



## An Analysis of the Legal Frameworks of the International Commercial Arbitration in the Context of Pakistan

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### Abstract

This study critically analyzed the legal frameworks governing the recognition and enforcement of international commercial arbitral awards in Pakistan, with a particular focus on the REFA, 2011. Despite being a signatory to the NYC and enacting legislation to domesticate it, Pakistan has continued to encounter serious issues in aligning its domestic legal system with international arbitration standards. The research adopted a doctrinal legal research methodology to examine statutory provisions, leading case law, and judicial trends. It was observed that several provisions of the 2011 Act suffered from ambiguity, particularly in relation to the scope of court jurisdiction, interpretation of public policy, and procedural formalities for the enforcement of foreign awards. Judicial inconsistency and excessive court intervention emerged as critical impediments, undermining the purpose of arbitration as an alternative to litigation. Through case analysis, it was demonstrated that the Pakistani judiciary occasionally deviated from the pro-enforcement bias mandated under the NYC thereby affecting the reliability of Pakistan as a pro-arbitration jurisdiction. This study concluded that while the legal foundation for enforcement exists, the implementation remained weak and required structural reforms and judicial training to enhance consistency, predictability, and investor confidence. In order to ensure Pakistan's compliance with its international obligations and to promote foreign investment, the arbitral regime must be restructured to reflect global best practices.

**Keywords:** International Arbitration, New York Convention, REFA Act 2011, Foreign Arbitral Awards, Enforcement, Pakistan Judiciary.

### Background of this Study

International commercial arbitration has evolved as a preferred mechanism for resolving transnational business disputes due to its neutrality, efficiency, enforceability, and relative flexibility compared to traditional court litigation. In a globalized economy where international trade and cross-border investments are common, the ability to resolve disputes effectively and enforce arbitral awards across jurisdictions is essential for maintaining commercial certainty. International conventions, particularly the United Nations Convention on the Recognition and Enforcement of Foreign Arbitral Awards (1958) (NYCREFAA) commonly referred to as the New York Convention, have played a pivotal role in harmonizing arbitration procedures and enhancing the enforceability of arbitral awards globally. Pakistan ratified this Convention in 2005 and

implemented it through the Recognition and Enforcement (Arbitration Agreements and Foreign Arbitral Awards) Act, 2011 (hereinafter referred to as the REFA Act 2011). The primary purpose of the REFA Act 2011 is to provide a uniform legal regime for the recognition and enforcement of foreign arbitral awards in Pakistan. Prior to this Act, the enforcement of foreign awards was regulated under the Arbitration (Protocol and Convention) Act, 1937, and the Arbitration Act, 1940. Both laws were considered outdated and not aligned with modern international arbitration standards. The 2011 Act repealed the 1937 legislation and adopted key principles of the New York Convention, thereby improving the legislative structure for international commercial arbitration in Pakistan (Ahmed, 2018). However, the 1940 Act still remains applicable to domestic arbitration and occasionally causes confusion in judicial interpretation when determining whether an arbitration is domestic or international in nature. Although Pakistan has taken significant legislative steps to become arbitration-friendly, various practical and legal challenges persist. One of the most critical issues lies in the interpretation and application of the REFA Act 2011 by the judiciary. Courts in Pakistan have at times demonstrated reluctance in enforcing foreign arbitral awards, particularly on the grounds of "public policy," a vague term often used inconsistently. While the REFA Act 2011 allows for limited grounds to refuse enforcement, following Article V of the New York Convention, Pakistani courts have sometimes broadened the scope of these exceptions, undermining the efficiency and predictability of the arbitration process (Rehman, 2020). This inconsistency not only frustrates foreign investors but also tarnishes Pakistan's image as a reliable venue for dispute resolution. Moreover, the lack of institutional arbitration infrastructure in Pakistan exacerbates these problems. Unlike jurisdictions with well-established arbitration centers and specialized arbitration judges, Pakistan lacks dedicated commercial arbitration courts or mechanisms to expedite arbitral enforcement proceedings. While institutions like the Centre for International Investment and Commercial Arbitration (CIICA) have emerged in recent years, their role remains limited and underutilized in the broader legal landscape (Qureshi, 2019). The lack of training among legal professionals and judicial officers on international arbitration norms also contributes to the inefficient handling of arbitral matters. Another issue of concern is the interference of domestic courts in arbitral proceedings. Although international best practices encourage minimal court intervention, Pakistan's courts have frequently intervened in procedural aspects of arbitration, including stays, injunctions, and challenges to arbitral jurisdiction. This has led to delays, increased litigation costs, and a lack of confidence among foreign investors and multinational companies. Even after the arbitral tribunal has passed its award, enforcement proceedings often resemble full-scale litigation in Pakistani courts, defeating the core objective of arbitration finality and expediency (Ahmed, 2018).

