

Comparative Analysis of International Commercial Arbitration Laws in Iran and the UNCITRAL Model Law

Behzad Mobaraki^{1*} 

¹ M.A. in Private Law, Private Law Department, Faculty of Law and Political Sciences, Science and Research Branch, Islamic Azad University, Tehran, Iran

* Corresponding author email address: b.mobaraki12@gmail.com

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This article provides a comprehensive comparative analysis of Iranian arbitration laws and the UNCITRAL Model Law on International Commercial Arbitration, highlighting their similarities, differences, and implications. Arbitration has become a crucial mechanism for resolving cross-border commercial disputes, necessitating alignment with international standards to ensure efficiency, predictability, and fairness. Iran's arbitration framework, influenced by both Islamic jurisprudence and civil law traditions, demonstrates notable efforts to modernize through the adoption of the Iranian Arbitration Act. However, divergences remain in key areas, including jurisdictional limitations, the role of the judiciary, and the application of public policy exceptions. The study explores the historical evolution of arbitration laws in Iran, emphasizing their roots in Islamic and customary practices, and examines the provisions of the Iranian Arbitration Act in relation to the UNCITRAL Model Law. It identifies areas of convergence, such as the recognition of party autonomy and the enforcement of arbitral awards, while also addressing the distinct challenges posed by cultural, legal, and political factors unique to Iran. These differences create practical and theoretical obstacles to harmonization, impacting Iran's attractiveness as an arbitration venue and its integration into the global arbitration community. The article further assesses the implications of these divergences for international trade and investment, highlighting the legal uncertainties faced by foreign investors and their effect on Iran's global economic participation. It concludes with recommendations for reform, advocating legislative and institutional changes, enhanced judicial training, and strategies to address cultural and legal challenges. By aligning its arbitration framework with international standards while respecting its unique legal identity, Iran has the opportunity to strengthen its position in the global arbitration network and foster greater international confidence in its dispute resolution practices. This study offers insights for policymakers, legal practitioners, and scholars seeking to navigate the complexities of arbitration in Iran.

Keywords: *International Commercial Arbitration, UNCITRAL Model Law, Iranian Arbitration Laws, Legal Harmonization.*

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1. Introduction

International commercial arbitration has emerged as a cornerstone of dispute resolution in global commerce, offering a flexible, neutral, and efficient mechanism for resolving disputes between parties from different jurisdictions. The globalization of trade and investment has significantly increased the need for a harmonized framework that ensures predictability and fairness in arbitration. Arbitration's appeal lies in its ability to bypass the complexities and biases often associated with litigation in national courts, particularly in cross-border disputes. As a private, consensual process, it enables parties to tailor procedures to suit their specific needs while ensuring enforceability of decisions through conventions like the New York Convention (Basirat & Haqmal, 2023).

A key feature of international commercial arbitration is the effort to unify its principles across diverse legal systems. This harmonization is vital for fostering trust among parties and promoting a stable environment for international trade. The UNCITRAL Model Law on International Commercial Arbitration, developed by the United Nations Commission on International Trade Law, serves as a blueprint for aligning national arbitration laws with international best practices. Its provisions address critical aspects such as party autonomy, limited judicial intervention, and enforceability of arbitral awards. The Model Law's adoption by numerous jurisdictions demonstrates its success in bridging legal differences and promoting consistency (Meshel, 2021). Despite its significance, the adoption of the UNCITRAL Model Law is not uniform. Jurisdictions often adapt the law to suit their domestic legal traditions, creating variances that may complicate arbitration proceedings. Iran provides an intriguing case study in this regard. The country has a rich history of arbitration rooted in its civil law traditions and Islamic jurisprudence, yet its legal framework for arbitration has not fully aligned with the UNCITRAL Model Law. While Iran has enacted the Law on International Commercial Arbitration, inspired by the Model Law, significant divergences remain, particularly in areas influenced by Islamic law and national sovereignty (Ali Panah & Golpayegani, 2019).

The harmonization of Iranian arbitration laws with the UNCITRAL Model Law is a pressing issue for several reasons. First, alignment with international standards

could enhance Iran's attractiveness as a venue for arbitration, boosting foreign investment and trade. Second, it would address legal uncertainties that foreign parties often face when engaging in commercial transactions involving Iranian entities. Third, harmonization could improve the enforceability of Iranian arbitral awards in foreign jurisdictions, reducing the risk of non-compliance by counterparties (Atai, 2011). These factors underscore the importance of examining the compatibility of Iranian arbitration laws with the UNCITRAL Model Law.

This study contributes to this discourse by offering a comparative analysis of the Iranian arbitration framework and the UNCITRAL Model Law. It identifies areas of convergence and divergence, highlighting their implications for international commercial arbitration. Additionally, the study delves into the challenges posed by cultural and legal differences, particularly the interplay between Islamic principles and international arbitration norms. Through this analysis, it aims to provide recommendations for aligning Iranian laws with global standards while respecting the country's legal and cultural context (Sheikh Mohammadi et al., 2023).

The research is guided by specific objectives that focus on understanding the nuances of both legal systems. It seeks to assess the extent to which the Iranian arbitration framework adheres to the principles of the UNCITRAL Model Law, identify gaps that may hinder its international recognition, and explore strategies for bridging these gaps. While the primary focus is on legislative and procedural aspects, the study also considers the practical challenges faced by arbitrators and parties in Iran. This comprehensive approach ensures that the findings are both academically robust and practically relevant, contributing to the broader discourse on legal harmonization in international arbitration.

