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INTERNATIONAL COMMERCIAL ARBITRATION IN PAKISTAN: IMPLEMENTATION CHALLENGES AND POLICY RECOMMENDATIONS

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Abstract
The article provides a detailed analysis of the legal, institutional and judicial framework governing international commercial arbitration in Pakistan and highlights the prevailing implementation gap between the formal commitments made in arbitration treaties and the real practice of international commercial arbitrations. Pakistan has not yet had a unified statute to regulate international commercial arbitration that conforms to the UNCITRAL Model Law, nor has it yet adopted a statute except the colonial Arbitration Act, 1940, for international commercial arbitration with a seat in Pakistan. The article builds on the statute, leading Supreme Court and High Court precedents, experience with Model Law implementation, the draft Arbitration Bill prepared by the Arbitration Law Review Committee of the Law and Justice Commission of Pakistan, and the political reverberations of high-value investor-state disputes, to conclude that the implementation problems are not simply episodic, but structural, reflecting legislative dualism, the residual role of judges, the broad public-policy exception, weak institutional infrastructure, and the political fallout from high-value investor-state disputes. Analysis results in three policy clusters, including: Legislative modernization, judicial specialization, time-bound enforcement and development of a credible domestic seat via institutional capacity, professional training and investor-friendly legal certainty.

1. INTRODUCTION
In the past fifty years, international commercial arbitration has emerged as the forum of choice for cross-border traders, project financiers, energy contractors and infrastructure investors to resolve conflicts they do not want to, or cannot bring before the national courts of either party, and this preference is rooted not just in party autonomy but in a web of treaties, model laws, institutional rules and national implementing statutes that offer a reasonably predictable process from start to award to enforcement (Born, 2021). The integrity of the FDI route to development is not a nicety of private international law but an integral part of the investment climate; sophisticated counterparties built in legal risk to tariffs, interest rates, political-risk and, in the end, the choice to contract or not (Moses, 2017; Redfern and Hunter, 2015). Although Pakistan signed

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the New York Convention at an early stage of its life, a decade of its existence passed before a durable domestic legislation mirrored the convention's pro-enforcement attitude in High Courts and allowed for the travel of Pakistan-seated awards under the Convention statute. Even when the Recognition and Enforcement (Arbitration Agreements and Foreign Arbitral Awards) Act, 2011 came into force, Pakistan maintained a dual regime, where the foreign-seated awards moved under the Convention statute, while Pakistan-seated awards remained vulnerable to the court-centered mechanisms of the Arbitration Act, 1940 (Ghouri, 2013; IBA, 2026).

The final image is of a de-modernized, not neglected, picture. On the other side, the Hon'ble Supreme Court of Pakistan has in a series of recent decisions, culminated in Taisei Corporation v A.M. Construction Company (Pvt.) Ltd (2024 SCMR 640) and Orient Power Company Case expressed a pro-enforcement presumption, holding that the nationality of an award should be established by the place of its award rather than the proper law of the underlying transaction, and warned the High Courts against retrying the merits of Convention awards on the wider grounds of the 1940 Act (Raza, 2024; ABS and Co, 2025). But the critics argue that the parties to arbitration agreement are still having to deal with a long jam of their cases, inconsistent judicial reading of exclusive jurisdiction over sections 3 and 4 of the 2011 Act, an under-specified public-policy exception, the lack of tribunal-ordered interim remedies under the 1940 statute, and the lingering reputational consequences of earlier disputes between the Foreign Investors in Pakistani courts and international tribunals in cases like HUBCO v WAPDA, SociétéGénérale de Surveillance S.A. v Pakistan and the RekoDiq mining controversy (Paulsson, 2013; Kaufmann-Kohler and Potestà, 2020). The draft Arbitration Act 2024 by Law and Justice Commission of Pakistan aims to fill many of these gaps, with the final aim of incorporating the UNCITRAL Model Law into the domestic framework, while keeping the existing Act 2011 in place for foreign arbitration awards, but the Bill has yet to be published, and the real-life impact of the delay is that the choice of seat still governs whether a dispute will be managed under a modern limited-intervention arbitration statute or under a mid-twentieth century, court-administered code (Kluwer Arbitration Blog, 2024; Daily Jus, 2026).