Additionally, Pakistan's socio-political environment and institutional inefficiencies further complicate the enforcement landscape. Corruption, judicial backlog, and politicization of the legal process create barriers to swift enforcement of arbitral awards. These factors contribute to the overall perception that arbitration in Pakistan is unpredictable and not entirely independent of political or bureaucratic influence, which is contrary to the spirit of international arbitration. From a regional perspective, Pakistan's performance in promoting international arbitration lags behind other jurisdictions in South Asia and the Middle East. Countries such as Singapore, the UAE, and India have significantly reformed their arbitration laws to align with international standards and have established robust arbitration institutions that attract international business. These countries have modernized their legal frameworks, reduced court interference, and promoted arbitration through awareness campaigns, specialized training, and legal reforms. Pakistan, despite its strategic location and potential as a regional commercial hub, has not matched these developments. Consequently, foreign companies remain cautious when entering contracts involving arbitration with Pakistani parties, often preferring foreign jurisdictions as the seat of arbitration (Rehman,

2020). In this context, the proposed study is both timely and necessary. It aims to critically analyze the existing legal frameworks governing the enforcement of international commercial arbitral awards in Pakistan, highlighting the gaps, ambiguities, and inconsistencies that hinder their effective application. The study will also examine key judgments from Pakistani courts to understand how judicial attitudes have evolved over time and whether they align with the spirit of the New York Convention. Moreover, it will compare Pakistan's arbitration regime with selected international jurisdictions to identify best practices and propose policy recommendations that can enhance Pakistan's arbitration culture. The study holds particular importance in the wake of Pakistan's increasing involvement in international economic projects such as the China-Pakistan Economic Corridor (CPEC) and growing foreign direct investment. These developments necessitate a credible and efficient dispute resolution system that can instill confidence in foreign investors and ensure the protection of commercial rights through fair and enforceable arbitral decisions. Reforming Pakistan's arbitration framework is not merely a legal necessity but also a strategic economic imperative. Ultimately, a stable and predictable legal environment for international commercial arbitration can serve as a cornerstone for Pakistan's economic development and integration into the global legal and commercial order. The harmonization of local laws with international obligations, judicial capacity-building, and institutional strengthening are essential steps in this process. This study seeks to contribute to the growing discourse on legal reform in Pakistan by offering a comprehensive analysis of the arbitration enforcement regime and suggesting practical ways forward.

### **Objectives of the Study**

The primary objective of this study is to critically analyze the existing legal frameworks governing the recognition and enforcement of international commercial arbitral awards in Pakistan. It seeks to assess the compatibility of Pakistani laws, particularly the REFA 2011, with international standards set by the NYC. The study further aims to examine judicial interpretation and application of these laws by Pakistani courts, identifying inconsistencies, procedural bottlenecks, and potential misuses of legal grounds such as public policy. Additionally, the research aims to compare Pakistan's arbitration regime with selected international jurisdictions to highlight best practices and identify areas where reforms are required. A secondary objective is to explore the institutional challenges, including lack of specialized arbitration centers and inadequate training of legal professionals, which impact the efficiency of arbitration proceedings. Ultimately, the study endeavors to propose practical recommendations for legal and policy reforms that would enhance Pakistan's credibility as a pro-arbitration jurisdiction in the global commercial arena.