By addressing these issues, this research not only sheds light on the Iranian legal framework but also contributes to the global effort to harmonize arbitration laws. In doing so, it highlights the critical role of cultural and legal adaptability in achieving a truly universal arbitration system.

2. Methodology

The study employs a descriptive analysis method to examine and compare the provisions of Iranian

arbitration laws and the UNCITRAL Model Law on International Commercial Arbitration. This approach is particularly suited for legal research that seeks to identify, describe, and evaluate differences and similarities between distinct legal frameworks. The descriptive analysis emphasizes qualitative examination, allowing for a detailed exploration of legislative texts, judicial interpretations, and the practical implications of both legal systems.

The primary materials for this study consist of legal documents, including the text of the UNCITRAL Model Law and Iranian arbitration laws, such as the Iranian Civil Procedure Code and the Law on International Commercial Arbitration. These texts are analyzed alongside relevant commentaries, scholarly articles, and reports to provide a comprehensive understanding of the provisions and their practical application. Secondary sources include comparative legal studies, case law from international arbitration forums, and official reports from UNCITRAL and other arbitration-related bodies. This combination of primary and secondary sources ensures a well-rounded analysis, integrating theoretical and practical perspectives.

The study adopts a comparative framework to analyze the alignment and divergence between the Iranian arbitration laws and the UNCITRAL Model Law. The comparison is organized around key themes such as the definition and scope of arbitration agreements, the role of arbitral tribunals, the extent of judicial intervention, and the enforcement of arbitral awards. Each theme is explored in detail, with particular attention given to how differences in legal language, cultural context, and procedural requirements impact the overall efficacy and compatibility of the two legal systems.

To contextualize the comparative analysis, the study delves into the legislative history and judicial interpretations of both frameworks. This includes a review of the historical development of arbitration laws in Iran and an exploration of the motivations behind the drafting of the UNCITRAL Model Law. The research also considers how courts in Iran and other jurisdictions applying the Model Law have interpreted key provisions, highlighting the practical implications of legislative choices.

A critical aspect of the methodology involves assessing the influence of cultural and legal specificities, particularly the role of Islamic law in shaping Iranian

arbitration laws. The study examines how principles of Sharia intersect with international arbitration norms and the extent to which these intersections create friction or harmony with the UNCITRAL Model Law. By addressing these cultural dimensions, the research provides a nuanced understanding of the barriers and opportunities for harmonization.

3. Overview of the UNCITRAL Model Law on International Commercial Arbitration

The UNCITRAL Model Law on International Commercial Arbitration, adopted in 1985 and amended in 2006, represents a landmark effort to harmonize international arbitration practices. Its historical context is rooted in the increasing globalization of trade and the corresponding rise in cross-border disputes. Before the Model Law's creation, the diversity in national arbitration laws often created significant challenges for parties seeking effective resolution of disputes. Variations in procedural rules, judicial intervention, and enforcement mechanisms led to inconsistencies, unpredictability, and inefficiencies. UNCITRAL's objective was to address these issues by providing a standardized legal framework that countries could adopt or adapt to facilitate international arbitration while respecting their domestic legal traditions (Nabi, 2006). The primary aim of the Model Law is to promote uniformity and predictability in arbitration processes, thereby encouraging international trade and investment. It serves as a template that reflects international best practices, balancing the interests of disputing parties while ensuring procedural fairness. The Model Law prioritizes the principle of party autonomy, recognizing the right of parties to determine the procedural rules governing their arbitration. Additionally, it seeks to minimize judicial intervention, ensuring that national courts play a supportive rather than intrusive role in arbitration. These objectives align with broader trends in international dispute resolution, where the focus has shifted toward creating mechanisms that are efficient, impartial, and globally enforceable (Ferrari et al., 2021). The Model Law's key provisions and principles are designed to create a comprehensive and adaptable framework for arbitration. At its core is the recognition and enforcement of arbitration agreements, underscoring the importance of party autonomy. The law stipulates that arbitration agreements must be in

writing, reflecting a commitment to clarity and precision in contractual relationships. It also addresses the issue of arbitrability, specifying that disputes involving commercial matters can be resolved through arbitration, subject to certain exceptions such as matters of public policy. Another significant feature is the law's emphasis on the independence and impartiality of arbitrators. Arbitrators are required to disclose any circumstances that may give rise to doubts about their neutrality, thereby ensuring the integrity of the arbitral process (Chung & Ha, 2016).

The Model Law also outlines procedural aspects, offering a flexible structure that parties can tailor to their needs. It allows parties to agree on the rules of procedure, the seat of arbitration, and the language of the proceedings. In the absence of such agreements, the law provides default rules to ensure continuity. The principles of equal treatment and fairness are central to these provisions, requiring that parties be given a full opportunity to present their case. Additionally, the Model Law incorporates mechanisms for interim measures, enabling arbitrators to issue orders for preserving evidence or securing assets pending the final award. These measures are crucial for maintaining the effectiveness of arbitration in complex, high-stakes disputes (Rezaei, 2018).

The enforcement of arbitral awards is another cornerstone of the Model Law, closely aligned with the principles of the New York Convention. It mandates the recognition and enforcement of awards unless specific exceptions apply, such as violations of public policy or procedural irregularities. This provision ensures that arbitration remains a reliable and final means of dispute resolution. The 2006 amendments to the Model Law introduced provisions for enforcing interim measures and electronic arbitration agreements, reflecting the evolving needs of modern commerce. These amendments highlight the law's adaptability and its capacity to address emerging challenges in international arbitration (Fatayri, 2024).