This article assumes that implementation is a phenomenon that happens in layers, and that it is notonly the existence of a Convention statute that makes international commercial arbitration a reality: it happens when the different layers of the implementation – the Convention statute, the judicial culture, the institutional infrastructure, and the professional practice – work in the same direction with a commercially acceptable speed (Born, 2021; Gaillard, 2010). The following discussion, therefore, charts the dual legislative field, summarizes the scholarly and judicial literature, precisely states the research problem, outlines three objectives and three research questions, describes the doctrinal and comparative method used, and then sketches the argument in three extensive sections: legislative dualism and the seat problem, judicial intervention and the public-policy exception, institutional capacity and a programme of policy recommendations. And a conclusion that brings the strands into a synthesis, as is done in the editorial structure used in this manuscript.

Literature Review

The modern literature on international commercial arbitration revolves around a few interconnected claims that arbitration is a body of law separate from the state's to which it is attached, that it is an autonomous legal order which is not subject to supervision by national courts except on a closed list of grounds, that the seat of arbitration provides the "juridical home" of the award, and that public policy, an irreducible reservation of the forum, should be interpreted narrowly or else the Convention's pro-enforcement bias is to be left barren. (Born, 2021; Gaillard, 2010; Redfern and Hunter, 2015) UNCITRAL's Model Law on International Commercial Arbitration (adopted in 1985 and revised in 2006) translated those

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claims into the law by codifying competence-competence, separability of the arbitration agreement, powers of the tribunal to order interim measures, limited court assistance and a narrowly drafted provision for setting aside and refusal to recognize (UNCITRAL, 2006). Other jurisdictions that have adopted the Model Law with limited local tweaks like Singapore, Hong Kong, Malaysia since 2005, and India since 2015 and 2019 have introduced suitable amendments that have seen improved performance in enforcement speed and seat attractiveness, while those jurisdictions that have kept older court-heavy statutes have maintained an export path of international business to foreign seats despite the close connection of the underlying transaction to the local economy (Moses, 2017; Born, 2021).

The historical calamity of the Arbitration Act, 1940 (the Pakistani Act) being a clone of the English Arbitration Act, 1934, has been a consistent theme in scholarship on the subject; the English Act was replaced in 1950 and then in full in 1996, and the Pakistani Act, which contemplates the filing of the award in court, has no separate chapter on international commercial arbitration and lacks any specific powers to grant interim relief; it is even less explicit than the English Act, which contains a dedicated clause on such matters, in providing for challenges for misconduct and error that are apparent on the face of the award (Ghouri, 2013; LexForm, 2026). It has been described by commentators as "necessary but not sufficient" because it was long overdue to finally provide a permanent, statutory recognition to the New York Convention after a series of Presidential ordinances, but also because it is an enforcement statute for foreign agreements and foreign awards, not a lexarbitri for international cases seated in Pakistan (Mondaq, 2026; IBA, 2026). A flood of case-notes and practitioner surveys has highlighted the pendulum swing of Pakistani courts between an older interventionist impulse (HUBCO and SGS) and a newer Convention-consistent approach (Taisei and other enforcement rulings) and suggested that doctrinal developments have yet to be matched by procedural predictability, since the number of stays, jurisdictional skirmishes and public-policy pleas continues to proliferate (Research Gate, 2025; ABS and Co, 2025).

