

Comparative Analysis of the Role of Public Policy in the Nullity and Annulment of Arbitral Awards under Iranian and Turkish Law

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Arbitration is increasingly used as an alternative mechanism for resolving civil and commercial disputes in Iran and Turkey because of its flexibility, confidentiality, speed, and reliance on party autonomy. Nevertheless, arbitral autonomy is not absolute. Arbitral awards must remain compatible with the fundamental legal values of the state, including mandatory rules, public policy, good morals, arbitrability requirements, and basic procedural guarantees. This article comparatively examines the role of public policy in the nullity and annulment of arbitral awards under Iranian and Turkish law. It adopts a doctrinal and comparative method to analyse the legal foundations, scope, and consequences of judicial intervention where an award conflicts with public policy. The study finds that Iranian law regulates the invalidity of domestic arbitral awards principally through Article 489 of the Civil Procedure Code, particularly the ground concerning awards contrary to laws creating rights. Although this concept can protect mandatory norms and fundamental legal interests, its broad and uncertain scope may permit excessive judicial review of the merits. Iranian international commercial arbitration provides a more explicit basis for considering public policy and good morals. Turkish arbitration law, by contrast, expressly recognises public policy as a ground for annulment and more clearly separates it from other grounds, such as invalidity of the arbitration agreement, non-arbitrability, excess of authority, and procedural defects. The article argues that public policy should be interpreted restrictively in both legal systems. Judicial intervention is justified where an award involves manifest illegality, corruption, fraud, serious denial of due process, non-arbitrable subject matter, or a clear conflict with fundamental mandatory rules. However, public policy should not permit courts to reconsider evidence, reinterpret contracts, reassess damages, or correct ordinary legal errors. The study concludes that clearer legal distinctions and a consistent high threshold for public-policy review would strengthen arbitral finality while preserving judicial protection of fundamental legal values.

Keywords: Arbitration; Arbitral Awards; Public Policy; Annulment of Arbitral Awards; Nullity of Arbitral Awards; Iranian Law; Turkish Law; Judicial Review

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1. Introduction

Arbitration has become an important mechanism for resolving civil and commercial disputes because it offers parties a more flexible, specialised, and

often more efficient alternative to proceedings before state courts. Its attractiveness rests largely on party autonomy: the parties may agree to submit an existing or future dispute to one or more arbitrators, select the applicable procedural framework, determine the seat of



arbitration, and in many cases influence the appointment of the tribunal. Taleb Ahmadi describes arbitration as a consensual legal mechanism through which the parties remove a dispute from the ordinary judicial process and entrust its resolution to a neutral decision maker selected by them (Taleb Ahmadi, 2005). The value of this mechanism is especially evident in commercial relations, where parties frequently require confidentiality, technical expertise, procedural flexibility, and a decision that can be obtained more rapidly than an ordinary court judgment. Ahmad similarly emphasises that international commercial arbitration is founded on the parties' agreement to replace ordinary judicial adjudication with a private, legally regulated dispute-resolution process (Ahmad, 2017). Nevertheless, the consensual nature of arbitration does not mean that arbitral authority is unlimited or detached from the legal order of the state.

An arbitral award is not merely a private settlement between the parties. It is a binding adjudicatory decision capable of affecting property rights, contractual obligations, commercial status, and, in some cases, matters of broader economic and social importance. For that reason, the law cannot allow an award to be enforced when it clearly conflicts with the fundamental values of the legal system. The judicial supervision of arbitral awards therefore serves a dual function. On the one hand, it protects the finality and effectiveness of arbitration by ensuring that courts do not transform annulment proceedings into a full appellate review. On the other hand, it protects the legal system and the parties from awards that are affected by a fundamental defect, violate mandatory legal rules, disregard essential procedural guarantees, or conflict with public policy. Eisavi explains that the action for setting aside an arbitral award is exceptional in character because it is designed to address specific legal defects rather than to provide the dissatisfied party with a second opportunity to argue the merits of the dispute (Eisavi, 2019). This distinction is central to a sound arbitration system. If courts intervene too easily, arbitration loses its efficiency and contractual value; if they intervene too rarely, arbitration may become a means of enforcing illegality or denying basic legal protections.

Public policy occupies a particularly delicate position within this framework. Unlike more concrete grounds for annulment, such as the absence of a valid arbitration

agreement, the incapacity of a party, the tribunal's decision beyond the scope of the submission, or a serious procedural irregularity, public policy is an open-ended concept. It refers broadly to the fundamental legal, ethical, social, economic, and procedural values that a legal system considers indispensable. Jafari Langroudi characterises public policy as a group of rules and principles whose observance is necessary for the protection of society's essential interests and which private agreements cannot validly displace (Jafari Langroudi, 1996). Because of its broad and evaluative nature, public policy can function as an indispensable safeguard against enforcement of an unjust or unlawful award. At the same time, however, it can become a source of uncertainty if courts use it to reconsider ordinary questions of contract interpretation, evidence, damages, or substantive law.

