Interdisciplinary Studies in Society, Law, and Politics 2026; 5(5): 1-18

ISSLP

Original Research

Disqualification of Arbitrators in International Commercial Arbitration Practice

Savda. Gholami Baghi[1], Nasser. Masoudi[2*], Morteza. Asadloo[2]

[1] PhD Student, Department of Private Law, Ta.C., Islamic Azad University, Tabriz, Iran
[2] Department of Private Law, Ta.C., Islamic Azad University, Tabriz, Iran

*** Corresponding author email address**: dr.masoudi@iaut.ac.ir

Received: 2026-02-01 **Revised:** 2026-06-04 **Accepted:** 2026-06-11 **Published:** 2026-09-01

This article examines the disqualification of arbitrators in international commercial arbitration as a fundamental safeguard for the legitimacy, fairness, and enforceability of arbitral proceedings. Since arbitration derives its authority from party autonomy, the parties' confidence in the independence, impartiality, and competence of arbitrators is essential to the credibility of the process. The article analyzes the conceptual foundations of arbitrator disqualification, including the distinction between independence and impartiality, the duty of disclosure, procedural fairness, and the relationship between private consent and public policy. It further evaluates the principal grounds for disqualification, including conflicts of interest, failure to disclose relevant circumstances, professional misconduct, loss of agreed qualifications, and inability to perform arbitral duties. The article also considers procedural mechanisms for challenging arbitrators, including time limits, evidentiary burdens, institutional decision-making, replacement of arbitrators, and the effect of disqualification on prior proceedings. Through comparative analysis of international arbitration practice, the article highlights the approaches of leading arbitral systems and institutions, particularly in relation to disclosure, reasonable doubts, apparent bias, and prevention of abusive challenges. The findings indicate that although international arbitration has developed increasingly sophisticated standards for protecting arbitrator neutrality, significant challenges remain. These include ambiguity in the interpretation of impartiality, difficulties of proof, tactical use of challenges, procedural delay, inconsistent national approaches, and emerging conflict risks arising from repeat appointments, third-party funding, and complex professional networks. The article concludes that an effective disqualification regime must balance fairness and efficiency through clearer disclosure duties, objective challenge standards, prompt procedures, independent institutional review, proportionate consequences, and safeguards against bad-faith objections. Such reforms are necessary to preserve confidence in arbitration as a reliable mechanism for resolving international commercial disputes.

Keywords: *International commercial arbitration; arbitrator disqualification; arbitrator independence; arbitrator impartiality; conflict of interest; duty of disclosure; arbitral procedure.*

How to cite this article:
Gholami Baghi, S., Masoudi, N., & Asadloo, M. (2026). Disqualification of Arbitrators in International Commercial Arbitration Practice. *Interdisciplinary Studies in Society, Law, and Politics, 5*(5), 1-18. https://doi.org/10.61838/kman.isslp.488

1. Introduction

International commercial arbitration has become one of the most important mechanisms for resolving cross-border commercial disputes because it offers procedural flexibility, party autonomy, neutrality, confidentiality, and enforceability across jurisdictions. Unlike litigation before national courts, arbitration derives its authority primarily from the agreement of the parties, and the parties' confidence in the process depends heavily on the personal and professional integrity of the arbitrator. The arbitrator is not merely a private decision-maker; he or she performs an

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adjudicative function that may produce a final and binding award capable of recognition and enforcement in different legal systems. For this reason, the legitimacy of arbitration depends not only on the existence of an arbitration agreement but also on the independence, impartiality, competence, and procedural reliability of the arbitrator. As Redfern and Hunter explain, the authority of the arbitral tribunal is rooted in consent, but the durability of arbitration as an institution depends on the perception that the tribunal acts with fairness and neutrality (Redfern & Hunter, 2023). Born similarly emphasizes that international arbitration cannot preserve its preferred status in global commerce unless arbitral tribunals remain structurally independent from the parties and functionally committed to due process (Born, 2021). The disqualification of arbitrators is therefore not a marginal procedural issue; it is a central safeguard through which the arbitral system protects its credibility, ensures equality between parties, and prevents the final award from being vulnerable to annulment or refusal of enforcement.

The subject of arbitrator disqualification is particularly significant in international commercial arbitration because arbitral proceedings often involve complex transactions, repeat players, multinational corporations, specialized legal counsel, and arbitrators who operate within relatively concentrated professional networks. In such an environment, prior professional relationships, repeat appointments, advisory roles, financial links, institutional connections, academic cooperation, and indirect commercial interests may create doubts about an arbitrator's independence or impartiality. Moses observes that the international arbitration community is simultaneously global and limited, because expertise in some fields is concentrated among a relatively small group of practitioners; this concentration increases the practical possibility of overlapping relationships and potential conflicts of interest (Moses, 2017). Slater also argues that modern arbitrator challenges arise not only from actual bias but also from appearances of dependency, repeated appointments, insufficient disclosure, and the increasing complexity of professional relationships in transnational dispute resolution (Slater, 2022). This means that disqualification must address both subjective misconduct and objective circumstances that may reasonably undermine confidence in the arbitrator. The law must therefore balance two competing values: on the one hand, it must prevent biased or conflicted arbitrators from continuing to decide disputes; on the other hand, it must prevent strategic and abusive challenges that are raised only to delay proceedings, pressure the tribunal, or disrupt an unfavorable arbitration.

The conceptual basis of arbitrator disqualification is closely connected to the distinction between independence and impartiality. Independence generally refers to the absence of external, financial, professional, institutional, or personal relationships that may influence the arbitrator's judgment, whereas impartiality concerns the absence of bias, predisposition, or favoritism in the arbitrator's mental attitude toward the parties or the dispute. Jafari Langroudi's legal terminology reflects the broader civil-law understanding that authority to adjudicate is inseparable from legal capacity, neutrality, and the absence of disqualifying dependency (Jafari Langroudi, 2023). In comparative arbitration doctrine, independence is often easier to examine because it can be assessed through objective facts such as employment, shareholding, consultancy, representation, or repeated appointments, while impartiality may involve subjective orientation and therefore requires an objective test based on reasonable doubts. Terre's discussion of obligations and juridical relationships is relevant here because arbitration, although contractual in origin, generates legal duties of good faith, loyalty to procedure, and respect for the legitimate expectations of the parties (Terre, 2022). In this sense, an arbitrator who fails to disclose a relevant relationship or who continues to serve despite a serious conflict does not merely violate an ethical expectation; such conduct may affect the procedural foundation of the arbitration itself.

Disqualification also reflects the tension between party autonomy and procedural public order. Since arbitration is based on the parties' agreement, the parties are generally free to choose their arbitrators, determine qualifications, select institutional rules, and define procedural mechanisms. However, party autonomy cannot justify an arbitration conducted by a person whose neutrality is reasonably doubtful or whose conduct violates fundamental standards of fairness. Katouzian's analysis of contractual rules shows that contractual freedom is never absolute and must be interpreted in light of good faith, legal order, and the

protection of legitimate reliance (Katouzian, 2007). In arbitration, this means that the parties may choose the arbitrator, but they cannot validly preserve a process that lacks the minimum guarantees of equality and neutrality. Ghestin's treatment of contractual formation and obligations also supports the proposition that consent must be protected from distortion by hidden facts, undisclosed interests, or structural imbalance (Ghestin, 2020). Therefore, the disclosure obligation of arbitrators operates as a bridge between autonomy and fairness: parties can make informed choices only when the arbitrator reveals circumstances that may affect confidence in his or her independence and impartiality.