The adoption and adaptation of the UNCITRAL Model Law by various countries underscore its global significance. Over 80 jurisdictions have incorporated the law, either wholly or with modifications, demonstrating its universal appeal. Countries like Singapore and Hong Kong have adopted the Model Law with minimal alterations, leveraging its provisions to establish

themselves as premier arbitration hubs. In these jurisdictions, the Model Law's principles have been seamlessly integrated with local legislation, creating arbitration-friendly environments that attract international businesses. The emphasis on minimal judicial intervention and robust enforcement mechanisms has been particularly appealing to foreign investors seeking neutral and reliable forums for dispute resolution (Rosli, 2021).

In contrast, other countries have adapted the Model Law to align with their domestic legal traditions. For instance, Germany and India have incorporated elements of the Model Law while retaining certain procedural safeguards specific to their legal systems. This approach reflects the flexibility of the Model Law, which allows countries to address unique legal and cultural considerations without compromising its core principles. However, such adaptations can sometimes lead to inconsistencies, as seen in jurisdictions where deviations from the Model Law have introduced uncertainties for international parties. This underscores the importance of balancing national interests with the need for harmonization in arbitration laws (Basirat & Haqmal, 2023).

Despite its widespread adoption, the Model Law is not without challenges. One of the most contentious issues is the application of public policy as a ground for refusing recognition or enforcement of arbitral awards. Public policy exceptions, while necessary to protect fundamental societal values, are often interpreted differently across jurisdictions, creating potential barriers to enforcement. For example, in certain countries, public policy considerations are heavily influenced by cultural and religious norms, which may conflict with international arbitration principles. This divergence highlights the ongoing tension between harmonization and sovereignty in arbitration laws (Bazrpach, 2021).

The Model Law's success also depends on the capacity of national courts to support arbitration proceedings. In countries where judicial systems are underdeveloped or lack specialized knowledge of arbitration, the implementation of the Model Law may face significant hurdles. Effective training and the establishment of dedicated arbitration courts or tribunals are essential for ensuring that the law functions as intended. Moreover, the legal community's awareness and acceptance of the

Model Law play a crucial role in its successful adoption. Outreach programs and capacity-building initiatives can bridge knowledge gaps and foster greater alignment with international arbitration standards (Choi, 2019).

The historical evolution of the UNCITRAL Model Law and its subsequent adoption by various jurisdictions demonstrate its pivotal role in shaping international arbitration. Its principles of party autonomy, limited judicial intervention, and enforceability have set the benchmark for arbitration laws worldwide. While challenges remain, particularly in the areas of public policy and judicial support, the Model Law continues to be a vital instrument for harmonizing arbitration practices. By providing a flexible yet robust framework, it enables countries to align their domestic laws with global standards, fostering a stable and predictable environment for international trade and investment.

4. Analysis of Iranian Arbitration Laws

The evolution of arbitration laws in Iran is deeply intertwined with the country's historical, cultural, and legal developments. Arbitration has long been a part of the Iranian legal tradition, often utilized as an informal method of dispute resolution within local communities and among merchants. Historically, arbitration in Iran was governed by customary practices and Islamic law, which emphasized amicable settlement of disputes and upheld the principles of justice and fairness. However, the formalization of arbitration as a legal mechanism began in the early 20th century with the introduction of Western legal concepts into Iranian jurisprudence. The establishment of the Iranian Civil Code in 1928 and subsequent legislative developments marked the beginning of a structured approach to arbitration, integrating elements of Islamic jurisprudence with modern legal frameworks (Eskini, 2015).

A significant milestone in the evolution of arbitration in Iran was the enactment of the Civil Procedure Code in 1939, which included provisions on arbitration. This code introduced key procedural aspects of arbitration, such as the appointment of arbitrators, the scope of arbitrable disputes, and the role of the judiciary in arbitration proceedings. These provisions reflected an attempt to harmonize traditional dispute resolution methods with the demands of modern commerce. However, the framework remained limited in scope and applicability, often failing to address the complexities of

international commercial disputes. The need for a more comprehensive and internationally aligned arbitration framework became evident in the latter half of the 20th century as Iran sought to engage more actively in global trade and investment (Mohammadi Nik, 2016).

The Iranian Arbitration Act of 1997, formally known as the Law on International Commercial Arbitration, represents a significant leap toward modernizing and internationalizing Iran's arbitration laws. This act was inspired by the UNCITRAL Model Law and aimed to provide a legal framework that could support the resolution of international commercial disputes involving Iranian parties. The act marked a departure from the traditional, domestically focused arbitration framework by introducing principles and practices aligned with international standards. However, the act also reflects the unique cultural and legal context of Iran, incorporating elements of Islamic law and national sovereignty that distinguish it from the UNCITRAL Model Law (Nabi, 2006).

One of the key provisions of the Iranian Arbitration Act is its recognition of party autonomy, a cornerstone of modern arbitration. The act allows parties to agree on various procedural aspects, including the rules governing their arbitration, the seat of arbitration, and the appointment of arbitrators. This flexibility enhances the appeal of arbitration for international parties, providing them with the ability to tailor the process to their specific needs. However, the act also includes certain mandatory provisions that limit party autonomy in cases where public policy or Islamic law principles are at stake. For example, disputes involving immovable property situated in Iran are not arbitrable under the act, reflecting a preference for judicial oversight in matters of national importance (Sheikh Mohammadi et al., 2023).