The present article examines the role of public policy in the nullity and annulment of arbitral awards under Iranian and Turkish law. The comparison is useful because Iran and Turkey both recognise arbitration as a legitimate method of dispute settlement while maintaining judicial mechanisms for controlling awards that exceed legally acceptable limits. Yet the two systems articulate the relationship between public policy and arbitral review in different ways. In Iranian domestic arbitration, the most prominent statutory provision is Article 489 of the Civil Procedure Code. That article provides that an arbitral award is void and incapable of enforcement in specified circumstances, including where it is contrary to "laws creating rights." This expression has generated substantial doctrinal and judicial debate because its scope is wider and less precise than an express public-policy ground. Zeraat notes that Article 489 must be interpreted in a manner consistent with the exceptional nature of annulment; otherwise, the statutory grounds may become a means of challenging the substantive correctness of the award (Zeraat, 2011). In Iranian international commercial arbitration, public policy and good morals are more explicitly relevant to the validity and enforceability of arbitral awards, reflecting the influence of modern international arbitration principles.

Turkish law, by contrast, more directly recognises public policy as a ground for annulment in its arbitration legislation. Turkish arbitration law is influenced by international arbitration standards and, particularly in

the field of international commercial arbitration, follows a structure that seeks to reconcile judicial oversight with the finality of arbitral awards. The Turkish approach is important for comparative purposes because it illustrates how an express public-policy ground may be formulated without necessarily authorising courts to review the merits of an arbitral dispute. The central issue is therefore not whether public policy should be a ground for judicial intervention. Both systems accept, in one form or another, that it must be. The more difficult question is how that ground should be defined and confined so that it protects fundamental values without undermining party autonomy.

The article proceeds from the proposition that public-policy review should remain narrow, exceptional, and directed toward serious violations of the forum's fundamental legal order. It should not authorise courts to reassess the evidence, substitute their understanding of the contract for that of the arbitrators, or correct every alleged error in legal reasoning. Shams stresses that judicial review must be distinguished from an ordinary appeal because the function of review is to verify the legality of the adjudicatory process and the enforceability of its result, not to repeat the original adjudication (Shams, 2003). This proposition is particularly important in arbitration, where the parties have deliberately chosen a private decision-making process and accepted that the arbitrators' determination will normally be final.

The objective of this article is to identify the meaning, scope, and legal consequences of public-policy violations in the annulment and nullity of arbitral awards in Iran and Turkey. It also seeks to clarify the relationship between public policy, mandatory rules, the Iranian concept of laws creating rights, arbitrability, good morals, and procedural fairness. The article adopts a comparative doctrinal approach. It focuses on statutory provisions, the concepts developed in legal doctrine, and the implications of judicial supervision for the practical functioning of arbitration. It does not address the general history of arbitration, the detailed process for appointment of arbitrators, or every statutory ground for challenging an award unless that matter is directly connected to public policy. The central argument is that the legitimacy of arbitration depends on preserving both arbitral finality and a limited form of judicial review

capable of preventing the enforcement of awards that clearly violate fundamental legal values.

2. Public Policy, Mandatory Rules, Nullity, and Annulment in Arbitration

Public policy is one of the most difficult concepts in private law and arbitration because it cannot be reduced to a fixed list of statutory provisions. It is a legal standard that reflects the essential interests and values of the legal order. In ordinary contractual relations, public policy limits the freedom of parties to agree upon terms that would undermine fundamental legal, social, or moral norms. Shahidi observes that freedom of contract is not absolute; private autonomy operates only within the boundaries established by mandatory law, good morals, and the basic interests protected by the legal system (Shahidi, 2002). The same principle applies with greater force in arbitration. Although arbitration is based on consent, consent cannot validate an award that requires performance of an unlawful obligation, gives effect to a prohibited transaction, denies a party a fundamental right of defence, or produces a result that is manifestly incompatible with the core values of the state.

The public-policy inquiry in arbitration must nevertheless be carefully separated from ordinary legality review. An arbitral tribunal may make an error in interpreting a contractual clause, assessing the credibility of witnesses, determining the amount of damages, or applying a non-mandatory legal rule. Such errors may be important to the parties, but they do not automatically amount to a public-policy violation. If every error of law were classified as a public-policy problem, the distinction between annulment and appeal would disappear. Mohammadzadeh Asl emphasises that the purpose of arbitration is defeated when the courts are permitted to reconsider the whole dispute under the guise of supervising the award (Mohammadzadeh Asl, 2000). Public policy should therefore be reserved for cases in which the award itself, rather than merely the reasoning used by the tribunal, produces a result that the legal system cannot tolerate.

