

**The Intervention of National Courts in Safeguarding Arbitration Practice in Nigeria**

**ABIMBOLA, Munta Ladipo**

**LCU/PG/004005**

**Being a PhD thesis Submitted to the Faculty of Law, Lead City University, Ibadan, Oyo  
State, Nigeria**

**In Partial fulfillment of the Requirements for the Award of Doctor of Philosophy (PhD) in  
Law**

**2025**

## Certification

This is to certify that Munta Ladi ABIMBOLA with matriculation number LCU/PG/004005 carried out this research work titled “Intervention of National Courts in Safeguarding Arbitration Practice in Nigeria” in the Department of Law, Faculty of Law, Lead City University, Ibadan, Oyo State for the award of Doctor of Philosophy (PhD) in Law. The thesis is an outcome of independent and original work, I have duly acknowledged all the sources from which the ideas and the extracts have been taken. The thesis is free from any plagiarism and has not been previously submitted.

.....  
**Professor Omoniyi Bukola Akinola**  
(Supervisor)

.....  
**Date**

.....  
**Associate Professor Ola Oni**  
(Dean, Law)

.....  
**Date**

## **Dedication**

The successful completion of this research work is wholeheartedly dedicated to Almighty God for his grace and mercies. Also to the memory of my beloved father and mother: Oba Alhaji (Quddus) Tijani Abimbola Oyedokun II, The Okere of Saki and Ayaba Alhaja Wulemotu Abio Adepate Abimbola. May their souls continue to rest in peace. Amin

Lead City University Ibadan DO NOT COPY

## Acknowledgments

My gratitude goes to all who contributed to the success of this scholarly work Faculty of Law, Lead City University, Ibadan. The University library staff, for their constant provision of data support for the research work, my research assistants for the fieldwork, the officials from the Oyo State Ministry of Justice, High Court of Oyo State, Multidoor Court Houses, Legal Practitioners, Law related NGOs, stakeholders in the justice sectors, legislative houses. The Appellate and the Supreme Courts for sharing valuable documents and knowledge with me on the topic of the research.

My supervisor, Prof Omoniyi Bukola Akinola, I cannot thank you enough for the immense knowledge impartation and your willingness to always provide a listening ear to all my enquiries during the research work. I am also grateful to the Dean of Faculty of Law, Associate Professor, S. Ola Oni for all his guidance and mentoring, this appreciation extends to the former Dean, Faculty of Professor Foluke Abimbola, Associate Professor Sakpere, Professor Fagbemi, Professor Bamgbose, Professor Akintayo and Dr Ismail Adewoyin. I extend my sincere gratitude to my lecturers Dr. Adegbite, Prof. Omidire, Dr. Akabuiro, Prof. Adeleke, Dr. Olutayo, Dr. Fatoki, Ms. Adio, Dr. Olorunnipa, Dr. Adetakun. To my colleagues, Chukwuemeka Maltilda, Awotoye Tobiloba, Abiade Abiola, Ibhade Iboyo and Oyeniran Oyeleke I say thank you all. My special appreciation extends to Mr. Oladokun Taofik of the school library for his efforts and contribution. I am blessed and very proud to be associated with all these wonderful people.

To my family, Alhaja Teslimah Abimbola, Dr. Ahmatullahi Abimbola, and all the children from Prince Ademola Abimbola SAN to the last child. I thank you for your cooperation and understanding throughout the programme.

Even though the above-mentioned institutions and persons have assisted in the process of this research work, I alone stand responsible for the errors, if any, found in the work.

## **Abstract**

Global attention is gradually shifting from formal litigation process to less contentious and adversarial approaches which are known as Alternative Dispute Resolution mechanisms, one of which is Arbitration. Arbitration is said to be an effective way of obtaining a final and binding decision on a dispute or series of disputes, without reference to a court of law. This study investigated the role of national courts in safeguarding arbitration practice in Nigeria, with a specific focus on the extent of court intervention and its impact on the growth and integrity of arbitration. The study adopted a mixed research approach, the doctrinal and non-doctrinal approach. Purposive sampling technique was used to select 31 respondents which were Legal professionals specialising in ADR, members of ADR organisations, and Judges with experience in handling ADR cases across public, private, and hybrid sectors. Data were collected using Interviews, Document Analysis and Focus Groups Questionnaires. The data were analysed using qualitative and quantitative techniques. The findings revealed significant insights into the current legal and institutional framework governing arbitration and alternative dispute resolution (arbitration), specifically, that arbitration is predominantly utilised within the private sector, accounting for 67.7% of respondents, while public sector engagement remains low. It was also revealed that 93.8% of respondents acknowledged that courts interfered in arbitration proceedings. Also, the study found out that 58.1% of respondents supported court review of arbitration awards, whereas 41.9% advocated for finality in arbitration decisions. The study also found out that 61.3% of respondents opposed removing judicial oversight in arbitration, recognizing its role in ensuring fairness among other findings. These findings underscored the need for balanced institutional support, enhanced academic participation, and increased judicial involvement to strengthen arbitration as a viable alternative dispute resolution mechanism. While national courts in Nigeria play a pivotal role in enforcing and reviewing arbitration awards, their interventions must strike a balance between oversight and respect for party autonomy to avoid undermining arbitration's efficacy. This study recommended reforms in judicial training, increased public-sector awareness, and academic engagement to bolster the arbitration framework in Nigeria.

