Page 1227 - 1235 **DOI:** *https://doij.org/10.10000/IJLMH.1111323*

INTERNATIONAL JOURNAL OF LAW MANAGEMENT & HUMANITIES

[ISSN 2581-5369]

Volume 9 | Issue 1

2026

The Crucial Role of Res Judicata in International Arbitration

HRIDHYA TV[1]

ABSTRACT

The principle of res judicata is derived from Latin for "a matter judged," and plays a crucial role in promoting finality and judicial economy in legal proceedings. This abstract explores the application of res judicata in the context of international arbitration, a rapidly evolving alternative dispute resolution mechanism. Civil law follows the principle of Res Judicata, which bars the parties from litigating a suit once a competent court has given a final judgment. The maxim has changed significantly and has various rules and applications in different jurisdictions. There are both commonalities and disparities between the legal orders of different countries. International commercial arbitration, which is a separate legal order autonomous from national legal orders, has not settled on its own normative and coherent doctrine of res judicata that is consistent with arbitration foundations or suitable to its needs.

Arbitral tribunals often rely on national law concepts to determine res judicata issues. While there is a growing consensus on the necessity of transnational principles of res judicata, distinct from national concepts of the doctrine, there is no unified view on its normative basis, form, or content. This paper addresses the scope, content, and application of res judicata in international arbitration, highlighting the need for transnational principles.

Keywords: *res judicata, international arbitration, arbitral tribunal, decree, arbitral awards.*

I. INTRODUCTION

The subject of res judicata and the impact of arbitral awards has garnered more attention in the last few years. The fact that some cases have resulted in conflicting awards has partially encouraged this. The issue is directly tied to whether the doctrine of res judicata-or rather, whether it is applied-or any other third-party effect of an arbitral award in international arbitration. When multiple parties to a multiparty relationship have different jurisdictions, i.e., when some parties have chosen arbitration while others are still subject to national courts or another arbitral tribunal, the risk of conflicting awards becomes especially apparent.

[1] Author is an Assistant Professor at REVA University, India.

 [ISSN 2581-5369]

Res judicata, also known as the "triple-identity criteria",-implores that a prior and final judgment is conclusive in subsequent or future proceedings involving the same (i) parties, (ii) subject matter, and (iii) legal grounds. A general legal principle that is recognized by both domestic and international law is known as res judicata. International arbitral awards are regarded as final and binding, just like local court rulings[2]. Arbitral tribunals must determine whether a previous court decision is res judicata. Nonetheless, res judicata disputes may also arise about arbitral awards made by various arbitral tribunals. Any future proceedings that the same parties may attempt to bring against each other will treat an arbitral award as res judicata. Since the first ruling was binding on all parties and was final, it is regarded as conclusive.

Res judicata, to put it another way, means that a judgment is conclusive and binding between the parties, subject to any appeal and that its subject matter cannot be relitigated. It is a highly complex and technical procedural mechanism that was developed in the context of national civil procedures. Therefore, it is questionable whether it should be applied to an award's impact in the radically different setting of international arbitration. The concept of res judicata is rooted in the idea of providing finality to dispute resolution, promoting judicial economy, and preventing the parties from endless litigation. In the context of international arbitration, where parties from different jurisdictions often seek resolution outside traditional court systems, the principle of res judicata becomes particularly significant.

II. UNDERSTANDING RES JUDICATA: CONCEPT AND SCOPE

Every legal civilization is structured around the universally applicable doctrine of res judicata, which is a basic idea. The concept of the finality of the verdict has been recognized by courts since antiquity. The term res judicata is of Roman origin. Every judgment was treated as conclusive ‘Res judicata pro veritate accipitor’, and its effect was final, ‘res judicata facit ex albo nigrum, ex nigro album, ex curbo rectum, ex recto curvum’. The doctrine of res judicata rests on these foundations.[3] The doctrine of res judicata has been incorporated into the English legal system for quite a long time. Bowen L. J. observed, “The rule of the ancient Common Law is that, where one is barred in any action real or personal by judgment demurrer, confession, or verdict, he is barred as to that or the like action of the like nature for the same thing forever."[4]

