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Comparative Analysis of the Scope of Res Arbitrata in the National Legal Systems of Iran, France, England, and the United States

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Abstract

The doctrine commonly described as **res arbitrata** serves two complementary purposes: (i) the negative (**preclusive**) effect preventing relitigation of matters already decided; and (ii) the positive (**conclusive**) effect rendering the prior decision binding. The doctrine of **res arbitrata** addresses the preclusive effect of a prior arbitral award when parties later appear before subsequent judicial or arbitral tribunals. In essence, **res arbitrata** prevents relitigation of matters that have been finally determined, and it operates through two distinct, but related, mechanisms: claim preclusion (bar against re-bringing the same claim) and issue preclusion (bar against relitigating factual or legal issues that were already decided). National legal systems vary markedly in the conceptual scope and practical application of these mechanisms to arbitral awards. Some jurisdictions adopt a narrow, formalistic approach that limits preclusion to the literal terms of the award, while others embrace a broader doctrine that extends to issues and matters that could or should have been raised in the prior proceeding. This paper compares how Iran, France, England, and the United States define and apply **res arbitrata** to both domestic and international arbitration, and it evaluates the legal consequences of divergent approaches for cross-border dispute resolution.

The study pursues three interrelated objectives: (1) to explicate the doctrinal content, policy justifications, and scope of **res arbitrata**; (2) to compare how four representative legal systems frame the scope and limits of preclusion in relation to arbitral awards; and (3) to assess the practical and doctrinal ambiguities in Iranian law and suggest paths for legislative and judicial clarification. The central research questions are: What are the defining elements required for preclusion to arise in each system? How do systems differ in treating the preclusive effect of domestic versus international awards? And to what extent do these differences create uncertainty for parties and counsel engaged in transnational arbitration?

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	The research adopts a doctrinal, descriptive-analytical^{**,**} and comparative method. Primary legal texts (statutes and codes), case law reported in each jurisdiction, and authoritative secondary literature (books, doctrinal articles^{**,**} and comparative reports) were collected and reviewed. The study synthesizes these materials to identify doctrinal patterns, statutory divergences, and prevailing judicial approaches. Special attention is given to comparative reports and influential treatises that map the spectrum of approaches to res judicata and estoppel in arbitration contexts. Iranian law lacks a single, specific statutory regime devoted exclusively to res arbitrata for arbitral awards. Domestic arbitration is governed by civil procedure rules and the ordinary doctrine of res judicata (e.g., provisions in the Code of Civil Procedure), whereas international commercial arbitration is governed by the International Commercial Arbitration Act (modeled after UNCITRAL), which recognizes the finality of awards but does not comprehensively define their preclusive scope. In practice, Iranian courts have tended toward a narrow approach: preclusion is mainly attached to the operative part (the dispositive clause) of an award, and courts are reluctant to extend preclusion to reasoning or subsidiary issues unless statutory or doctrinal bases exist. Judicial practice and scholarly opinion indicate uncertainty as to whether and when expanded forms of preclusion (such as abuse-of-process doctrines) should apply. The result is a partly fragmented position that invites legislative clarification and a more consistent judicial doctrine. French law codifies the binding nature of judgments and extends preclusion to arbitral awards in its Civil Procedure Code. France adopts a mixed but comparatively more flexible approach than some civil law systems: while formal preclusion is clearly attached to the dispositive part of judgments, French courts and doctrine have evolved doctrines, such as the concentration of claims principle, that press parties to present all related claims together. In practice, French jurisprudence sometimes recognizes preclusion with respect to matters that were necessarily decided for the award to issue. Nevertheless, the Cour de Cassation has been cautious in equating the reasoning (motive) of awards with the dispositive clause for automatic preclusion, producing a nuanced and case-sensitive approach. English common law applies well-established preclusion doctrines (merger, estoppel, and the broader doctrine of abuse of process) equally to arbitral awards (once recognized or confirmed). England's approach is broad and pragmatic: both claim and issue preclusion (often characterized as cause-of-action estoppel and issue estoppel) are available, and English courts have endorsed doctrines such as <i>Henderson v Henderson</i> that prevent relitigation of matters that could and should have been raised previously. The English practice thereby supports an expansive preclusion regime, although it retains judicial discretion and recognizes equitable exceptions (e.g., new evidence, change of law, or manifest injustice). U.S. law displays substantial internal diversity across federal and state

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	courts, but federal practice guided by doctrines of collateral estoppel and claim preclusion and by the Restatement (Second) of Judgments often endorses a broad transactional view of preclusion. A confirmed arbitral award, upon judicial confirmation, typically acquires the full preclusive effects of a court judgment. U.S. courts also emphasize transactional unity (i.e., the “transactional” or “transactional-based” test) in defining a single claim, and they may extend preclusion to matters that were or could have been litigated. However, the federal system’s heterogeneity and the judge-made character of many rules create uneven application and exceptions, particularly where public policy or statutory rights (non-arbitrable claims) are at stake. Two principal axes of divergence emerge from the comparative analysis: (1) the formalist-functionalist divide (civil-law narrowness versus common-law breadth), and (2) the domestic–international distinction (some jurisdictions apply the same rules to domestic and international awards; others treat international awards with greater judicial flexibility). These differences produce practical uncertainty for parties engaged in cross-border arbitration: counsel cannot reliably predict whether issues omitted in a first arbitration will be precluded in follow-on proceedings abroad. For Iran, the comparative evidence suggests that adopting clearer statutory rules or judicial guidelines^{**},^{***} possibly distinguishing between domestic and international awards and setting out precise preclusive elements (identity of parties, finality, identity of subject matter, and opportunity to be heard), would reduce uncertainty, enhance the finality of arbitration, and prevent abuse of process. Res arbitrata is widely recognized as an essential instrument for achieving finality in dispute resolution, but its doctrinal contours vary significantly across legal families. Common-law systems generally favor a broader, policy-driven preclusion regime that emphasizes efficiency and abuse prevention; many civil-law jurisdictions remain more confined to formal dispositive effects. For countries like Iran that currently rely on a mixed or under-specified approach, targeted legislative reform and doctrinal harmonization—together with jurisprudential development sensitive to arbitration’s distinctiveness^{**}—^{***}will help align domestic practice with international expectations and reduce the risks of duplicative litigation. Ultimately, a calibrated approach that preserves arbitration’s finality while safeguarding due process and statutory rights best serves both domestic legal coherence and the needs of cross-border commerce.
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