**Keywords: Arbitration practice, Court intervention, Dispute resolution, National Courts and Safeguarding arbitration**

**Word Count: 337**

## Table of Contents

Content	Page
Certification	ii
Dedication	iii
Acknowledgement	iv
Abstract	v
Table of Contents	vi
List of Tables	ix
List of Acronyms	x
Table of Cases	xii
Table of Statutes	xvi
<b>Chapter One: Introduction</b>	
1.1 Background to the Study	1
1.2 Statement of the Problem	6
1.3 Research Questions	9
1.4 Aim and Objectives of the study	9
1.5 Methodology	9
1.6 Justification of the Study	10
1.7 Significance of the Study	12
1.8 Scope of the Study	14
1.9 Limitations of the Study	16
1.10 Operational Definition of Key Terms	18
1.11 Structure of the Study	19
<b>Chapter Two: Literature Review</b>	
2.1 Conceptual Review	21
2.2 Theoretical Framework	26

2.3.	Statutory Provisions on Court Interventions in Arbitration in Nigeria	46
2.4	Judicial Attitude towards Court’s Intervention in Arbitration in Nigeria	51
2.5	Empirical Review	59
<b>Chapter Three: Methodology</b>		
3.1	Research Design	65
3.2	Sample Selection	69
3.3.	Data Collection	69
3.4.	Data Analysis	71
3.5.	Ethical Considerations	72
<b>Chapter Four: The Relevance and Scope of Arbitration in Dispute Resolution</b>		
4.1	The Concept of Arbitration	74
4.2	Brief History of Arbitration	79
4.3	Scope of Arbitration	80
4.4	Relevance of Arbitration in Dispute Resolution	91
4.5	Features of Arbitration and Mediation Act, 2023	104
<b>Chapter Five: Legal and Institutional Frameworks for Arbitration in Nigeria</b>		
5.1	Introduction	107
5.2	Historical Evolution of Arbitration Statutes in Nigeria	108
5.3	Overview of Arbitration Laws in Nigeria	111
5.4	International Legal Frameworks	116
5.5	Domestic Legal Frameworks for Arbitration	131
5.6	Institutional Frameworks for Arbitration in Nigeria	135
<b>Chapter Six: The Roles and Challenges with National Court Intervention in Arbitration Nigeria and Selected Jurisdictions</b>		
6.1	Introduction	141
6.2	The Roles of National Courts in Arbitration	142
6.3	The Enforcement Provisions on Arbitral Awards in Nigeria	142
6.4	Enforcement of Domestic Arbitral Awards in Nigeria	143

6.5	Enforcement of Foreign Arbitral Awards in Nigeria	146
6.6	The Major Discrepancies of Enforcement Provisions on Arbitral Award in Nigeria and South Africa	162
<b>Chapter Seven: Discussion of Findings</b>		
7.1	Results of Data Analysis	185
7.2	Discussion of Findings	204
<b>Chapter Eight: Conclusion</b>		
8.2	Summary of Findings	209
8.3	Conclusion	211
8.4	Contribution to Knowledge	212
8.5	Recommendations	215
8.6	Suggestions for Further Studies	217
Bibliography		218
Appendix I		229
Appendix II		232
Bio-data		234
The University Compliance Certificate		238