The second strand focuses on the political economy of investor-state and large commercial disputes involving the Pakistani State, and considers the RekoDiq litigation and its eventual reconstitution with Barrick to be a warning about the fiscal and reputational cost of relying on international awards as an alternative means of domestic constitutional politics (Kaufmann-Kohler and Potestà, 2020; Global Arbitration Review, 2022). Hostility to arbitration in the public arena has sometimes led to a nationalistic narrative that sets up the perception of international tribunals as vehicles for foreign capital rather than as the forum so specified by the contract, and this perception has at times made legislative modernization politically difficult, despite the Supreme Court's growing adoption of an arbitration-friendly stance (ARIA, 2026). However, a third strand, which could be called more reformist, looks at the Draft Arbitration Act 2024 as an example of what its drafters have termed “appropriate legality” – a model law transplant that is specifically localized in Pakistan to not upset the 2011 Act, one that prefers bright-line definitions of international commercial arbitration to minimize interlocutory litigation, one that includes interim measures and specific performance including in relation to land, and one which attempts to close down the door on even-numbered tribunals and on appeals from unsuccessful challenges to arbitrators (Kluwer Arbitration Blog, 2024; Sultan, Imam and Mohsin, 2025). In the literature it is well established that reforms can only be achieved if the enactment of some form of this Bill come before (Bajwa, 2023) or at least concurrently with (Daily Jus, 2026) the enactment of some version of this Bill.

Since its establishment in 2015, licensed by Securities and Exchange Commission of Pakistan (SECP), the growing number of Pakistanis joining the Chartered Institute of Arbitrators (CIA) has been a gradual development of local infrastructure, which is

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still far behind Singapore, Dubai, or even Indian centers, and, as the institutions argue, if the default lex arbitri remains the 1940 Act, users will still continue to draft foreign seats into their agreements, specifically to avoid using the 1940 Act (CIICA 2016; ARIA 2024). On its own, the World Bank's contract-enforcement diagnostics and its successor, Business Ready, have also consistently observed that Pakistan's legal framework for dispute resolution is one of its less robust, with lengthy timelines for first instance proceedings, and limited opportunities for alternative-dispute-resolution services. (World Bank, 2020; PIDE, 2026) Collectively, the literature provides grounds for an interpretation that the Convention has been received, the Hon'ble Supreme Court has started speaking its language, and a first generation of institutions has been established, but the operating system of the Pakistan-based international commercial arbitration has not yet been rewritten.

Problem Statement

The main issue which this article addresses is that though Pakistan has committed itself internationally and enacted a Convention implementing legislation but without establishing a fully functional, internally coherent and commercially viable regime of international commercial arbitration, with the result that the enforcement is still seat-based and inconsistent and is open to delays. In principle foreign awards in other Contracting States can be recognized and enforced by the High Courts on the limited basis of Article V of the NY Convention and recent Apex Court precedent has affirmed the territorial test of foreignness and the impropriety of using the 1940 Act to route awards through it. It coexists, however, with a domestic statute that was never written for international cases, one that funnels interim relief and the bulk of the life of the award to ordinary courts, one in which no mention of competence-competence was made, and one that is ripe for challenges on grounds not established in the Convention; it coexists with Court disagreement over exclusive versus concurrent jurisdiction and an elastic public-policy vocabulary carried over from earlier constitutional and corruption cases; and it coexists with thin institutional arbitration that has yet to generate high-value cases with enough seats to take away from London, Singapore, and Dubai. The issue isn't that there's no law, rather it is existence of mutually irreconcilable two laws that seem to be going in different directions and the incoherent judicial approach though it is gradually being shifted into a "support" rather than "supervisory" role and a political economy that's still haunted by the memories of HUBCO, SGS and RekoDiq. While this structural gap remains, Pakistan should ponder to bring in foreign seats for its international contracts so as to close the uncertainty gaps for the foreign investors.

Objectives

1. To examine how Pakistan's Arbitration Act, 1940 and 2011 Act interact, where they leave a regulatory vacuum, and why the seat choice produces different legal consequences.
2. To analyze post-agreement and post-award challenges: judicial intervention, public-policy misuse, jurisdictional conflict, delay, and weak arbitral institutions.
3. To formulate UNCITRAL Model Law-based reforms to create a functioning, time-bound, investment-sensitive arbitration regime.

Research Questions

1. What structural features of Pakistan's dual regime, especially the 1940 Act, block party autonomy, competence-competence, interim relief, and limited judicial review?
2. How have Pakistani courts treated arbitration agreements and foreign awards, and how do public policy, delay, and jurisdictional conflict undermine New York Convention predictability?
3. Which legislative, judicial, institutional, and capacity-building reforms would close the implementation gap and make Pakistan a reliable enforcement venue and plausible arbitral seat?