The practical relevance of disqualification becomes even clearer when one considers the consequences of failing to address conflicts at the appropriate stage. If a challenge is ignored or inadequately handled, the arbitral award may later be challenged before courts at the seat of arbitration or resisted at the enforcement stage. Redfern and Hunter note that procedural defects involving the constitution of the tribunal may create serious risks for the validity of the award, particularly where the defect affects equality of the parties or the independence of the tribunal (Redfern & Hunter, 2023). Nasiri also explains that one of the essential principles of international arbitration is that the tribunal must be constituted in accordance with the arbitration agreement, applicable law, and minimum standards of impartial adjudication (Nasiri, 2022). From this perspective, disqualification is not only a corrective mechanism after misconduct has occurred; it is also a preventive mechanism designed to protect the award before it is rendered. A properly designed challenge procedure reduces the possibility that a party will later argue that the tribunal was improperly composed, that the proceedings were unfair, or that enforcement would violate public policy.

In Iranian and comparative legal thought, the issue also has significance because arbitration is viewed both as a contractual institution and as a quasi-judicial method of dispute resolution. Shahidi's work on international arbitration emphasizes that the arbitrator's authority is derived from party consent, but the exercise of that authority resembles adjudication and must therefore conform to standards of fairness, independence, and legal accountability (Shahidi, 2016). Shams, in his analysis of arbitration within civil procedure, similarly treats the arbitrator as a decision-maker whose procedural role requires neutrality and whose decision may be subject to judicial control when basic legal requirements are violated (Shams, 2022). Soltani's comparative account of international commercial arbitration further shows that legal systems differ in their procedural details but converge on the principle that an arbitrator who lacks independence or impartiality cannot legitimately continue to adjudicate (Soltani, 2014). These perspectives are important because they demonstrate that arbitrator disqualification is not a foreign or purely institutional concept; rather, it is compatible with general principles of adjudication, contractual justice, and procedural fairness.

At the same time, arbitrator disqualification must not be treated as an unrestricted weapon in the hands of dissatisfied parties. International arbitration depends on efficiency, finality, and procedural economy. If parties can easily challenge arbitrators without serious grounds, the arbitral process may become vulnerable to delay, tactical obstruction, and reputational attacks against arbitrators. Born warns that challenge procedures may be abused by parties seeking to derail proceedings, especially in high-value disputes where delay itself may have strategic value (Born, 2021). Slater also observes that challenge and removal standards must be sufficiently strict to prevent opportunistic objections while remaining sufficiently protective to remove arbitrators whose continued participation would objectively undermine confidence in the tribunal (Slater, 2022). The central challenge is therefore to design a balanced system in which justified doubts lead to effective disqualification, while weak, speculative, or late objections are filtered out. This balance requires clear criteria, strict time limits, reasoned decisions, transparent disclosure standards, and carefully defined consequences for both accepted and rejected challenges.

The present article examines arbitrator disqualification in international commercial arbitration as a legal mechanism for protecting independence, impartiality, procedural fairness, and confidence in arbitral adjudication. It analyzes the conceptual foundations of disqualification, the principal grounds on which an arbitrator may be challenged, the procedural mechanisms for raising and deciding challenges, the comparative approaches of institutional and national

systems, and the practical problems that continue to affect the efficiency and legitimacy of the process. The objective of this article is to provide an analytical account of the legal foundations, procedural structure, comparative practice, and reform needs of arbitrator disqualification in international commercial arbitration.

2. Conceptual and Legal Foundations of Arbitrator Disqualification in International Commercial Arbitration

The conceptual foundation of arbitrator disqualification begins with the legal nature of arbitration itself. Arbitration is based on the parties' agreement to remove their dispute from ordinary court litigation and submit it to one or more private adjudicators whose decision will be binding. This consensual basis gives arbitration its flexibility, but it also creates a delicate dependency on the identity and qualifications of the arbitrator. The arbitrator is chosen because the parties trust that person's competence, neutrality, and ability to decide the dispute in accordance with the applicable law and procedure. According to Moses, the arbitral tribunal is not a state court, but once constituted it exercises an adjudicative authority that requires procedural fairness, equality, and independence comparable to core judicial values (Moses, 2017). Born likewise explains that although arbitrators are appointed through private mechanisms, their awards may have public legal effects through recognition and enforcement, which makes the integrity of tribunal constitution a matter of systemic importance (Born, 2021). Arbitrator disqualification is therefore rooted in the hybrid nature of arbitration: it is contractual in origin, procedural in operation, and adjudicative in consequence.

The concept of the arbitrator's authority is central to understanding why disqualification is legally necessary. An arbitrator has authority only because the parties, the applicable arbitration law, and the relevant institutional rules recognize that authority. If the arbitrator lacks legal capacity, violates agreed qualifications, conceals disqualifying facts, or becomes unable to act impartially, the basis of that authority is weakened. Jafari Langroudi's treatment of legal competence and authority supports the view that a decision-maker's power must be connected to legally recognized capacity and proper appointment (Jafari Langroudi, 2023). Katouzian's discussion of contractual rules similarly indicates that powers created by agreement remain limited by the conditions under which the agreement was made and by the legal requirements that preserve the validity of its effects (Katouzian, 2007). In arbitration, the agreement to arbitrate does not grant unlimited authority to any person called an arbitrator; rather, it grants authority to a qualified and neutral decision-maker who satisfies the conditions of appointment and continues to satisfy them throughout the proceedings.

The distinction between independence and impartiality forms the doctrinal core of disqualification. Independence concerns the arbitrator's external relationships with the parties, counsel, affiliates, subject matter, or financial interests connected to the dispute. Impartiality concerns the arbitrator's internal orientation toward the parties and issues. Redfern and Hunter explain that these two concepts are closely related but not identical, because a person may be formally independent yet still biased, or may have a professional connection that creates doubts even if no actual bias is proven (Redfern & Hunter, 2023). Slater develops this point by noting that challenge systems increasingly rely on objective appearances rather than requiring proof of actual partiality, since actual bias is often difficult or impossible to prove directly (Slater, 2022). This shift from actual bias to reasonable doubt is essential in international arbitration because parties cannot be expected to uncover the arbitrator's private state of mind. The practical inquiry therefore asks whether the known circumstances would create justifiable doubts in the mind of a reasonable and informed party.

The duty of disclosure is the procedural expression of independence and impartiality. It obliges arbitrators to reveal circumstances that may reasonably affect confidence in their neutrality, even if the arbitrator personally believes that the circumstances do not affect his or her judgment. Born identifies disclosure as one of the principal safeguards of arbitral legitimacy because it allows parties and institutions to evaluate potential conflicts before they damage the proceedings (Born, 2021). Motamedi Mehr similarly emphasizes that disclosure is not merely an ethical courtesy but a procedural duty linked to the validity of tribunal constitution and the enforceability of the award (Motamedi Mehr, 2020). The duty is continuing in nature. A fact that arises after appointment, or that

becomes relevant during the proceedings, must be disclosed when it becomes known. This continuing obligation is especially important in long and complex arbitrations where new relationships, repeat appointments, financial arrangements, or professional associations may emerge after the tribunal is constituted.

The legal foundation of disqualification is also connected to procedural fairness. Arbitration must provide each party with a reasonable opportunity to present its case before a neutral tribunal. If the tribunal is affected by bias or serious conflicts of interest, the equality of the parties becomes illusory. Shams explains that arbitration, although less formal than court procedure, remains subject to fundamental principles of civil justice, including equality of arms, proper notice, and impartial adjudication (Shams, 2022). Nasiri also treats neutrality of the tribunal as one of the basic requirements of international arbitration because without neutrality the arbitral process cannot perform its function as an alternative to state adjudication (Nasiri, 2022). Disqualification therefore protects not only the subjective confidence of the parties but also the objective fairness of the process. A party should not be compelled to proceed before an arbitrator whose relationships, conduct, or interests reasonably call into question the fairness of the adjudicative process.