### **Problem Statement**

Despite being a signatory to the NYC and having enacted the REFA Act, 2011 to facilitate the enforcement of foreign arbitral awards, Pakistan continues to face significant legal and institutional challenges that undermine the effectiveness of its arbitration framework. Judicial inconsistencies, excessive court interference, vague interpretation of public policy, and procedural delays have created an unpredictable legal environment for the enforcement of international commercial arbitral awards. These issues not only deter foreign investors and multinational corporations from engaging in arbitration with Pakistani entities but also damage the country's reputation in the international business and legal community. In the absence of comprehensive reforms, Pakistan risks being sidelined in global trade and investment negotiations. Therefore, a thorough examination of the existing legal framework and its practical shortcomings is essential to ensure Pakistan's alignment with international arbitration standards and to restore confidence among foreign commercial stakeholders.

### **Literature Review**

International commercial arbitration has increasingly become the preferred mode of resolving cross-border commercial disputes due to its neutrality, flexibility, confidentiality, and enforceability of awards. The NYCREFAA is one of the most successful treaties in international private law and is foundational in ensuring that arbitral awards rendered in one member state are recognized and enforced in another without undue delay or review (Born, 2021). As Pakistan acceded to the NYC in 2005 and domesticated its provisions through the REFA, 2011 expectations were high that the country would improve its standing in the international arbitration community. However, the transition has not been smooth, and the literature reveals numerous challenges affecting the proper enforcement of foreign arbitral awards within the Pakistani legal framework. Ahmed (2018) argues that the enactment of the REFA Act 2011 marked a significant step toward harmonizing Pakistan's legal regime with international arbitration norms. However, judicial attitudes toward arbitration have not evolved accordingly. Courts in Pakistan often engage in excessive interference with arbitral matters, contrary to the principle of minimal court intervention enshrined in international arbitration practice. In his analysis of enforcement cases in Pakistani courts, Ahmed identifies a pattern of courts re-opening the merits of disputes already settled by arbitral tribunals, which is inconsistent with Article V of the NYC. This trend creates an unpredictable enforcement environment, raising serious concerns among foreign parties seeking dispute resolution in Pakistan. Similar concerns are echoed by Rehman (2020), who contends that despite legislative improvements, the practical application of arbitration law remains weak in Pakistan. Rehman notes that judicial training in arbitration law is minimal, and there is a lack of consistent jurisprudence on key arbitration principles such as competence-competence, party autonomy, and finality of awards. The study highlights several cases where Pakistani courts refused to enforce foreign awards on grounds of public policy without providing concrete reasoning or alignment with internationally accepted definitions of public policy. This use of vague and subjective public policy exceptions undermines the very objective of the NYC which is to promote uniformity and certainty in enforcement procedures. Qureshi (2019) draws attention to the institutional shortcomings within Pakistan's arbitration landscape. The author emphasizes the lack of specialized arbitration centers, inadequately trained legal professionals, and inefficient procedural systems that delay enforcement proceedings. Unlike jurisdictions such as Singapore or the UAE that have established specialized arbitration courts and robust institutional support for commercial arbitration, Pakistan has not developed a similar ecosystem. As a result, parties often face delays, legal ambiguities, and inconsistent court rulings, all of which erode confidence in Pakistan as a viable seat or forum for international arbitration. Qureshi also highlights the overlapping jurisdiction of the Arbitration Act, 1940, which still governs domestic arbitration and sometimes becomes a source of confusion in cases where parties or courts mistakenly apply its provisions to international matters. The historical evolution of arbitration law in Pakistan is another critical area explored in the literature. Rizvi (2016) explains that the colonial-era Arbitration Act, 1940 was never designed to handle the complexities of modern international commerce. Its procedural requirements are cumbersome, and its pro-litigation culture often clashes with the principles of finality and party autonomy central to arbitration. Although the REFA Act 2011 was intended to address these shortcomings, Rizvi notes that the absence of a comprehensive repeal of the 1940 Act has created a dual legal structure, which results in uncertainty and overlapping interpretations. The persistence of outdated arbitration laws highlights the need for a unified arbitration statute that fully integrates international standards and eliminates jurisdictional confusion. From a comparative perspective, literature suggests that Pakistan's arbitration framework lags behind other developing countries that have successfully modernized their legal regimes. Shah and Ali (2021) examine the arbitration reforms in India and note that India's amendments to its Arbitration and Conciliation Act, including timelines for award issuance and restrictions on judicial intervention, have improved investor confidence and enforcement