Methodology

The article is of a qualitative doctrinal approach, which is complemented by a structured comparative approach and by a

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policy-oriented interpretation of the reform proposals. The primary materials are the Arbitration Act, 1940, the Recognition and Enforcement (Arbitration Agreements and Foreign Arbitral Awards) Act, 2011, the unabridged text of the New York Convention, as to be incorporated into the 2011 Act, the UNCITRAL Model Law on International Commercial Arbitration as amended in 2006 and the publicly reported judgments of the Hon'ble Superior Courts of the country with their multi-facet interpretation of arbitration agreements including the perennial scope of lex loci, lex fori, nationality of awards and Article V grounds. Secondary materials are leading works on international commercial arbitration, peer-reviewed and professional commentary on arbitration practice in Pakistan, CIICA report and reports of international professional bodies on arbitration, and development-diagnostic reports of contract enforcement. The comparative element is not encyclopedic, but rather is to be used as a tool for evaluation of the Pakistani law on competence-competence and interim measures, public policy and time limits, institutional support and so on. No new empirical statistics of case duration are generated, as there are no comprehensive official statistics of arbitrations-related case filings published in a form appropriate for reliable quantitative inferences; when reported, information about case duration is based on judgments reported, practitioner accounts and descriptions available in the public domain by institutions. The use of public legal texts and published commentary rules out the possibility of ethical issues that are specific to human-subject research. The approach is thus well-suited for the research questions: questions of legal structure, judicial practice and institutional design as opposed to of survey attitude or econometric causality.

Legislative Dualism and the Missing Lex Arbitri

The proponents of unquestioned autonomy of the contracting parties and limited court intervention argue that the problem is not that Pakistan lacks statutes; rather, it is that there is no coherency and uniformity between the statute that Pakistan follows to recognize the New York Convention and the one Pakistan still recognizes in respect of an arbitration whose seat is within Pakistan, and that the Hon'ble Supreme Court has been correct, rather than less, in asserting that it is the seat, not the proper law of the matrix contract, that is the relevant factor, creating the first and most recalcitrant implementation issue in Pakistan (Born, 2021; Raza, 2024). The Arbitration Act, 1940 provides for arbitration without court intervention, with court intervention where no suit is pending, and in suits, and under each of these chapters preserves the supervisory role of the civil courts, including the circumstances of the appointment controversy, the circumstances of the filing of the award, modification and remission, and the circumstances of setting aside for misconduct or for illegality apparent on the face of the award, none of which corresponds to the closed list in Article V of the Convention, or to the limited recourse philosophy of the Model Law (LexForm, 2026; Ghouri, 2013). They are of the view that the 1940 Act does not expressly provide for competence-competence, the tribunal's statutory powers to order interim measures or security for costs nor does it provide for any modern disclosure regime for arbitrators; nor does it differentiate between domestic and international arbitrations, so that an ICC or SIAC proceeding, which the parties for reasons of convenience or neutrality have chosen to sit in Karachi or Islamabad, is forced into a 'procedural mould' fashioned for mid-century ad hoc domestic references (ARIA, 2026; IBA, 2026). Seen in this backdrop the 2011 Act, in contrast, seems a light-touch enforcement statute as it gives exclusive jurisdiction to the Hon'ble High Courts in matters arising under the Act, obligates a court which has jurisdiction over a dispute covered by a foreign arbitration agreement to refer the parties for arbitration, and provides that recognition and enforcement of an award shall not be refused except in accordance with Article V, and, by its own temporal clause as interpreted by Taisei, applies to awards made on or after 14 July 2005 (IBA, 2026; Jus Mundi, 2025).

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But eventhe 2011 Act fails to address the conduct of an international arbitration whose seat is in Pakistan, which was recently criticized as follows (ARIA, 2026):

"No details of the conduct of an international arbitration whose seat lies in Pakistan are held in the statute, foreign parties, foreign counsel and a rulebook of an institution can be inserted in the statute, if the statute was drafted for that purpose."