[2] R. David, L’Arbitrage dans le commerce international (1982), para. 339.
[3] T. N. Pant, the doctrine of 'res judicata' its import in constitutional law, *the Indian journal of political science,* vol. 25, no. 3/4, conference number for xxvi Indian political science conference 1964: annamalainagar (July- September-december, 1964), pp. 313-319 (7 pages).
[4] Brunsden vs. Humphery, 14 Q.B.D. 14.

 [ISSN 2581-5369]

According to ancient Hindu law, the phrase "Purva Nyaya," or prior judgment, was used by Muslim and Hindu jurists to refer to earlier res judicata. The nations of the European Continent and the Commonwealth have agreed that a case cannot be tried twice once it has been tried once. The United States Constitution's Seventh Amendment is where the idea of res judicata first appeared. It talks about how decisions made in a civil jury trial are final. A civil trial verdict is final and cannot be overturned by another court unless certain requirements are met.

The goal of the res judicata concept is to stop the misuse of the law and to encourage the honest and equitable administration of justice. When a party seeks to file a new lawsuit on the same subject after being awarded a judgment in an earlier case involving the same parties, the legal doctrine of res judicata comes into play. This covers claims that may have been made during the same case as well as the specific claims made in the first case in many jurisdictions.

The two ideas of claim preclusion and issue preclusion are included in res judicata. Another name for issue preclusion is collateral estoppel. After a definitive judgment on the merits has been made in a civil lawsuit, the parties are not permitted to sue each other again. For instance, a plaintiff cannot likely sue the defendant in case B based on the same facts and actions whether he wins or loses a case against them in case A. not even with the identical facts and events in a different court. On the other hand, issue preclusion forbids the re-litigation of legal questions that the judge has previously decided in a previous case. In the case of Gulam Abbas v. State of Uttar Pradesh[5], the scope has been determined. The regulations were admitted into evidence by the court in this instance to address a point that had already been tried in a previous case. This case was difficult for the justices to decide since res judicata should have been used. It was determined that res judicata is not all-inclusive and that a case will be treated as res judicata on general principles even if it is not specifically covered by the section's provisions.

The pre-requisites that are necessary for Res Judicata are:1) There must be a final judgment; 2) The judgment must be on the merits; 3) The claims must be the same in the first and second suits; 4) The parties in the second action must be the same as those in the first or have been represented by a party to the prior action.[6]

III. RES JUDICATA AND INTERNATIONAL ARBITRATION

The application of res judicata in international arbitration can be complex due to the decentralized nature of arbitration and the potential for multiple tribunals to address related issues in separate proceedings. Additionally, the doctrine may be subject to the procedural rules

[5] Gulam Abbas & Ors vs State of U.P. & Ors, 1981 AIR 2198
[6] ibid

 [ISSN 2581-5369]

governing the arbitration, as well as any applicable laws or treaties. Arbitral tribunals typically have discretion in applying res judicata principles based on factors such as the identity of the parties, the subject matter of the dispute, and the scope of the previous decision. Moreover, some arbitration rules explicitly address res judicata, while others rely on general principles of law.

The fundamental tenet of res judicata, which is pertinent to this international arbitration, is that a right or fact that has been expressly contested and decided upon by a court or other competent tribunal cannot be contested again between the same parties at a later time.[7] The issue of conflict of jurisdiction is relevant since there are many arbitral tribunals and international courts, which could result in a situation where conflicts keep coming up and there are contradicting rulings.[8] The 'res judicata' principle is fundamental to the international legal system and applies to international arbitration in a manner that is remarkably similar to that of national law systems' criminal and civil procedures.[9]

