN ULUSAL TAHKİM REJİMLERİ ÜZERİNDEKİ ETKİSİ: BİRLEŞİK KRALLIK VE AMERİKA BİRLEŞİK DEVLETLERİ'NİN MUKAYESELİ İNCELEMESİ

Ticen Azize ORAS¹ 

ABSTRACT

This article examines the relationship between the UNCITRAL Model Law on International Commercial Arbitration and domestic arbitration regimes through a comparative analysis of the United Kingdom and the United States. As a non-binding legislative template, the Model Law functions as a normative reference aimed at promoting harmonisation, party autonomy, limited judicial intervention, and the effectiveness of arbitral proceedings. Rather than focusing on formal implementation alone, the study explores different modes of engagement with the Model Law across distinct legal systems. The analysis demonstrates that, although the United Kingdom has not formally adopted the Model Law, the Arbitration Act 1996 reflects a significant normative alignment with its core principles. In contrast, the United States has incorporated the Model Law directly into its legal framework for international commercial arbitration through Chapter 3 of the Federal Arbitration Act. By comparing these two approaches, the article highlights how shared arbitration standards may be achieved through both legislative adoption and autonomous domestic regulation. Focusing on judicial intervention, interim measures, and the setting aside and enforcement of arbitral awards, the study illustrates the adaptability of the Model Law within different legal cultures. The findings suggest that the Model Law's continued relevance lies in its flexibility and its capacity to function as a common reference point for the development of international arbitration law across jurisdictions.

Keywords: International Commercial Arbitration, UNCITRAL Model Law, Comparative Arbitration Law, Judicial Intervention, Domestic Arbitration Regimes.

ÖZ

Bu makale, UNCITRAL tarafından hazırlanan Uluslararası Ticari Tahkim Model Kanunu'nun, ulusal tahkim rejimleri ile kurduğu ilişkiyi Birleşik Krallık ve Amerika Birleşik Devletleri örnekleri üzerinden karşılaştırmalı olarak incelemektedir. Bağlayıcı bir uluslararası sözleşme niteliği taşımayan Model Kanun, uluslararası tahkim hukukunun uyumlaştırılmasında önemli bir normatif referans noktası olarak kabul edilmektedir. Çalışma, Model Kanun'un ulusal hukuklarda doğrudan uygulanmasından ziyade, farklı hukuk sistemlerinde nasıl benimsendiğini, yorumlandığını ve uyarlanarak etkili hâle geldiğini analiz etmeyi amaçlamaktadır. Bu çerçevede makale, Birleşik Krallık'ta Model Kanun'un formel olarak benimsenmemiş olmasına rağmen, Tahkim Yasası 1996'nın temel ilkeleri ile Model Kanun arasında önemli ölçüde normatif bir paralellik bulunduğunu ortaya koymaktadır. Buna karşılık, Amerika Birleşik Devletleri'nde Model Kanun'un Federal Tahkim Yasası'nın 3. Bölümü aracılığıyla uluslararası ticari tahkim bakımından doğrudan kabul edildiği tespit edilmektedir. Çalışma; mahkeme müdahalesinin sınırları, geçici hukuki koruma tedbirleri ve hakem kararlarının denetlenmesi gibi temel alanlarda iki ülkenin yaklaşımlarını karşılaştırarak, Model Kanun'un esnek yapısının farklı hukukî gelenekler içinde nasıl işlev kazandığını değerlendirmektedir.

Anahtar Kelimeler: Uluslararası Tahkim, UNCITRAL Model Kanunu, Karşılaştırmalı Hukuk, Mahkeme Müdahalesi, Tahkim Hukuku

¹ Yrd. Doç. Dr., Rauf Denктаş Üniversitesi, Hukuk Fakültesi, 0000-0001-8843-4847, ticen.ozrasit@rdu.edu.tr.

1. INTRODUCTION

The UNCITRAL Model Law on International Commercial Arbitration occupies a central position in the development of modern international arbitration. Since its adoption in 1985 and subsequent amendment in 2006, the Model Law has served as a legislative reference point for states seeking to modernise their arbitration frameworks and to align domestic law with internationally accepted standards. While a significant number of jurisdictions have enacted the Model Law in whole or with limited modifications, others have chosen to maintain autonomous arbitration regimes while nevertheless engaging with the Model Law's underlying principles.² This diversity of approaches raises important questions regarding the role of the Model Law beyond formal legislative adoption and the ways in which its principles interact with domestic arbitration systems.