The impact of these practical shortcomings is immediate and harsh. The award is not capable of automatic enforcement as a stand-alone document, but must be enforced through court action. The grounds of attack available under the 1940 Act are broader than the grounds under the Convention and a losing party would be given a "doctrinal invitation" to re-litigate issues of law and alleged misconduct that a Model Law court would not have had jurisdiction to hear (Redfern and Hunter, 2015; LexForm, 2026). That is the reason foreign investors have reacted sensibly and decided to opt for other seats even for contracts with a significant Pakistan performance component, turning Pakistan from a potential seat of arbitration to a place of enforcement, and that's a self-reinforcing process because the more cases are sent abroad, the fewer opportunities exist for Pakistani courts, institutions, and counsel to establish a local jurisprudence of international procedure (Bajwa, 2023; Mondaq, 2026).

The Draft Arbitration Act, however, that went through the Arbitration Law Review Committee process is intentionally at this middle-ground. It would apply broadly to arbitrations held in Pakistan (whether domestic or international) rather than the 2011 Act and would recognize competence-competence and separability; it would give the tribunals the ability to grant interim measures, including in some circumstances in relation to foreign-seated proceedings; it would establish a general principle of judicial non-intervention (unless such power was expressly conferred by the statute); it would introduce limited grounds of action for setting aside awards (as opposed to the open textured grounds of misconduct under 1940); it would require arbitrators to disclose (but would not ban even-numbered tribunals); and it would require that limited grounds of action for setting aside awards would be in place instead of the widely worded vague concept of misconduct jurisdiction of 1940 (Kluwer Arbitration Blog, 2024; Sultan, Imam and Mohsin, 2025). The drafters' preference for bright-line definition of international commercial arbitration, highlighted by the option to designate a case as international with a pecuniary threshold, is an explicit reaction to the congestion of Pakistani docket (Kluwer Arbitration Blog, 2024): Until Parliament passes a statute (or an Islamabad or provincial equivalent, acting within constitutional powers) to implement international commercial arbitration within Pakistan, that remains the case. Legislative dualism is thus not just an inconvenience of the present regime's transitional status, but is the structural core of the regime and all the subsequent challenges that are discussed here are compounded by this architectural phenomenon.

Judicial Intervention and the Public Policy Exception

If legislation supplies the skeleton of an arbitration regime, judicial practice supplies its muscle, and Pakistan's muscle memory for much of the post-independence period was interventionist rather than sympathetic, a posture that can be traced through a familiar line of authorities even as the most recent Supreme Court decisions have attempted a deliberate change of direction (Paulsson, 2013; Gaillard, 2010). Advocates of cosmetic court intervention in arbitration proceedings often criticize HUBCO Case *WAPDA* ruling wherein the Apex Court treated allegations of corruption and criminality justifiable reasons in taking the dispute outside the contractual promise to arbitrate, thereby converting a public-policy anxiety into a threshold bar on arbitrability holding that an international clause could be displaced if the surrounding transaction could be characterized as tainted (Kaufmann-Kohler and Potestà, 2020). In *SociétéGénérale de Surveillance S.A. v Pakistan* ***(SGS Case)*** the Court restrained a party from

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pursuing ICSID arbitration on a combination of dualist reasoning about unimplemented treaties and a narrow reading of what counted as an investment, a decision that an ICSID tribunal later declined to follow on the international plane and that became, in the literature, a symbol of the possible divergence between Pakistani public law and the expectations of the investment-treaty system (Ghouri, 2013; ARIA, 2026). The **RekoDiq hullabaloo,** in which the Hon'ble Supreme Court's invalidation of mining concessions was followed by an ICSID award for six billion dollars and, years later, by a negotiated reconstitution of the project with Barrick and Pakistani state stakeholders, imprinted on the political imagination the idea that international arbitration can produce fiscal shocks of macroeconomic scale, and that imprint has made subsequent legislative reform both more urgent and more delicate (Global Arbitration Review, 2022; Kaufmann-Kohler and Potestà, 2020).

