



BABCOCK
UNIVERSITY

ILISHAN-REMO, OGUN STATE, NIGERIA

COLLEGE OF POSTGRADUATE STUDIES

2022/2023 PhD Thesis Abstract

Department of Law

RFN: Adeola BABATUNDE

RD: Law

RS: Law and Security Studies

RE: babatunde0397@pg.babcock.edu.ng

RAE: davidbabatunde02@outlook.com

RP: 09066602285

RT: Delocalisation of International commercial Arbitration: A panacea for egregious national Laws

MS: Emeritus Prof. Isaac. O. AGBEDE

ME: agbedei@babcock.edu.ng

SP: 08033004493

CS: Prof. Pius Olanrewaju

CE: olanrewajuup@babcock.edu.ng

CP: 08033217148

AB: Delocalisation of international commercial arbitration is a contemporary necessity in the current world of commercial disputes. This concept offers the parties in a dispute the alternative of not subjecting themselves to jurisdictional limitations. Delocalisation allows for the autonomy of arbitral proceedings, liberating them from national jurisdiction and permitting the adoption of diverse arbitration procedures. This doctrine is criticised for undermining the authority of national courts in adjudicating cases in their purview. Earlier studies, perceived the concept of delocalisation as an effort to strip national courts of their jurisdiction to hear cases which require their intervention. This perception has however changed due to the benefits of this concept. This study examined delocalisation in international commercial arbitration as a panacea for commercial dispute resolution.

A doctrinal methodology is adopted in this study. Primary and secondary sources of information were relied upon. The primary source included The United Nations Commission on International Trade (UNITRAL) Model Law 1985, International Centre for settlement of investment Disputes (ICSID), Convention on Recognition and Enforcement of Foreign Arbitral Awards (New York Convention) 1958, and case laws that emphasis the unsuitability of traditional legal approach in the resolution of commercial disputes. The secondary source comprised books, scholarly peer reviewed journal articles, newspapers, conference proceedings and other referenced materials. Data from these sources were analysed and presented thematically.

This study found that the challenges associated with the delocalisation theory in Nigeria are closely linked to the weaknesses and inadequacies of the judicial system in Nigeria. The current judicial system, characterized by slow decision-making processes and technicalities, hampers the timely and realistic resolution of commercial disputes, thereby negatively impacting the process of resolving disputes of commercial interests in the country. The study revealed that there are challenges of weak and inadequate, slow judicial process and technicalities and unrealistic resolution in adopting the concept of delocalisation in international commercial arbitration. Nevertheless, it presents a significant opportunity for Nigeria to overcome the limitations imposed by national laws. Delocalisation allows for the selection of the parties' law for arbitration proceedings, provides flexibility and efficiency in resolving disputes for foreign parties.

This study concluded that embracing delocalisation of international commercial arbitration offers a promising solution such as efficient, speedy and realistic resolution to commercial dispute resolution in Nigeria. The study recommended enacting supportive laws and policies, establishing specialized arbitration centres, adopt technological advancements to remedy the impact of the inadequacies of the judicial system, and facilitate the concept of delocalisation in Nigeria.

Keywords: Delocalisation theory, Foreign arbitral award, Foreign parties, International commercial arbitration, National laws on arbitration, Nigerian judicial system

Word Count: 407

Abbreviations: RFN: Researcher's Full Name, RD: Researcher's Department, RS: Researcher's School, RE: Researcher's Email, RAE: Researcher's Alternate Email, RP: Researcher's Phone Contact, RT: Registered Title, MS: Main Supervisor, ME: Main Supervisor's E-mail Address, SP: Main Supervisor's Phone Contact, CS: Co-Supervisor, CE: Co-Supervisor's E-mail Address, CP: Co-Supervisor's Phone Contact, AB: Abstract

Suggested Citation: Agbede, I.O., and Olanrewaju, P. 2023. Delocalisation of International commercial Arbitration: A panacea for egregious national Laws. PhD Thesis Abstract, College of Postgraduate Studies, Babcock University. [https://doi.org/10.61867/pcub.1\(5\).152](https://doi.org/10.61867/pcub.1(5).152)