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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

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EDITOR:
Eman Shenouda
Associate Professor, Department of Psychology, Isfahan (Khorasgan) Branch, Islamic Azad University, Isfahan, Iran. Email: ens01@fayoum.edu.eg
REVIEWER 1:
Shehzad Raj
School of Law, Universiti Geomatika Malaysia, Kuala Lumpur, Malaysia. Email: shehzadraj@geomatika.edu.my
REVIEWER 2:
Jeremiah Thuku Thuku
Department of Literary and Communication Studies, Laikipia University, Nyahururu, Kenya. Email: jerethukuthuku@gmail.com

1. Round 1

1.1. Reviewer 1

Reviewer:

The paragraph beginning with "*The conceptual basis of arbitrator disqualification is closely connected to the distinction between independence and impartiality*" provides useful definitions but remains largely descriptive. The manuscript should incorporate a more critical discussion of whether independence and impartiality are truly separate concepts in practice or whether contemporary arbitration increasingly treats them as overlapping aspects of arbitrator neutrality.

The sentence "*Disqualification also reflects the tension between party autonomy and procedural public order*" raises an important theoretical issue that is not fully developed. The article should engage more deeply with the normative question of whether arbitrator neutrality derives primarily from party consent or from mandatory public-law principles. This tension deserves a dedicated analytical subsection rather than a brief discussion.

In the paragraph stating that "*the disclosure obligation of arbitrators operates as a bridge between autonomy and fairness*," the author should clarify whether disclosure is being treated as an independent legal duty or merely as evidence relevant to impartiality. Different arbitral institutions adopt different approaches, and the article currently does not distinguish between disclosure obligations and challenge standards.

The article repeatedly cites general arbitration authorities but does not engage with leading soft-law instruments. For example, when discussing conflicts of interest and disclosure, the manuscript should specifically analyze the IBA Guidelines on Conflicts of Interest in International Arbitration, which have become highly influential in challenge decisions worldwide.

The paragraph beginning "*The practical relevance of disqualification becomes even clearer when one considers the consequences of failing to address conflicts*" would benefit from discussion of the New York Convention framework. The

article references enforcement risks generally but does not explain precisely which Convention provisions may be implicated when an arbitrator's neutrality is challenged.

The section addressing challenge decision-makers states that "*the best systems avoid allowing the challenged arbitrator to control the final decision on his or her own removal*." This is an important normative assertion, but it is presented without supporting comparative evidence. The author should provide examples demonstrating why institutional review mechanisms are superior to tribunal-based challenge procedures.

The discussion of continuing proceedings during pending challenges raises an important procedural issue. However, the manuscript should also analyze the strategic consequences of either suspending or continuing proceedings, particularly regarding costs, procedural efficiency, and due process concerns. A more balanced cost-benefit analysis is necessary.

Authors revised the manuscript and uploaded the document.

1.2. Reviewer 2

Reviewer:

The sentence "*The objective of this article is to provide an analytical account of the legal foundations, procedural structure, comparative practice, and reform needs*" indicates a comparative methodology, yet the article does not explain the methodological basis of its comparative analysis. The author should clarify the jurisdictions selected, the reasons for their selection, and the comparative criteria applied throughout the study.

In the paragraph beginning "*Public policy provides another legal foundation for arbitrator disqualification*," the concept of public policy is used in a broad manner. The author should distinguish between domestic public policy, international public policy, and transnational public policy, since challenge and enforcement decisions frequently depend on which conception is applied.

The discussion of waiver beginning with "*Another foundational issue concerns waiver*" would benefit from closer analysis of constructive knowledge versus actual knowledge. Many challenge disputes revolve around whether a party should have discovered the relevant facts earlier, and this distinction is essential to understanding modern waiver doctrine.

In Section 3, the statement that "*Conflict of interest is one of the most frequent grounds for disqualification*" introduces an important topic but does not provide a systematic classification of conflicts. The manuscript should differentiate between direct conflicts, indirect conflicts, repeat-appointment conflicts, issue conflicts, counsel conflicts, and conflicts arising from third-party funding arrangements.

The paragraph discussing repeat appointments states that "*repeat appointments are not automatically disqualifying in every case*." This observation is correct but underdeveloped. The article should examine empirical studies and recent institutional practice concerning repeat appointments and explain why some tribunals view them as problematic while others regard them as inevitable in specialized arbitration sectors.

The treatment of non-disclosure in the paragraph beginning "*Failure to disclose is another independent and highly significant ground for challenge*" requires greater nuance. The manuscript should address whether non-disclosure itself constitutes grounds for disqualification or whether the decisive question remains the underlying undisclosed circumstance. This distinction has generated significant jurisprudential debate.

The discussion of professional misconduct would benefit from greater specificity. The sentence "*Professional misconduct may also justify disqualification*" should be followed by analysis of actual cases where procedural conduct rather than conflicts of interest led to successful challenges. Without case illustrations, the discussion remains overly abstract.

The paragraph beginning "*The written challenge should identify the arbitrator, state the factual grounds, explain why those facts create justifiable doubts*" describes procedural mechanics but does not discuss evidentiary thresholds in sufficient detail. The author should clarify what level of proof is required in practice and whether different institutions apply different standards of evidentiary sufficiency.

Authors revised the manuscript and uploaded the document.

2. Revised

Editor's decision: Accepted.
Editor in Chief's decision: Accepted.