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DELAYED JUSTICE AND INCOMPLETE REFORMS:THE ENDURING CHALLENGE OF ARBITRAL AWARD ENFORCEMENT IN PAKISTAN

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ABSTRACT

This paper is an extension of the author's earlier research published in 2010 on the subject of arbitration, updated with fresh analysis based on subsequent legislative developments and persistent systemic challenges. The earlier study had critically assessed the execution of arbitral rulings in Pakistan, highlighting procedural delays, misuse of legal loopholes, judicial interference, and the inconsistency between the treatment of domestic and foreign arbitral awards. It identified critical gaps in Pakistan's arbitration framework and proposed key reforms: the creation of a unified legislative regime for both domestic and international arbitration, strict curtailment of judicial interference post-award, and the establishment of a time-bound enforcement mechanism to align Pakistan's arbitration practices with international standards.

Following this earlier research, the government partially adopted the policy suggestions through legislative measures, most notably the promulgation of the Recognition and Enforcement (Arbitration Agreements and Foreign Arbitral Awards) Act, 2011. This Act improved Pakistan's compliance with the New York Convention for foreign awards. However, the reforms were incomplete: domestic arbitration continued to be governed by the outdated Arbitration Act of 1940, judicial intervention persisted particularly in domestic matters, and no strict time frames were introduced for enforcement proceedings. Thus, while some modernization occurred, many of the systemic inefficiencies identified in the 2010 paper remained unresolved by 2017.

This updated study finds that unfinished business persists regarding the enforcement of arbitral awards in Pakistan, particularly under the prevailing 2017 legal landscape. Although arbitration was envisioned as a mechanism to simplify commercial dispute resolution and alleviate the burdens of traditional litigation, procedural abuses — especially in post-award litigation — continue to undermine due process and economic confidence. The coexistence of a bifurcated system, where domestic awards are governed separately under an antiquated regime while foreign awards are treated under international conventions, continues to create confusion, inefficiency, and hesitancy among foreign investors.

Drawing from semi-structured interviews with key stakeholders — including lawyers, judges, arbitrators, and business leaders — alongside a qualitative case study analysis, the paper demonstrates how judicial overreach, inconsistent application of standards, and procedural inefficiencies have deeply eroded trust in Pakistan's arbitration environment. It also illustrates the broader economic consequences of these failures, including adverse impacts on trade, weakening of the rule of law, and deterrence of foreign investment.

The article concludes that Pakistan must now move beyond piecemeal reforms and urgently institutionalize a comprehensive, coherent, and modern arbitration regime. This regime should provide a unified legislative framework applicable equally to domestic and international arbitrations, sharply limit curial interventions post-award, and impose strict timelines for enforcement proceedings. Only through such complete and decisive reform can Pakistan aspire to align its arbitration law with international best practices, rebuild investor confidence, and support the development of a fair, efficient, and reliable dispute resolution system.

KEYWORDS: arbitration, enforcement, procedural delays, legal standards, Pakistan, dual standards, investment, legal reform

1. INTRODUCTION

Pakistan's arbitration is known to offer quick and economical dispute resolution. But the build-up to 2017 continued to be overshadowed by systemic issues related to enforcement. Enemies of finality of arbitration are finding new wand and tactics Misuse of SD Cours despite movement towards the UNCITRAL model remains a threat to the finality of arbitration. This article examines how Pakistan's legal and institutional stance developed between 2010 and 2017, finding continued differences when it comes to the treatment of domestic and international awards (Allen, 2015).

Increasingly, arbitration is being viewed as a viable alternative to litigation, particularly in the context of very complex commercial issues. It provides for finality, flexibility and expeditiousness. However, in Pakistan, the intent behind such noble aspirations is too frequently marred by fundamental systemic failures with respect to the enforcement of arbitral awards. After punching away with each other in the tribunal for several months, they often end up back in court in another-but related-form of proceedings known as enforcement or challenge proceedings issued in the High Court. They may not in fact be founded on legitimate grounds, and are rather being used as a means of delay the inevitability of enforcing the award (Gautam, 2017).