The Iranian Arbitration Act also addresses the appointment and role of arbitrators. It provides detailed provisions on the qualifications, independence, and impartiality of arbitrators, ensuring that the process is fair and unbiased. Arbitrators are required to disclose any potential conflicts of interest, and parties have the right to challenge the appointment of an arbitrator on grounds of partiality or lack of independence. These provisions align closely with international arbitration standards, promoting trust and credibility in the arbitral process. Additionally, the act empowers arbitrators to decide on their own jurisdiction, reflecting the principle

of competence-competence, which is widely recognized in international arbitration (Chung & Ha, 2016).

Another notable feature of the Iranian Arbitration Act is its approach to interim measures. The act allows arbitrators to issue interim measures to preserve assets, protect evidence, or maintain the status quo pending the resolution of the dispute. These measures are enforceable through Iranian courts, which play a supportive role in ensuring compliance. However, the act also imposes certain limitations on the scope and enforceability of interim measures, particularly in cases where they conflict with public policy or Islamic principles. This dual emphasis on supporting arbitration and upholding national values reflects the balancing act inherent in the Iranian arbitration framework (Basirat & Haqmal, 2023).

The enforcement of arbitral awards is another critical aspect of the Iranian Arbitration Act. The act adopts an approach similar to the New York Convention, to which Iran is a party, mandating the recognition and enforcement of arbitral awards unless specific exceptions apply. These exceptions include cases where the award is found to be contrary to public policy, obtained through fraud, or in violation of the rules of natural justice. Iranian courts have generally demonstrated a willingness to enforce arbitral awards, particularly in cases involving foreign parties, thereby bolstering the credibility of arbitration as a dispute resolution mechanism. However, challenges remain, particularly in cases where public policy considerations are interpreted broadly, creating uncertainties for parties seeking enforcement (Fatayri, 2024).

Despite its alignment with international standards in many respects, the Iranian Arbitration Act retains several features that reflect the country's unique legal and cultural context. For instance, the act emphasizes the role of Islamic law in shaping arbitration practices, particularly in cases involving Iranian parties. This influence is evident in the limitations on the arbitrability of certain disputes and the requirement that arbitral awards comply with Islamic principles. While these provisions are intended to safeguard national values, they can create challenges for parties unfamiliar with the intricacies of Iranian law. This highlights the importance of cultural and legal adaptability in international arbitration (Razavi et al., 2019).

The application of Iranian arbitration laws in commercial disputes demonstrates their capacity to address both domestic and international cases effectively. In domestic arbitration, the laws provide a structured framework for resolving disputes within the Iranian legal system, emphasizing procedural fairness and judicial oversight. In international arbitration, the focus shifts toward aligning with global standards, reflecting Iran's commitment to participating in the global arbitration community. However, the dual focus on domestic and international contexts can create tensions, particularly in cases where the two frameworks intersect. For example, disputes involving foreign investors often require a delicate balance between upholding national sovereignty and ensuring compliance with international obligations (Fallah, 2024). In conclusion, the evolution of Iranian arbitration laws reflects a dynamic interplay between tradition and modernity. From their roots in customary and Islamic practices to the adoption of the Iranian Arbitration Act, these laws have undergone significant transformation to address the complexities of modern commerce. The act's alignment with international standards, coupled with its unique cultural and legal features, positions Iran as a significant player in the global arbitration landscape. However, challenges remain, particularly in areas such as public policy, judicial intervention, and the integration of Islamic principles with international norms. Addressing these challenges will be crucial for enhancing the effectiveness and credibility of Iran's arbitration framework in the years to come.

5. Comparative Analysis: Iran vs. UNCITRAL Model Law

The Iranian arbitration framework and the UNCITRAL Model Law on International Commercial Arbitration share several foundational principles, reflecting their mutual aim of promoting arbitration as an effective and fair dispute resolution mechanism. At the core of both systems is the principle of party autonomy, which allows disputing parties to determine critical aspects of their arbitration. Both frameworks respect the parties' choice of the arbitral tribunal, procedural rules, and the seat of arbitration, underscoring the importance of flexibility and consent in arbitration. The Iranian Arbitration Act explicitly affirms this principle, granting parties the right to tailor the arbitration process to their needs, provided

it does not conflict with mandatory legal provisions or public policy. Similarly, the UNCITRAL Model Law enshrines party autonomy, providing a default procedural framework that parties can modify through mutual agreement. This shared emphasis on party autonomy demonstrates the alignment of the two systems in fostering arbitration as a party-driven process (Chung & Ha, 2016; Fatayri, 2024).

Another significant similarity lies in the enforcement of arbitration agreements. Both the Iranian framework and the UNCITRAL Model Law emphasize the binding nature of arbitration agreements, requiring courts to respect and enforce these agreements unless specific exceptions apply. In both systems, disputes subject to a valid arbitration agreement are generally excluded from judicial jurisdiction, reinforcing the parties' choice to resolve their disputes through arbitration. This alignment is critical for maintaining the credibility and reliability of arbitration as an alternative to litigation. However, the enforcement of arbitration agreements in Iran sometimes faces practical challenges due to variations in judicial interpretation and the application of public policy exceptions. These challenges underscore the importance of judicial training and consistent application of legal principles to ensure alignment with international norms (Basirat & Haqmal, 2023; Razavi et al., 2019).