## List of Tables

<b>Table No.</b>	<b>Title</b>	<b>Page</b>
Table 1	Research Logic Frame	65
Table 2	Analysis of Respondents Sector of Practice	185
Table 3	Summary of Statistics	185
Table 4	Analysis of Respondents extent of Involvement in Justice Sector	186
Table 5	Analysis of Respondents on the Extent Awareness of Court Intervention on Arbitration Process	187
Table 6	Analysis of Respondents Response on Challenges of Outcomes of Arbitration Decision in Court	188
Table 7	Analysis of Respondents Response to Removal by Legislative Provision of Court Intervention from Arbitration Process	189
Table 8	Analysis of Respondents Response to the barring of parties who Voluntarily agreed to use arbitration from using court process	190
Table 9	Analysis of Participants Jurisdiction	193
Table 10	Analysis of Participants Referral to Multi-door Courthouse	194
Table 11	Analysis of Participants View on Whether Some Categories of Cases Should not be Arbitrate	195
Table 12	Analysis of Respondents View on the Allowance of Court Intervention in Appellate Courts	197
Table 13	Analysis of Availability of Multi-door Courthouse in Participants Jurisdiction	199
Table 14	Analysis of Participants View on the Threat Attached to Long Period to getting Appellate Decisions in Nigeria	200
Table 15	Analysis of Participants View on Court Invention on Quick Disposal of Arbitration Process	201
Table 16	Analysis of Participants View on the Use of Arbitration for Settlement of Disputes through the Court	203

## List of Abbreviations

<b>Acronym</b>	<b>Meaning</b>
ADR	Alternative Dispute Resolution
AMA	Arbitration & Mediation Act
UNCITRAL	United Nations Commission on International Trade Law
AAA	American Arbitration Association
NACS	The Nigerian Arbitration Conciliation Society
FAA	The Federation Arbitration Act
ICC	International Chamber of Commerce
LCIA	London Court of International Arbitration
ICSID	International Centre for Settlement of Investment Disputes
IBA	International Bar Association
BIT	Bilateral Investment Treaties
MIT	Multilateral Investment Treaties
SCC	Stockholm Chamber of Commerce
EEDC	Equal Employment Opportunity Commission
NLRA	National Labour Relations Act
ACCI	Abuja Chamber of Commerce & Industries
RCICAL	The Regional Centre for International Commerce Arbitration
PCA	Permanent Court of Arbitration

## Table of Cases

### Nigerian Cases

*Abuja Investments Co Ltd v Niger Delta Development Commission* [2015] 10 NWLR (Pt 1463) pg 101

*Alhaji Albishir & Sons Ltd v Bayero University Kano* (2001) 4 SCNJ pg 300

*Agu v Ikewibe* [1991] 3 NWLR (Pt 180) 385 (CA)

*BCC Tropical Nigeria Ltd v The Government of Yobe State & Anor* (2011) LPELR-9230 (CA)

*City Engineering (Nigeria) Ltd v Federal Housing Authority* (1997) 1 NWLR (Pt 480) pg 118

*City Engineering Nig Ltd v Federal Housing Authority* [1997] 9 NWLR (Pt 520) pg 224

*Dennis Ugwueke v Enugu Electricity Distribution Plc* [2001] 2 NWLR (Pt 696) pg 32

*Dielu v Iwuno* [1996] 4 NWLR (Pt 445) pg 622

*Elder Dr Friday Sani v Kogi State House of Assembly & Ors* (2021) Legalpedia (SC) pg 11041

*International Bechtel Co Ltd v Federal Republic of Nigeria* (2017) Unreported (Nigerian Arbitration Forum)

*Imani & Sons Ltd v BIL Construction Co Ltd* [1999] 12 NWLR (Pt 630) pg 263

*Julius Berger Nigeria Plc v Toki Rainbow Community Bank Ltd* (2006) 8 NWLR (Pt 982) pg 159

*Julius Berger Nigeria Plc v Toki Rainbow Community Bank Ltd* (2010) 18 NWLR (Pt 1223) pg 247

*Kabo Air Ltd v The O'Corporation Ltd* [2014] LPELR-23616 (CA)

*Lignes Aeriennes Congolaises (LAC) v Air Atlantic Nigeria Ltd (AAN)* (2006)

*Magbagbeola v Sanni* [2002] 4 NWLR (Pt 756) pg 193

*Microsoft Corp v Michele Technologies Ltd* (2014) 17 NWLR (Pt 1428) pg 211

*Nigeria Telecommunications Ltd v National Communications Commission* (2012) 14 NWLR (Pt 1318) pg148

*Nigerian Agip Oil Co Ltd v Famfa Oil Ltd* (2008) 10 NWLR (Pt 1094) pg 124

*Nigerian Agip Oil Co Ltd v Famfa Oil Ltd* (2012) 14 NWLR (Pt 1318) pg 148

*Nigerian National Petroleum Corp v Luttenfels* [1994] 7 NWLR (Pt 357) pg 254

*Nigerian Copyright Commission v Daar Communications Ltd* (2006) 10 NWLR (Pt 988) pg 337