This article examines that interaction through a comparative analysis of the United Kingdom and the United States. These jurisdictions present two contrasting but equally influential models of engagement with the UNCITRAL Model Law. The United States has formally incorporated the Model Law into its legal framework for international commercial arbitration through Chapter 3 of the Federal Arbitration Act. By contrast, the United Kingdom has not adopted the Model Law as a legislative instrument, relying instead on the Arbitration Act 1996, an autonomous statute rooted in domestic legal tradition. The comparison of these two approaches provides a useful lens through which to assess the flexibility of the Model Law and its capacity to function as a normative reference across different legal cultures.

1.1. Purpose and Scope of the Study

The primary purpose of this study is to analyse how the UNCITRAL Model Law operates as a point of reference for domestic arbitration regimes, rather than to assess its formal implementation as binding legislation. The article seeks to clarify the extent to which the principles embodied in the Model Law are reflected in, or diverge from, the arbitration frameworks of the United Kingdom and the United

States. In doing so, it aims to contribute to a more nuanced understanding of the Model Law's role in shaping international arbitration practice beyond the boundaries of formal adoption.

The scope of the study is limited to international commercial arbitration and focuses on key areas where the Model Law's principles are most visible, namely party autonomy, judicial intervention, interim measures, and the setting aside and enforcement of arbitral awards. The analysis does not attempt to provide an exhaustive account of all aspects of arbitration law in either jurisdiction but instead concentrates on those elements most relevant to assessing the interaction between the Model Law and domestic arbitration regimes.

1.2. The UNCITRAL Model Law as a Normative Reference

Rather than constituting a binding international convention, the UNCITRAL Model Law was designed as a flexible legislative template capable of accommodating diverse legal traditions. Its function extends beyond direct enactment, operating as a normative reference that informs legislative drafting, judicial interpretation, and arbitral practice. This characteristic allows the Model Law to exert influence even in jurisdictions that have chosen not to adopt it formally, by providing a coherent set of principles reflecting internationally accepted standards of arbitration.³

Understanding the Model Law as a normative reference is particularly important in the context of this study. It enables an examination of how domestic arbitration regimes may align with, adapt, or depart from the Model Law's principles without being legally bound by its provisions. This perspective also avoids overstating the Model Law's role, acknowledging the autonomy of domestic legal systems while recognising the Model Law's contribution to the harmonisation of international arbitration norms.

1.3. Methodology and Comparative Framework

The article adopts a doctrinal and comparative methodology. It analyses primary legal sources, including legislation and case law, alongside

² Robert E. Meade, "Arbitration Overview: The AAA's Role in Domestic and International Arbitration," *Journal of International Arbitration* 1(3) (1984): 263; Sabra A. Jones, "Historical Development of Commercial Arbitration in the United States," *Minnesota Law Review* 12 (1928): 240.

³ George M. von Mehren, and Alana C. Jochum, "Is International Arbitration Becoming Too American?" *Global Business Law Review* 2 (2011): 47.

relevant scholarly commentary, to assess the relationship between the UNCITRAL Model Law and the arbitration regimes of the United Kingdom and the United States. The comparative framework is structured symmetrically, examining each jurisdiction separately before drawing comparisons on specific themes, thereby ensuring balance and analytical clarity.

The comparison focuses on both formal and functional aspects of engagement with the Model Law. In the case of the United States, attention is given to the Model Law's formal incorporation through federal legislation and its application by domestic courts. In relation to the United Kingdom, the analysis concentrates on the extent to which the principles of the Model Law are reflected in the Arbitration Act 1996 and in judicial practice. This structured approach allows for a balanced assessment of different modes of engagement with the Model Law and facilitates meaningful comparative conclusions.