The recognition and enforcement of arbitral awards further highlight the congruencies between the Iranian framework and the UNCITRAL Model Law. Both systems adopt standards consistent with the New York Convention, which mandates the recognition of arbitral awards unless specific exceptions apply, such as procedural irregularities or violations of public policy. In Iran, courts are generally supportive of enforcing arbitral awards, particularly in cases involving international parties. This approach aligns with the UNCITRAL Model Law's emphasis on minimizing judicial interference and promoting the finality of arbitral awards. However, the interpretation of public policy exceptions can vary significantly, creating potential uncertainties for parties seeking enforcement. This variability highlights a key area where greater harmonization could enhance the effectiveness and predictability of arbitration in Iran (Fatayri, 2024; Waincymer, 2009).

Despite these similarities, significant differences exist between the Iranian arbitration framework and the

UNCITRAL Model Law, reflecting their distinct legal, cultural, and institutional contexts. One key difference is the scope of jurisdictional limitations. While the UNCITRAL Model Law adopts a broad definition of arbitrable disputes, emphasizing the parties' autonomy to submit commercial disputes to arbitration, the Iranian framework imposes specific limitations on arbitrability. In Iran, disputes involving immovable property, matters of public policy, and certain categories of contracts are excluded from arbitration. These limitations are influenced by Islamic principles and the country's emphasis on safeguarding national interests, creating a narrower scope for arbitration compared to the UNCITRAL Model Law. This divergence underscores the tension between international harmonization and domestic legal traditions, highlighting the need for nuanced approaches to aligning Iranian arbitration laws with global standards (Rezaei, 2018; Sheikh Mohammadi et al., 2023).

The institutional framework for arbitration represents another area of divergence. The UNCITRAL Model Law provides a flexible structure that accommodates both ad hoc and institutional arbitration, allowing parties to choose their preferred mechanism. It also encourages the development of arbitration institutions by setting out guidelines that support the establishment and operation of arbitral tribunals. In contrast, the Iranian framework places greater reliance on the judiciary and state-affiliated institutions for overseeing and supporting arbitration. While Iran has established dedicated arbitration centers, such as the Tehran Regional Arbitration Centre, the role of these institutions remains relatively limited compared to international counterparts. This reliance on judicial oversight can sometimes lead to delays and inefficiencies, particularly in cases where courts intervene extensively in arbitral proceedings. Strengthening the role of arbitration institutions and reducing judicial interference are critical steps for enhancing the efficiency and independence of arbitration in Iran (Choi, 2019; Ferrari et al., 2021).

The role of the judiciary in arbitration further distinguishes the Iranian framework from the UNCITRAL Model Law. While both systems recognize the need for judicial support in arbitration, the extent and nature of this support differ significantly. The UNCITRAL Model Law limits judicial intervention to specific instances,

such as appointing arbitrators, enforcing interim measures, and recognizing arbitral awards. This approach is designed to ensure that arbitration remains a self-contained and independent process, with minimal reliance on national courts. In contrast, the Iranian framework allows for broader judicial intervention, particularly in areas such as the appointment of arbitrators, review of arbitral awards, and interpretation of public policy. While these provisions reflect Iran's commitment to upholding justice and fairness, they can create challenges for international parties seeking a neutral and autonomous arbitration process. Balancing the judiciary's role with the principles of limited intervention and party autonomy is a critical area for reform (Basirat & Haqmal, 2023; Bazrpach, 2021).

The gaps in alignment between the Iranian arbitration framework and the UNCITRAL Model Law highlight areas requiring reform to enhance compatibility and effectiveness. One significant gap is the interpretation and application of public policy exceptions. In Iran, public policy is often influenced by Islamic principles and national sovereignty, leading to a broader and more subjective application of this exception. This variability can undermine the predictability of arbitration outcomes and deter international parties from choosing Iran as an arbitration venue. Developing clearer guidelines and narrowing the scope of public policy exceptions could enhance consistency and align Iranian practices with international norms (Fallah, 2024; Razavi et al., 2019).

Another area requiring reform is the enforcement of interim measures. While the Iranian framework recognizes the authority of arbitrators to issue interim measures, the enforceability of these measures often depends on judicial approval. This requirement can create delays and reduce the effectiveness of arbitration in addressing urgent matters. Strengthening the enforceability of interim measures and reducing the need for judicial intervention could enhance the efficiency and reliability of arbitration in Iran. Additionally, expanding the scope of arbitrable disputes and enhancing the independence of arbitration institutions could further align the Iranian framework with the UNCITRAL Model Law, promoting greater harmonization and international acceptance (Basirat & Haqmal, 2023; Choi, 2019).

In conclusion, the comparative analysis of the Iranian arbitration framework and the UNCITRAL Model Law reveals a complex interplay of similarities and differences. While both systems share foundational principles such as party autonomy and the recognition of arbitral awards, significant divergences exist in areas such as jurisdictional limitations, institutional frameworks, and the role of the judiciary. Addressing these gaps and aligning Iranian arbitration laws with international standards will be critical for enhancing the country's competitiveness as an arbitration venue and fostering greater integration into the global arbitration community. By balancing domestic legal traditions with international best practices, Iran can create a more robust and effective arbitration framework that meets the needs of both domestic and international parties.