A useful way to understand public policy is to distinguish its substantive and procedural dimensions. Substantive public policy concerns the content of the award. It may arise where an award gives effect to a contract formed for an unlawful purpose, enforces an agreement involving fraud or corruption, validates a prohibited

financial transaction, disregards rules protecting ownership or registration, or otherwise contradicts fundamental legal prohibitions. Procedural public policy concerns the integrity of the arbitral process. It may be engaged where a party was deprived of a meaningful opportunity to present its case, was not properly informed of the proceedings, was denied equal treatment, or was confronted with a tribunal whose composition or conduct seriously violated basic principles of due process. Sadrzadeh Afshar explains that procedural fairness is not merely a technical requirement; it protects the legitimacy of adjudication by ensuring that parties are heard and can effectively defend their rights (Sadrzadeh Afshar, 2000). In arbitration, procedural fairness is particularly significant because the parties have removed their dispute from the ordinary court system and must be able to rely on the fairness of the alternative process.

Mandatory rules are closely related to public policy but should not be treated as identical. A mandatory rule is a rule from which parties may not derogate by agreement. It may protect weaker parties, regulate economic conduct, establish formal requirements for certain transactions, or preserve public interests in matters such as registration, competition, currency regulation, or legal capacity. Mahoor argues that arbitrators are required to observe substantive legal rules that are mandatory and applicable to the dispute, even where the parties enjoy broad procedural autonomy (Mahoor, 2016). Yet not every breach of a mandatory rule necessarily rises to the level of public-policy violation. Some mandatory rules are designed to regulate a particular legal relationship, whereas public policy is concerned with the protection of interests so fundamental that the state cannot permit an award contrary to them to obtain legal effect.

This distinction is crucial because it prevents the public-policy exception from expanding without limit. A court may find that an arbitrator incorrectly applied a mandatory statutory provision. That conclusion alone does not necessarily justify annulment if the alleged mistake does not create a clear and serious conflict with the fundamental legal order. The court should ask whether enforcement of the award would itself undermine a core legal value. Jonidi notes that the application of law in international commercial arbitration requires sensitivity to the distinction between rules that regulate a private dispute and rules

that embody essential interests of the forum or the international commercial community (Jonidi, 1997). This observation is also relevant to domestic arbitration. The task is not to identify every rule that the tribunal should have applied, but to identify the limited class of rules whose violation makes enforcement unacceptable. The distinction between domestic and international public policy is similarly important. Domestic public policy may include a broader range of mandatory domestic rules because the dispute and the legal relationship are closely connected to the internal legal order. International public policy is generally narrower. It focuses on principles so fundamental that the state will not recognise or enforce an award contrary to them even in an international commercial context. Nasiri explains that public policy in private international law operates as an exception to the application of foreign law or foreign legal acts where the result would be incompatible with the essential principles of the forum (Nasiri, 1999). In the arbitration context, the same logic means that the public-policy exception should not become a mechanism for imposing every domestic rule upon an international award. Rather, it should protect the most basic legal values of the enforcing or reviewing state.

The distinction between nullity and annulment also deserves attention. An award may be described as void where it suffers from a defect so fundamental that it has no legal effect from the outset. An annulment action, by contrast, normally requires a party to apply to the competent court within the statutory period and establish one of the legally recognised grounds for setting aside the award. In practice, the terminology is not always used consistently. Iranian legislation and legal writing sometimes refer to an award as “void” while also requiring judicial proceedings to establish or declare that result. Eisavi observes that the legal consequences of voidness and annulment must be analysed in light of the relevant statutory framework, the nature of the defect, and the procedural route through which the defect is raised (Eisavi, 2019). The practical concern is whether the award can be enforced, whether it must be challenged within a specific time, whether the court can examine the defect on its own initiative, and whether a defective part may be separated from the remainder of the award.

Public-policy violations are often treated as particularly serious because they implicate interests beyond the

immediate parties. This may justify broader judicial attention than grounds based solely on the parties' private procedural arrangements. For example, a party may waive some procedural objections by failing to raise them promptly during the arbitration. However, an award that is manifestly contrary to public policy may affect the legal order itself and may therefore require judicial intervention even if the parties have not framed their arguments perfectly. Safaei observes that legal rules designed to protect collective interests may limit private waiver because the protected interest belongs not only to the contracting parties but also to society and the legal system (Safaei, 1996). Nevertheless, the exceptional character of public policy requires the court to define the alleged violation precisely and to explain why it affects a fundamental legal value.