*Nigerian National Petroleum Corp v Lutin Investments Ltd* (2008) 18 NWLR (Pt 1119) pg 33

*Nigerian National Petroleum Corp v Lutin Investments Ltd* (2011) 18 NWLR (Pt 1278) pg 221 (CA)

*Nigerian National Petroleum Corp v Clifco Nigeria Ltd* (2011) 10 NWLR (Pt 1255) pg 249

*NNPC v Total E & P Nigeria Ltd & Ors* Suit No FHC/ABJ/CS/390/2018

*NITEL v Okeke* [2017] 9 NWLR (Pt 1571) pg 439 (SC)

*Obi Obembe v Wemabod Estate Ltd* (1977) All NLR 130

*Ojukwu v Ojukwu* (2018) 10 NWLR (Pt 1631) pg 237 (SC)

*Onwu v Nka* [1996] 7 NWLR (Pt 458) 1

*Owners of MV Lupex v Nigerian Overseas Chartering & Shipping Ltd (MV Lupex)* (2002) 14 NWLR (Pt 787) pg 254

*Shell Petroleum Development Co of Nigeria Ltd v Federal Republic of Nigeria* (2010) 45 NSCQR 1 (SC)

*Shell Petroleum Development Co of Nigeria Ltd v Federal Inland Revenue Service* (2016) 7 NWLR (Pt 1511) pg 586

*Statoil Nigeria Ltd v Nigerian National Petroleum Corp* (2012) 14 NWLR (Pt 1319) pg 317

*Topher Inc of New York v Edokpolor (trading as John Edokpolor & Sons)* [1965] All NLR 307

*Total E&P Nigeria Ltd v Nigerian National Petroleum Corp* (2013) 15 NWLR (Pt 1374) 1 (FHC)

*Total Exploration and Production Nigeria Ltd v Nigerian Maritime Administration and Safety Agency* (2019) 2 NWLR (Pt 1659) pg 169

Foreign Cases

United State

*Alexander v Gardner-Denver Co* 415 US 36 (1975)

*AT&T Mobility LLC v Concepcion* 563 US 333 (2011)

*Beiser v Weyler* 284 F.3d 665 (5th Cir 2002)

*Bergesen v Joseph Muller Corp* 407 US 1 (1972)

*Buckeye Check Cashing Inc v Cardegna* 546 US 440 (2006)

*Chevron Corp v Ecuador* 795 F.3d 200 (DC Cir 2015), cert denied 136 S Ct 2410 (2016)

*Chromalloy Aeroservices Inc v Arab Republic of Egypt* 939 F Supp 907 (DDC 1996)

*Circuit City Stores Inc v Adams* 532 US 105 (2001)

*DaimlerChrysler AG v Bauman* 134 S Ct 746 (2014)

*Epic Systems Corp v Lewis* 138 S Ct 1612 (2018)

*Freudensprung v Offshore Tech Services Inc* 379 F.3d 327 (5th Cir 2004)

*Gardner-Denver v Latimer* 415 F.2d 309 (10th Cir 1974)

*Gilmer v Interstate/Johnson Lane Corp* 500 US 20 (1991)

*Hall Street Associates LLC v Mattel Inc* 552 US 576 (2008)

*Hays v HCA Holdings Inc* 838 F.3d 605 (5th Cir 2016)

*Oracle America Inc v Myriad Group AG* 724 F.3d 1069 (9th Cir 2013)

*Renal Care Group Inc v UnitedHealth Group* 572 F.3d 397 (8th Cir 2010)

*Republic of Argentina v BG Group Plc* 665 F.3d 1363 (DC Cir 2012)

*Schneider v Kingdom of Thailand* 688 F.3d 68 (2d Cir 2012)

*Smiley v E/I Holdings Inc* 538 F Supp 2d 1284 (ND Ga 2008)

*Smith/Enron Cogeneration Ltd Partnership v Smith Cogeneration International Inc* 198 F.3d 88 (2d Cir 1999)

*State v Connecticut Employees Union Independent* 440 A.2d 229 (Conn 1981)

*14 Penn Plaza LLC v Pyett* 556 US 247 (2009)

*Brittania-U Nigeria Ltd v Chevron USA Inc* 866 F.3d 709 (5th Cir 2017)

#### ICSID, PCA, and Other International Cases

*Asian Agricultural Products Ltd v Republic of Sri Lanka* (1990) 4 ICSID Reports 245

*Bilcon of Delaware Inc v Government of Canada* ICSID Case No ARB/12/9 (2019)

*BP Exploration (Libya) Ltd v Government of the Libyan Arab Republic* (1979) 53 ILR 297

