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2022/2023 PhD Thesis Abstract

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AB: Disputes occur in personal or commercial activities and may be resolved through Alternative Dispute Resolution (ADR). Party autonomy is a crucial concept of arbitration which is a mode of ADR. Party autonomy means the involvement of parties in determining the pathway for the determination of contestation. ADR, arbitration and party autonomy are globally recognized and utilised. In Nigeria, the concept of party autonomy is the same as the international position. The arbitral panel, which the parties appoint, determines the standard of proof in evidence leading to taking decisions at their discretion without guidance. Arbitrators are not bound by national evidence statutes and there is no guidance by arbitral institutional rules regarding the standard of proof. Previous studies on party autonomy had focused on its essence and paid less attention to evidentiary issues especially standard of proof in arbitration. Therefore, this study examined the relationship between party autonomy and evidentiary issues in Arbitration.

The study adopted a doctrinal methodology. Primary and secondary sources were relied upon. The primary source included the Evidence Act (2011), the Arbitration and Conciliation Act (ACA), Case Laws and Rules of arbitration institutions such as the International Centre for Settlement of Investment Disputes (ICSID), International Chamber of Commerce (ICC), American Arbitration Association (AAA), London Court of International Association (LCIA), Japan Arbitration Association (JAA) and the Lagos Court of Arbitration. These were

complemented with secondary source which comprised books, articles and scholarly peer-reviewed journals. The data analysed were processed using narrative analysis.

The study revealed that party autonomy remains a key concept in arbitration. It also showed that national evidence statutes and global rules do not contain guidelines on how arbitrators should determine the burden and standard of proof. The work found that decisions are reached at the instance of arbitrators without regard to party autonomy. Furthermore, that expert evidence including issues of competence and compellability are not clearly defined in the Evidence Act and the Rules. Therefore Arbitral tribunals rely on their whims and discretion in determining the outcome of the arbitration.

The study concluded that the current situation in Nigeria where party autonomy is not aligning with evidential issues and vital components of evidence are left at the discretion of arbitral panels will not elicit justice. The study recommended that party autonomy should be given a prominent role in the evaluation of evidence. There is also the need for legislators to amend the Evidence Act to include rules of evidence in arbitral proceedings. It is also recommended that rules of national and global institutions should stipulate express rules regarding expert evidence. Evidential issues of competence and compellability, burden and standard of proof are crucial in arbitral matters and should not be left to the impulse and foible of arbitrators and that the standard of proof should be the clear and convincing evidence.

Keywords: Alternative dispute resolution, Arbitral proceedings, Burden and standard of proof, Convincing evidence, Evidentiary rules and procedures, Key concepts in arbitration, Party autonomy.

Word Count: 466

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

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