Another central issue is the principle of severability. An award may contain several determinations, only one of which is contrary to public policy. If the defective portion is independent and can be removed without altering the remaining determinations, partial annulment is preferable to setting aside the entire award. This approach respects both the need to protect public policy and the need to preserve the valid work performed by the tribunal. Bazigar's discussion of arbitration-related judicial decisions illustrates that courts must distinguish between a defect affecting the foundation of the award and a defect confined to a separable part of it (Bazigar, 2019). Full annulment should be reserved for cases in which the public-policy violation infects the whole award or makes the remaining portions incoherent or unenforceable.

The conceptual framework developed in this section indicates that public policy should be understood as a protective but limited standard. It protects the fundamental legal order, but it should not become a general formula for judicial dissatisfaction with arbitral reasoning. Its proper application requires courts to differentiate between fundamental and ordinary rules, between substantive and procedural defects, between domestic and international interests, and between errors that affect the enforceability of the award and errors that merely concern the quality of the tribunal's legal analysis. These distinctions provide the basis for examining the Iranian legal framework and its treatment of the nullity and annulment of arbitral awards.

3. Public Policy and the Nullity of Arbitral Awards in Iranian Law

Iranian arbitration law contains two principal frameworks: domestic arbitration under the Civil Procedure Code and international commercial arbitration under the International Commercial Arbitration Act. The distinction between these regimes is important because the treatment of public policy is clearer in international commercial arbitration than in domestic arbitration. Domestic arbitration is principally governed by the provisions of the Civil Procedure Code concerning arbitration and the validity of awards. Article 489 is the central provision governing the invalidity of domestic arbitral awards. It identifies several circumstances in which an award is void and incapable of enforcement, including where the award is contrary to laws creating rights, where the arbitrator has decided beyond the limits of authority, where the award concerns a matter not capable of arbitration, where the award is rendered after the expiry of the arbitral period, or where the award conflicts with what is recorded in an official document. Zeraat's commentary on the Civil Procedure Code highlights that the grounds contained in Article 489 are exceptional grounds and must be interpreted in a manner that preserves the legal function of arbitration (Zeraat, 2011).

The most controversial of these grounds is the reference to laws creating rights. The phrase does not have a universally settled meaning. It is often understood to refer to substantive legal rules that directly establish, define, transfer, limit, or extinguish rights and obligations. This may include rules concerning ownership, capacity, legal representation, formal validity, registered rights, and the legal consequences of contracts. Yet the expression is broad enough to invite expansive interpretation. If every substantive legal rule were treated as a law creating rights, a party could challenge an award whenever it believed that the arbitrator had misapplied the law. Such an interpretation would make Article 489 function like an appeal mechanism and would undermine the finality of arbitration. Shams warns that judicial control over adjudicatory decisions must not extend to a re-examination of every substantive issue already determined by the competent decision maker (Shams, 2001). In arbitration, this warning has particular force

because parties choose arbitration partly to avoid lengthy multi-level litigation.

The better interpretation is that the expression should be confined to rules of a fundamental and rights-creating character whose violation has produced an award that cannot lawfully be enforced. This interpretation connects laws creating rights with the broader rationale of public policy and mandatory law. A court should not annul an award simply because it would have interpreted a contract differently or reached another conclusion about damages. It should intervene where the award clearly disregards a legal rule that is essential to the existence, transfer, or protection of a right. Mohammadzadeh Asl notes that the supervisory role of the court must protect the legality of arbitration without replacing the arbitrator's assessment of the dispute (Mohammadzadeh Asl, 2000). This means that the court must focus on whether the award violates a rule that the parties could not lawfully avoid and whether the violation is sufficiently serious to affect the legal validity of the result.

The relationship between Article 489 and public policy is therefore indirect but significant. Iranian domestic arbitration law does not present public policy as a separate and expressly formulated ground in the same way that some modern arbitration statutes do. However, public-policy considerations may arise through the interpretation of laws creating rights, mandatory rules, official documents, arbitrability, and the basic requirements of legal proceedings. Jafari Langroudi's definition of public policy supports this approach because it identifies public policy with norms that protect the essential interests of society and cannot be displaced by individual will (Jafari Langroudi, 1996). Where an arbitral award directly contradicts such norms, the award should not be enforced merely because the parties consented to arbitration.