Public policy provides another legal foundation for arbitrator disqualification. Although arbitration is private, its awards interact with national legal orders at the stages of annulment, recognition, and enforcement. National courts may refuse to support an award rendered by a tribunal that was improperly constituted or that violated fundamental standards of fairness. Sohrabi's discussion of enforcement challenges demonstrates that defects in arbitrator neutrality may become relevant when courts examine whether an award is compatible with procedural justice and domestic legal standards (Sohrabi, 2021). Shahidi also explains that the legitimacy of international arbitration depends on its compatibility with minimum principles accepted by national legal systems, especially when an award must be enforced through state authority (Shahidi, 2016). In this sense, disqualification operates as an internal correction mechanism that reduces the need for external judicial intervention. If conflicts are identified and addressed during the arbitration, courts are less likely to disturb the final award later.

In civil-law analysis, the connection between consent, good faith, and disqualification is particularly important. Ghestin's theory of contractual formation and obligations highlights that contractual relationships are shaped not only by express consent but also by good faith, transparency, and the protection of legitimate expectations (Ghestin, 2020). Terre similarly approaches obligations as legal relationships structured by fairness, responsibility, and the consequences of non-disclosure or defective consent (Terre, 2022). Applied to arbitration, these ideas suggest that the parties' consent to an arbitrator may be defective if it is based on incomplete or misleading information about the arbitrator's relationships or interests. If an arbitrator fails to disclose a serious conflict before appointment, the parties' acceptance of that arbitrator cannot be treated as fully informed. Disqualification thus protects the integrity of the parties' consent by ensuring that acceptance of the arbitrator is based on transparent information.

The Iranian legal perspective also supports the necessity of disqualification through the principles of competence, fairness, and the prevention of harm. Borhani's analysis of contract law and Islamic jurisprudence emphasizes the importance of honesty, trust, and the prevention of unfair advantage in legal relations (Borhani, 2019). Katouzian's treatment of general contractual rules also reflects the idea that private legal arrangements must not be interpreted in a way that defeats justice or allows one party to benefit from concealment or imbalance (Katouzian, 2007). In arbitration, these principles support the view that an arbitrator must act as a trustworthy adjudicator and that any serious violation of neutrality may justify removal. The connection between arbitration and trust is especially strong because the parties voluntarily surrender access to ordinary courts in favor of a private tribunal. If that tribunal is not trustworthy, the contractual foundation of arbitration loses much of its justification.

The challenge of defining the threshold for disqualification is one of the most difficult conceptual issues. If the threshold is too low, parties may challenge arbitrators based on remote, speculative, or trivial connections. If the threshold is too high, parties may be forced to proceed before arbitrators whose neutrality is

reasonably doubtful but whose actual bias cannot be proven. Slater argues that modern systems of arbitrator challenge must distinguish between unavoidable professional familiarity and meaningful conflicts that create objective doubts (Slater, 2022). Redfern and Hunter similarly observe that international arbitration requires a practical and context-sensitive standard because arbitrators often operate in specialized fields where some professional overlap is inevitable (Redfern & Hunter, 2023). The appropriate standard should therefore focus on whether the circumstances, viewed objectively and in context, create justifiable doubts about the arbitrator's ability to decide independently and impartially. This standard protects fairness without making arbitration unworkable.

Another foundational issue concerns waiver. If a party knows of a potential ground for disqualification but waits until a tactically convenient moment to raise it, the challenge may undermine rather than protect fairness. Born explains that time limits and waiver doctrines are essential because they prevent parties from keeping objections in reserve as procedural weapons (Born, 2021). Mousavi also notes that domestic and international challenge systems commonly require prompt objection after discovery of the relevant facts, because silence after knowledge may indicate acceptance of the tribunal's composition (Mousavi, 2021). Waiver does not mean that serious conflicts become acceptable merely because time passes; rather, it means that the law must distinguish between genuinely unknown conflicts and strategic silence. The doctrine encourages parties to act promptly, protects procedural efficiency, and prevents disqualification from becoming a tool of opportunistic disruption.

Ultimately, the conceptual and legal foundations of arbitrator disqualification reveal a layered structure. At the first level, disqualification protects the parties' consent by ensuring that the person chosen as arbitrator satisfies the conditions of trust, competence, and neutrality. At the second level, it protects procedural fairness by preserving equality before an impartial tribunal. At the third level, it protects the enforceability and legitimacy of the award by reducing the risk of annulment or refusal of recognition. At the fourth level, it protects international arbitration as an institution by demonstrating that private dispute resolution is capable of self-correction. Soltani's comparative analysis confirms that despite variations among legal systems, the central purpose of disqualification remains consistent: to preserve confidence in the arbitral process while preventing unnecessary interference with its efficiency (Soltani, 2014). For this reason, the law of arbitrator disqualification should be understood not as an exception to arbitration but as one of the conditions of arbitration's continued legitimacy.

3. Grounds and Procedural Mechanisms for Arbitrator Disqualification

The grounds for arbitrator disqualification are usually organized around the core requirements of independence, impartiality, competence, disclosure, and procedural integrity. The most important ground is the existence of circumstances that create justifiable doubts about the arbitrator's independence or impartiality. These circumstances may include financial interests in one of the parties, prior representation of a party, close professional cooperation with counsel, family relationships, repeated appointments by the same party, involvement in related disputes, or public statements suggesting prejudgment of the issues. Redfern and Hunter explain that the modern challenge standard does not always require proof of actual bias; it is enough that the facts would lead a reasonable and informed observer to doubt the arbitrator's neutrality (Redfern & Hunter, 2023). Slater's comparative study confirms that challenge systems increasingly focus on objective perception because the legitimacy of arbitration depends on both actual fairness and visible fairness (Slater, 2022). This approach is necessary because bias is rarely declared openly and may be impossible to prove through direct evidence.

Conflict of interest is one of the most frequent grounds for disqualification. A conflict may be financial, professional, personal, institutional, or ideological. A financial conflict may exist where the arbitrator has shares in a party, receives income from a related entity, or has a direct economic interest in the outcome. A professional conflict may arise from prior legal representation, consulting work, expert services, or repeated appointments by a party or counsel. Born explains that repeat appointments are not automatically disqualifying in every case, but they may become problematic when they create dependence, expectation of future appointments, or a reasonable impression of

alignment with a particular party or industry (Born, 2021). Moses similarly notes that international arbitration must account for the realities of specialized practice while ensuring that professional familiarity does not become structural partiality (Moses, 2017). The assessment should therefore consider the frequency, timing, financial significance, and disclosure of the relationship.

Failure to disclose is another independent and highly significant ground for challenge. Even when the undisclosed fact would not necessarily justify removal by itself, non-disclosure may aggravate the situation because it deprives the parties of the opportunity to assess the arbitrator's neutrality. Motamedi Mehr emphasizes that disclosure is central to the integrity of international commercial arbitration because parties can exercise their procedural rights only when they are informed of relevant circumstances (Motamedi Mehr, 2020). Nasiri also treats disclosure as a continuing duty that accompanies the arbitrator throughout the proceedings, not merely at the moment of appointment (Nasiri, 2022). The seriousness of non-disclosure depends on the nature of the fact, the arbitrator's knowledge, the reason for omission, and the extent to which the omission affected party confidence. An innocent omission of a remote and insignificant fact should not automatically lead to disqualification, but deliberate concealment of a material relationship may be sufficient to remove the arbitrator and may later affect the award.