6. Challenges in Harmonization

Harmonizing Iranian arbitration laws with international standards presents a range of cultural, legal, and political challenges. A major cultural barrier lies in the differences between the traditional Islamic values embedded in Iranian law and the secular principles that underpin international arbitration frameworks such as the UNCITRAL Model Law. In Iran, arbitration is not merely a procedural mechanism but also a reflection of societal norms and ethical values rooted in Sharia. These cultural differences can create resistance to adopting practices perceived as being incompatible with Islamic principles. For example, concepts such as complete autonomy in decision-making and the enforcement of arbitral awards without judicial scrutiny may conflict with Sharia's emphasis on fairness and morality. These cultural factors underscore the difficulty of achieving full harmonization without compromising Iran's legal identity (Razavi et al., 2019).

Legal barriers are equally significant in the harmonization process. Iranian law incorporates a dual system of jurisprudence, combining elements of Islamic law with civil law traditions. While this duality allows for flexibility in addressing diverse legal issues, it also creates complexities in aligning domestic laws with international standards. For instance, the Iranian Arbitration Act incorporates elements of the UNCITRAL Model Law but imposes additional restrictions based on Islamic principles and public policy considerations. These legal discrepancies create gaps in harmonization

and may discourage foreign parties from choosing Iran as a venue for arbitration. Furthermore, the lack of clarity in the application of public policy exceptions can result in inconsistent judicial decisions, undermining the predictability and reliability of arbitration outcomes (Fatayri, 2024).

Political challenges also play a crucial role in impeding harmonization. Iran's geopolitical position and its strained relations with certain Western countries have influenced its approach to international arbitration. Political considerations often dictate the extent to which international standards are integrated into domestic laws. For example, concerns about national sovereignty and external interference may lead to resistance against adopting provisions perceived as undermining Iran's judicial independence. Additionally, sanctions and economic restrictions have limited Iran's ability to engage in global arbitration forums, further isolating its legal framework from international practices. These political dynamics highlight the need for a balanced approach that respects Iran's sovereignty while promoting harmonization with international standards (Bazrpach, 2021).

Practical obstacles also hinder the effective implementation of international arbitration standards in Iran. One significant issue is the limited awareness and understanding of international arbitration principles among legal practitioners and judiciary members. While efforts have been made to provide training and capacity-building programs, the lack of specialized arbitration expertise remains a challenge. This gap can lead to inconsistent application of arbitration laws and procedural delays, reducing the efficiency and credibility of the arbitration process. Additionally, the limited development of arbitration institutions in Iran, combined with their reliance on judicial oversight, can create logistical and procedural bottlenecks. Addressing these practical challenges is essential for ensuring the effective implementation of harmonized arbitration standards (Sheikh Mohammadi et al., 2023).

7. Implications of Divergences

The divergences between Iranian arbitration laws and international standards have significant implications for international trade and investment. One major consequence is the perception of legal uncertainty among foreign investors. Arbitration is often a preferred

method of dispute resolution in international commerce due to its neutrality, efficiency, and enforceability. However, the unique features of Iranian arbitration laws, such as limitations on arbitrable disputes and the broad application of public policy exceptions, can create ambiguities for foreign parties. These uncertainties may deter investors from entering into contracts with Iranian entities or choosing Iran as a venue for arbitration, ultimately limiting the country's attractiveness as a hub for international trade and investment (Fallah, 2024).

Legal uncertainty also affects the enforceability of arbitral awards involving Iranian parties. While Iran is a signatory to the New York Convention, the enforcement of foreign arbitral awards is subject to review by Iranian courts, which may refuse enforcement on grounds of public policy or inconsistency with Islamic principles. This potential for judicial interference undermines the predictability of arbitration outcomes and increases the risk of non-compliance. For foreign investors, this adds a layer of complexity and risk to doing business in Iran, further discouraging engagement with the country's market (Basirat & Haqmal, 2023).

The divergences also impact Iran's position in global arbitration forums. While Iran has made efforts to modernize its arbitration framework and participate in international forums, the inconsistencies between its domestic laws and international standards limit its integration into the global arbitration community. For instance, the Tehran Regional Arbitration Centre has the potential to serve as a prominent regional hub for arbitration, but its development is constrained by the broader legal and institutional challenges facing arbitration in Iran. Enhancing alignment with international standards is critical for positioning Iran as a competitive player in global arbitration and fostering greater participation in international trade and investment networks (Choi, 2019).

These divergences also have broader implications for the global arbitration community. Iran's unique approach to arbitration contributes to the diversity of legal systems and practices in international arbitration. However, this diversity can create challenges for harmonization efforts, particularly when conflicting principles or interpretations arise. Addressing these divergences requires a nuanced approach that balances respect for Iran's legal traditions with the need for greater alignment with international norms. This will be

essential for ensuring the continued growth and inclusivity of the global arbitration community (Razavi et al., 2019).

8. Recommendations for Alignment

Aligning Iranian arbitration laws with international standards requires a comprehensive approach that addresses both legislative and institutional reforms. Legislative reforms should focus on enhancing the clarity and consistency of arbitration laws, particularly in areas such as arbitrability, public policy exceptions, and the enforcement of interim measures. Revising the Iranian Arbitration Act to expand the scope of arbitrable disputes and limit judicial intervention would bring it closer to the UNCITRAL Model Law. Clearer guidelines on the application of public policy exceptions, rooted in objective criteria, would reduce uncertainties and enhance the predictability of arbitration outcomes. These reforms should be complemented by efforts to incorporate international best practices while respecting Iran's unique legal and cultural context (Ferrari et al., 2021).