2. THE UNCITRAL MODEL LAW ON INTERNATIONAL COMMERCIAL ARBITRATION

The UNCITRAL Model Law on International Commercial Arbitration was adopted in 1985 with the objective of addressing the fragmentation and unpredictability that characterised national arbitration laws at the time. By offering a coherent and internationally accepted framework, the Model Law sought to facilitate international commercial arbitration by reducing legal uncertainty and enhancing procedural efficiency. Its revision in 2006 further strengthened this framework, particularly in relation to interim measures and the recognition and enforcement of arbitral awards, reflecting developments in arbitral practice and the growing complexity of international commercial disputes.

2.1. Objectives and Legal Nature of the Model Law

The primary objective of the UNCITRAL Model Law is to promote the harmonisation and modernisation of national arbitration laws. Unlike international conventions, the Model Law does not

create binding obligations for states. Instead, it operates as a legislative template designed to be adapted by national legislatures in accordance with their domestic legal traditions. This non-binding nature allows states to engage with the Model Law in varying degrees, ranging from full adoption to selective incorporation or mere normative alignment.

The legal nature of the Model Law is therefore inherently flexible. It provides a set of core procedural rules and principles intended to ensure fairness, efficiency, and legal certainty in international commercial arbitration. At the same time, it preserves a significant degree of legislative discretion, enabling states to tailor their arbitration frameworks to local needs while maintaining compatibility with international standards. This balance between uniformity and flexibility is a defining feature of the Model Law and underpins its widespread acceptance.⁴

2.2. Core Principles of the Model Law

At the heart of the UNCITRAL Model Law lies a set of fundamental principles that define its approach to international commercial arbitration. These principles aim to enhance party autonomy, limit judicial interference, and reinforce the effectiveness and finality of arbitral proceedings. Together, they form the normative foundation upon which the Model Law operates and provide a benchmark for assessing domestic arbitration regimes.

2.2.1. Party Autonomy

Party autonomy constitutes one of the central pillars of the UNCITRAL Model Law. The Model Law grants parties considerable freedom to determine the procedural and substantive aspects of their arbitration, including the choice of arbitrators, applicable law, seat of arbitration, and procedural rules. This emphasis reflects the consensual nature of arbitration and recognises the parties' ability to design a dispute resolution mechanism tailored to their commercial needs.

By prioritising party autonomy, the Model Law enhances the flexibility and attractiveness of arbitration as an alternative to litigation. At the same time, this autonomy is not absolute. The Model Law establishes mandatory safeguards to ensure

⁴ Paola Catenaccio, "Cultural Variation in Arbitration Journals: The International Court of Arbitration Bulletin and Arbitration International Compared", in *Discourse and*

Practice in International Commercial Arbitration (Routledge, 2016), 163-178.

procedural fairness and equality between the parties, thereby striking a balance between freedom of choice and the integrity of the arbitral process.

2.2.2. Limited Judicial Intervention

Another core principle of the Model Law is the limitation of judicial intervention in arbitral proceedings. Article 5 of the Model Law provides that courts shall not intervene in matters governed by the Model Law except where expressly permitted. This principle aims to protect the independence of the arbitral process and to prevent undue delays caused by excessive court involvement.

Limited judicial intervention supports the efficiency and finality of arbitration while preserving a supervisory role for national courts in specific circumstances, such as the appointment or removal of arbitrators, the granting of interim measures, and the setting aside or enforcement of arbitral awards. The Model Law thus adopts a balanced approach that recognises both the autonomy of arbitration and the necessity of judicial support.⁵

2.2.3. Competence–Competence

The principle of competence–competence, enshrined in Article 16 of the Model Law, empowers arbitral tribunals to rule on their own jurisdiction, including objections relating to the existence or validity of the arbitration agreement. This principle prevents premature court interference and ensures that jurisdictional disputes are addressed efficiently within the arbitral framework.

By recognising the tribunal’s authority to determine its jurisdiction, the Model Law reinforces the autonomy and effectiveness of arbitration. Judicial review of jurisdictional decisions is permitted, but typically only at a later stage, thereby maintaining an appropriate balance between arbitral independence and judicial oversight.