Professional misconduct may also justify disqualification. This includes serious procedural unfairness, refusal to hear a party, improper private communication with one side, disclosure of confidential information, acceptance of unauthorized benefits, prejudicial statements, or conduct inconsistent with the dignity of arbitral office. Shams explains that arbitral proceedings remain bound by core standards of procedural justice even when the parties choose a flexible procedure (Shams, 2022). Shahidi likewise emphasizes that the arbitrator's role requires professional discipline and fidelity to the parties' procedural rights (Shahidi, 2016). Misconduct must be distinguished from ordinary procedural decisions with which a party disagrees. An arbitrator should not be disqualified merely because he or she rejects an argument, limits irrelevant evidence, or adopts a procedural timetable that one party dislikes. Disqualification becomes appropriate only when the conduct reveals bias, incapacity, serious unfairness, or violation of essential duties.

Loss of required qualifications is another ground for disqualification. The parties may agree that an arbitrator must possess a particular nationality, language ability, professional background, technical expertise, legal qualification, or industry experience. If the appointed arbitrator does not satisfy these conditions, or if the arbitrator later becomes unable to satisfy them, disqualification may be justified. Jafari Langroudi's treatment of legal capacity supports the principle that authority must be exercised by a person who meets the legal and agreed conditions for that authority (Jafari Langroudi, 2023). Soltani also notes that in international commercial arbitration, agreed qualifications are especially important because parties often select arbitration precisely to obtain specialized adjudication (Soltani, 2014). However, not every minor discrepancy should lead to removal. The relevant question is whether the qualification was essential to the parties' agreement and whether its absence affects the arbitrator's legitimacy, competence, or ability to decide the dispute fairly.

Incapacity or inability to perform arbitral functions may also lead to removal. An arbitrator may become unable to act because of illness, persistent delay, refusal to participate, conflict with other tribunal members, lack of availability, or failure to conduct proceedings with reasonable diligence. Born explains that international arbitration depends on active and efficient case management, and an arbitrator who cannot perform the required function may endanger the effectiveness of the entire process (Born, 2021). Mousavi similarly identifies inability and delay as important grounds in both domestic and international systems because the parties' right to arbitration includes the right to a functioning tribunal (Mousavi, 2021). This ground differs from bias because it concerns capacity rather than neutrality. Nevertheless, the consequence may be the same: the arbitrator must be removed so that the arbitration can continue before a properly functioning tribunal.

The procedure for challenging an arbitrator generally begins with knowledge of the relevant facts. The challenging party must act promptly after becoming aware of the circumstances giving rise to the objection.

Promptness is essential because it prevents strategic delay and protects the stability of the tribunal. Born notes that waiver rules are a necessary part of challenge procedures because parties should not be permitted to save known objections as tactical weapons (Born, 2021). Shams also explains that procedural objections in arbitration, as in civil procedure, must generally be raised within the legally recognized time or they may be deemed waived (Shams, 2022). The time limit may be fixed by institutional rules, arbitration law, or party agreement. Although the exact period differs among systems, the underlying principle is consistent: a party who knows of a challenge ground must raise it without undue delay.

The written challenge should identify the arbitrator, state the factual grounds, explain why those facts create justifiable doubts or other disqualifying conditions, and attach supporting evidence. The burden of proof generally rests on the party seeking disqualification. Slater observes that the burden must be meaningful enough to prevent speculative challenges but not so heavy that only direct proof of actual bias can succeed (Slater, 2022). Redfern and Hunter similarly emphasize that challenge bodies must assess the totality of circumstances rather than isolate each fact artificially (Redfern & Hunter, 2023). Evidence may include correspondence, appointment histories, corporate records, prior professional relationships, public statements, institutional disclosures, or procedural conduct. The evidentiary standard should be practical. Arbitration cannot require impossible proof of inner bias, but it also cannot accept suspicion without factual foundation.

The authority deciding the challenge depends on the applicable rules. In institutional arbitration, the challenge is usually submitted to the institution, which may decide through a court, council, committee, or other designated body. In ad hoc arbitration, the decision may initially be made by the tribunal or by an appointing authority, with possible recourse to the court at the seat. Moses explains that institutional arbitration often provides more predictable challenge mechanisms because the institution supplies procedural rules, administrative supervision, and a decision-making body independent of the challenged arbitrator (Moses, 2017). Nasiri also emphasizes that the law of the seat remains important because national courts may provide support or control where institutional mechanisms are absent or insufficient (Nasiri, 2022). The best systems avoid allowing the challenged arbitrator to control the final decision on his or her own removal, because such a structure may itself undermine confidence in the process.

One difficult procedural question is whether the arbitration should continue while the challenge is pending. Suspension protects the parties from proceedings before a potentially disqualified tribunal, but it may also encourage delay and abusive challenges. Continuing the arbitration preserves efficiency, but it risks wasting time and costs if the arbitrator is later removed and prior procedural steps must be repeated. Born explains that many institutional systems prefer continuation unless the challenge raises serious and immediate concerns, because automatic suspension would make challenges too attractive as delay devices (Born, 2021). Slater similarly argues that challenge procedures should include a filtering function that distinguishes serious objections from tactical objections at an early stage (Slater, 2022). A balanced approach permits the tribunal or institution to continue procedural management while reserving major substantive steps until the challenge is resolved when the alleged conflict is particularly serious.

If the challenge is accepted, a substitute arbitrator must usually be appointed. The method of replacement should follow the original appointment mechanism unless the applicable rules provide otherwise. Soltani explains that replacement procedures must respect party autonomy while preventing obstruction by a party that refuses to cooperate after the removal of an arbitrator (Soltani, 2014). Redfern and Hunter also note that the replacement of an arbitrator may require decisions about whether previous hearings, submissions, evidence, or procedural orders remain valid (Redfern & Hunter, 2023). In a three-member tribunal, the remaining arbitrators may sometimes continue with certain procedural matters, but in a sole-arbitrator case, replacement is indispensable. The new arbitrator may need time to review the record, and the tribunal may need to decide whether any part of the proceedings should be repeated to preserve due process.

The effect of disqualification on prior acts of the arbitrator is a sensitive issue. If the ground for disqualification is minor or arises late, prior procedural

acts may remain valid to avoid unnecessary duplication. If the ground reveals serious bias, deliberate concealment, or a conflict that existed from the beginning, prior acts may be vulnerable. Sohrabi observes that defects related to arbitrator neutrality may later affect enforcement or annulment if the defect is serious enough to undermine confidence in the award (Sohrabi, 2021). Shahidi also emphasizes that the legal consequences of irregular tribunal constitution must be evaluated in light of the severity of the defect and its effect on the parties' rights (Shahidi, 2016). The guiding principle should be proportionality. The law should avoid automatic nullification where no prejudice occurred, but it must provide meaningful remedies where the participation of a disqualified arbitrator compromised the fairness of the process.

The procedural mechanism of disqualification must also respond to the risk of abuse. Parties may file challenges to delay hearings, intimidate arbitrators, create grounds for later annulment, or signal dissatisfaction with procedural decisions. Born identifies tactical challenges as a recurring problem in high-stakes arbitration, particularly where delay may create settlement leverage (Born, 2021). Slater proposes that challenge systems should consider cost sanctions, early dismissal of manifestly unfounded challenges, and clearer standards to discourage abuse (Slater, 2022). However, safeguards against abuse must not deter legitimate challenges. A party with genuine concerns about neutrality should not fear punitive consequences merely because the challenge is ultimately rejected. The appropriate approach is to sanction only bad-faith, repetitive, or manifestly baseless objections while preserving robust access to disqualification where justified doubts exist.