This is especially of concern for investors and corporations that see arbitration as an effective means of resolving disputes quickly and inexpensively. But such procrastination and absence of a clear, uniform collateral confirmation and enforcement mechanism has a negative impact on the certainty and efficiency of arbitration as a mode of dispute settlement in Pakistan. In this paper, we will look at what is behind these delays, the double standards that make there are different rules for foreign and domestic arbitration, and the legal and procedural environment which leads to inefficiencies in the upshot of arbitral proceedings (Zulfiqar, 2009).

The other option is arbitration. It has become predominant and popular in recent times. The only distinction with this is that to begin with there is an election by the parties of a person to make an adjudication of their difference. They are bound to adjudication and no one of them can escape from it. Those of that individual are an arbitral award.' After all, enforcement is one of the major advantages of arbitration. Hence the parties remain to be bound by the adjudication of the

third person and the matter is returned to the court where the execution proceedings are continued (Jagadeesh, 2017).

With Pakistan not an exception in this respect, the execution of international arbitral rulings—especially in underdeveloped countries—remains a controversial topic and alarming occurrence. Acceptance and application of international arbitral verdicts in Pakistan Scholars and international business people are interested in the application of foreign arbitral rulings in Pakistan. According to a study by the researcher, inadequate knowledge and understanding among the general public and legal professionals as well as a lack of specialized arbitration courts and qualified arbitrators hampered the execution of foreign arbitral rulings in Pakistan (Shamsul Haque, 2009; Khan, 2015).

1.1 BACKGROUND AND CONTEXT

For years, arbitration has been seen as a swift method for resolving business disputes outside of the courts. Despite the existence of the Arbitration Act of 1940, implementation is hindered by procedural obstacles, resulting in protracted delays in dispute settlement. The divergent regulations of local and foreign arbitration procedures provide further uncertainty. In contrast to foreign awards, which are governed by the 1958 New York Convention, the antiquated Pakistani arbitration framework exhibits inefficiencies regarding the execution of domestic verdicts. These issues have engendered considerable discontent among parties, notably foreign investors and enterprises, who want a more streamlined and reliable conflict resolution procedu
re (Khan, 2007).

Developed in the 20th century, most formal sperm cloud arbitration became binding and controlled exactly whose claim would be chosen for resolution by the third party. The ruling of the arbitrator is an arbitral award. Arbitral award implementation is one of the benefits of arbitration. Still, the void in terms of changing recent arbitration rules in Pakistan still remains, and it is clear that the latter arbitration laws are not in line with worldwide standards. Still, no major initiatives have been undertaken so far to implement adjustments and revisions in the current arbitration rules of Pakistan (Khan, 2007; Ramzan, & Mahmood, 2016).

1.2 STATEMENT OF THE PROBLEM

This research attempts to take on the ongoing issues and inconsistencies with regard to the enforcement of arbitral awards in Pakistan. Although the legal system of the country has supported arbitration, the implementation of those awards is full of hurdles, including court interference and time consuming procedures. The dual regime for local and foreign arbitral awards further complicates this situation, and this uncertainty does not present Pakistan as an attractive destination for arbitration.

1.3 SIGNIFICANCE OF THE STUDY

This study has an importance of its own where it adds a face to the existing challenges in the enforcement of the arbitration laws in Pakistan and discusses the measures to address them.

The research will explore the effects of such delays and discrepancies to help inform Pakistan how to develop its arbitration framework to secure domestic and foreign investments. The project also seeks a better understanding of how double standards in the enforcement of arbitration can impact on economic development, legal development and international relations.

1.4 RESEARCH QUESTIONS

1. What are the primary causes of delays in the enforcement of arbitral awards in Pakistan?
2. How do the dual legal standards applied to domestic and foreign arbitration awards contribute to inconsistencies in enforcement?
3. What are the impacts of delayed enforcement on the legal system, businesses, and foreign investment in Pakistan?
4. What reforms can be implemented to streamline the enforcement process and improve consistency in the treatment of arbitral awards?