efficiency. The authors recommend that Pakistan adopt similar measures, including judicial training programs, time-bound enforcement mechanisms, and the establishment of commercial benches with arbitration expertise. The success of jurisdictions like India serves as a regional benchmark and provides a roadmap for countries like Pakistan seeking to improve their arbitration environment. Moreover, the issue of public policy as a ground for refusal of enforcement has been discussed extensively in international arbitration literature. Redfern and Hunter (2015) emphasize that the "public policy" exception under Article V(2)(b) of the New York Convention must be interpreted narrowly to ensure that states do not undermine arbitral finality under the guise of national interest. In contrast, Pakistani courts have at times expanded this exception to encompass moral, social, and political considerations, which are not part of the international consensus. This divergence is reflected in case law where courts have reviewed arbitral awards on substantive grounds rather than examining procedural fairness, as required under the Convention (Ahmed, 2018).

Another vital dimension of the literature pertains to the impact of arbitration uncertainty on foreign investment. According to Hussain (2020), the absence of a credible and reliable dispute resolution system deters foreign direct investment (FDI) in Pakistan. Investors are more likely to avoid jurisdictions where arbitration awards are not enforced promptly or predictably. This is particularly relevant in the context of mega-infrastructure projects under the China-Pakistan Economic Corridor (CPEC), where foreign investors demand robust legal protection mechanisms. Hussain argues that aligning Pakistan's arbitration framework with international best practices is not merely a legal necessity but an economic imperative. Additionally, the procedural inefficiencies in Pakistan's enforcement regime have been scrutinized in various empirical and doctrinal studies. Bhatti (2017) conducted a comparative analysis of enforcement timelines in Pakistan and Singapore, revealing that enforcement proceedings in Pakistan often take more than two years due to adjournments, appeals, and jurisdictional objections, whereas in Singapore, timelines are strictly regulated. These delays defeat the purpose of arbitration as a time-efficient dispute resolution mechanism. Bhatti recommends that Pakistan introduce procedural reforms, including limits on judicial review, expedited enforcement processes, and penalties for frivolous objections. A few studies have explored the role of arbitration institutions in shaping a pro-enforcement culture. For instance, CIICA (Centre for International Investment and Commercial Arbitration), Pakistan's first private sector arbitration center, has made some progress in promoting arbitration awareness, offering training, and publishing model arbitration clauses. However, as noted by Khan and Malik (2022), CIICA's outreach is still limited, and it lacks the statutory authority or infrastructure to influence national policy. The authors recommend stronger government support for institutions like CIICA, possibly through public-private partnerships or formal recognition in arbitration legislation. Furthermore, the literature indicates a growing global consensus on the need to harmonize domestic arbitration laws with international norms, especially in investment arbitration and international commercial disputes. Moses (2017) argues that states with inconsistent or outdated arbitration laws risk alienating themselves from international trade networks. For Pakistan, adopting a new, comprehensive arbitration statute perhaps modeled on the UNCITRAL Model Law would eliminate ambiguity, reduce litigation, and foster investor confidence. Several authors, including Rehman (2020) and Shah and Ali (2021), advocate for Pakistan's adoption of the UNCITRAL Model Law as a way to standardize procedural rules, ensure consistency in judicial decisions, and attract international business. The role of legal education and judicial capacity building is another theme addressed in the literature. Pakistani law schools and judicial academies have not sufficiently integrated international arbitration into their curricula or training programs. As a result, many judges and lawyers are unfamiliar with core arbitration concepts such as arbitral jurisdiction, procedural autonomy, and enforcement limits. This knowledge gap