The role of official documents provides a useful example. Iranian law gives particular evidentiary and legal importance to official documents, especially where they concern registered property rights, public registries, or formally recorded transactions. An arbitral award that contradicts the content of a valid official document may jeopardise legal certainty and undermine the public reliance placed upon official registration systems. Bazigar explains that judicial decisions concerning arbitration frequently distinguish between the

arbitrator's authority to resolve private contractual disputes and the inability of the tribunal to disregard legal effects established by authoritative official records (Bazigar, 2019). In these circumstances, annulment is not based on mere disagreement with the tribunal's factual assessment. It is based on the principle that a private adjudicatory process cannot displace the legal authority of documents and registrations that the law treats as binding for the protection of public order and third parties.

Public policy also appears through the concept of arbitrability. Certain disputes cannot be validly referred to arbitration because they concern matters reserved to state authority, public interests, status, or rights that cannot be determined solely by private agreement. If an arbitrator renders an award concerning a non-arbitrable matter, the defect is not simply procedural. It reflects the legal system's decision that private adjudication is inappropriate for that subject matter. Ahmad notes that the scope of arbitrability is a fundamental limitation on party autonomy in international commercial arbitration, because the parties' agreement cannot transfer to arbitrators powers that the legal order reserves for state institutions (Ahmad, 2017). The same logic applies to domestic arbitration. An award issued in a non-arbitrable dispute must be treated as invalid because it exceeds the lawful boundaries of arbitral jurisdiction.

Procedural fairness also has a public-policy dimension in Iranian arbitration. Even where the parties have agreed upon flexible procedures, an arbitral proceeding cannot be conducted in a manner that deprives a party of a meaningful opportunity to defend itself. Proper notice, the opportunity to submit claims and defences, access to relevant materials, and a reasonable opportunity to respond to the other party's case are essential elements of a legitimate adjudicatory process. Sadrzadeh Afshar states that the right of defence is a basic principle of civil procedure and that no valid adjudication should be based upon a process in which a party has been denied a real opportunity to participate (Sadrzadeh Afshar, 2000). In the arbitration context, a serious violation of this principle should support annulment because the resulting award lacks the procedural legitimacy required for enforcement.

The International Commercial Arbitration Act provides a more direct setting for analysing public policy. The Act reflects international arbitration concepts and

recognises grounds for setting aside an award that are closer to those found in modern arbitration instruments. Public policy and good morals have a more explicit role in this framework. Asadinejad explains that the adoption of modern international arbitration principles in Iran was intended to facilitate participation in international commerce while preserving the essential legal interests of the Iranian legal order (Asadinejad, 1999). This balance is especially visible in the treatment of awards that conflict with public policy. The objective is not to subject every international award to comprehensive judicial review, but to ensure that the Iranian legal system is not required to recognise or enforce an award that violates its fundamental principles.

In the Iranian context, public policy may include principles derived from mandatory statutory rules, the protection of legitimate property rights, anti-fraud norms, public economic regulations, good morals, and legal norms rooted in the country's Islamic legal framework. The content of public policy cannot be separated entirely from the constitutional, religious, and social foundations of the legal system. However, this does not mean that every rule connected to morality, religion, or economic regulation automatically justifies annulment. The court must still determine whether the award's enforcement would produce a manifest and serious conflict with a fundamental legal value. Shahidi's analysis of contractual obligations supports the proposition that legal restrictions on private agreements must be understood according to their purpose and the interests they protect, not merely according to their formal wording (Shahidi, 2002). A similarly purposive analysis is necessary when a court considers whether an arbitral award violates public policy.

The risk of excessive judicial intervention is especially visible where courts treat an alleged misapplication of substantive law as a violation of laws creating rights. Consider a dispute in which an arbitrator interprets a contractual term concerning payment, delay, damages, or performance. One party may argue that the interpretation was inconsistent with civil law principles. Unless the arbitrator has enforced an unlawful transaction, ignored a binding official right, decided a non-arbitrable matter, or produced a result that clearly contravenes mandatory law or public policy, the court should not annul the award. Movahed's discussion of arbitration in complex commercial disputes

demonstrates that arbitration often requires specialised factual and commercial evaluation and that judicial substitution of judgment may frustrate the reason parties chose arbitration in the first place (Movahed, 2010). The setting-aside court should therefore evaluate the legal admissibility of the result, not the commercial wisdom of the arbitrators' reasoning.

The availability of partial annulment is also important in Iranian law. If the public-policy defect affects only a distinct and separable portion of the award, the court should preserve the remaining valid portions. This is consistent with the principle of proportionality in judicial intervention. For example, if an award decides several independent claims and only one claim concerns a non-arbitrable matter or contradicts an official document, there may be no reason to invalidate determinations concerning the other claims. Eisavi notes that the legal effect of annulment should be confined to the defective part whenever separation is legally and practically possible (Eisavi, 2019). Full nullity is justified only where the defect affects the foundation of the entire award or where the valid and invalid portions are inseparable.

