

Kluwer Arbitration Blog

2024 in Review: Pakistan – A Year of Transformation?

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2024 proved to be a pivotal year for the development of arbitration in Pakistan, driven by the government's concerted efforts to reform Pakistan's arbitration framework. Legislative developments therefore took the centre stage. Key developments also included important judicial decisions under the existing regime.

Legislative Reform

The most significant development was the unveiling of the Draft Arbitration Act 2024 ("Draft Act"), which was presented to the Federal Minister for Law and Justice in May 2024. If enacted, the Draft Act will replace the outdated arbitration law, the [Arbitration Act, 1940](#) ("1940 Act"), which is a relic of the British colonial era. Whilst Pakistan had been working towards arbitration reform for quite some time (see the [arbitration bill](#) presented in 2016), no material movement had been seen in that sphere over the last decade presumably because of the various political changes in the country. However, credit must be given to the current regime which commissioned a committee of legal professionals (led by a senior justice of the Supreme Court of Pakistan) in 2023, to develop the Draft Act. Arbitration reform has emerged as a priority over the last year or so, in the hope that the Pakistani regime would finally be brought up to speed with international standards.

The majority of coverage on the Blog over the course of 2024 therefore focused on the Draft Act. Notably, authors of the Draft Act shared their views on the [Blog](#), discussing the inspiration behind the Draft Act and the scope of changes it seeks to introduce.

The Draft Act largely follows the UNCITRAL Model Law, introducing modern principles such as party autonomy in tribunal constitution and a defined enforcement and annulment regime. But there are important differences from the Model Law, and this was explained articulately by one author of the Draft Act using the concept of "[appropriate legality](#)". In other words, whilst the primary inspiration of the Draft Act is the Model Law, the Draft Act has been tailored specifically to suit the Pakistani legal culture. For example, the Draft Act's scope is limited to domestic arbitration because Pakistan has a separate statute for foreign awards – [Recognition and Enforcement \(Arbitration Agreements and Foreign Arbitral Awards\) Act, 2011](#) ("2011 Act") – that incorporates the New York Convention 1958. More importantly, the Draft Act seeks to permit courts to set aside "[domestic awards \(but not international commercial awards\) for errors apparent on the face of the record](#)". This proposal is said to reflect the ground reality in Pakistan where

courts enjoy an entrenched history of judicial oversight in arbitration.

The general feedback of practitioners towards the Draft Act has been positive, with a contributor lauding it a “[significant step in developing an effective, modern, and user-friendly system](#)”. But some parts of the Draft Act have come under scrutiny on the [Blog](#). Contributors have questioned the Draft Act’s proposal to allow a right to appeal to the courts against interim relief orders granted by an arbitral tribunal. The contributors make the case that, whilst the natural inclination might have been to adopt this principle from the cognate jurisdiction of India, perhaps the drafters of the Draft Act should have looked to other common law countries (such as Singapore) where the Model Law framework on interim measures has been successfully adopted without modification. In a jurisdiction where the history of judicial intervention has remained a cause of concern, the critics say that the Draft Act might, in effect, not yield the positive change that it was intended for. The Draft Act’s primary proponent, however, has defended these provisions through [public rebuttals](#), highlighting that such deviations from the Model Law strike a delicate balance between global standards and domestic realities. The robust dialogue generated on the Blog demonstrates its important role in encouraging healthy, academic debate on arbitration-related topics in Pakistan.

Key Judicial Developments

Amidst the focus on the Draft Act and what it means for the future of arbitration in Pakistan, the Pakistani courts have demonstrated an encouraging pro-arbitration stance, even under the existing regime. As previously discussed on this [Blog](#), the Islamabad High Court delivered a landmark judgment concerning an application to enforce a partial award under the 2011 Act. In *China Water & Electric Corporation (CWE) P.R. China v. National Highway Authority*, the Islamabad High Court held that the relevant test for enforcement under the 2011 Act was that an award must be “binding”. Where a partial award is binding, it would be enforceable. The Islamabad High Court clarified that an award’s being “final” is not the relevant test for enforcement under the 2011 Act.

Additionally, the Lahore High Court’s arbitration-friendly decision in the [Waqas Yaqub](#) case (discussed on this [Blog](#) [here](#)), in which the Lahore High Court provided a helpful interpretation of Section 34 of the 1940 Act. Whilst Section 34 represents a standard provision allowing court proceedings to be stayed in the teeth of an arbitration agreement, that provision has been typically misapplied in Pakistan, leading to increasing judicial intervention. However, the Lahore High Court clarified that the qualification “taking any steps in the proceedings” in Section 34 was to be narrowly construed, such that parties’ arbitration agreements are given effect.

Looking Ahead

Arbitration continues to evolve in Pakistan, and the momentum for legislative reform is undeniable. Whilst the Draft Act is yet to be promulgated (the expectation being that it would be presented to the Parliament for debate soon), its enactment will mark the dawn of a new era in Pakistan. However, the true test will lie in its implementation and the judiciary’s interpretation of the new framework. In the interim, the growing pro-arbitration approach of the Pakistani courts under the existing regime provides a promising foundation for change. 2024 may well be remembered as the year that laid the groundwork for a modern and arbitration-friendly system in Pakistan.

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A graphic for the '2024 Future Ready Lawyer Survey Report'. It features a dark background with a glowing blue and red digital circuit pattern. A gavel is positioned over the circuitry. The text '2024 Future Ready Lawyer Survey Report' is at the top left. Below it, the main title 'Legal innovation: Seizing the future or falling behind?' is displayed in large white font. A blue button with white text says 'Download your free copy →'. The Wolters Kluwer logo is at the bottom left. On the right, there is a 'Future Ready' logo and a 'LAWYER' badge.

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