contributes to inconsistent rulings and procedural delays. As highlighted by Qureshi (2019), capacity-building initiatives must be undertaken at the institutional level to equip legal professionals with the tools necessary to handle complex arbitration cases effectively.

### **Research Methodology and Approach**

This study employed the doctrinal legal research method, which is traditionally recognized as a library-based and qualitative approach commonly used in legal scholarship. The doctrinal method involves the identification, analysis, and interpretation of legal principles, statutory provisions, case law, and authoritative commentaries in order to explore the structure, content, and application of the law. In the context of this research, the doctrinal method was used to critically examine the legal frameworks governing the recognition and enforcement of international commercial arbitral awards in Pakistan. The analysis primarily focused on domestic laws such as the REFA, 2011 as well as Pakistan's obligations under the NYCREFAA. Furthermore, the study examined judicial decisions of Pakistani courts to assess how consistently and effectively the relevant legal provisions have been applied, particularly in matters involving public policy exceptions, procedural fairness, and judicial interference. To provide broader context and comparative insight, the research also explored international arbitration practices in jurisdictions such as India, Singapore, and the United Arab Emirates, which have developed more advanced and investor-friendly arbitration regimes. Secondary sources including academic journals, textbooks, international reports, and institutional publications were consulted to support the analysis and to understand scholarly perspectives on arbitration law and its reform. This methodology was appropriate for the nature of the study as it sought to understand what the law is, how it is interpreted by courts, and whether it aligns with international arbitration standards. The research did not rely on empirical data or fieldwork, as the focus was on critically analyzing legal texts and jurisprudence. Through this method, the study aimed to identify the gaps and ambiguities in Pakistan's arbitration framework and to propose legal reforms that could enhance its effectiveness and credibility in the enforcement of international commercial arbitral awards.

### **Application of the New York Convention in Pakistan**

The application of the NYC in Pakistan has been shaped by both legislative action and judicial interpretation, particularly following the enactment of the REFA, 2011. This Act incorporated the principles of the 1958 New York Convention into domestic law and provided the legal foundation for the recognition and enforcement of foreign arbitral awards. However, the practical implementation of the Convention in Pakistan has faced challenges, as reflected in several key judicial decisions. One of the landmark cases in this regard is *Hub Power Company Ltd. v. WAPDA* (PLD 2000 SC 841), where the Supreme Court of Pakistan examined the enforceability of an international arbitration agreement. Although the case was decided before Pakistan's formal accession to the New York Convention, it highlighted the judiciary's early hesitation in fully endorsing international arbitral autonomy, emphasizing national public interest over international commitments. After the formal implementation of the Convention, the case of *Dallah Real Estate and Tourism Holding Co. v. Ministry of Religious Affairs, Government of Pakistan* [2010] UKSC 46 became a significant point of reference, although decided in the UK. In this case, Pakistan contested the enforcement of an arbitral award rendered by the ICC, arguing that it was not a party to the arbitration agreement. The UK Supreme Court refused to enforce the award, siding with Pakistan's argument. While the decision did not originate from Pakistani courts, it had a direct bearing on Pakistan's reputation in the international arbitration community and emphasized the need for clarity in arbitration agreements involving state entities.