Iranian law thus contains the normative tools necessary to prevent enforcement of arbitral awards contrary to fundamental legal values. The main difficulty is interpretive. The phrase laws creating rights may be read narrowly as a safeguard against serious violations of substantive and mandatory law, or broadly as an invitation to reconsider the merits of an arbitral dispute. The first approach is consistent with the nature of arbitration and with modern principles of limited judicial supervision. The second approach weakens arbitral finality and creates uncertainty for parties who select Iran as an arbitral seat or enforcement forum. A coherent public-policy doctrine should therefore confine judicial intervention to manifest violations of mandatory rules, public order, good morals, due process, arbitrability, and legally binding official rights. It should exclude ordinary errors of law, contractual interpretation, factual evaluation, and damages assessment from the scope of annulment review.

4. Public Policy in Turkish Arbitration Law and the Comparative Position of Iran and Turkey

Turkish arbitration law provides a useful comparative model because it more expressly identifies public policy

as a ground for setting aside an arbitral award. Turkish law regulates arbitration through separate domestic and international frameworks, including the Turkish Code of Civil Procedure and the Turkish International Arbitration Law. These legal regimes reflect the influence of contemporary international arbitration standards and seek to preserve the finality of arbitral awards while allowing judicial intervention in carefully defined circumstances. The Turkish approach is particularly relevant because it does not treat annulment as an appeal on the merits. Instead, it recognises a limited set of grounds through which the courts may review whether the arbitration agreement, arbitral procedure, jurisdiction of the tribunal, and ultimate award comply with fundamental legal requirements.

The express recognition of public policy in Turkish arbitration law has both advantages and risks. Its principal advantage is clarity. Rather than relying primarily on a broad concept comparable to laws creating rights, Turkish law openly acknowledges that an award contrary to Turkish public policy may be annulled. This makes it possible for courts and parties to distinguish public-policy review from ordinary substantive review. At the same time, the concept remains capable of broad interpretation. Unless it is limited by judicial practice and doctrinal analysis, public policy may become a flexible ground through which disappointed parties attempt to reopen the dispute. Dupuy and his co-authors emphasise that the value of an arbitral award depends on the balance between its finality and the availability of narrowly structured legal criticism where the award suffers from an essential defect (Dupuy et al., 2000). This balance is relevant to the Turkish framework as much as to the Iranian one.

In Turkish law, public policy may cover serious violations of fundamental legal principles, including the denial of procedural fairness, the lack of equality between the parties, fraud, corruption, clear illegality, the adjudication of non-arbitrable matters, and results incompatible with core constitutional or social values. The public-policy ground is not intended to allow courts to review whether the tribunal correctly interpreted an ordinary contractual provision or correctly assessed the evidence. A tribunal may reach a debatable or even legally questionable conclusion without producing an award contrary to public policy. The threshold must remain high. This approach is consistent with the

broader theory of arbitration described by Ahmad, according to which judicial intervention should be confined to situations in which the validity or enforceability of the arbitral process or award is fundamentally compromised (Ahmad, 2017).

Procedural public policy is an important area of comparison between the two systems. In both Iran and Turkey, the parties may agree upon many aspects of arbitral procedure, but their agreement cannot eliminate the essential right to be heard. A party must receive adequate notice, be given an opportunity to submit claims and defences, and be able to respond to the case presented by the other side. A serious denial of these rights affects not merely the parties' private arrangement but the legitimacy of the adjudicatory process. Shams explains that the principles of adversarial proceedings and the right of defence are among the foundational requirements of a valid decision-making process (Shams, 2003). Turkish law's express public-policy ground is well suited to addressing serious procedural injustice, but the same result can be reached under Iranian law through the principles governing the validity of the award and the protection of fundamental procedural rights.

The comparison also reveals the importance of distinguishing public policy from mandatory rules. In Turkish arbitration law, as in Iranian law, mandatory norms may regulate matters such as competition, consumer protection, corporate structure, currency controls, insolvency, or the formal validity of transactions. Yet courts should not automatically annul an award whenever a party alleges that the tribunal misapplied such a rule. The relevant question is whether the violation is so serious that enforcement of the award would be unacceptable in light of the fundamental legal order. Mahoor's analysis of arbitrators' obligation to respect substantive legal rules supports the view that arbitral tribunals must take mandatory law seriously, but it does not imply that every legal error should be corrected through annulment proceedings (Mahoor, 2016). The setting-aside court must preserve the difference between ensuring respect for fundamental norms and conducting an ordinary review of legal correctness.

