

Kluwer Arbitration Blog

Interviews with Our Editors: Understanding CIICA, Pakistan's First International Arbitration Centre, with Mr. Rana Sajjad Ahmad, Founder & President

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Mr. Rana Sajjad Ahmad, thank you for joining us on the Kluwer Arbitration Blog! We are grateful to have the opportunity to learn more about the Center for International Investment and Commercial Arbitration (CIICA) and your experience with enhancing the role of international arbitration in Pakistan.

1. Could you briefly introduce yourself to our readers?

In two words, I would describe myself as an “arbitration enthusiast”. In terms of background and professional experience, I am a dual-qualified lawyer (licensed in Pakistan and New York) based in Lahore, Pakistan. At my law firm, Rana Ijaz & Partners, my practice areas include contracts, cross-border transactions, commercial litigation and domestic and international arbitration. I learned about international arbitration while pursuing an LL.M. at Columbia Law School, New York, back in 2001-2002 and also had the opportunity to practice international arbitration at a leading large law firm in the U.S. In 2015, I launched the Center for International Investment and

Commercial Arbitration (CIICA), Pakistan's first and only international arbitration center.

2. *Can you take us through your journey in launching CIICA five years ago and tell us about its achievements thus far?*

CIICA is a manifestation of my passion for shining a light on international arbitration in Pakistan. My primary motivation for setting up CIICA was the glaring lack of awareness of international arbitration in Pakistan and how the misplaced views about it were adversely affecting the outcomes of the cases in which Pakistan was involved.

Since its launch, CIICA has tried to address this issue by organizing several groundbreaking conferences with a view to discussing and analyzing critical issues in connection with international commercial and investment arbitration. The Pakistan component of the Belt and Road Initiative (BRI), commonly referred to as the China Pakistan Economic Corridor (CPEC), has also been extensively discussed at these conferences. I believe change happens one conversation at a time and CIICA has set in motion the process of raising awareness of the important issues and proposing recommendations for modifying Pakistan's approach to international arbitration.

As part of its mission of capacity building, CIICA and its officials have conducted training workshops at leading universities in Pakistan, the Lahore High Court, Pakistan Engineering Council and the Punjab Judicial Academy that are aimed at training and building capacity of law students, lawyers, engineers and commercial court Judges.

Earlier this year, CIICA became the first and only dispute resolution organization in Pakistan offering online filing services. Amidst the COVID-19 pandemic, in order to facilitate dispute resolution involving Micro, Small and Medium Sized Enterprises (MSMEs), CIICA lowered its fees substantially and raised the upper limit of the amount in dispute for its expedited arbitration services.

To further its objective of modernizing Pakistan's legal framework for arbitration, a few months ago, CIICA launched its legislative reforms committee.

3. *You have previously written about developing a culture of arbitration (both investor-state and commercial) as a parallel mode to judicial dispute resolution in Pakistan. From your perspective, what are the top three challenges to enhancing the use of arbitration in Pakistan?*

The first and foremost challenge is the judiciary's lack of a deep understanding of the substantive and procedural aspects of arbitration, which impairs its ability to develop a pro-arbitration mindset and approach. The second is the inadequate framework for domestic and international arbitration. The third is the lack of awareness or misperception of the advantages of arbitration over litigation.

In one respect, these three challenges are inter-linked because certain provisions of the outdated arbitration law are misinterpreted by Pakistani Judges who do not have an adequate understanding of the law's nuances and implications. This leads to either undue court interventions to stay arbitral proceedings or unsatisfactory court decisions that refuse enforcement of arbitral awards. Consequently, a vicious circle is set in motion whereby the value of the arbitration process is

undermined and the users are dissatisfied with the entire process that in turn engenders a reluctance to arbitrate disputes in the future. A common complaint of some disgruntled users of arbitration in Pakistan is that it is pointless to arbitrate if the court still wields such broad powers and virtually unfettered discretion to delay and derail the process, a clear case of “once bitten, twice shy”.

4. *We have previously published on the Blog about the burning need to modernize Pakistan’s Arbitration Act 1940 (“Act”). We understand that national efforts to do so are now underway and you are involved in the Committee appointed to spearhead the Act’s redesign. Can you walk us through some of the Committee’s major considerations and how it aims to achieve this important goal?*

As mentioned, a few months ago, CIICA formally constituted a legislative reforms committee. The committee’s broad objectives include:

- Examining Pakistan’s current legal framework for domestic and international arbitration to identify specific provisions that need to be amended;
- Providing the reasons for and the language of the proposed amendments;
- Proposing enactment of the UNCITRAL Model Law; and
- Engaging with relevant government bodies and private sector entities to lobby/advocate for the reforms.

5. *Asia is home to both leading arbitration jurisdictions like Singapore and Hong Kong as well as India and Pakistan, where the framework for (and use of) arbitration is in flux. What do you think has led to this unequal development of arbitration in Asia and, in particular, why is South Asia lagging behind some of its neighbors?*

I think the primary reason for the difference is the vision of the governments and the will to bring that vision to fruition. I believe that if the government of a country itself spearheads or supports reforms in connection with the law, practice and procedure of arbitration, it creates an enabling environment for the growth and success of globally recognized arbitral institutions such as the ones in Singapore and Hong Kong. In the absence of such a vision or policy of the government, members of a country’s business and legal community need to step up and play a pivotal role to promote and adopt arbitration. In Pakistan, there certainly are bright spots in both these communities and CIICA continues to bring them together to facilitate discussions with the goal of creating a vibrant ecosystem for arbitration in Pakistan.