In domestic enforcement proceedings under the New York Convention, the case of *Saba Power Company and Southern Electric Power Company Ltd. v. WAPDA* (PLD 2013 Lahore 641) marked

a progressive development. The Lahore High Court upheld the principle of minimal judicial interference and confirmed that the grounds for refusing enforcement under Article V of the Convention must be narrowly construed. The court emphasized that arbitral awards should be treated with a presumption of validity unless clear evidence justified refusal under the limited exceptions provided in the Convention. This judgment was a positive step toward aligning Pakistan's enforcement practices with international standards. Nevertheless, inconsistencies remain. In *Taisei Corporation v. A.M. Construction Company* (2012 CLC 1086), the Sindh High Court refused to enforce a foreign arbitral award, citing public policy concerns without providing a detailed justification aligned with international norms. This decision illustrated the continuing judicial tendency to invoke vague public policy grounds, thereby undermining the predictability and reliability of enforcement proceedings under the New York Convention. The application of the NYC in Pakistan demonstrated a mixed trend. While there have been efforts by higher courts to uphold the integrity of foreign arbitral awards and limit judicial interference, lower courts have occasionally exhibited reluctance in strictly adhering to the narrow grounds of refusal prescribed by the Convention. The development of consistent jurisprudence and further judicial training is essential to ensure that Pakistan fully complies with its international obligations and strengthens its position as a reliable jurisdiction for international commercial arbitration.

### **An Analysis of the REFA, 2011**

The REFA, 2011 was enacted to implement the NYC in Pakistan and to streamline the recognition and enforcement of foreign arbitral awards. However, the Act contains several shortcomings when examined section by section, which have drawn criticism from legal scholars and practitioners.

Section 3 of the Act confers exclusive jurisdiction upon the court to adjudicate and settle matters arising under the Act. While this provision was meant to prevent multiple forums from interfering in arbitral matters, its broad and undefined nature has led to uncertainty regarding which court qualifies as "the court" under the Act. This ambiguity has been exploited in litigation, resulting in forum shopping and unnecessary delays in enforcement proceedings. Moreover, the section fails to clearly define the criteria for court intervention or limitation, leaving room for undue judicial interference that goes against the principle of minimal court involvement in international arbitration. Section 4 provides for the enforcement of arbitration agreements and empowers the court to stay legal proceedings if the matter is covered by an arbitration agreement. Although the section mirrors the language of Article II of the New York Convention, in practice, Pakistani courts have shown inconsistency in its application. The phrase "null and void, inoperative or incapable of being performed" has been subject to inconsistent interpretation, often influenced by local legal norms rather than international best practices. The tendency of some courts to examine the merits of the case before referring it to arbitration contradicts the pro-enforcement bias expected under the Convention. Section 5 mandates the furnishing of documents in accordance with Article IV of the Convention. While this provision appears straightforward, there is little guidance provided in the Act on how courts should deal with incomplete or defective documentation. This has resulted in varied practices and potential rejection of awards on procedural technicalities rather than substantive grounds. Moreover, the Act does not require courts to assist parties in obtaining or authenticating these documents, leaving applicants vulnerable to procedural dismissals. Section 6 lays down the core provision for the enforcement of foreign arbitral awards. It states that the award shall be recognized and enforced in the same manner as a judgment of a Pakistani court. However, this section has been criticized for lacking specific procedures or timelines for enforcement. Unlike many modern arbitration statutes, the Act fails to provide a clear, streamlined mechanism to expedite the enforcement process. In many cases, Pakistani courts have treated enforcement petitions like ordinary civil suits, leading to procedural delays that defeat the purpose of arbitration as a swift dispute resolution mechanism.