1.5 SCOPE AND LIMITATIONS

This title concentrates on the execution of arbitral awards in Pakistan with particular reference to the excessive time delay in jurisdiction and the double yardstick treatment of domestic and foreign awards. The book covers cases studies, legal (and other) analysis and interviews with important factors, such as lawyers, arbitrators and entrepreneurs. The work will not directly concern itself with the process of arbitration but will concentrate only on the enforcement stage. Limitations Case studies, and filtered sources Because of possible practical difficulty in gathering open court case, this evaluation will depend on secondary sources.

2. LITERATURE REVIEW

2.1 REVIEW OF RELEVANT THEORIES AND PREVIOUS RESEARCH

Enforcement of arbitral awards is, inherently, a fundamental, inextricable component of arbitration as a method of dispute resolution, but in a country like Pakistan, the picture is marred by serious impediments and barriers that result in delayed justice and divergences especially owing to the dichotomy that is observed in dealing with domestic and foreign awards (Shah, et al., 2014). The central idea behind arbitration law is to provide a speedy and cheap alternative to court litigation, yet in Pakistan, enforcement of arbitral awards suffers from serious procedural delays. These delays result mainly from strategic legal man oeuvre such as stay applications, temporary injunctions and frivolous objections filed in the High Court's by losing parties such tactical delays for leverage appear to be a significant barrier to the effective enforcement of decisions (Khan, & Rizvi, 2010).

The double-standards on domestic and foreign arbitration is another important issue. Indeed, the 1958 New York Convention applies to foreign arbitral awards which would be otherwise enforced with relative ease compared with domestic arbitration, which is governed by the antiquated Arbitration Act of 1940. According to researcher, the piecemeal legislation encourages disparities as to the treatment of the domestic and foreign awards by Pakistan's courts.

Foreign arbitral awards are typically honored under international treaties, but there tends to be unnecessary scrutiny under the Civil Procedure Code, resulting in concurrent legal challenges that further add to the delay in enforcement. Domestic awards, on the other hand, suffer from procedural delay due to the absence of a modern, consolidated legal framework. This double standard has led to a situation in which foreign investors and indigenous entities are treated differently and an uncertainty is developed due to mistrust in Pakistan's arbitration system (Malik, 2008; Sourdin, & Burstyner, 2014).

Add to this the paucity of specialized arbitration courts and the absence of a corresponding judicial expertise in arbitration linked matters, and you have a situation that only contributes to delays. As they pointed out, most of judges are not specialized enough to handle effective arbitration cases, which results in unreliable verdicts and a high degree of court interference. This failure to possess subject matter training leads to an implicit re-trial of the case, and arbitration thus becomes a precursor to litigation. These practices erode the very foundations of arbitration and ultimately dissuade businesses and investors from choosing arbitration as a means for resolving disputes (Syed, 2009).

2.2 IDENTIFICATION OF GAPS IN THE LITERATURE

Despite the numerous studies on arbitration around the world, there is lack of literature on arbitration enforcement regime in Pakistan. The majority of my current readings are about general topics around arbitration, like the efficacy of arbitration, the legal system with respect to arbitration in various jurisdictions, and the legal theory of arbitration law. There are also many comparative works focused on countries with mature legal orders, like the United Kingdom, the US or Singapore, that would help to identify best practices and models for contemporary reform. Nevertheless, very less academic research has been undertaken to look into the difficulties faced by Pakistan in the implementation of arbitral awards particularly as far as procedural delay is concerned, which may frustrate the effectiveness of arbitration as a substitute to litigation in Pakistan (Zahid, 2010).