Any later proceedings that the same parties may attempt to file against each other will treat an arbitral verdict as res judicata. Since the first ruling was binding on all parties and was final, it is regarded as final. Res judicata, to put it another way, is that a judgment is final and binding between the parties, subject to any available appeal or challenge and that its subject matter cannot be relitigated. In the Pious Fund Arbitration (United States v. Mexico)[10], "the Hague" deemed a previous 1875 national award to be "res judicata" to the arbitral proceedings. This case serves as one of the primary examples of the applicability of "res judicata" in an international arbitration framework. The main argument for the international arbitral tribunal is whether or not a national court ruling would always serve as res judicata and whether or not it would serve as a strict prerequisite. The ICSID tribunal ruled in Amco Asia Corp. et al. v. Republic of Indonesia[11] that it would not be bound by the ruling of the Indonesian national court since doing so would render the international arbitration procedures null and void. In the Amco Asia Case, the ICSID tribunal declared: "An international tribunal is not required to adhere to the ruling of a national court. Whether correctly or incorrectly, parties frequently feel more at ease with a legal organization that is not directly connected to any one of the parties, which is

[7] *Alan Redfern, Martin Hunter, Nigel Blackaby and Constantine Partasides, Redfern, and Hunter on International Arbitration 561 (Oxford) 2009.*
[8] *Effect of Awards of Compensation Made by the United Nations Administrative Tribunal, Advisory Opinion, 1954 I.C.J. 47, 53 (July 13).*
[9] *Enid Campbell, Res Judicata and Decisions of Foreign Tribunals, 16 Sydney L. Rev. 311 (1994).*
[10] *Weber Francis J, the United States versus Mexico: The Final Settlement of the Pious Fund of the Californias. 51 Southern California Quarterly, (1969): 97–152.*
[11] *Amco Asia Corp. et al. v. Republic of Indonesia, ICSID ARB/81/1.*

 [ISSN 2581-5369]

one of the reasons why an international arbitration method has been established. Such a system could be deemed pointless if an international tribunal was bound by a national judgment. As a result, an International Arbitral Tribunal is entitled to assess and consider a party's legal position without acknowledging the res judicata impact of a national court, regardless of how the party's position is expressed in a national judgment. In the Inceysa Vallisoletana v. El Salvador[12] ICSID case, the Tribunal made observations about the direct applicability of national court rulings as res judicata. The tribunal observed that "the State through the courts would redefine the scope and content of its consent to the jurisdiction of the arbitral tribunal unilaterally at its discretion," acknowledging that it agreed with the ICSID tribunal's rationale in the Amco Case. In the World Duty Free Co. Ltd. v. Republic of Kenya[13] case, the ICSID tribunal emphasized that some basic requirements, like the "identity of the parties" and the "identity of the claims," must be satisfied for a national court's ruling to serve as res judicata.

While the res judicata doctrine is generally recognized and enforced in international arbitration, there are challenges and exceptions. For instance, arbitrators must carefully consider the scope of their jurisdiction and the applicable law governing the dispute. Additionally, public policy considerations may justify setting aside or refusing to enforce an award, even if res judicata would otherwise apply. It is also closely tied to the concept of arbitration as a consensual and party-driven process. Parties often choose arbitration for its flexibility, and the finality of awards is a key feature that enhances the attractiveness of this method of dispute resolution. However, ensuring that the principle is applied justly requires a delicate balance, taking into account the rights and expectations of the parties involved.

The majority of national laws use rigorous and thorough regulation to address the question of res judicata in legal proceedings. Conversely, they do not address this matter by clear rules in international arbitration. Moreover, the subject is not specifically covered by pertinent arbitration rules or international agreements. Due to this circumstance, applying res judicata to earlier court rulings in international arbitration presents a very challenging legal issue. Applying res judicata to earlier court rulings in international arbitration presents some legal challenges. Among these are the inconsistent laws that apply to international arbitration cases involving res judicata and the ambiguous legal status of res judicata.