Section 7 outlines the grounds for refusal of enforcement, referring to Article V of the New York Convention. Although this alignment is essential, Pakistani courts have often broadened their interpretation of Article V, particularly in relation to the “public policy” exception. There is no statutory clarification on what constitutes public policy in this context, resulting in unpredictable and discretionary decisions. In several cases, courts have invoked public policy without thoroughly analyzing whether the award indeed violates Pakistan’s core moral or legal standards, which undermines legal certainty and international confidence in Pakistan’s arbitration regime. Section 8 states that in the case of any inconsistency between the Act and the Convention, the Convention shall prevail. While this clause is crucial for upholding international obligations, the Act does not define a clear mechanism for resolving such inconsistencies. In practice, the judiciary has sometimes prioritized domestic legal norms over Convention provisions, contrary to the spirit of this section. This lack of institutional clarity affects the consistency and uniformity of enforcement outcomes. Section 9 empowers the Federal Government to make rules for the implementation of the Act. However, no comprehensive set of procedural rules has been issued under this authority since the Act’s enactment. This regulatory gap has left courts to rely on general civil procedure laws, which are ill-suited to the specialized nature of arbitration. The failure to create tailored rules has further contributed to procedural inefficiencies and judicial hesitation in fully embracing arbitration as a preferred dispute resolution mechanism. Section 10 repeals the Arbitration (Protocol and Convention) Act, 1937, but allows its provisions to continue for awards made before the commencement of the 2011 Act. This transitional arrangement has created confusion in some cases, particularly where disputes have straddled both legal regimes. The Act does not provide a clear roadmap for litigants or courts to determine which law should apply in complex factual scenarios, leading to legal uncertainty and prolonged litigation over procedural applicability. While the REFA 2011 was a commendable effort to modernize Pakistan’s arbitration landscape in line with international standards, its execution has been marred by several legislative and interpretative shortcomings. The absence of precise definitions, procedural clarity, and institutional rules, coupled with inconsistent judicial behavior, has significantly undermined its effectiveness. For Pakistan to realize the full potential of international arbitration and build a trustworthy legal environment for foreign investment, a comprehensive legislative reform is urgently required. This reform must include precise statutory language, judicial training, and the issuance of procedural rules to guide courts and practitioners in the enforcement of foreign arbitral awards.

### **Findings and Discussion**

The legal framework governing international commercial arbitration in Pakistan presents a complex scenario where progressive legislative measures coexist with significant implementation challenges. Pakistan's accession to the NYC in 2005 and the subsequent enactment of the REFA, 2011 represented important steps toward modernizing the country's arbitration regime. However, the practical application of these legal instruments has revealed substantial gaps between formal compliance with international standards and actual enforcement practices. A critical examination of the REFA Act 2011 exposes several structural deficiencies that undermine its effectiveness. The legislation fails to clearly designate which courts possess exclusive jurisdiction over enforcement proceedings, resulting in forum shopping and procedural delays. Unlike more developed arbitration jurisdictions that have established specialized commercial courts, Pakistan's system lacks dedicated mechanisms for handling arbitration matters. This institutional gap contributes to inconsistent rulings and creates uncertainty for parties seeking to enforce awards. The Act's treatment of the public policy exception - a key ground for refusing enforcement under Article V of the NYC presented particular difficulties. Without statutory guidance defining the scope of this