2.2.4. Recognition and Enforcement of Arbitral Awards

The recognition and enforcement of arbitral awards constitute a fundamental aspect of the Model Law’s framework. The Model Law aligns closely with the New York Convention by establishing limited and

clearly defined grounds upon which recognition and enforcement may be refused. This alignment enhances legal certainty and promotes the cross-border enforceability of arbitral awards.⁶

By restricting the grounds for refusal, the Model Law reinforces the finality of arbitral awards and strengthens confidence in arbitration as an effective dispute resolution mechanism. This principle plays a crucial role in facilitating international commerce by ensuring that arbitral decisions are respected and enforceable across jurisdictions.

2.3. Modes of State Engagement with the Model Law

States may engage with the UNCITRAL Model Law in different ways, reflecting varying legal traditions and policy considerations. Some jurisdictions have adopted the Model Law in its entirety, thereby incorporating its provisions directly into domestic law. Others have enacted modified versions, adapting specific provisions to better align with local legal frameworks. A further group of states, while not formally adopting the Model Law, have nonetheless drawn upon its principles as a source of guidance in legislative reform and judicial interpretation.

These differing modes of engagement demonstrate the Model Law’s versatility as both a legislative template and a normative reference. Understanding this spectrum of engagement is essential for the comparative analysis undertaken in this article, as it provides the conceptual framework for examining the contrasting approaches of the United Kingdom and the United States in the sections that follow.

3. THE UNITED KINGDOM AND THE UNCITRAL MODEL LAW

The United Kingdom represents a distinctive model of engagement with the UNCITRAL Model Law. Despite being one of the world’s leading centres for international arbitration, the UK has never formally adopted the Model Law as part of its domestic legal framework. Instead, international and domestic arbitration in England, Wales, and Northern Ireland is governed by the Arbitration Act 1996, a

⁵ Richard Boivin, “International Arbitration with States: An Overview of the Risks,” *Journal of International Arbitration* 19(4) (2002): 285- 99.

⁶ Alan Redfern, Martin Hunter, Nigel Blackaby, and Constantine Partasides, *Redfern & Hunter: Law and Practice of International Commercial Arbitration*, 6th edn. (Sweet and Maxwell, 2015), 165.

comprehensive and autonomous statute grounded in English legal tradition. The relationship between the Model Law and UK arbitration law is therefore not one of implementation, but rather of normative alignment and functional convergence.⁷

3.1. The Autonomous Nature of the Arbitration Act 1996

The Arbitration Act 1996 was enacted with the objective of modernising English arbitration law while preserving its established legal principles. The Act was designed as a self-contained and flexible framework capable of accommodating both domestic and international arbitration without reliance on external legislative models. Its foundational principles, set out in section 1, emphasise party autonomy, procedural fairness, and limited judicial intervention.

Although the Act was developed contemporaneously with the growing international acceptance of the UNCITRAL Model Law, it does not replicate the Model Law's structure or terminology. Instead, it reflects an independent legislative approach that draws upon longstanding common law traditions and prior statutory developments. This autonomy has enabled the UK to maintain a distinct arbitration regime while remaining compatible with international arbitration standards.

3.2. Alignment with Model Law Principles

Notwithstanding its autonomous character, the Arbitration Act 1996 exhibits a significant degree of alignment with the core principles embodied in the UNCITRAL Model Law. This alignment is most evident in the areas of party autonomy, judicial support and restraint, and the authority of arbitral tribunals.

3.2.1. Party Autonomy and Procedural Flexibility

Party autonomy occupies a central position in the UK arbitration framework. The Arbitration Act 1996 grants parties broad discretion to determine the

procedural rules governing their arbitration, including the conduct of proceedings, the appointment of arbitrators, and the applicable law. Where the parties have not reached agreement, the Act provides default rules that ensure procedural efficiency and fairness.

Compared to the Model Law, which adopts a more codified procedural structure, the UK approach is notably flexible. This reflects the English legal tradition's emphasis on contractual freedom and the parties' capacity to shape their dispute resolution process. While the mechanisms differ, the underlying commitment to party autonomy aligns closely with the Model Law's core philosophy.⁸

3.2.2. Judicial Support and Intervention

The principle of limited judicial intervention is explicitly recognised in section 1(c) of the Arbitration Act 1996, which provides that courts should not intervene in arbitral proceedings except as permitted by the Act. This mirrors the spirit of Article 5 of the Model Law, albeit without direct incorporation.⁹

At the same time, the UK framework allows for a more defined role for the courts in supporting the arbitral process. Courts may intervene in matters such as the appointment and removal of arbitrators, jurisdictional challenges, and procedural irregularities. In exceptional circumstances, the courts may also review arbitral awards on points of law, subject to strict statutory conditions. This calibrated approach reflects a balance between respecting arbitral autonomy and safeguarding the integrity of the process.