6. *You represented CIICA at recent meetings of UNCITRAL Working Group II. What are some unexpected highlights of your experience?*

It was an invaluable learning experience in international relations, especially in the context of international trade and commerce. Specifically, I witnessed how States engage in a back-and-forth on critical issues of national interest. In some cases, the degree to which political considerations underpinned the discussions was a bit unexpected and I found the divide between certain States fairly pronounced. Nonetheless, it was also fascinating to see how the efficient mechanisms

designed by UNCITRAL enabled States to reach an agreement on contentious issues and avoid potential impasse.

7. *Earlier in this interview you mentioned CIICA as a platform for resolving BRI disputes, particularly those relating to CPEC and you have written about the various such options previously. Indeed, in 2019, to support the resolution of such disputes, CIICA signed a Memorandum of Understanding with the China International Economic and Trade Arbitration Commission (CIETAC). Do you consider that international arbitration offers the most suitable mechanism for resolving such disputes? With the Singapore Convention on Mediation coming into force recently, does it make mediation a viable alternative for stakeholders?*

I think in the foreseeable future, international arbitration would still be the predominant method for resolution of disputes across the Belt and Road states. This is primarily due to its wider acceptance and recognition among the States participating in this initiative in particular and around the world in general. Although the Singapore Convention is a significant and welcome development in the realm of international dispute resolution, it may still take a few years before it gains wider adoption among the Belt and Road states. In view of the divergent approaches and preferences of certain States across the Belt and Road states, the hybrid dispute resolution methods of Arb-Med, Med-Arb and Arb-Med-Arb may also gain traction allowing parties more freedom to design the dispute resolution procedures based on their unique preferences and the particular context of their transactions and commercial relationships.

8. *Can you briefly discuss the impact of the COVID-19 pandemic on arbitral practice in Pakistan? Is there an increased demand for CIICA's Online Arbitration and Mediation Filing System? How has CIICA enhanced its virtual and online services to meet stakeholder demands?*

Amidst the COVID-19 pandemic, CIICA launched its online arbitration and mediation filing system and is currently the only institution in Pakistan that is offering these online services. However, online arbitration and mediation do not appear to have gained much traction in Pakistan yet and consequently, there has been no significant impact on the demand for arbitration or mediation in Pakistan.

9. *As we look forward, can you tell us the top three goals you hope CIICA will have achieved by 2025, at the time of its tenth anniversary?*

By 2025, I hope:

1. CIICA is recognized as an innovative arbitral institution that can adapt its services to cater to the evolving needs of the users in Pakistan in particular and the region in general.
2. CIICA is successful in bringing about the legislative reforms that its committee is currently working on.
3. CIICA is able to create a fairly large pool of well-trained international arbitration practitioners

and arbitrators in Pakistan. I hope CIICA has also had the opportunity to build the capacity of Judges in Pakistan to enable them to develop a deeper understanding of the context, nuances and implications of the substantive and procedural aspects of international arbitration. This would minimize undue court intervention and facilitate enforcement of arbitration agreements and awards that would ultimately help develop pro-arbitration jurisprudence in Pakistan and bolster its image as a favorable destination for foreign investment.

Thank you for your time and perspectives – we wish you and CIICA continued success!

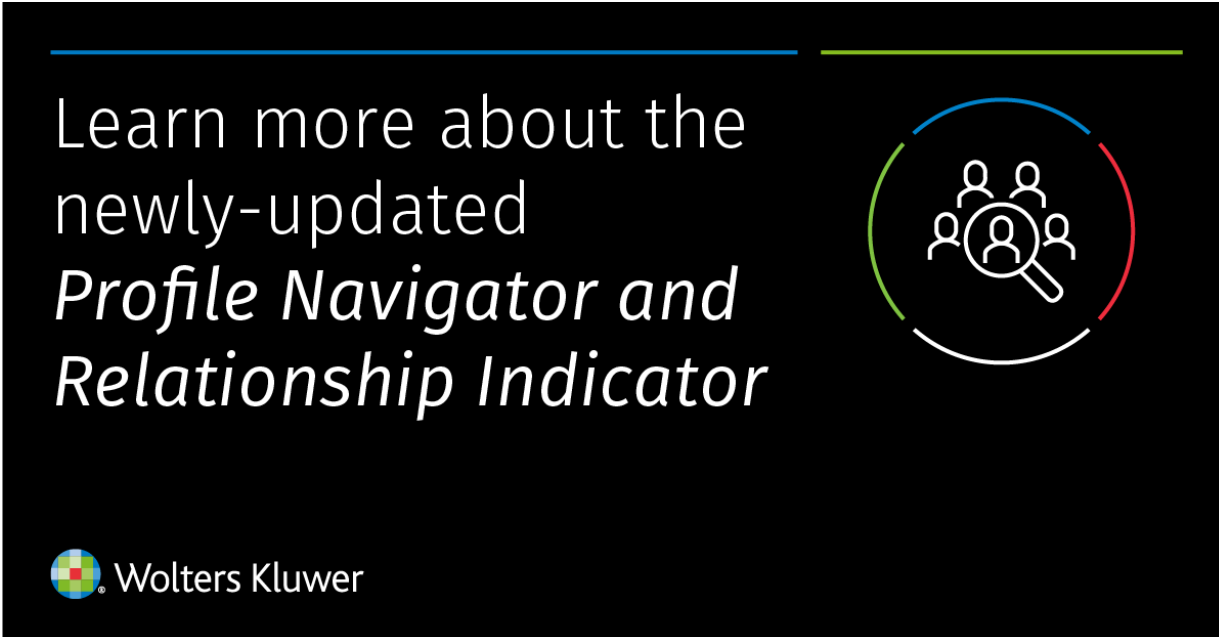
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