The 2011 Act was intended to discipline this instinct by concentrating Convention business in the Hon'ble High Courts and by locking refusal grounds to Article V, yet implementation immediately encountered two familiar pathologies of Pakistani civil justice: jurisdictional fragmentation and delay. Even the Hon'ble High Courts expressed divergent views over whether sections 3 and 4 of the 2011 Act vest exclusive competence in the High Court even to stay ordinary suits and refer parties to foreign arbitration, or whether civil courts retain a concurrent power that can be invoked by a defendant who prefers the slower forum, and that division has allowed well-advised respondents to manufacture a preliminary jurisdictional war before the Convention question is ever reached (ADR.org, 2026; Kluwer Arbitration Blog, 2020). Public policy, which Article V(2)(b) preserves as a safety valve, has in Pakistani pleading practice often been argued as a merits appeal by another name, inviting courts to test the fairness of the underlying bargain, the compatibility of the award with domestic statutory schemes, or the supposedly affront to constitutional values, rather than to ask the internationally accepted question whether enforcement would violate the forum's most basic notions of morality and justice (Born, 2021; ABS and Co, 2025). Lower courts, moreover, persisted for years in entertaining challenges to foreign awards under the 1940 Act, a misapplication that was finally rested to peace by the Hon'ble Supreme Court in **Kausar Rana Resources Case and *Taisei* (2024)** by holding that a Singapore-seated ICC award is a foreign award even if the subcontract is governed by Pakistani law, that the 2011 Act occupies the field, and that Convention enforcement is the default rather than a discretionary grace (Raza, 2024; Jus Mundi, 2025).

Subsequent Court practice has begun to follow that lead. Enforcement has been granted in a series of commercial matters involving metals, commodities, shipping, and energy offtake, and in at least one widely reported 2025 decision the Hon'ble Sindh High Court recognized a SIAC award over a public-policy and fair-trial objection after finding that the award debtor had been served and had elected not to participate (ABS and Co, 2025; Jus Mundi, 2025). The Hon'ble Supreme Court's disposition in Orient Power Case has been read as a further signal that annulment and enforcement are not occasions for a second trial on the contract. These are genuine doctrinal gains, and they should not be minimized. They have not, however, abolished the delay multiplier that remains the everyday experience of enforcement in Pakistan, because an application that is sound in law can still spend years in a Court docket, attract stay applications, generate ancillary constitutional petitions, and, after getting a first-instance decree can still face a petition for leave to appeal to the Apex Court (Research Gate, 2025; PIDE, 2026). A classical example of this imbroglio is visible in SpaceCom v Wateen Telecom Case in which the Hon'ble Lahore High Court relying on UKSC reasoning in Dallah Case found that the designation of seat by the tribunal was inconsistent with the parties' agreement, suggesting that Article V(1)(d) is still a fact-sensitive enquiry (Daily Jus,

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2026). The Star Hydro case is indicative of constant tension of parallel jurisdiction between local and foreign court and the resulting conflicting decision. A bird eye view of its facts shows that local regulatory authority intervened and decreased the agreed tariff so the foreign investor, a Korean IPP approached LCIA that issued award in its favour against which injunction was issued by a Pakistani court prompting the English Court of Appeal to issue anti-suit injunction in favour of the Star Hydro (and now the final appeal is pending in the UKSC).Critics are of the view that foreign courts and tribunals are keenly observing Pakistani process, and are prepared to protect their own seats if they see a local process as an "attack by a sword" instead of using the NY Convention as "shield" on a London award (Clifford Chance, 2025).

The lesson of this case law history is that judicial conversion is still required. Critics allege that while the Hon'ble Supreme Court has read the Convention in New York favorably, speaking a distinct language by a subordinate court will again lead to ambiguity that is created anew in each instance by the interlocutory creativity of the parties, and that is grounded in an under-specified public-policy clause, whilst in which the political memory of HUBCO and RekoDiq provides the court with a vocabulary for any commercial default that it is called on to resolve by sheltering it in the language of sovereignty or constitutional morality (ARIA, 2026; Paulsson, 2013). The doctrine of public policy, however, must not allow such inconsistent judicial approach instead contours of such policy must reflect in the statutory rules instead of leaving it to the sweet discretion of every other court that will practically negate the progressive approach exhibited by the Hon'ble Supreme Court of Pakistan until comparatively recently.