3.3. Interim Measures under English Arbitration Law

The Arbitration Act 1996 confers extensive powers on arbitral tribunals to grant interim measures, unless the parties agree otherwise. Under section 39, tribunals may order a range of provisional measures, including security for costs, the preservation of evidence, and procedural directions relating to the

⁷ Ray Turner, *Arbitration Awards: A Practical Approach* (Blackwell Publishing 2005), 210; Stuart Sime, *A Practical Approach to Civil Procedure* (Oxford University Press 2014), 109; Adrian Zuckerman, *Zuckerman on Civil Procedure*, 7th edn. (Sweet & Maxwell, 2021), 270; Şanal Görgün, Levent Börü ve Mehmet Kodakoğlu, *Medeni Usul Hukuku*, 12th edn. (Yetkin Yayınları 2023), 793.

⁸ Ejder Yılmaz, *Medeni Usul Hukuku Ders Kitabı*, 6100 Sayılı HMK'na Göre Yeniden Yazılmış, 25th edn. (Seçkin Yayıncılık, 2014), 779; Ziya Akıncı, *Milletlerarası Tahkim*, 6th edn. (Seçkin Yayınevi 2021), 3.

⁹ Rudolf Dolzer and Christoph Schreuer, *Principles of International Investment Law*, 2nd edn. (Oxford University Press 2012), 13.

conduct of the arbitration. These powers enable tribunals to manage proceedings effectively and to protect the parties' interests pending the final resolution of the dispute.

In addition to tribunal powers, section 44 of the Act authorises courts to grant interim relief in support of arbitration, including injunctions and orders for the preservation of assets. This judicial assistance may be provided even where an arbitral tribunal has been constituted, particularly in cases of urgency. The UK approach thus combines broad tribunal discretion with supportive judicial intervention, ensuring the practical effectiveness of arbitration.

3.4. Case Law Reflecting Model Law–Consistent Principles

Judicial decisions under the Arbitration Act 1996 further illustrate the UK's alignment with principles commonly associated with the UNCITRAL Model Law. In *Dallah Real Estate and Tourism Holding Company v Ministry of Religious Affairs of the Government of Pakistan*, the UK Supreme Court emphasised the centrality of consent to arbitration, holding that an arbitral award could not bind a non-signatory state. This decision reflects the Model Law's insistence on the validity and existence of an arbitration agreement as a foundation for arbitral jurisdiction.¹⁰

Similarly, in *Lesotho Highlands Development Authority v Impregilo SpA*, the House of Lords reaffirmed the principle of limited judicial intervention by rejecting an attempt to set aside an arbitral award on the basis of an alleged error of law. The court underscored the finality of arbitral awards and the restricted grounds for judicial review, reinforcing the autonomy of the arbitral process. These cases demonstrate how English courts, while operating within an autonomous statutory framework, apply principles that are consistent with those underlying the Model Law.

4. THE UNITED STATES AND THE UNCITRAL MODEL LAW

The United States presents a contrasting model of engagement with the UNCITRAL Model Law,

characterised by formal legislative incorporation rather than indirect alignment. Unlike the United Kingdom, the US has adopted the Model Law expressly for international commercial arbitration through Chapter 3 of the Federal Arbitration Act (FAA). This chapter, enacted in 2002, applies the Model Law to international arbitration agreements and awards falling within its scope, thereby integrating the Model Law into the federal arbitration framework.¹¹

The US approach reflects a deliberate policy choice to harmonise its international arbitration regime with globally recognised standards while preserving the existing domestic arbitration framework under Chapters 1 and 2 of the FAA. As a result, the Model Law operates alongside, rather than replacing, other federal arbitration provisions.