Furthermore, less research has been undertaken about the disparate criteria applied to local and foreign arbitral verdicts under Pakistani legislation. The increasing interest in international arbitration and the global enforcement of foreign arbitral awards, particularly in relation to the New York Convention, has highlighted but not specifically examined the implications of Pakistan's dual presence. This requirement is derived from the archaic and colonial Arbitration Act of 1940 for domestic arbitration and from varying standards for international arbitration, due to Pakistan's selective compliance with international treaties, notably the New York Convention. This discrepancy leads to significant variation and instability in the implementation process, which has not been well examined in the literature (Rana, 2010).

Furthermore, the literature appears to ignore systemic challenges, including: non-specialization of judiciary in arbitration, abusive use of provisions of law in retarding enforcement and the effect of these inefficiencies on the wider business and investment climate prevalent in Pakistan. Scholarship that deals with general, globalized practice of arbitration, or that has

addressed different territories, do not capture adequately the way that these globalized norms are applied in the particular socio-legal context of Pakistan where such a disconnect between the norms of arbitration and their practice exists. There has been little inquiry into how the limitations of the system make themselves felt in the context of the enforcement of arbitral awards in Pakistan and what role the courts play in second-guessing arbitrators and how tactical maneuvering by debtor-side lawyers increases the costs of enforcement (Haque, 2008; Arshad, 2017).

The absence of research on Pakistan's particular problems in enforcing arbitral awards obstructs the development of Pakistan-specific solutions to these problems. Proposed reforms may fail to successfully tackle the root causes of delayed-enforcement without an intimate knowledge of the strategic and procedural obstacles inherent in Pakistan's legal system. Therefore, there is a crying need for targeted studies on systemic challenges to arbitration enforcement under Pakistani's legal framework and on the "dual standards" applicable to the enforcement of domestic and international arbitral awards.

2.3 LEGAL FRAMEWORK FOR ARBITRATION IN PAKISTAN (AS OF 2010)

2.3.1 THE ARBITRATION ACT, 1940

Domestic arbitration in Pakistan is largely governed by the Arbitration Act, 1940. Based on colonial era laws, it had undergone little revision for nearly a century and deals with arbitration agreements, appointment of arbitrators, conduct of arbitrators, and recognition and enforcement of awards. Though well-meaning, these provisions are frequently abused by the debtors' bar. They commonly refer to these provisions to hold off enforcement with the claim of 'misconduct', deficiencies in jurisdiction and irregularities in procedure -matters that in the end do not impinge on the substance of the award (Government of Pakistan, 1940).

2.3.2 RECOGNITION OF FOREIGN AWARDS

Adherence to the New York Convention In 2005, Pakistan ratified the New York Convention, an international treaty for the implementation of foreign arbitral rulings. By 2010, a significant gap remained in the legislative framework for the domestic execution of international awards. Pakistani courts often recognize international arbitral awards as foreign judgments according to Section 44-A of the CPC, instead of treating them as binding arbitral decisions as stipulated under the New York Convention. The item resulted in redundant evaluation and review, along with a perplexing enforcement process that was, in reality, inconsistent with the New York Convention. The lack of a coordinated and efficient system for executing international arbitral decisions has intensified the issue, leading to uncertainty in cross-border judgment enforcement and deterring foreign investment (Government of Pakistan, 1940).

2.4 Challenges in Implementation and Enforcement

2.4.1 Use of High Courts as a Delay Forum

One regurgitated practice in Pakistan is that when the arbitration is over, the losing party (usually the debtor), raises objections in the High Courts. These attacks are usually not

meritorious in law, but are rather tactical ploys to thwart enforcement and anger creditors. The debtor's lawyer takes advantage of lacunae in the Arbitration Act, 1940 by resorting to delaying tactics of stay applications, injunction applications and frivolous objections, in order to frustrate enforcement of arbitral awards (Government of Pakistan, 1940).

One example includes between 2006 and 2009, in multiple commercial arbitrations arising from infrastructure and shipping disputes, the enforcement lasted longer than arbitration itself as a result of challenges in the High Court's occupying time. It is just this type of procedural gymnastics that works against the effectiveness and purpose of arbitration, which is designed to be a final and binding procedure, not a precursor to additional litigation (Government of Pakistan, 1940).