Institutional Capacity and Reform Recommendations

Redfern & Hunter argue that a jurisdiction only becomes a serious contender to be a seat for international commercial arbitration when it can point to an institution that it is sure can administer the case, the building where the hearing can take place, the pool from which the tribunal can be drawn, and the court that can support the process without much ado, and on each of those measures, Pakistan is an emerging rather than a proven venue (Redfern and Hunter, 2015; Moses, 2017). The most prominent effort to develop the infrastructure in house is the CIICA, established in 2015, which provides both ordinary and expedited rules, and an online filing gateway, the latter of which was the result of SECP licensing under the newer alternative-dispute-resolution dispensation, that includes former Supreme Court judges, and model clauses that transactional lawyers can actually plug in (CIICA, 2016; ARIA, 2024). The number of Pakistani fellows has increased from a handful to high double digits in the Chartered Institute of Arbitrators and senior judges have now started talking about the cost advantage of arbitrations in Pakistan and the possibility of it becoming a venue for arbitration in the future rather than just a host (Dawn, 2026). These constitute essential prerequisites, but they cannot make up for a lexarbitri that still requires the international user to submit the award to court and to await for those interim measures ordered by the tribunal, or for the lack of any statutory time limits for applications to the Convention (IBA, 2026; Lex and Juris, 2025). Statutory demand is to be followed in the institutional supply, only when the demand is rewritten.

So the first set of recommendations is in the legislative domain which is not intended to be aspirational but rather urgent! Parliament must enact on a clarion call being made by foreign investors to come up with a statute grounded in the Model Law with suitable amendments through consensus among the stakeholders, and retain the 2011 Act as the mechanism for enforcement of the foreign awards, rather than blindly follow the text of the Model Law and risk losing the hard-earned jurisprudence of Taisei (Kluwer Arbitration Blog, 2024; Sultan, Imam and Mohsin, 2025). The enacted legislation should include doctrine of competence-competence and separability, give the tribunal the power to order interim

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measures, and specific performance including with regard to land. It may also empower the tribunal to set aside the award on the limited grounds of public policyrecognized in the Model Law (UNCITRAL, 2006; Born, 2021). The 2011 Act should be slightly amended, concurrently, to provide the court with an outer time limit on the disposal of recognition and enforcement applications, to expressly exclude concurrent jurisdiction in as strong a way of words as possible, and to provide for particularization, by reference, to a closed illustrative list of a public-policy objection (not pleaded as a general appeal to justice) (IBA, 2026; Lex and Juris, 2025). Transitional provisions should specify that the foreign awards under the 2011 Act will continue to be governed by the 2011 Act and pending cases in Pakistan will continue under the 1940 Act without prejudice to accrued rights.

The second one is judicial and organizational. There is a need to establish dedicated arbitration benches in each of the High Court with Hon'ble judges who have been properly trained in the New York Convention, the Model Law and the main institutional rules and have a fast-track calendar for the processing of stay applications, appointments, interim procedures in aid of arbitration and enforcement petitions (Lex and Juris, 2025; Dawn, 2026). Practice directions should discourage the use of constitutional petition as an alternative procedure to challenge awards or agreements which are before the arbitration bench and the new statute should limit the use of constitutional petition as a parallel avenue to challenge such awards and agreements. Reasoned High Court enforcement judgments ought to be made systematic and available to the public, since the current level of uncertainty to some extent stems from partial publication and because of the lack of awareness by parties of the latest decisions by the Supreme Court (Jus Mundi, 2025). Law & Justice Commission recommendation for establishment of International Commercial Court of Pakistan with trained judges would be a welcome step to clear the fog of skepticism on this contentious issue. Besides Judicial education should acknowledge the importance of the HUBCO era, but in a doctrinally limited way; and should make Taisei and Orient Power the "rules of leisure" for Convention cases, rather than a 10-year delay between appellate doctrine and first-instance practice.