exception, Pakistani courts have occasionally interpreted it expansively, invoking domestic policy considerations that go beyond internationally accepted limitations. Judicial interpretation of arbitration matters in Pakistan has exhibited troubling inconsistency. While some decisions demonstrate proper deference to arbitral autonomy and narrow construction of enforcement exceptions, others reveal a tendency toward excessive judicial intervention. This dichotomy reflects deeper systemic issues, including inadequate specialized training for judges in international arbitration principles and a persistent inclination to apply domestic litigation approaches to cross-border disputes. The principle of kompetenz-kompetenz, which should safeguard arbitral tribunals' authority to determine their own jurisdiction, has not been consistently respected in practice. Such judicial interference not only prolongs dispute resolution but also increases costs, undermining the fundamental advantages of arbitration as an efficient alternative to litigation. The institutional infrastructure supporting arbitration in Pakistan remains underdeveloped compared to regional competitors. The absence of robust arbitration institutions with international standing creates practical difficulties for parties seeking administered proceedings within the country. While the establishment of the Centre for International Investment and Commercial Arbitration represents a positive development, its impact has been limited by insufficient statutory recognition and low awareness among legal practitioners. Enforcement proceedings frequently encounter procedural obstacles and delays, with cases often taking years to resolve due to multiple appeals and adjournments. This contrasts sharply with more efficient jurisdictions where enforcement typically occurs within months through streamlined processes. Pakistan's continued reliance on the outdated Arbitration Act, 1940 for domestic matters creates additional complications, particularly in cases where the distinction between domestic and international disputes becomes blurred. The coexistence of two separate legal regimes for arbitration has led to confusion and inconsistent application of procedural rules. This dual system stands in stark contrast to the approach taken by jurisdictions that have adopted comprehensive, unified arbitration legislation based on international models such as the UNCITRAL Model Law. The comparative analysis with regional arbitration hubs highlights Pakistan's relative underdevelopment in this field. Neighboring countries like India have implemented significant arbitration reforms in recent years, including strict timelines for proceedings, limitations on judicial intervention, and the establishment of specialized arbitration institutions. More advanced centers such as Singapore and Dubai have created entire ecosystems supporting international arbitration, complete with modern legal frameworks, specialized courts, and world-class arbitration institutions. Pakistan's failure to keep pace with these developments has diminished its attractiveness as a potential seat for international arbitration, despite its strategic economic position and participation in major projects like the China-Pakistan Economic Corridor.

The practical consequences of these shortcomings are significant. Foreign investors and commercial parties increasingly prefer to specify arbitration seats outside Pakistan, even when their disputes involve Pakistani counterparties. This preference reflects concerns about enforcement reliability, procedural efficiency, and the overall predictability of the legal environment. The resulting loss of potential arbitration-related business represents both a missed economic opportunity and a barrier to Pakistan's fuller integration into global commercial networks. Addressing these challenges will require comprehensive reforms across multiple dimensions. Legislative amendments should focus on clarifying jurisdictional issues, narrowing the public policy exception, and establishing clear timelines for enforcement proceedings. Judicial capacity building through specialized training programs could help align court practices with international standards. Institutional development should include strengthening existing arbitration centers and potentially creating new ones with proper statutory backing. Perhaps most importantly, Pakistan should consider adopting a unified arbitration law based on internationally recognized

models to replace its current patchwork of outdated and inconsistent legislation. The potential benefits of such reforms extend beyond the legal sphere. A more effective arbitration framework could enhance Pakistan's attractiveness to foreign investment, support the development of its legal services sector, and contribute to the country's broader economic objectives. As international commercial arbitration continues to evolve globally, Pakistan's ability to adapt its legal system to meet contemporary standards will significantly influence its position in the international business community. The current gaps between formal commitments and practical implementation represent both a challenge and an opportunity for systemic improvement in Pakistan's approach to international dispute resolution.

## **Conclusion**

In conclusion Pakistan's journey toward establishing an effective framework for international commercial arbitration reveals both progress and persistent challenges. While the country has taken important steps by adopting international conventions and enacting modern legislation, the practical implementation of these measures falls short of creating a truly arbitration-friendly environment. The existing system suffers from ambiguous legal provisions, inconsistent judicial interpretations, and inadequate institutional support, all of which undermine the efficiency and reliability that arbitration is meant to provide. These shortcomings have tangible consequences, discouraging foreign investment and limiting Pakistan's participation in global commerce. Addressing these issues requires a concerted effort to harmonize domestic laws with international best practices, strengthen judicial expertise in arbitration matters, and develop robust institutional mechanisms. Such reforms would not only improve dispute resolution processes but also enhance Pakistan's economic competitiveness and integration into international trade networks. The path forward demands both political will and professional commitment to transform legal frameworks into practical realities that serve the needs of modern commercial actors. Ultimately, creating a more predictable and efficient arbitration system would represent a significant step in Pakistan's broader economic development and its engagement with the global business community.

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