Addressing cultural and legal challenges requires strategies that promote dialogue and understanding between domestic and international stakeholders. This includes fostering greater awareness of international arbitration principles among legal practitioners, judiciary members, and policymakers. Training programs, workshops, and collaborative initiatives with international arbitration institutions can help bridge knowledge gaps and build capacity within the Iranian legal community. Additionally, engaging with religious and cultural leaders to explore the compatibility of Islamic principles with international arbitration norms can help address concerns and build support for harmonization efforts. These strategies emphasize the importance of inclusivity and cultural sensitivity in achieving meaningful reforms (Fatayri, 2024).

Practical steps to improve the recognition of Iranian arbitration practices include strengthening the institutional framework for arbitration. Developing and promoting arbitration centers, such as the Tehran Regional Arbitration Centre, as independent and internationally recognized institutions would enhance Iran's credibility as a venue for arbitration. These centers should be equipped with the resources and expertise needed to handle complex international disputes

effectively. Additionally, reducing reliance on judicial oversight and enhancing the independence of arbitration institutions would improve procedural efficiency and reduce delays. Establishing specialized arbitration courts or panels within the judiciary, staffed with experts in international arbitration, could also facilitate more consistent and informed decision-making (Choi, 2019). Engaging with the global arbitration community is another critical step for enhancing the alignment and recognition of Iranian arbitration practices. Participating in international forums, contributing to discussions on harmonization efforts, and collaborating with global arbitration institutions can help integrate Iran into the international arbitration network. These efforts should be supported by policy initiatives that promote transparency, predictability, and fairness in arbitration, thereby building trust among international parties. By implementing these recommendations, Iran can strengthen its arbitration framework, enhance its competitiveness as an arbitration venue, and foster greater integration into the global arbitration community (Sheikh Mohammadi et al., 2023).

9. Conclusion

The comparative analysis of Iranian arbitration laws and the UNCITRAL Model Law on International Commercial Arbitration reveals a multifaceted landscape shaped by historical, cultural, legal, and political factors. While the Iranian framework has made notable strides in aligning with international arbitration standards, significant divergences remain, posing challenges for harmonization and integration into the global arbitration community.

Iranian arbitration laws reflect a rich blend of Islamic jurisprudence and modern legal principles, offering a unique perspective on dispute resolution. The Iranian Arbitration Act, influenced by the UNCITRAL Model Law, demonstrates Iran's efforts to modernize its legal framework and address the complexities of international commercial disputes. However, the coexistence of traditional values and international norms creates inherent tensions, particularly in areas such as public policy exceptions, arbitrability, and judicial intervention. These tensions underscore the need for a balanced approach that respects Iran's legal identity while addressing the demands of global commerce.

The principle of party autonomy, shared by both the Iranian framework and the UNCITRAL Model Law, represents a cornerstone of arbitration. This principle empowers parties to tailor their arbitration process, ensuring flexibility and mutual agreement. However, in Iran, party autonomy is subject to certain restrictions, especially when public policy or Islamic principles are at stake. These limitations highlight the importance of clarifying the scope of arbitrable disputes and creating transparent guidelines to balance party autonomy with national and cultural considerations.

The enforcement of arbitration agreements and arbitral awards is another area of convergence between Iranian laws and international standards. Both frameworks emphasize the binding nature of arbitration agreements and the finality of arbitral awards. However, practical challenges, such as inconsistent judicial interpretations and broad applications of public policy exceptions, create uncertainties for parties engaging in arbitration in Iran. Addressing these issues is crucial for enhancing the credibility and reliability of arbitration as a dispute resolution mechanism.

Despite these areas of alignment, significant differences remain between Iranian arbitration laws and the UNCITRAL Model Law. Jurisdictional limitations, the role of the judiciary, and the institutional framework for arbitration highlight key areas of divergence. These differences reflect Iran's unique legal and cultural context but also create barriers to harmonization with international standards. Judicial intervention, in particular, poses challenges for ensuring the independence and efficiency of arbitration. While judicial support is essential for enforcing arbitration agreements and awards, excessive intervention can undermine the autonomy of the arbitration process and discourage international parties from choosing Iran as a venue for arbitration.

The challenges to harmonization are not solely legal but also cultural and political. Iran's rich tradition of Islamic jurisprudence shapes its legal framework, creating a distinct approach to arbitration. While this cultural uniqueness is valuable, it can also create resistance to adopting international practices perceived as incompatible with Islamic principles. Additionally, political factors, such as geopolitical tensions and concerns over national sovereignty, influence Iran's approach to international arbitration. These factors

underscore the complexity of achieving harmonization in a way that respects Iran's cultural and political realities.

The implications of these divergences are far-reaching, affecting Iran's position in international trade and investment. Legal uncertainty and the perceived risks associated with arbitration in Iran may deter foreign investors and limit the country's integration into global trade networks. Additionally, the inconsistencies between Iranian arbitration laws and international standards can hinder Iran's ability to participate fully in global arbitration forums and attract complex, high-stakes disputes. Addressing these challenges is essential for enhancing Iran's competitiveness as an arbitration venue and fostering greater international trust in its legal framework.

To bridge the gaps between Iranian arbitration laws and the UNCITRAL Model Law, a comprehensive approach to reform is necessary. Legislative reforms should focus on enhancing the clarity and consistency of arbitration laws, expanding the scope of arbitrable disputes, and limiting judicial intervention. Clear guidelines on the application of public policy exceptions can reduce uncertainties and align Iranian practices with international norms. Additionally, strengthening the institutional framework for arbitration, including the development of independent arbitration centers, is critical for improving procedural efficiency and credibility.