The third cluster is institutional, professional and international. The federal and provincial governments should provide support to at least one internationally credible administering institution by premises, modern hearing centre, transparent panel process, rather than taking over, and independent of the state case administration so that CIICA and any successor bodies can attract those who would otherwise opt for SIAC, ICC, LCIA or DIAC (CIICA, 2016; ARIA, 2024). Law schools and professional institutes should teach and examine international commercial arbitration as mainstream subjects and public procurement/state-owned-entity contracting guidelines should mandate that reasoned decisions be made on the selection of a foreign seat, and the choice of exporting Pakistani cases to foreign seats should be an exercise of conscious effort and not a casual practice (Bajwa, 2023). However, on the investment-treaty plane, one can see that negotiated reconstitution can be better than perpetually enforcing an agreement, but that there also is a cost to allowing domestic public-law interventions to compete with treaty arbitration; and future concession and public-private-partnership templates ought to be internally consistent as to forum, governing law, and stabilization, while also ICSID and New York Convention implementation should be treated as a single policy, and not as two disconnected files (Global Arbitration Review, 2022; Kaufmann-Kohler and Potestà, 2020). None of these recommendations calls for loss of regulatory autonomy for Pakistan; all of them call for the state to put to use its sovereignty, which has already been granted to the contracting parties, who have already been invited to invest.

Conclusion

Today international commercial arbitration in Pakistan is more promising than its image in

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the mid-2000s, which was not as complete as its treaty commitments and Supreme Court pronouncements would have led one to believe. The Convention has a domestic statute, with exclusive enforcement jurisdiction of high court in principle, the seat has been restored to its correct place as that which determines the nationality of the award and a draft Model Law statute exists which if adopted in its true perspective in Pakistan, would ensure that international cases with a seat in Pakistan have a procedure worthy of the name. Those accomplishments are juxtaposed with an un-lastingly 1940 Act, a public-policy lexicon that's always still able to be extended into a merits-based review, dockets that transform a good application into a multi-year campaign, institutions that have yet to mature in scale to be un-resisted by foreign users, and a political memory in which arbitration is as much a fiscal shock as it's a commercial efficiency.

The challenge in implementation is thus best grasped as an issue of aligning. The laws, courts, institutions and professional practice have to be aligned in that direction and at a pace that can be monetized by commercial parties. The draft Bill should not get another Bill, another split judgment and another conference on the virtues of alternative dispute resolution. Pressing need for the Parliament is to change the lexarbitri for cases heard in Pakistan from a colonial era to a Pakistani era so that the 2011 Act is interpreted to be more stringent on procedural delays and gamesmanshipas it will encourage a domestic institution will be able to deal with a mid-scale international case without sending the user abroad for all the comforts. Until this alignment is achieved, foreign seats will continue to be incorporated into Pakistani contracts, the legal-risk premium on investment will remain high in Pakistan, and the country will continue to under-use one of the few legal instruments available to it that can simultaneously make the courts less congested, investment in Pakistan less expensive, and contractual promises more autonomous which Pakistan's legal system be ready to adapt and deal with effectively.

The suggestions proposed in this article are not utopian, they are simply incremental. The author is aware that Pakistan cannot be Singapore in a single parliamentary or assembly session, and that public-policy control over truly fundamental values has to exist. But that incrementalism must not be used as an excuse for sticking around, as otherwise the price will be more costly power-purchase deals, less foreign direct investment, and the continued exportation of Pakistani commercial disputes to the hearing rooms Pakistani law didn't have to submit to. But an insistence like that leads to a work programme for the future, namely the creation of a systematic listing of the outcomes of 2011 Act filings in the High Courts, a comparison of the first few years of any Model Law statute enacted against the baseline described above, and a test of the effectiveness of specialized benches in compressing time to decree. The present contribution is an earnest attempt to be as doctrinal and institutional as the sources would allow to be candid in stating the reasons why implementation has been so hard and what a coherent policy response should include.

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