The procedural architecture of arbitrator disqualification must therefore combine clarity, speed, fairness, and enforceability. It should define who may challenge, when the challenge must be made, what evidence is required, who decides the challenge, whether proceedings continue, how replacement occurs, and what happens to prior procedural acts. Mousavi's study of domestic and international challenge systems shows that uncertainty in any of these areas may produce delay and inconsistent outcomes (Mousavi, 2021). Motamedi Mehr likewise argues that comparative arbitration practice demonstrates the need for precise rules because vague challenge procedures can undermine both party confidence and procedural economy (Motamedi Mehr, 2020). A well-designed mechanism protects the parties from biased adjudication, protects arbitrators from unfounded attacks, and protects the award from later challenges. The ultimate goal is not to maximize disqualification, but to ensure that only qualified, independent, and impartial arbitrators decide international commercial disputes.

4. Comparative Analysis of International Arbitration Practice and Landmark Cases

Comparative analysis shows that legal systems and arbitral institutions share a common commitment to arbitrator independence and impartiality, but they differ in the threshold for challenge, the role of courts, the importance attached to disclosure, and the consequences of non-disclosure. International arbitration has developed through interaction between national arbitration laws, institutional rules, soft-law standards, and judicial decisions. Redfern and Hunter explain that the law of the seat remains important because it provides the legal framework for tribunal constitution, judicial assistance, and annulment, while institutional rules provide procedural detail for appointment, challenge, and replacement (Redfern & Hunter, 2023). Born similarly notes that international arbitration is not governed by a single legal order; it operates through a plural system in which party agreement, institutional rules, national law, and transnational practice interact (Born, 2021). This pluralism creates both flexibility and inconsistency. The challenge is to identify standards that can be applied across systems while respecting the diversity of legal traditions.

The French approach is often associated with a strong pro-arbitration policy combined with serious attention to independence and disclosure. French arbitration law places substantial importance on the arbitrator's duty to reveal circumstances that may affect independence or impartiality. Ghestin's broader contractual analysis is useful for understanding this approach because French legal thought often connects consent, good faith, and disclosure in the formation and performance of legal relationships (Ghestin, 2020). Terre's account of obligations also supports the idea that a legal relationship may be affected when one party's consent is formed without knowledge of facts that should have been disclosed (Terre, 2022). In arbitration, this means

that the parties' acceptance of an arbitrator must be informed. French courts have generally supported arbitration, but they have also insisted that undisclosed relationships may affect the validity of the arbitral process when those relationships are serious enough to create reasonable doubts.

The French model tends to emphasize prompt objection. A party that knows of a possible conflict must act quickly, and failure to do so may be treated as waiver. This approach is consistent with the general need to prevent tactical delay. Slater's comparative analysis shows that waiver plays an important role in many systems because challenge rights can be abused if parties remain silent until the proceedings become unfavorable (Slater, 2022). Soltani similarly explains that comparative arbitration systems often require immediate or timely objection to preserve procedural efficiency and the stability of tribunal constitution (Soltani, 2014). The French approach therefore reflects a dual logic: disclosure must be taken seriously by arbitrators, but objections must also be raised diligently by parties. This balance seeks to protect both transparency and efficiency.

The English approach has developed through the Arbitration Act 1996 and important judicial decisions concerning apparent bias and disclosure. English law generally applies an objective standard: whether the circumstances would lead a fair-minded and informed observer to conclude that there is a real possibility of bias. Moses explains that English arbitration law combines respect for party autonomy with judicial control in cases of serious irregularity, lack of impartiality, or defective tribunal constitution (Moses, 2017). Redfern and Hunter also emphasize that English courts tend to avoid excessive intervention in arbitration, but they will intervene where the integrity of the tribunal is genuinely compromised (Redfern & Hunter, 2023). This restrained approach is intended to preserve London's role as a major arbitration seat while ensuring that arbitration remains consistent with fundamental standards of fairness.

The decision in Halliburton v Chubb is especially important for the modern law of arbitrator disclosure and apparent bias. The case involved questions about multiple appointments and the arbitrator's duty to disclose related appointments in overlapping disputes. Although the arbitrator was not ultimately removed, the decision clarified that disclosure may be required even where the undisclosed facts do not automatically prove bias. Born's analysis of repeat appointments and overlapping proceedings helps explain why such situations are complex: repeat appointments may be normal in specialized arbitration, but they may also create informational asymmetry or doubts about neutrality if not disclosed (Born, 2021). Slater similarly treats Halliburton as part of a broader trend in which courts distinguish between non-disclosure as a breach of duty and non-disclosure as proof of disqualifying bias (Slater, 2022). The significance of the case lies in its insistence that transparency is itself a condition of trust, even if not every failure of disclosure requires removal.

Institutional arbitration rules provide more detailed procedures than many national laws. The ICC approach centralizes challenge decisions within the institution, creating a relatively efficient mechanism for determining whether an arbitrator should be removed. Born explains that institutional systems have an advantage because they can decide challenges through specialized bodies familiar with arbitral practice and able to act faster than national courts (Born, 2021). Motamedi Mehr also notes that institutional arbitration strengthens procedural predictability by establishing rules for disclosure, challenge, replacement, and continuation of proceedings (Motamedi Mehr, 2020). In ICC practice, the emphasis is often on protecting the integrity of the tribunal without allowing challenge procedures to become a vehicle for obstruction. The institution's administrative role is therefore not merely clerical; it is part of the legitimacy structure of the arbitration.

The LCIA approach similarly emphasizes independence, impartiality, and efficient institutional decision-making. It provides mechanisms for challenging arbitrators and for replacing them when necessary, while also allowing the arbitration to continue where appropriate. Moses observes that London-based arbitration practice places strong value on efficient case management and limited judicial interference, and institutional rules support that goal by resolving procedural issues internally whenever possible (Moses, 2017). Slater's analysis of challenge procedures suggests that institutions such as the LCIA attempt to reduce uncertainty by giving parties a defined procedure and by preventing challenges from automatically paralyzing the arbitration (Slater, 2022). The institutional model is therefore designed to avoid two extremes: leaving parties without a remedy against

conflicted arbitrators, and allowing every objection to suspend the process.

Ad hoc arbitration, especially under UNCITRAL-style procedures, presents different issues because there may be no permanent institution to decide challenges. In such cases, the appointing authority or the court at the seat may play a more important role. Nasiri explains that ad hoc arbitration requires careful attention to the procedural framework because the absence of institutional administration can make appointment and challenge issues more dependent on national law or appointing authorities (Nasiri, 2022). Redfern and Hunter similarly note that the effectiveness of ad hoc arbitration depends heavily on the clarity of the arbitration clause and the availability of mechanisms for resolving tribunal constitution disputes (Redfern & Hunter, 2023). The advantage of ad hoc arbitration is flexibility, but the disadvantage is that disqualification procedures may become slower or more uncertain if the parties have not provided a clear mechanism.

Comparative practice also reveals different attitudes toward the relationship between non-disclosure and removal. Some systems treat serious non-disclosure as a strong indicator of disqualification because it undermines trust. Other systems ask whether the undisclosed fact, if known, would itself have justified removal. Ghestin's analysis of disclosure and consent supports the stricter view that concealment may affect the legitimacy of consent even where substantive bias is difficult to prove (Ghestin, 2020). Born, however, warns that automatic removal for every failure to disclose could encourage excessive challenges and overburden arbitration with formalistic objections (Born, 2021). A balanced approach distinguishes between material and immaterial non-disclosure. Material non-disclosure concerns facts that a reasonable party would consider relevant to the arbitrator's neutrality; immaterial non-disclosure concerns remote or trivial circumstances that do not objectively affect confidence.

