

Kluwer Arbitration Blog

Pakistan International Disputes Weekend (PIDW) 2023: Commencement of a Happy Marriage between Reform and Disputes in Pakistan? (Part I)

Fatima A. Malik · Tuesday, June 27th, 2023



Credit: Fatima Malik

Last month, the historically prominent city of Lahore, placed itself on the map among other global hotspots for international dispute resolution-focused events, [Pakistan International Disputes Weekend 2023 \(PIDW 2023\)](#) co-hosted by [Chartered Institute of Arbitrators \(CIArb\) Pakistan Branch](#), [MK Consultus LLP](#) and [TCC ADR Center](#) was held on 20 and 21 May 2023 at the Pearl Continental Hotel. It was the same venue that witnessed last year the inaugural launch of the CIArb Pakistan, which concluded with the ratification of the [Lahore Arbitration Declaration](#) that set out a bold and ambitious plan for reform in Pakistan. A watershed moment of sorts, not only

because the global arbitration community descended on Pakistan's cultural hub, Lahore, but also because it is perhaps one of the few platforms of such prominence in Pakistan which has consistently enabled both senior practitioners and members of Pakistan's senior judiciary – traditionally conservative and media-shy – to interact in a somewhat informal setting debating cutting edge issues for legal reform.

A brief introduction to Pakistan's international investment presence and international and domestic dispute resolution landscape is in order. Pakistan has entered into more than [50 investment protection treaties](#) assuming significant international obligations, which have given rise to many claims by foreign investors, some of which have resulted in adverse decisions for Pakistan. International arbitration claims against Pakistan have significantly risen – from a mere 6 cases around 2016 to approximately [50 disputes by 2021](#) and [further claims](#) emerging in 2022, including both, investment and contractual disputes. Domestically, Pakistani courts approximately face a back-log of 2.2 million cases. The two-day PIDW program thus explored various avenues to enhance alternative dispute resolution (ADR) practice in Pakistan and to provide insight on Pakistan's approach to international investment and dispute resolution, in order to establish the country as a preferred pro-enforcement and arbitration-friendly "seat".

Overall, PIDW 2023 successfully generated thought-provoking discussions with implications for Pakistan, both domestically and internationally. From an international perspective, an event like this is a testament to the willingness and commitment by the Pakistani legal fraternity to finding solutions to better the justice system and bring legal reform. This post discusses the five panels which took place on Day 1 of the event, while Day 2 will be covered in a [further post](#).

Panel on Alternatives to Litigation

The first panel titled "*Promoting better practice in Dispute Resolution: Why should courts be the last resort?*" was guided by [Mohammed Zaman KC](#) and the speakers included some of the top dispute practitioners including [Iftikharuddin Riaz](#) of Bhandari Naqvi Riaz, [Khawaja Ahmad Hosain](#) of FGE Ebrahim Hosain, and commercial law experts such as [Kamran Rehman](#) of Penningtons Manches Cooper. The panel delved into appreciating the value of employing ADR mechanisms in Pakistan by drawing comparisons with more developed jurisdictions that have benefitted from incorporating ADR within the justice system. [Justice Shahid Jamil Khan](#) of the Lahore High Court (LHC) presented concluding remarks and the panel unanimously agreed on the need to emphasise the importance of promoting ADR and other collaborative approaches. Such approaches do not diminish the role of the courts, rather it was highlighted as an integral pillar in shepherding the dispute resolution process.



Credit: Fatima Malik

Panel on the Singapore Mediation Convention

The second panel titled “*Should Pakistan be a signatory to the Singapore Mediation Convention?*” moderated by [Noor Siddiqi](#) dissected the utility and purpose of the Singapore Mediation Convention (**Convention**). Whilst comparing arbitration and mediation, Professor Martin Lau remarked that, “*if arbitration is the favourite child of ADR, then mediation is its unloved and neglected stepchild*” – driving home the point that more needs to be done to promote mediation to realise its potential. To that end, [Sarah Tarar](#), Director, International Centre for Dispute Resolution, and [Sultan Mazhar](#), Additional Advocate General at the Supreme Court of Pakistan (SC), educated the audience about private and government led trainings, seminars and facilities for domestic mediations. On the other hand, [Barrister Asad Ladha](#) of Raja Mohammad Akram & Co recognised that there are a number of advantages to mediation vis-a-vis traditional methods of dispute resolution and cautioned that mediation may not be suitable for all types of domestic disputes, such as disputes which involve complex questions of law or where injunctive relief is sought by one of the parties. He suggested judicial guidance to consider the suitability of a dispute for mediation before encouraging parties to peruse the same.

The panellists engaged in a comprehensive analysis of the Convention’s provisions, highlighting its potential to enhance the credibility and enforceability of mediated settlements. The Chief Justice (CJ) of Balochistan, [Justice Naeem Afghan](#), posed a key question regarding the utility of becoming a signatory to the Convention for Pakistan. In response, while acknowledging the need for careful consideration of local nuances and challenges, the panel ultimately emphasized the potential positive impact of ratifying the Convention.