Cultural and legal challenges can be addressed through dialogue and collaboration between domestic and international stakeholders. Training programs, workshops, and capacity-building initiatives can enhance the expertise of legal practitioners and judiciary members, promoting a better understanding of international arbitration principles. Engaging with religious and cultural leaders to explore the compatibility of Islamic principles with international norms can also foster greater acceptance and support for harmonization efforts.

Ultimately, aligning Iranian arbitration laws with international standards requires a nuanced approach that balances respect for Iran's legal traditions with the demands of global commerce. By addressing legislative, institutional, and cultural challenges, Iran can create a robust and effective arbitration framework that meets the needs of both domestic and international parties. This alignment will not only enhance Iran's

competitiveness as an arbitration venue but also strengthen its integration into the global arbitration community, contributing to the growth and inclusivity of international dispute resolution practices.

The journey toward harmonization is complex but achievable. By embracing reforms that respect its unique legal and cultural identity while aligning with international norms, Iran can position itself as a key player in global arbitration. This will require commitment, collaboration, and a forward-looking approach, ensuring that Iranian arbitration laws remain relevant and effective in an increasingly interconnected world. The benefits of such efforts are substantial, promising greater legal certainty, increased foreign investment, and a stronger role for Iran in shaping the future of international 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.

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Declaration of Interest

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Ethical Considerations

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

References

- Ali Panah, A., & Golpayegani, N. (2019). Equal Treatment of Creditors in Liquidation of Commercial Companies in Iranian and English Law. *Judicial Legal Perspectives*(86), 211-238.
- Atai, A. (2011). Arbitration of Investment Disputes Under Iranian Investment Treaties. *Journal of Money Laundering Control*, 14(2), 130-157. <https://doi.org/10.1108/13685201111127795>
- Basirat, A. N., & Haqmal, M. A. (2023). Public Policy as a Ground for Refusing Recognition and Enforcement of Foreign Arbitral Awards: New York Convention, UNCITRAL Model Law and Afghanistan Arbitration Law Perspectives. *American Journal of Law and Political Science*, 2(3), 17-23. <https://doi.org/10.58425/ajlps.v2i3.185>
- Bazrpach, H. (2021). Comparative Analysis of Bankruptcy Proceedings in Iranian and English Commercial Law. *Advertising and Sales Management Journal*, 2(7), 187-200.
- Choi, D. (2019). Joinder in International Commercial Arbitration. *Arbitration International*, 35(1), 29-55. <https://doi.org/10.1093/arbint/aiz001>
- Chung, Y.-M., & Ha, H. Y. (2016). Arbitrator Acceptability in International Commercial Arbitration. *International Journal of Conflict Management*, 27(3), 379-397. <https://doi.org/10.1108/ijcma-07-2015-0046>
- Eskini, R. (2015). *Comparative Commercial Law: Promissory Notes, Bills, and Checks in Iranian, French, and English Law*. Majd.
- Fallah, E. M. (2024). Jurisdictions of International Commercial Arbitration in Afghanistan and UNCITRAL Laws. *International Journal Of Humanities Education And Social Sciences (IJHESS)*, 3(4). <https://doi.org/10.55227/ijhess.v3i4.868>
- Fatayri, L. A. (2024). The Possibility of Addressing Mandatory Rules and Its Adjustments in the Framework of International Commercial Arbitration. *Essays of Faculty of Law University of Pécs*(1). <https://doi.org/10.15170/studia.2024.01.02>
- Ferrari, F., Rosenfeld, F., & Fellas, J. (2021). Introduction to International Commercial Arbitration. <https://doi.org/10.4337/9781800882799.00004>
- Meshel, T. (2021). Procedural Cross-Fertilization in International Commercial and Investment Arbitration: A Functional Approach. *Journal of International Dispute Settlement*, 12(4), 585-616. <https://doi.org/10.1093/jnlids/idab024>
- Mohammadi Nik, M. (2016). *Mergers of Commercial Companies in Iranian and English Law*. Mizan.
- Nabi, R. (2006). Promoting International Relations Through Commercial Arbitration Law: The International Context and the New Framework for International Arbitration in Bangladesh. *Jadavpur Journal of International Relations*, 10(1), 147-176. <https://doi.org/10.1177/0973598406110010>
- Razavi, S. A., Razavi, S. M., & Pasban, M. R. (2019). Legal Nature of Mergers in Commercial Companies: Comparative Study in Imamiyyah Jurisprudence, Iranian and Egyptian Law. *Civil Law Teachings*, 11(19), 3-23.
- Rezaei, A. (2018). Analysis of UNCITRAL Transparency Rules in Investment Arbitrations. *International Legal Journal*, 58(35), 261.
- Rosli, I. C. (2021). International Commercial Arbitration in Malaysia. *Pertanika Journal of Social Sciences and Humanities*, 29(S2). <https://doi.org/10.47836/pjssh.29.s2.10>
- Sheikh Mohammadi, M., Mohi, M., & Taqizadeh, E. (2023). Extension of the Arbitration Condition to Third Parties in Iranian Law and International Commercial Arbitration. *International Legal Research Quarterly*, 16(60), 11.
- Waincymer, J. M. (2009). International Commercial Arbitration and the Application of Mandatory Rules of Law. *Asian*

International Arbitration Journal, 5(Issue 1), 1-45.
<https://doi.org/10.54648/aiaj2009001>