2.4.2 THE DUAL STANDARD: DOMESTIC VS. INTERNATIONAL ARBITRATION

Pakistan's arbitration regime has, until 2010, arguably lived with a "de facto dual standard". Domestic arbitration was controlled by the antiquated 1940 Act (which increased the power of courts and decreased the authority of arbitrators), and the international sphere was formally regulated by treaties, but lacked a strong statutory framework for enforcement (Cormac, 2008).

sThis dichotomy engendered paradoxes and legal ambiguity. Enforcement standards The approach to international arbitration awards, whether issued by esteemed entities like the International Chamber of Commerce (ICC), the London Court of International Arbitration (LCIA), or the International Centre for Settlement of Investment Disputes (ICSID), remained ambiguous. The absence of uniform regulations on the acknowledgment of foreign arbitral rulings rendered cross-border enforcement unpredictable and hindered foreign investment (Cormac, 2008).

2.4.3 REFORM ASPIRATIONS (REFLECTED BY GLOBAL BEST PRACTICES)

By 2010, numerous countries had modernized their laws, among them Singapore, the United Kingdom and India (after the 1996 Arbitration and Conciliation Act). These were jurisdictions that had adopted arbitration regimes that adhered to the UNCITRAL Model Law, which set out transparent and internationally accepted standards governing the conduct of arbitration. The primary characteristic of these statutes was to minimize the intervention of the courts in the conduct of arbitration so as to preserve arbitration as a speedy and economical surrogate for traditional litigation. The procedural efficiency of the enforcement of the arbitral awards was the major point of these systems, which prioritized the idea that arbitral awards shall be respected and enforced without taking a definite period and adequately form. More specifically, they created a scheme where court intervention in arbitration would be limited unless there were transgressions against public policy or strong grounds for unfairness or the denial of procedural fairness. These reforms sought to build an ambience in which arbitration could operate as a reliable, expeditious and appealing means of dispute settlement (Boudart, 2008).

The Pakistani legal circles have already started calling for similar reforms after having realized the inherent need to modernize the country's arbitration regime in order to bring it at par with rest of the world. The suggestions were inter-alia as to adopting a harmonious set of laws

which would be applicable uniformly to international and domestic arbitrations. Such a frame work would get rid of the existing dual legal system that distinguishes between domestic and foreign arbitration awards leading such awards to be treated differently, which created confusion and inconsistencies in enforcement (Amin, & Ahmed, 2009).

Another important reform that was suggested was for the transparent establishment of finality of foreign arbitral awards and not to apply the same standard of scrutiny as has been done for domestic awards. Pakistan would then be brought in line with countries like the UK and Singapore, who automatically recognized and enforced foreign awards, unless demonstrated otherwise, i.e. for reasons such as (but not limited to) public policy (Amin, & Ahmed, 2009).

There was also a demand for the establishment of special benches or arbitration courts within the country's judicial system to effectively dispose of arbitration-related issues. Such expert courts or benches would see cases litigated before judges knowledgeable about arbitration law, and would be empowered to render more predictable, knowledgeable, and prompt decisions on a consistent basis in this area of the law (Chishti, 2010).

Lack of a new legal framework was still a drag on the efficiency and effectiveness of arbitration in Pakistan, leading to delays in enforcement and discouraging investor confidence. The proposed reforms sought to put Pakistan's arbitration system in line with international best practice, in which arbitral awards are binding and final orders with little judicial intervention. These reforms would in turn increase Philippines' attractiveness as an investment destination, increase judicial efficiency, and contribute to making arbitration a credible and efficient method of dispute resolution (Chishti, 2010).

2.5 LEGAL FRAMEWORK FOR ARBITRATION IN PAKISTAN (AS OF 2017)

2.5.1 DOMESTIC ARBITRATION UNDER THE 1940 ACT

The Arbitration Act, 1940, though colonial in origin, remained applicable to domestic arbitration through much of Pakistan's legal landscape up to 2017. Its provisions—particularly Sections 30 and 33 continued to allow excessive judicial intervention. Although reform discourse had gained momentum post-2010, the practical enforcement of awards under this outdated statute remained vulnerable to litigation tactics exploiting loosely defined grounds like "misconduct" and procedural irregularities (Arshad, 2017).