Another comparative issue is the treatment of repeat appointments. In specialized fields such as construction, energy, insurance, maritime trade, finance, and investment disputes, repeat appointments are common because parties seek experienced arbitrators. However, repeated appointment by the same party, same counsel, or same corporate group may create doubts about dependence or predisposition. Moses explains that repeat appointments must be assessed in context, considering the number of appointments, the financial significance, the time period, and whether the pattern suggests reliance on one source of appointments (Moses, 2017). Slater also argues that repeat appointments are one of the most difficult areas because they may represent either legitimate expertise or structural imbalance (Slater, 2022). Disclosure is therefore critical. A party may accept a repeat-appointed arbitrator if the facts are disclosed, but undisclosed patterns of appointment may undermine confidence in the tribunal.

The treatment of relationships with counsel is equally important. Arbitrators and counsel often belong to the same professional associations, speak at the same conferences, publish in the same journals, or serve together in arbitral institutions. Such ordinary professional contact should not automatically create disqualification, because the international arbitration community depends on professional exchange. Redfern and Hunter emphasize that challenge decisions should avoid unrealistic standards that would exclude experienced arbitrators merely because they are active in the field (Redfern & Hunter, 2023). At the same time, close personal friendship, recent co-counsel work, shared financial interests, or ongoing professional collaboration may create justifiable doubts. Jafari Langroudi's general concept of legal qualification and proper authority supports the idea that the decision-maker's status must be free from circumstances that legally compromise confidence (Jafari Langroudi, 2023). The distinction depends on intensity, timing, materiality, and disclosure.

Iranian arbitration law and scholarship provide an additional comparative perspective. Iranian doctrine generally recognizes arbitration as a valid alternative to litigation while preserving judicial control over defects that affect arbitrator capacity, appointment, or fairness. Shams treats arbitrator competence and procedural validity as issues that may be reviewed where the arbitration departs from mandatory legal requirements (Shams, 2022). Shahidi similarly emphasizes that international arbitration must respect both party autonomy and fundamental legal safeguards (Shahidi, 2016). Soltani's comparative study shows that Iranian law can benefit from the more detailed challenge mechanisms developed in international institutional arbitration, particularly regarding disclosure, time

limits, and replacement procedures (Soltani, 2014). The Iranian approach therefore has the foundations necessary for arbitrator disqualification, but greater procedural precision would improve predictability and reduce reliance on general judicial intervention.

The comparative study of arbitrator disqualification also demonstrates the importance of soft-law instruments and professional standards. Although the reference list here focuses on doctrinal and comparative sources rather than reproducing soft-law rules, the scholarship consistently recognizes that international arbitration practice relies on transnational standards to classify conflicts and guide disclosure. Born explains that soft-law instruments help harmonize expectations among parties from different legal systems, even when they are not formally binding (Born, 2021). Redfern and Hunter similarly note that such standards often influence institutions, arbitrators, counsel, and courts because they provide practical categories for assessing conflicts (Redfern & Hunter, 2023). The value of these standards lies not in eliminating discretion, but in reducing uncertainty. They help parties distinguish between serious conflicts, disclosable circumstances, and situations that ordinarily do not require disclosure.

Despite convergence around independence and impartiality, comparative practice remains inconsistent in several respects. Different institutions may reach different results on similar facts. National courts may apply different standards to apparent bias. Some systems are stricter about disclosure, while others are more tolerant of non-disclosure if no actual prejudice is shown. Sohrabi observes that inconsistency in tribunal constitution and challenge standards may later appear in enforcement disputes, especially where national courts take different views of procedural public policy (Sohrabi, 2021). Motamedi Mehr also argues that the comparative development of arbitration law requires greater harmonization because uncertainty in challenge standards can reduce confidence in international arbitration (Motamedi Mehr, 2020). Complete uniformity is unrealistic, but greater alignment is possible through clearer institutional rules, reasoned challenge decisions, and wider acceptance of objective disclosure standards.

The main lesson from comparative practice is that arbitrator disqualification must be evaluated through a functional balance. The French approach emphasizes disclosure, waiver, and judicial support for arbitration. The English approach emphasizes objective apparent bias, disclosure, and limited court intervention. Institutional systems such as ICC and LCIA emphasize centralized and efficient challenge decisions. Ad hoc systems require stronger reliance on appointing authorities and courts. Iranian law reflects general principles of arbitrator competence and fairness but can benefit from more detailed procedural standards. Across these systems, the dominant trend is clear: arbitration must protect the independence and impartiality of arbitrators while preventing dilatory and abusive challenges. The legitimacy of international commercial arbitration depends on the capacity of these systems to remove arbitrators when justified doubts exist and to preserve proceedings when challenges are tactical, unsupported, or untimely.

5. Practical Challenges, Critical Assessment, and Reform Proposals

The practical challenges of arbitrator disqualification arise from the difficulty of converting broad principles such as independence, impartiality, disclosure, and fairness into predictable decisions in complex factual settings. The first and perhaps most persistent challenge is the ambiguity of impartiality itself. Independence can often be examined through objective relationships, but impartiality concerns the arbitrator's state of mind and is therefore difficult to prove directly. Slater argues that this difficulty explains why modern challenge standards rely on reasonable doubts or apparent bias rather than actual proof of subjective prejudice (Slater, 2022). Redfern and Hunter similarly recognize that international arbitration must use objective tests because direct evidence of bias is rarely available, and the appearance of neutrality is indispensable to confidence in the process (Redfern & Hunter, 2023). Yet objective tests also create uncertainty. Reasonable observers may disagree about whether a relationship is sufficiently serious, whether a disclosure was necessary, or whether a prior appointment creates dependence.

The ambiguity becomes more serious because international arbitration operates in specialized professional communities. In fields such as energy, construction, insurance, shipping, and finance, the same arbitrators, experts, and counsel may appear repeatedly in related disputes. Born explains that the concentration

of expertise makes some professional overlap unavoidable, but it also increases the risk that parties will perceive arbitrators as aligned with particular commercial sectors or repeat appointing parties (Born, 2021). Moses also notes that international arbitration must be realistic about professional networks while maintaining standards that prevent structural bias (Moses, 2017). A rigid rule disqualifying every arbitrator with prior professional contact would reduce the availability of qualified arbitrators, especially in technical disputes. A permissive rule, however, may normalize conflicts and weaken confidence. The reform need is therefore not absolute prohibition but structured evaluation based on intensity, recency, frequency, financial significance, and transparency.

A second challenge is the evidentiary burden placed on the challenging party. The party seeking disqualification must usually prove the facts giving rise to justifiable doubts, but the relevant information may be controlled by the arbitrator, opposing party, counsel, institution, or third parties. Motamedi Mehr emphasizes that without adequate disclosure, the challenging party may not have sufficient access to prove the conflict (Motamedi Mehr, 2020). Nasiri also recognizes that procedural fairness requires parties to have an effective opportunity to raise objections to tribunal constitution, not merely a theoretical right (Nasiri, 2022). This creates a paradox: the party must prove a conflict, but the facts necessary to prove it may be unavailable unless the arbitrator discloses them. Reform should therefore strengthen proactive disclosure duties and require arbitrators to provide structured declarations concerning relationships with parties, counsel, affiliates, funders, and related proceedings.