The Iranian concept of laws creating rights is broader and more uncertain than the Turkish express public-policy ground. This difference is one of the most

significant comparative findings. Under Iranian domestic arbitration law, a court may be asked to annul an award because it allegedly conflicts with a substantive rule that creates or determines a legal right. The expression could include a wide range of civil-law rules. If interpreted expansively, it may expose arbitral awards to extensive judicial scrutiny. Turkish law's express public-policy language, by contrast, more readily invites a focus on fundamental legal interests rather than on every substantive legal norm. Zahra's examination of arbitration in judicial practice indicates that courts must identify the exact legal basis of their intervention and avoid using broad statutory language as a substitute for a merits appeal (Zahra, 2021). This principle is especially important for Iranian courts interpreting Article 489.

The Turkish model also offers insight into the relationship between domestic and international arbitration. In international commercial arbitration, public policy is generally interpreted more narrowly because the dispute involves cross-border economic relations and because excessive reliance on domestic rules may discourage international commerce. Nasiri notes that the public-policy exception in private international law must be applied cautiously so that it does not become an instrument for rejecting foreign legal institutions merely because they differ from domestic law (Nasiri, 1999). The same restraint is necessary where Turkish or Iranian courts review international arbitral awards. The relevant inquiry should be whether the award contradicts the fundamental principles of the forum, not whether it fully conforms to every feature of domestic substantive law.

This does not mean that public policy is insignificant in international arbitration. On the contrary, it has particular importance in cases involving corruption, money laundering, fraud, serious violations of competition law, sanctions-related illegality, or transactions that conflict with basic moral and legal standards. An award that gives effect to a corrupt agreement or requires performance of an unlawful transaction cannot claim protection merely because it was issued in an arbitral proceeding. Eftekhari Jahromi explains that the development of arbitration in Iranian legislation has always been connected with the need to reconcile private dispute settlement with the supervisory role of the state in safeguarding legality (Eftekhari Jahromi, 1999). Turkish law reflects a

comparable concern: arbitration is supported because it facilitates commercial dispute resolution, but it cannot be used to shield conduct that the legal order fundamentally rejects.

The treatment of arbitrability further demonstrates the common foundation of the two systems. A dispute may be contractual and commercial in appearance but nevertheless involve issues that the law reserves for state courts or public authorities. Such matters may concern status, certain family-law issues, insolvency, public administrative powers, registration of rights, or other interests that cannot be determined conclusively by private adjudication. Mirzaei's study of arbitration in family law illustrates that the scope of arbitration is limited where the subject matter implicates personal status, public interests, or legal protections that extend beyond the private interests of the parties (Mirzaei, 2019). Where a tribunal decides a non-arbitrable matter, both Iranian and Turkish law have strong grounds for intervention because the award exceeds the lawful domain of arbitration.

There is also a meaningful difference in the normative language used by the two systems. Iranian law, particularly in domestic arbitration, tends to combine several distinct concerns under the rubric of voidness and laws creating rights. Turkish law more clearly separates the public-policy ground from other grounds such as invalid arbitration agreements, irregular tribunal composition, lack of due process, excess of authority, and non-arbitrability. Greater conceptual separation improves predictability. It helps the court explain whether it is intervening because the tribunal lacked jurisdiction, because a party's procedural rights were violated, because the award exceeded the scope of submission, or because the result itself violates public policy. Akhavan Fard observes that modern forms of arbitration require increasingly precise legal classifications because technological and commercial complexity makes vague judicial standards more difficult to apply consistently (Akhavan Fard, 2019). This observation supports the need for clearer doctrinal distinctions in Iranian arbitration law.

The Turkish approach should not be idealised. An express public-policy ground can still be interpreted broadly, particularly where courts are influenced by strong domestic economic, moral, or political concerns. The danger of judicial overreach exists in every system.

A court may characterise an ordinary dispute over contract performance as a public-policy issue, especially where the underlying transaction is economically significant or socially sensitive. The appropriate safeguard is a disciplined judicial test. The court should first identify the precise legal value said to be protected. It should then explain why that value is fundamental rather than merely regulatory. Finally, it should show why the award's enforcement would seriously and directly violate that value. Without these steps, public policy becomes a rhetorical label rather than a legal standard.

A comparable test would be valuable in Iran. Courts reviewing an award under Article 489 should ask whether the alleged violation concerns a rule that is genuinely mandatory and fundamental; whether the award's result, rather than merely its reasoning, conflicts with that rule; whether the conflict is clear and serious; and whether the defective portion can be separated from the remainder of the award. Such a test would preserve the significance of laws creating rights while preventing the phrase from becoming a channel for broad merits review. Shahri's collection of advisory opinions demonstrates the importance of legal certainty and consistent interpretation in procedural matters, particularly where parties need to predict the legal consequences of their litigation and dispute-resolution choices (Shahri & Kharazi, 2009). Predictability is equally essential in arbitration, where parties may otherwise hesitate to rely on the finality of an award.