4.1. Adoption of the Model Law through Chapter 3 of the FAA

Chapter 3 of the Federal Arbitration Act incorporates the UNCITRAL Model Law substantially in its original form, with limited modifications to accommodate the US federal legal system. It governs international commercial arbitration agreements and awards that are not exclusively domestic in nature, thereby filling a regulatory space not fully addressed by the New York Convention or domestic arbitration law.¹²

The legislative history of Chapter 3 indicates a clear intention to promote consistency with international arbitration practice and to enhance the attractiveness of the United States as a seat for international arbitration. By adopting the Model Law at the federal level, the US ensured uniform application across states, mitigating the potential fragmentation that could arise from divergent state arbitration laws.

4.2. Model Law Principles in US International Arbitration

The incorporation of the Model Law into the FAA has reinforced several fundamental principles governing international arbitration in the United States, particularly with regard to judicial intervention and the authority of arbitral tribunals.

¹⁰ *Dallah Real Estate and Tourism Holding Company v The Ministry of Religious Affairs, Government of Pakistan* [2010] UKSC 46.

¹¹ George Burn, Kevin Cheung, "Section 44 of the English Arbitration Act 1996 and third parties to arbitration," *Arbitration International* 37(1) (2021): 287–323.

¹² Thomas E. Carbonneau, *The Law and Practice of Arbitration*, 6th edn. (Juris Publishing, 2018), 367.

4.2.1. Judicial Non-Intervention and Federal Policy

The principle of limited judicial intervention, central to the Model Law, aligns closely with the longstanding pro-arbitration policy of US federal law. US courts generally adopt a restrained approach when reviewing arbitral proceedings, intervening only where expressly authorised by statute. Under Chapter 3 of the FAA, courts are guided by the Model Law's provisions in matters such as jurisdictional challenges, interim measures, and the setting aside of awards.

This approach reflects a balance between respecting the autonomy of arbitral tribunals and ensuring compliance with fundamental procedural safeguards. Judicial review remains available, but its scope is deliberately confined to prevent undue interference with the arbitral process.

4.2.2. Interim Measures under Article 17

Article 17 of the UNCITRAL Model Law, as incorporated into Chapter 3 of the FAA, empowers arbitral tribunals to grant interim measures unless otherwise agreed by the parties. These measures may include orders aimed at maintaining the status quo, preventing imminent harm, or preserving assets relevant to the dispute.

While the FAA does not explicitly regulate interim measures outside the Model Law framework, US courts have historically exercised their inherent equitable powers to grant provisional relief in support of arbitration. The incorporation of Article 17 has therefore provided a clearer and more structured basis for interim measures in international arbitration, complementing existing judicial practice and enhancing legal certainty.¹³

4.3. Case Law Applying the Model Law Framework

Judicial decisions in the United States demonstrate the practical application of the Model Law framework within the federal arbitration system. US courts have consistently recognised the authority of arbitral tribunals to rule on their own jurisdiction and have shown deference to tribunal decisions,

subject to the limited grounds for review provided under the FAA and the Model Law.

Cases addressing interim measures, jurisdictional objections, and enforcement issues illustrate the courts' willingness to uphold the Model Law's principles while situating them within the broader context of federal arbitration policy. This jurisprudence confirms that the Model Law functions not merely as a legislative text, but as an operative framework guiding judicial and arbitral practice in international commercial arbitration in the United States.¹⁴

5. COMPARATIVE ASSESSMENT

The preceding sections have demonstrated that the United Kingdom and the United States engage with the UNCITRAL Model Law through fundamentally different legal techniques. While the United States has incorporated the Model Law directly into its federal arbitration framework, the United Kingdom has retained an autonomous statutory regime that nonetheless reflects many of the Model Law's underlying principles. This section offers a comparative assessment of these approaches, focusing on key areas where similarities and divergences are most pronounced.

5.1. Formal Adoption versus Normative Alignment

The most apparent distinction between the two jurisdictions lies in their mode of engagement with the Model Law. The United States represents a model of formal adoption, having incorporated the Model Law into domestic law through Chapter 3 of the Federal Arbitration Act. This legislative choice provides a clear and explicit framework for international commercial arbitration and ensures alignment with internationally recognised standards.