A third challenge is non-disclosure and the uncertainty of its consequences. Some arbitrators may under-disclose because they believe the fact is irrelevant, because they fear unnecessary challenges, or because disclosure practices differ across legal cultures. Ghestin's theory of contractual transparency supports the view that non-disclosure can impair informed consent and legitimate reliance (Ghestin, 2020). Terre's analysis of obligations also suggests that concealment or omission may affect the fairness of legal relationships where one party reasonably depends on another's declaration (Terre, 2022). However, automatic removal for every non-disclosure would be excessive. The better approach is a materiality test. A failure to disclose should support disqualification when the undisclosed fact would reasonably have mattered to a party assessing neutrality, when the omission appears deliberate or reckless, or when the fact forms part of a wider pattern of dependency. Minor, remote, or technical omissions should not automatically destroy the proceedings.

A fourth challenge is delay. Challenge procedures can interrupt the arbitration, increase costs, postpone hearings, and complicate procedural timetables. Born identifies delay as one of the major risks of challenge systems because parties may raise objections strategically when the proceedings are progressing unfavorably (Born, 2021). Shams also notes that procedural objections must be managed carefully because excessive formalism may defeat the purpose of arbitration as a faster alternative to court litigation (Shams, 2022). Delay is especially problematic when the challenge must pass through several stages, such as tribunal review, institutional review, and court review. Reform should impose short and mandatory time frames for challenge decisions, require parties to submit all grounds and evidence at once, and permit the arbitration to continue unless the challenge presents a serious risk to procedural integrity. The default should be continuation, but institutions should have discretion to suspend major hearings or deliberations where the alleged conflict is substantial.

A fifth challenge is abusive use of disqualification mechanisms. A party may challenge an arbitrator to create delay, intimidate the tribunal, increase costs, preserve annulment arguments, or damage the arbitrator's reputation. Slater's study of challenge and removal emphasizes that modern systems must include safeguards against manifestly unfounded objections (Slater, 2022). Born similarly warns that challenge procedures should not become instruments of guerrilla tactics in high-value arbitration (Born, 2021). Abuse can be addressed through early screening, cost consequences, reasoned dismissal of manifestly baseless challenges, and restrictions on repetitive objections based on facts already known. At the same time, sanctions must be applied cautiously because excessive punishment may discourage legitimate challenges. The standard should distinguish between an unsuccessful challenge and a bad-faith challenge. Only the latter should trigger serious cost or procedural consequences.

A sixth challenge concerns the independence of the body deciding the challenge. If the challenged arbitrator participates in deciding the objection, the process may appear self-protective. If the institution decides without giving reasons, parties may perceive the result as opaque. If national courts decide every challenge, arbitration may become slow and judicialized. Moses explains that institutional arbitration can provide specialized and efficient challenge decisions, but institutional authority must be exercised transparently to maintain confidence (Moses, 2017). Mousavi also notes that domestic and international systems differ in the extent to which they allow court intervention, and this difference may affect predictability (Mousavi, 2021). Reform should encourage independent institutional committees, exclusion of the challenged arbitrator from decision-making, reasoned decisions at least in summarized form, and limited judicial review where necessary to protect fundamental fairness without encouraging delay.

A seventh challenge is the treatment of replacement and prior proceedings after disqualification. If an arbitrator is removed, the arbitration must determine whether previous procedural orders, hearings, evidence, deliberations, or partial decisions remain valid. Sohrabi explains that tribunal defects may affect enforcement if they undermine procedural fairness or the integrity of the award (Sohrabi, 2021). Shahidi also indicates that the consequences of arbitral irregularity should correspond to the seriousness of the defect and its effect on the parties' rights (Shahidi, 2016). A proportionality-based model is preferable. Where the conflict was minor, arose late, or had no effect on previous steps, prior acts may remain valid. Where the arbitrator concealed a serious conflict from the beginning, the replacement tribunal should reconsider affected procedural steps and, if necessary, repeat hearings or deliberations. This avoids both excessive nullification and insufficient remedy.

An eighth challenge is inconsistent national treatment of arbitrator disqualification. International arbitration frequently involves parties, counsel, arbitrators, assets, and enforcement jurisdictions connected to different legal systems. A challenge rejected at the seat may later be reframed as an enforcement objection elsewhere. Redfern and Hunter explain that the enforceability of awards depends on the compatibility of the proceedings with internationally accepted procedural standards and the law of the relevant jurisdictions (Redfern & Hunter, 2023). Sohrabi also shows that inconsistency in national approaches to arbitrator disqualification may create uncertainty in award enforcement (Sohrabi, 2021). Reform should therefore move toward harmonized standards of disclosure, challenge timing, and objective doubts. Full unification is unlikely, but convergence can be strengthened through institutional rules, model clauses, professional guidelines, and publication of anonymized challenge decisions.

A ninth challenge concerns confidentiality. Arbitration is often confidential, but effective challenge procedures may require disclosure of appointment histories, relationships, funding arrangements, or related proceedings. This creates tension between confidentiality and transparency. Motamedi Mehr notes that international arbitration must preserve confidentiality without allowing it to conceal conflicts that affect tribunal legitimacy (Motamedi Mehr, 2020). Born similarly recognizes that confidentiality cannot be absolute where disclosure is necessary to protect the integrity of the proceedings (Born, 2021). Reform should establish controlled disclosure mechanisms. Arbitrators should disclose enough information to permit conflict assessment without unnecessarily revealing confidential merits information from other cases. Institutions can assist by using standardized disclosure forms, confidential review committees, and anonymized descriptions where full disclosure would violate legitimate confidentiality obligations.

A tenth challenge is the emergence of new conflict risks. Third-party funding, law firm mergers, corporate group structures, expert networks, data analytics, artificial intelligence tools, and online arbitration platforms create new forms of connection that older rules did not fully anticipate. Slater's comparative work suggests that challenge standards must evolve as arbitral practice changes (Slater, 2022). Nasiri's general principles of international arbitration also support adaptive interpretation because procedural legitimacy depends on the capacity of arbitration to respond to new commercial realities (Nasiri, 2022). Third-party funding, for example, may create conflicts if an arbitrator has relationships with a funder that is not formally a party. Corporate affiliates may create conflicts even when the named party is only one member of a larger group. Reform should require disclosure not only of

relationships with formal parties but also with known affiliates, funders, controlling entities, and significant non-party stakeholders.

In Iranian law and practice, reform should focus on procedural clarity, institutional strengthening, and alignment with international standards. Soltani's comparative account shows that Iranian arbitration law recognizes the need for arbitrator competence and neutrality but would benefit from more detailed challenge rules (Soltani, 2014). Shams's civil procedure analysis also supports the need for clear time limits, proper judicial control, and respect for procedural fairness (Shams, 2022). Mousavi's study of arbitrator disqualification systems indicates that domestic rules should provide precise standards for disclosure, challenge submission, decision-making authority, and replacement (Mousavi, 2021). Iranian arbitration institutions could adopt model disclosure forms, create independent challenge committees, publish anonymized decisions, and establish fast-track procedures for urgent objections. These reforms would reduce uncertainty and bring domestic practice closer to international commercial expectations.

A broader reform agenda should be built around six principles. First, disclosure should be standardized and continuing, with arbitrators required to update declarations when new circumstances arise. Second, challenge grounds should be defined through an objective reasonable-doubt standard that considers the totality of circumstances. Third, challenges should be subject to strict time limits beginning from actual or constructive knowledge of the relevant facts. Fourth, institutions should decide challenges through independent bodies and should provide reasoned outcomes to improve transparency. Fifth, proceedings should continue during challenges unless the seriousness of the alleged conflict justifies temporary suspension. Sixth, abusive challenges should attract cost consequences, while legitimate but unsuccessful challenges should not be punished. These reforms reflect the balance identified by Born between efficiency and fairness (Born, 2021), the comparative need for predictable challenge standards described by Slater (Slater, 2022), and the institutional legitimacy concerns emphasized by Redfern and Hunter (Redfern & Hunter, 2023).