Since the tribunals in international arbitration lack a particular choice of law, there is no set procedure for res judicata decisions. The tribunals are not required to decide res judicata

[12] *Inceysa Vallisoletana S.L. v. Republic of El Salvador, ICSID ARB/03/26.*
[13] *Duty Free Co. Ltd. v. Republic of Kenya, ICSID Case No. ARB/00/7.*

 [ISSN 2581-5369]

arguments based on any particular set of criteria. Moreover, the tribunals cannot agree on the precise applicability of a previous award or judgment. Consequently, the nature and practice of international arbitration today do not lend itself to the interpretation of any one set of norms. Over the past ten or so years, the number of disputes that are sent to arbitration has increased at an accelerated rate. To maintain equity and justice, the idea of dispute resolution has also evolved and adjusted to reflect societal shifts. The res judicata doctrine falls between procedural and substantive law.

The goal of res judicata is to stop the misuse of the law. But with arbitration being a dynamic field, it is impossible to categorize the theory as either right or wrong. The tribunal in question will make this determination after considering all pertinent circumstances surrounding that specific dispute, such as the arbitration agreement and previous ruling.

Analysis of Mayavati Trading Pvt. Ltd. vs. United India Insurance Co. Ltd.[14]

When we analyse the case of Mayavati Trading Pvt. Ltd. filed an arbitration petition under Section 11(6) of the Arbitration and Conciliation Act, 1996, before the Calcutta High Court. The High Court ruled that the arbitration agreement did not exist after the performance of the agreement, thereby dismissing the arbitration petition on March 12, 2019. Mayavati Trading Pvt. Ltd. challenged this decision before the Supreme Court. A three-judge bench of the Supreme Court upheld the Calcutta High Court's decision but overruled the precedent set by United India Insurance Co. Ltd. v. Antique Arts Exports Pvt. Ltd.[15] In the United India Insurance case, the Delhi High Court had appointed an arbitrator under Section 11(6), and this appointment was later challenged. The division bench had relied on Duro Felguera, S.A. vs. Gangavaram Port Limited[16], deciding that the appointment of an arbitrator fell within the judicial authority's scope and warranted limited judicial intervention. The primary issue was whether the judgment in United India Insurance Co. Ltd. v. Antique Arts Exports Pvt. Ltd.[17] was legally sound. The Supreme Court in Mayavati Trading examined this issue within the context of the Arbitration and Conciliation Act's amendments.

In Mayavati Trading, the Supreme Court addressed Section 11(6A) of the Arbitration and Conciliation Act, which was introduced by the 2015 Amendment. This section empowered the Supreme Court and High Courts to consider the existence of an arbitration agreement while appointing an arbitrator. However, Section 11(6A) was omitted through the 2019 Amendment,

[14] *M/s. Mayavathi Trading Pvt Ltd v. Pradyuat Deb Burman, 2019 (8) SCC 714.*
[15] *United India Insurance Co. Ltd. v. Antique Art Exports Pvt Ltd, (2019) 5 SCC 362.*
[16] *Duro Felguera, S.A. v. Gangavaram Port Limited , (2017) 9 SCC 729.*
[17] *United India Insurance Co. Ltd. v. Antique Art Exports Pvt Ltd, (2019) 5 SCC 362.*

 [ISSN 2581-5369]

which has not been enforced yet. The court clarified that the omission of Section 11(6A) was not intended to revive the pre-2015 legal framework.

The court disagreed with the United India Insurance ruling, stating that Section 11(6A) restricts judicial intervention to merely examining the existence of an arbitration agreement, as held in Duro Felguera, S.A. vs. Gangavaram Port Limited.[18] Consequently, the decision in United India Insurance was overruled for not being consistent with the correct interpretation of the law. The Supreme Court in Mayavati Trading dismissed the appeal under Article 136, citing insufficient grounds for intervention of the courts.