By contrast, the United Kingdom exemplifies a model of normative alignment rather than legislative adoption. The Arbitration Act 1996 operates independently of the Model Law, yet its foundational principles correspond closely with those articulated in the Model Law. This approach

¹³ Ferhat Yıldırım, *Arabuluculuk ve Ombudsmanlık* (Seçkin Yayınları 2019), 27; Cemal Şanlı, *Uluslararası Ticari Akitlerin Hazırlanması ve Uyuşmazlıkların Çözüm Yolları*, 7th edn. (Beta Basım, 2019), 28.

¹⁴ *Dallah Real Estate and Tourism Holding Company v The Ministry of Religious Affairs, Government of Pakistan* [2010] UKSC 46; *Lesotho Highlands Development Authority v Impregilo SpA* [2005] UKHL 43.

allows the UK to preserve its established legal traditions while remaining compatible with international arbitration norms. The comparison illustrates that harmonisation may be achieved through different legal techniques, each reflecting distinct policy priorities and legal cultures.

5.2. Court Intervention: Scope and Limits

Both jurisdictions endorse the principle of limited judicial intervention, though they operationalise it in different ways. In the United States, judicial restraint is reinforced by the Model Law's explicit provisions and the federal policy favouring arbitration. Courts generally confine their intervention to circumstances expressly provided by statute, thereby safeguarding the autonomy of arbitral tribunals.¹⁵

In the United Kingdom, the principle of limited intervention is articulated more implicitly through section 1(c) of the Arbitration Act 1996. UK courts play a supportive yet supervisory role, intervening where necessary to ensure procedural fairness or to address jurisdictional and legal issues. Although this approach permits a slightly broader scope of judicial involvement, it remains consistent with the Model Law's underlying objective of preserving arbitral independence.¹⁶

5.3. Interim Measures: Discretionary versus Codified Approaches

A further point of comparison concerns the regulation of interim measures. In the United Kingdom, the Arbitration Act 1996 grants arbitral tribunals wide discretionary powers to order interim relief, supplemented by judicial assistance in cases of urgency. This flexible framework reflects the English legal tradition's emphasis on practicality and procedural adaptability.

In the United States, interim measures in international arbitration are more explicitly regulated through Article 17 of the Model Law as incorporated into Chapter 3 of the FAA. This codified approach provides greater clarity regarding the types and purposes of interim measures available to arbitral tribunals. While both systems

aim to ensure the effectiveness of arbitration, they do so through different regulatory techniques, illustrating the Model Law's capacity to accommodate varying legal preferences.¹⁷

5.4. Setting Aside and Enforcement of Arbitral Awards

With respect to the setting aside and enforcement of arbitral awards, both jurisdictions demonstrate a strong commitment to finality and enforceability. In the United States, the ground for setting aside awards under the Model Law and the FAA are narrowly defined and closely aligned with the New York Convention. Judicial review is therefore limited, reinforcing confidence in the arbitral process.

Similarly, the United Kingdom restricts challenges to arbitral awards under the Arbitration Act 1996, allowing review only on specific statutory grounds. Although the possibility of appealing on points of law represents a distinctive feature of the UK framework, its application is subject to stringent conditions. In both jurisdictions, the overall approach supports the Model Law's objective of promoting certainty and reliability in international arbitration.¹⁸

5.5. Comparative Observations

The comparative analysis demonstrates that the effectiveness of the UNCITRAL Model Law does not depend solely on formal legislative adoption. Both the UK and the US have developed arbitration regimes that align with the Model Law's core principles, albeit through different legal mechanisms. The US model prioritises clarity and uniformity through incorporation, while the UK model emphasises flexibility and continuity through autonomous legislation.

These findings suggest that the Model Law functions not only as a legislative template but also as a broader normative framework capable of influencing domestic arbitration regimes in diverse ways. This adaptability contributes to the Model Law's enduring relevance in the evolving landscape of international commercial arbitration.

¹⁵ Alan Scott Rau, Edward F. Sherman, and Scott R. Peppet, *Processes of Dispute Resolution: The Role of Lawyers* (5th edn, Foundation Press, 2016), 290.

¹⁶ Deniz D. Çelik, "Judicial Review under the UK and US Arbitration Acts: Is Arbitration a Better Substitute for Litigation?" *ISLRev* 1(1) (2013): 13; Maria Frederica

Moscato, Micheal Palmer, and Marian Roberts, *Comparative Dispute Resolution* (Elgar Publishing 2020), 4.