The critical assessment of arbitrator disqualification therefore reveals that the institution is indispensable but imperfect. It is indispensable because no system of arbitration can survive without mechanisms to remove arbitrators whose neutrality is reasonably doubtful. It is imperfect because the same mechanism can be manipulated, delayed, inconsistently applied, or weakened by vague standards. The solution is not to reduce disqualification to a rare and exceptional remedy, nor to make it so accessible that every dissatisfaction becomes a challenge. The solution is to improve the architecture of the process: clearer standards, better disclosure, faster decisions, independent review, proportionate consequences, and deterrence of abuse. International commercial arbitration depends on trust, and trust depends on the visible fairness of those who decide disputes. A modern disqualification system must therefore protect both the reality and the appearance of arbitral justice.

6. Conclusion

Arbitrator disqualification in international commercial arbitration is one of the central mechanisms through which the arbitral system preserves its legitimacy, procedural fairness, and practical reliability. Arbitration depends on consent, but consent alone cannot sustain the authority of a tribunal if the arbitrator lacks independence, impartiality, competence, or the confidence of the parties. The arbitrator's function is adjudicative in substance, even though it arises from private agreement. For that reason, the person who decides the dispute must remain free from relationships, interests, conduct, or incapacity that would reasonably undermine trust in the proceedings. Disqualification is therefore not an external interference with arbitration; it is an internal safeguard that allows arbitration to correct defects before they destroy the validity of the process or the enforceability of the final award.

The analysis of the legal foundations of disqualification shows that the institution rests on several interconnected principles. It protects party autonomy by ensuring that the parties' acceptance of an arbitrator is informed and not distorted by concealed conflicts. It protects procedural fairness by guaranteeing that both parties appear before a neutral decision-maker. It protects public policy by reducing the risk that courts will later annul or refuse enforcement of an award

because of defects in tribunal constitution. It also protects arbitration as a global method of dispute resolution by demonstrating that private adjudication can meet minimum standards of justice. These foundations show that disqualification should be understood as a structural condition of legitimate arbitration rather than as a narrow remedy for exceptional misconduct.

The grounds for disqualification are diverse but conceptually unified. Lack of independence, lack of impartiality, conflict of interest, failure to disclose, professional misconduct, loss of agreed qualifications, and inability to perform arbitral duties all affect the arbitrator's authority to continue. These grounds differ in their factual content, but they share a common consequence: they may weaken confidence in the tribunal and impair the fairness of the proceedings. The most difficult cases are not those involving clear corruption, direct financial interest, or open bias. The most difficult cases involve repeat appointments, professional familiarity, indirect relationships, incomplete disclosure, or circumstances that fall between ordinary arbitral practice and meaningful conflict. In those cases, the correct standard should be objective, contextual, and practical. The question should be whether the circumstances, viewed by a reasonable and informed person, create justifiable doubts about the arbitrator's capacity to decide independently and impartially.

The procedural mechanism for disqualification is as important as the substantive standard. A system that recognizes the right to challenge but fails to provide a clear, fast, and independent procedure will not adequately protect the parties. Effective procedures must define who may challenge, when the challenge must be raised, what information must be included, who decides the challenge, whether the arbitration continues during the challenge, how a replacement arbitrator is appointed, and what happens to prior procedural acts. Time limits are essential because parties should not be allowed to keep known objections in reserve for tactical use. Independent decision-making is essential because a challenge decided by a conflicted structure may create further distrust. Reasoned outcomes are also important because they promote transparency, consistency, and confidence in institutional practice.

The comparative analysis demonstrates a broad convergence around the need for independence, impartiality, disclosure, and prompt objection, but it also reveals continuing differences among legal systems and institutions. Some systems give greater authority to courts, while others rely primarily on arbitral institutions. Some are stricter about non-disclosure, while others require a stronger connection between non-disclosure and actual doubts about neutrality. Some systems are more willing to allow proceedings to continue during a challenge, while others are more cautious where the allegation is serious. These differences do not necessarily undermine arbitration, but they create uncertainty for parties operating across jurisdictions. Greater harmonization is therefore desirable, especially in relation to disclosure standards, waiver rules, challenge thresholds, and the consequences of successful disqualification.

The practical challenges of disqualification are substantial. The ambiguity of impartiality makes proof difficult. Relevant evidence may be inaccessible to the challenging party. Non-disclosure may be hard to classify as innocent, negligent, or strategic. Challenge procedures may delay proceedings and increase costs. Parties may abuse disqualification mechanisms to obstruct arbitration, intimidate arbitrators, or preserve annulment arguments. Confidentiality may conflict with the need for transparency. New forms of conflict may arise from third-party funding, corporate groups, law firm networks, and digital arbitration environments. These problems show that arbitrator disqualification cannot remain static. It must evolve with the realities of modern international commerce and the changing structure of arbitral practice.

A balanced reform approach is necessary. Disclosure should be broader, more structured, and continuing throughout the arbitration. Arbitrators should be required to disclose relationships with parties, counsel, affiliates, funders, and related proceedings when such relationships may reasonably affect confidence. Institutions should use standardized disclosure forms and maintain internal conflict-checking systems. Challenge decisions should be made quickly by independent bodies, and institutions should provide reasoned decisions or at least reasoned summaries where confidentiality permits. Proceedings should not automatically stop whenever a challenge is filed, because

automatic suspension encourages abuse. However, institutions and tribunals should have authority to pause major procedural steps where the alleged conflict is serious enough to threaten the integrity of the process. Bad-faith challenges should be discouraged through cost consequences, but genuine challenges should remain protected even when unsuccessful.

For domestic systems seeking to improve their arbitration law, the key lesson is that general principles are not enough. It is not sufficient to state that arbitrators must be impartial and independent. The law must provide operational rules that show how impartiality is assessed, when disclosure is required, how objections are submitted, who decides them, and what consequences follow. National arbitration laws and domestic institutions should align themselves with international best practices while preserving compatibility with local legal principles. This is especially important for jurisdictions that wish to attract international commercial disputes or strengthen the credibility of domestic arbitral institutions. Predictable and transparent disqualification rules increase confidence not only in individual proceedings but also in the jurisdiction's broader arbitration framework.

The final conclusion is that arbitrator disqualification must preserve a careful equilibrium between fairness and efficiency. If the law is too permissive, conflicted arbitrators may remain in office and the award may lose legitimacy. If the law is too restrictive, parties may be deprived of meaningful protection against bias. If the law is too generous toward challenges, arbitration may become slow, expensive, and vulnerable to tactical disruption. The proper model is one that removes arbitrators where justified doubts exist, rejects unsupported objections promptly, protects the parties' right to a neutral tribunal, and preserves the efficiency that makes arbitration valuable in international commerce. The future of arbitrator disqualification should therefore be built on transparency, proportionality, institutional responsibility, and harmonized standards capable of sustaining confidence in international commercial arbitration.

Authors' Contributions

Authors contributed equally to this article.

Declaration

In order to correct and improve the academic writing of our paper, we have used the language model ChatGPT.

Transparency Statement

Data are available for research purposes upon reasonable request to the corresponding author.

Acknowledgments

We would like to express our gratitude to all individuals helped us to do the project.

Declaration of Interest

The authors report no conflict of interest.

Funding

According to the authors, this article has no financial support.

Ethical Considerations

In this research, ethical standards including obtaining informed consent, ensuring privacy and confidentiality were observed.

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