The comparative analysis therefore suggests that both systems should adopt a restrictive understanding of public policy. Turkish law provides a clearer statutory model because it identifies public policy as an independent ground while maintaining the structure of limited annulment. Iranian law possesses the substantive resources to reach the same result, but it requires more careful interpretation of laws creating rights and closer separation of public policy from ordinary legal error. In both jurisdictions, the court should intervene where the award involves manifest illegality, non-arbitrability, corruption, serious denial of due process, conflict with fundamental mandatory rules, or contradiction of legally protected public interests. It should not intervene simply because it disagrees with the tribunal's interpretation of the contract, assessment of evidence, or calculation of damages. The ultimate goal

is not to reduce judicial supervision to a meaningless formality, but to ensure that supervision protects the legal order without destroying the finality that makes arbitration valuable.

5. Conclusion

Public policy performs an indispensable but limited function in the law governing arbitral awards. Arbitration cannot exist outside the legal order of the state, because an award that is seriously incompatible with fundamental legal values cannot be permitted to obtain legal effect. At the same time, arbitration would lose much of its purpose if courts could use public policy as a general basis for reconsidering disputes already resolved by arbitrators. The central task is therefore to preserve a careful balance between arbitral finality and judicial protection of fundamental legal values.

Iranian law recognises this balance through a combination of statutory grounds for invalidity, especially the concept of laws creating rights, restrictions on arbitrability, the legal force of official documents, mandatory rules, and the basic requirements of procedural fairness. The Iranian International Commercial Arbitration Act provides a more direct basis for considering public policy and good morals in the review of international awards. However, domestic arbitration remains affected by conceptual uncertainty. The broad phrase laws creating rights can be understood in a manner consistent with limited judicial supervision, but it can also be interpreted so broadly that it permits courts to review ordinary questions of substantive law and contractual interpretation.

The preferable approach in Iranian law is to interpret laws creating rights in a restrictive and principled manner. The provision should cover legal rules that protect fundamental rights, mandatory interests, legally binding public records, essential procedural guarantees, and matters that the parties cannot validly remove from the authority of the state. It should not cover every alleged misapplication of a civil-law rule. A court should not set aside an award merely because it would have reached another conclusion on contractual meaning, evidence, damages, or performance. Such issues ordinarily belong to the arbitral tribunal and should remain final once the tribunal has exercised its jurisdiction lawfully and fairly.

Turkish law offers a clearer legislative formulation because it expressly recognises public policy as a ground for annulment. Its structure more visibly separates public policy from other grounds such as invalidity of the arbitration agreement, lack of jurisdiction, procedural irregularity, and excess of authority. This distinction helps prevent the annulment action from becoming a disguised appeal. The Turkish model confirms that a public-policy ground can coexist with strong respect for arbitral autonomy, provided that courts apply the ground only to serious and manifest conflicts with the fundamental legal order.

The comparison demonstrates that the central issue is not whether public policy should be available as a ground for judicial intervention. Both legal systems require such a safeguard. The real issue is the threshold for its application. That threshold should be high. Public policy should be invoked only where enforcement of the award would clearly undermine essential legal, procedural, moral, economic, or social values. Serious denial of the right to be heard, fraud, corruption, non-arbitrability, manifest illegality, contradiction of binding public records, and conflict with fundamental mandatory rules are examples of circumstances that may justify intervention. Ordinary errors in legal reasoning do not meet this threshold.

A disciplined approach also requires attention to the distinction between full and partial annulment. If the public-policy defect is limited to a separable part of the award, the court should preserve the valid portions whenever possible. Full annulment should be reserved for awards whose defect affects their foundation or makes the remainder incoherent or unenforceable. This approach respects the principle of proportionality and avoids unnecessary destruction of the arbitral process.

Ultimately, the effective development of arbitration in Iran and Turkey depends on predictable judicial practice. Parties must know that an arbitral award will be protected from routine judicial reconsideration, while also knowing that the courts will not enforce an award that seriously violates fundamental legal values. Iran would benefit from clearer doctrinal and legislative guidance distinguishing public policy, mandatory rules, laws creating rights, and ordinary substantive errors. Turkey should likewise maintain a narrow and principled understanding of public policy so that its express statutory ground does not expand beyond its

exceptional purpose. In both systems, public policy should remain a safeguard of legality and justice, not an avenue for replacing arbitration with litigation.

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

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