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Vacating Arbitral Awards for Fraud: Is Actual Fraud on the Rise, or Just Awareness?

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In recent years, the number of arbitral awards being vacated for fraud has seemingly been rising around the globe at a noticeable and alarming rate. Indeed, virtually every year since Covid, at least one substantial arbitral award has been vacated somewhere on fraud grounds.

This article examines potential causes of that nascent trend, and considers whether incidences of fraud in the arbitral process are actually rising, or whether there are other possible explanations for the perceived increase, such as improved transparency, or expanded reporting of those incidences.

Fraud in the Arbitral Process, Versus Fraud in the Underlying Dispute

At the outset, it is important to clarify the type of fraud this article is considering—namely, fraud in the arbitration itself, and not fraud in the underlying transaction that gave rise to the arbitration. While the latter form of fraud has certainly become a popular merits contention in international arbitration—particularly in the investor-state context, where allegations of bribery and corruption in connection with an investment have become relatively commonplace—it is the former that can actually result in an arbitral award being vacated or denied recognition at the judicial enforcement stage, because fraud in the arbitration actually impacts the sanctity of the process and is actionable by an enforcement court.

Recent Examples of Awards Being Vacated for Fraud

Recent examples of awards being vacated for fraud generally fall into two categories. The first category involves parties fraudulently producing or concealing evidence for the purpose of misleading arbitrators, and includes misconduct like perjured testimony,

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forged documents, and the suppression of material evidence that impacts the award. The second category concerns sham arbitrations that were manufactured for the purpose of obtaining a fraudulent award, oftentimes by presenting fabricated claims to colluding arbitrators who knowingly issued invalid or compromised awards.

The first category is noteworthy for how simple—yet brazen—the fraudulent conduct can be. For instance, in *Nigeria v. P&ID,* the English High Court set aside an $11 Billion award issued against Nigeria after the court concluded that the claimant in the arbitration had bribed Nigerian officials before, as well as during the arbitration, offered false evidence in the arbitration to conceal that bribery, and illegally obtained internal Nigerian strategy documents through improper means that it used to monitor Nigeria's legal strategy.

Similarly, in *Eletson Holdings v. Levona Holdings*, a federal court in the Southern District of New York vacated a $102 million arbitral award after finding "clear and convincing evidence" that the claimant in the underlying dispute "committed fraud in the arbitration and on the Arbitrator that was material to the result" by providing "perjured testimony," as well as concealing material documents that directly undermined the claimant's merits claims.

In both *P&ID* and *Eletson*, the enforcement courts found that the offending conduct directly influenced the outcome of the underlying arbitration, and therefore required the awards to be vacated.

The second category involves equally blatant – but more complex – schemes to obtain fraudulent awards through sham arbitrations. For example, in what is colloquially known as the Sulu case, the Paris Court of Appeal annulled a merits award that ordered Malaysia to pay $14.92 billion in royalties to Philippine nationals who claimed to be the heirs of the Sultan of Sulu, because of alleged breaches of an 1878 concession agreement between the British North Borneo Company and the Sultan of Sulu.

While the French enforcement court ultimately vacated the merits award on jurisdictional grounds, the arbitrator was also convicted in Spain for continuing with the arbitration after a Spanish court revoked his mandate, and the claimants, their counsel, and their funder, were all also sued in Jersey for engaging in a conspiracy to defraud Malaysia through the arbitration.

A further example of the second type of case involves a matter in which arbitrators ordered two oil majors to pay $18 billion to 60 individuals who claimed to be the heirs of persons that leased exploitation rights to the respondents in 1949 as part of a concession agreement.

While the underlying facts are complicated, and include claims that the institution administering the arbitration (the IAC in Cairo) was itself a sham, it was ultimately revealed that the vice president of the IAC was the one who convinced claimants' counsel to bring the arbitration, and then appointed arbitrators who not only awarded claimants $18 billion on the merits improperly, but awarded a further $23 million in administration costs to the IAC.

Ultimately, the final arbitrators involved were criminally convicted of fraud in Egypt, as was the IAC's executive director, and claimants' efforts to enforce the award in both the Fifth and Ninth Circuits in the U.S. were rebuffed on grounds that the entire arbitration was a contrived charade.

While these four cases provide extreme examples, allegations of fraud in arbitration are not limited to such noteworthy matters. Indeed, fraudulent conduct can occur in much more modest and mundane arbitrations, such as disputes over escrow funds, disputes between companies and their distributors, counsel fee arbitrations in matrimonial actions, and arbitrations between agents over the poaching of clients. In short, unscrupulous parties could engage in fraud in an arbitration anytime they can financially benefit from doing so.