¹⁷ Christa Roodt, "Autonomy and Due Process in Arbitration: Recalibrating the Balance," *Eur J L Reform* 13(3) (2011): 413.

¹⁸ *Ibid.*

6. IMPLICATIONS FOR INTERNATIONAL ARBITRATION PRACTICE

The comparative analysis undertaken in this article highlights the continued relevance of the UNCITRAL Model Law in shaping international arbitration practice, even in jurisdictions that have not formally adopted it.¹⁹ The examination of the United Kingdom and the United States demonstrates that the Model Law operates not only as a legislative template but also as a flexible normative framework capable of guiding the development of domestic arbitration regimes across different legal traditions.²⁰

One significant implication of this finding concerns the adaptability of international arbitration standards. The coexistence of formal adoption in the United States and normative alignment in the United Kingdom suggests that harmonisation does not require uniform legislative techniques. Instead, shared principles such as party autonomy, limited judicial intervention, and the effectiveness of arbitral proceedings can be realised through diverse legal structures. This flexibility enhances the Model Law's capacity to accommodate evolving commercial practices and jurisdiction-specific policy considerations.²¹

The analysis also underscores the importance of domestic legal culture in shaping arbitration frameworks. The UK's emphasis on procedural flexibility and judicial support reflects its common law tradition, while the US approach prioritises statutory clarity and federal uniformity. Both models illustrate how the Model Law's principles may be adapted to suit local institutional arrangements without undermining international coherence.²²

Finally, ongoing developments in international arbitration practice present challenges that may influence future engagement with the Model Law. The increasing use of digital technologies, the expansion of third-party funding, and the growing complexity of cross-border disputes place pressure on existing arbitration frameworks to evolve. In this

context, the Model Law continues to provide a valuable reference point for assessing potential reforms and ensuring that domestic arbitration regimes remain responsive to contemporary needs.

7. CONCLUSION

This article has examined the role of the UNCITRAL Model Law on International Commercial Arbitration through a comparative analysis of the United Kingdom and the United States. By focusing on different modes of engagement rather than formal implementation alone, the study has demonstrated that the influence of the Model Law extends beyond jurisdictions that have adopted it as binding legislation.

The United States represents a model of formal incorporation, having adopted the Model Law through Chapter 3 of the Federal Arbitration Act to govern international commercial arbitration. This approach promotes clarity and uniformity within the federal system while aligning US arbitration law with internationally accepted standards. In contrast, the United Kingdom has maintained an autonomous arbitration regime under the Arbitration Act 1996. Although the UK has not adopted the Model Law, its arbitration framework reflects a close correspondence with the Model Law's core principles, achieved through normative alignment rather than legislative enactment.

The comparative assessment illustrates that both approaches support the fundamental objectives of international arbitration, including party autonomy, limited judicial intervention, and the finality and enforceability of arbitral awards. The findings suggest that the effectiveness of the Model Law lies in its flexibility and its capacity to function as a shared reference point rather than a rigid regulatory instrument.

In conclusion, the UNCITRAL Model Law continues to play a significant role in the development of international commercial arbitration by providing a coherent set of principles adaptable to diverse legal systems. The experiences

¹⁹ David S. Caron, and Lee M. Caplan, *The UNCITRAL Arbitration Rules: A Commentary* (2nd edn, Oxford University Press, 2013), 486.

²⁰ Ceyda Süral, "Hakem Kararlarının İcrası ve İptal Davası," *Dokuz Eylül Üniversitesi Hukuk Fakültesi Dergisi* 16 Özel Sayı (Prof. Dr. Hakan Pekcanitez'e Armağan) (2014): 1382.

²¹ G. Burn, and K. Cheung, "Section 44 of the English Arbitration Act 1996 and third parties to arbitration," *Arbitration International* 37(1) (2021): 287–323.

²² Gary B. Born, *International Commercial Arbitration* (3rd edn, Kluwer Law International, 2021), 1125.

of the United Kingdom and the United States demonstrate that meaningful engagement with the Model Law may take different forms, each capable of contributing to a stable, efficient, and internationally compatible arbitration framework.

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CONFLICT OF INTEREST STATEMENT

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