*Compania de Aguas del Aconquija SA v Argentine Republic* (2002) 6 ICSID Reports 340

*Maffezini v Spain* ICSID Case No ARB/97/7 (2000)

*Philip Morris Asia Ltd v Australia* PCA Case No 2012-12 (2017)

*Saipem SpA v Petrobangla* ICC Case No 7934/CK (2000) 18 ASA Bulletin 2, 12

*Siemens AG v Argentina* ICSID Case No ARB/02/8 (2007)

*Holiday Inns SA v Morocco* (1980) 1 ICSID Reports 123

#### UK and Commonwealth Cases

*Contax Partners Inc BVI v Kuwait Finance House (KFH-Kuwait) & Ors* CL-2023-000323 (KB, 29 February 2024)

*Enka v Chubb* LCA Arbitration Award (2020)

*Esso Australia Resources Ltd v Plowman* (1995) 128 ALR 391

*Hormusji & Daruwala v Distt Local Board* MANU/SN/0048/1934

*Parsam Homes v Anil Sahai* MANU/AP/1248/2014

*S.B.P. & Co v Patel Engineering Ltd & Anor* (2005) 6 SCC 288

*Shagang South-Asia (Hong Kong) Trading Co Ltd v Daewoo Logistics* [2015] EWHC 194 (Comm)

*Shashoua and Others v Sharma* [2009] EWHC 957 (Comm)

*Dallah Real Estate and Tourism Holding Co v Ministry of Religious Affairs (Pakistan)* [2010] UKSC 46

*Phoenix Shipping v DHL and Bateman* (2012) (3) SA 381

*Sundersons Ltd & Anor v Cruiser Shipping Pte Ltd & Anor* (2014) LPELR-22561 (CA)

*IPCO (Nigeria) Ltd v Nigerian National Petroleum Corp* [2015] EWCA Civ 1144

*Christopher Brown Ltd v Genossenschaft Oesterreichischer Waldbesitzer* [1953] All ER 1039

*Shippel v Morkel and Another* 1977 (1) SA 429 (C)

## Table of Statutes

Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS), 1994.

American Arbitration Association (AAA), *Commercial Arbitration Rules*, 2020.

Arbitration and Conciliation Act (ACA), Cap A18, Laws of the Federation of Nigeria, 2004.

Arbitration and Mediation Act (AMA), Nigeria, 2023.

Arbitration Institute of the Stockholm Chamber of Commerce (SCC), *Arbitration Rules*, 2017.

Arbitration Law of 1988 (Nigeria).

Arbitration Ordinance, 1914 (Nigeria).

Chartered Institute of Arbitrators (CI Arb), Guidelines and Rules.

Companies and Allied Matters Act (CAMA), Nigeria, 2020.

Hague Conference on Private International Law, *Status Table of the Hague Convention* (online resource).

International Bar Association (IBA), *Guidelines on Conflicts of Interest in International Arbitration*, 2014.

International Centre for Settlement of Investment Disputes (ICSID), *Convention on the Settlement of Investment Disputes between States and Nationals of Other States*, 1965.

International Chamber of Commerce (ICC), *Arbitration Rules*, 2021.

International Council for Commercial Arbitration (ICCA), *Report on Consistency and Predictability in International Commercial Arbitration*, 2016.

JAMS, *Comprehensive Arbitration Rules & Procedures*, 2020.

Lagos Chamber of Commerce and Industry, *Arbitration and Commercial Disputes*, 2021.

Lagos State Arbitration Law, Laws of Lagos State, 2009.

London Court of International Arbitration (LCIA), *Arbitration Rules*, 2020.

National Labor Relations Act (NLRA), 1935 (United States).

National Labor Relations Board (NLRB), *Arbitration Rules*, 2020.

Nigerian Arbitration and Conciliation Association (NAACA), Arbitration Rules.

Nigerian Arbitration and Conciliation Society, Arbitration Rules.

Rivers State Arbitration Law, 2019.

Sale of Goods Act, 1893 (United Kingdom).

The Arbitration Act, 1996 (United Kingdom).

The Lena Goldfields Arbitration, (1930) 5 International Law Reports 3.

The Swedish Match Arbitration, (1931) 5 International Law Reports 11.

Trade Marks Act, 1965 (Nigeria).

Treaty on the Harmonization of Business Law in Africa (OHADA Convention), 1993.

UNCITRAL, *Model Law on International Commercial Arbitration*, 1985.

United Kingdom, *Sale of Goods and Supply of Services Act*, 1980 (c.16).

Lead City University Ibadan DO NOT COPY