The Arbitration Community Acknowledges that Fraud Has Become an Issue that Requires a Response

While the cases above confirm that actual fraud in the arbitral process has occurred in recent years, there is also a general recognition in the arbitration community that it seems to be happening—or is at least being uncovered—more frequently, and the community has responded.

For instance, the ICC, which is one of the most prominent arbitral administrators in the world, noted in a 2024 report that "[i]n recent years, allegations of corruption have arisen with increasing frequency in arbitral proceedings, both commercial and investor-state," and has created a Task Force on Corruption to help study and address the issue.

Similarly, in 2025, the Chartered Institute of Arbitrators (CIArb), which is a professional body based in London that helps link the global arbitration community, launched a Global Anti-Corruption Roundtable series that has held discussions in New York, Kigali, Madrid, Dubai, and Rio de Janeiro (with Singapore to follow in August), to explore how corruption in the arbitral process can be identified and addressed.

Similarly, the topic was recently addressed at an event held in conjunction with London International Disputes Week 2026, which also explored how tribunals should address fraud issues. Accordingly, the global arbitration community is paying attention and responding, whether fraud in the arbitral process is actually happening more frequently or not.

Is Fraud Actually an Increasing Problem in Arbitration, and if so, Why?

The incidences of fraud described above, and the arbitration community's response to them, beg a few obvious questions—namely, is fraud in the arbitral process really occurring with increased frequency, or is fraud simply being uncovered more and reported on more widely?

Is fraud in the arbitral process really becoming more prevalent, or have the number of arbitrations around the world simply increased so much that incidences of fraud now seem more common? What role does the rise of arbitration in jurisdictions that score poorly on scales like Transparency International's Corruption Perception Index play?

Hard statistics on the number of awards vacated around the world for fraud are difficult to come by, and even if such statistics readily existed, they would undoubtedly be subject to a number of possible criticisms. A few points from available facts seem indisputable though.

First, material fraud in the arbitral process—at least in the commercial arbitration context—remains relatively rare. Indeed, the examples that this article points to are only noteworthy because they are so uncommon, and if fraud in the commercial arbitration context was truly becoming a pervasive problem, companies would stop voluntarily choosing the process, instead of continuing to prefer it.

Second, fraud in the arbitral process is certainly not a new concern, because Section 10(a)(1) of the Federal Arbitration Act of 1925—which is itself based on the 1920 New York Arbitration Act—has expressly listed fraud as a basis for vacating awards for its entire existence. In fact, it is axiomatic that as long as arbitration has existed—and it has in some form or another for at least as long as merchants have been trading—fraud has too, so it is not a new challenge.

Third, the ever-increasing availability of information, particularly as courts around the world digitize their records, certainly plays some role in incidences of fraud not only being uncovered, but being reported more widely (particularly by specialized services that focus exclusively on the global arbitration community). Stated differently, increased transparency, combined with improved reporting by specialized arbitration sources, has almost assuredly played some role in incidences of fraud in the arbitral process being disseminated more broadly than has previously occurred.

Fourth, as the number arbitrations increase around the globe annually—and the aggregated global institutional data shows a trend line that continues to march inexorably upwards—it is probable that the absolute instances of fraud in the arbitral process will increase too, even if the proportionate numbers in relation to the total case numbers globally remains extremely low.

Fifth, the notion that increasing use of arbitration in jurisdictions that have higher perceived corruption levels is injecting more fraud into the arbitral process—while perhaps tempting—nevertheless appears to be misguided. Indeed, several of the examples used in this article come from the U.S., and while the U.S.' ranking in the CPI Index is not particularly impressive (tied at 29th with the Bahamas, behind countries in Africa, East Asia, the Middle East, the Caribbean, and Latin America), if a country suffers from endemic corruption, its courts likely would too, which would likely impact the incidence of fraud in an arbitration being uncovered and condemned at the enforcement stage.

Consequently, fraud in the arbitral process is not a new concern, and is probably not occurring more frequently either. Instead, it is much more likely that fraud is simply uncovered and reported now more than might have been in the past, and with substantially greater reach and effect than could previously occur.

Conclusion

Fraud and corruption are problems as old as humanity, and while they may be uncovered and reported on in the arbitral process more readily now than in the past, that does not mean that either is becoming more commonplace. Indeed, the present focus on the issue strongly suggests that fraud will not become an endemic problem in the arbitration community, and that instances of fraud will remain noteworthy because they will remain so rare.

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