The principle of res judicata, which prevents re-litigation of the same issues between the same parties, plays a crucial role in arbitration by ensuring finality and efficiency in dispute resolution. In this context, the Supreme Court's ruling in Mayavati Trading underscores the importance of adhering to statutory amendments and maintaining consistency in judicial interpretation. By overruling United India Insurance, the court reinforced the limited scope of judicial intervention in arbitrator appointments, aligning with the intended legislative framework. This decision highlights that arbitration agreements and their enforcement must be assessed within the bounds of current legal provisions to uphold the res judicata principle and avoid conflicting judgments.

In *Prasar Bharati v. Stracon India Ltd. & Ors.*[19], the Supreme Court held that the doctrine of **res judicata applies to international commercial arbitration** as a matter of public policy. The Court observed that arbitration is a quasi-judicial process and that once an arbitral tribunal has finally decided an issue between the same parties, the same issue cannot be re-agitated in subsequent arbitral proceedings. Applying principles akin to Section 11 of the CPC, the Court emphasized that res judicata ensures finality, prevents multiplicity of proceedings, and upholds the integrity and efficiency of the arbitral process, thereby aligning Indian arbitration law with internationally accepted arbitration standards.

IV. CONCLUSION

The concept of res judicata in international arbitration has become increasingly relevant due to the rise in conflicting arbitral awards. Res judicata, rooted in the principle of finality and the binding nature of judgments, requires that a prior decision is conclusive in subsequent proceedings involving the same parties, subject matter, and legal grounds. This doctrine, present

[18] *Duro Felguera, S.A. v. Gangavaram Port Limited , (2017) 9 SCC 729.*

[19] 2026 SCC OnLine Del 273

 [ISSN 2581-5369]

in both domestic and international law, aims to promote judicial economy and prevent endless litigation. In international arbitration, res judicata faces complexities due to the decentralized nature of arbitration and the potential for conflicting awards from different tribunals. While some arbitration rules explicitly address res judicata, others rely on general principles of law. The application of res judicata requires considerations such as the identity of the parties, subject matter, and the scope of previous decisions. Despite its general recognition, res judicata in international arbitration poses challenges and exceptions. Arbitrators must carefully consider jurisdictional scope, applicable law, and public policy concerns. Additionally, the principle's application must balance the consensual and party-driven nature of arbitration with the need for justice and finality. However, international arbitration lacks clear regulations addressing res judicata, leading to legal challenges and inconsistencies. Tribunals lack a specific choice of law and criteria for deciding res judicata arguments, resulting in varying interpretations and practices. In summary, while res judicata aims to promote finality and efficiency in international arbitration, its application faces challenges due to the evolving nature of arbitration and the lack of clear regulations. Tribunals must navigate these complexities to ensure equity and justice in dispute resolution.

*****

 [ISSN 2581-5369]

V. REFERENCES

1. T. N. Pant, the doctrine of 'res judicata' its import in constitutional law, *the Indian journal of political science,* vol. 25, no. 3/4, conference number for xxvi Indian political science conference 1964: annamalainagar (July- September-december, 1964), pp. 313-319 (7 pages).
2. *Effect of Awards of Compensation Made by the United Nations Administrative Tribunal, Advisory Opinion, 1954 I.C.J. 47, 53 (July 13).*
3. *Enid Campbell, Res Judicata and Decisions of Foreign Tribunals, 16 Sydney L. Rev. 311 (1994).*
4. *Weber Francis J, the United States versus Mexico: The Final Settlement of the Pious Fund of the Californias. 51 Southern California Quarterly, (1969): 97–152.*
5. *Amco Asia Corp. et al. v. Republic of Indonesia, ICSID ARB/81/1.*
6. *Inceysa Vallisoletana S.L. v. Republic of El Salvador, ICSID ARB/03/26.*
7. *Duty Free Co. Ltd. v. Republic of Kenya, ICSID Case No. ARB/00/7.*

*****

 [ISSN 2581-5369]