Panel on Construction Disputes under the CPEC

This panel, considering issues in construction disputes stemming from China-Pakistan Economic Corridor (CPEC), was moderated by [Virginie Colauti](#), Partner at LMS Legal LLP, and included the former judge of the SC, [Justice Mushir Alam](#), Justice Asim Hafeez of the LHC, [Barrister Mian Sheraz Javaid](#) of No.5 Barristers Chambers, and KaramatUllah Chaudhary, an independent construction consultant.

CPEC is considered a game-changer for the country as the Chinese and Pakistani governments have inked a US\$62 billion deal that comprises of numerous infrastructure and energy projects. The moderator highlighted the key features and stages of disputes under the FIDIC Contracts and her practical experience in dealing with such construction disputes for the benefit of the local practitioners. The panellists emphasized the significance of establishing effective mechanisms to handle such disputes, including the need for specialized tribunals, streamlined procedures, and expert dispute resolution professionals. Justice Alam (Rtd.) called for the establishment of international arbitration centres and dispute adjudication boards in Pakistan, that rely on technology and remote hearings to make the process efficient and cost-effective, similar to China.

Panel on Establishing Pakistan as a Regional “Seat”

The fourth panel guided by [Toby Landau KC](#) of Duxton Hill Chambers, focused around the compelling topic of “[P]ro-enforcement attitude and the prospects of establishing Pakistan as a regional seat of arbitration“. The panellists included [Barrister Nudrat B. Majeed](#) of Four Golf Road Chambers, [Barrister Waleed Khalid](#) of Cornelius, Lane & Mufti, [Kevin Nash](#) of Singapore International Arbitration Center, and [Justice Jawad Hassan](#) of the LHC.

Overall, the panel was full of optimism on the potential of reform and developing Pakistan as a regional seat and echoed the approach of the first panel of moving away from judicial intervention towards judicial supervision. The panellists unanimously recognised the importance of cultivating a judicially pro-enforcement attitude in order to boost confidence amongst practitioners and foreign investors, economic growth and increased foreign investment – important for a capital-importing country like Pakistan. Barrister Majeed presented key features of the current legal landscape in Pakistan and apprised the audience of the role of commercial courts in arbitral proceedings. Justice Hassan concluded the panel by emphasizing the need for expeditious enforcement of foreign arbitral awards and non-interference by civil courts, in light of his recent judgment in *M/s Tradhol International SA Sociedad Unipersonal v M/s Shakarganj Limited*. The panellists endorsed Justice Hassan’s view that while judicial supervision was necessary, unwarranted judicial intervention must be discouraged in the context of international arbitral awards.

Panel on R-E-F-O-R-M

The final panel for Day 1, titled “*Identifying key challenges and weaknesses: Are robust reforms the only way forward in Pakistan’s litigation landscape?*” was moderated by [Barrister Maria Mulla](#) and comprised of heavy-weight jurists in the face of four sitting judges of the High Courts’ all four provinces of Pakistan. The speakers were [Justice Babar Sattar](#) of Islamabad High Court, [Justice Syed Muhammad Attique Shah](#) from Peshawar High Court, [Mr. Justice Yousuf Ali Sayeed](#) of Sindh High Court, and [Justice Abid Hussain Chattha](#) of LHC.

The discussion clawed at the need for a critical examination of Pakistan's litigation system to identify the key challenges in legal reform. Justice Sattar commented on the current litigation landscape in the capital city of Islamabad and emphasized the need to sanction unwarranted delays by imposing mandatory costs, as done in the seminal judgement delivered by him in *Edwin Coe LLP v Naseim Ahmed Sarfaraz* 2022 CLC 1066, following the amendments to the Civil Procedure Code, 1908 (CPC). Justice Chattha concluded the discussion and commented on the positive steps taken by the LHC to reform litigation procedure, including the amendments to the CPC to curb procedural delay tactics by parties to a dispute.

Concluding Remarks

In conclusion, Day 1 of the PIDW 2023 brought together insightful panel discussions that shed light on crucial and various aspects of ADR and the judicial system in Pakistan. The intellectual and legal diversity of the speakers facilitated a multifaceted discourse that kept the audience captivated and posing questions, well in to the breakout coffee sessions. In the concluding key-note speeches, the speakers, including the current CJ of the Balochistan High Court, [Justice Naeem Afghan](#), and the CJ of the LHC, [Justice Muhammad Ameer Bhatti](#) reinforced the imperative of advocating for arbitration and other alternative methods as catalysts for meaningful legal reform within Pakistan.

Fatima A. Malik is a dual qualified (England & Wales and Pakistan) international disputes lawyer based in London.

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