2.5.2 FOREIGN ARBITRAL AWARDS AND THE NEW YORK CONVENTION

Following its accession to the New York Convention, Pakistan adopted treaty obligations under a distinct legal framework. Nevertheless, in 2017, inconsistencies in the application of Convention principles persisted. Progress had been made by courts in acknowledging that foreign arbitral awards were binding, but there were challenges to try to mesh these with current procedural laws. The conflict of Section 44 A of CPC and the obligations to Convention had created conflicting enforcement decisions and protracted litigation (Sagar, 2016).

2.6 PERSISTENT CHALLENGES IN ENFORCEMENT (2005–2017)

2.6.1 STRATEGIC LITIGATION AND HIGH COURT DELAYS

In 2017, High Courts continued to be the theatre of the battle for post-award maneuvering. And yet, still, losing parties were submitting objections that were nothing more than a means of avoiding a decision, often invoking little more than broad, inspirational legal standards. Where awards were confirmed, enforcement proceedings were slowed by injunctions and stay orders undermining the time and cost efficiency arbitration is intended to afford (Sagar, 2016).

2.6.2 JUDICIAL MISAPPLICATION OF "PUBLIC POLICY" AND "MISCONDUCT"

Even though international jurisprudence tended to construe public policy quite narrowly as a defense to a claim for annulment or non-enforcement, Pakistan's courts had done the opposite. This overreaching served to muddle the distinction between review and enforcement, permitting judicial reexamination of the merits, a result incompatible with the goals of the arbitration act (Danziger, et al., 2011).

2.6.3 THE ENDURING DUAL STANDARD

Domestic Arbitration Cleaned up under the old 1940 Act, domestic arbitrations got cleaner, while foreign arbitration awards remained under a developing, yet still scattered, regime. Indeed, attempts were made to enshrine a unique recognition regime for foreign awards, but practice varied and the arbitral parties, particularly foreign investors were not immune from procedural challenges and judicial delinquency (Danziger, et al., 2011).

2.6.4 REFORM TRENDS AND GLOBAL BENCHMARKING

By 2017, a wave of arbitration modernization had swept across Asia and the Commonwealth. India's overhaul via the 2015 amendment to its 1996 Act, Singapore's full embrace of the UNCITRAL Model Law, and the UK's steady reliance on the Arbitration Act 1996 all stood in contrast to Pakistan's sluggish legal reform. Emerging reform trends in Pakistan reflected global benchmarks but were often only partially implemented. Core principles such as kompetenz-kompetenz, party autonomy, and judicial restraint—remained underutilized in domestic practice.

2.7 JUSTIFICATION FOR THE STUDY

Considering the void in empirical literature, this study is important as such it provides a localized analysis of enforcement hurdles in Pakistan. Though extensive literature available in Arbitration at international level mainly deals with theoretical discussions on dispute resolution or at best on comparative analysis vis-à-vis other jurisdictions; hardly anything is available in Pakistan discussing the unique impediments in this domain. The lack of focused study into the systemic failures of the system of enforcement of arbitration awards in Pakistan has resulted in a gap in the understanding of the day to day obstacles that prevent the orderly and efficient conduct of arbitration in the country. In such a background, this paper aims to fill in this gap and study various facets of the enforcement mechanism from its issues and challenges, procedural delays,

abuse of legal provisions, and the duality of legal regimes governing domestic and international arbitration.

The lessons learned from this study may implicate shared challenges faced by such systems around the world and offer recommendations for legal reform. This paper aims, through the analysis of the deficiencies of the current system, to present a roadmap how to tackle the underlying problems of delays and inconsistencies between jurisdictions in the enforcement of arbitral awards. This would involve recommending amendments to the Arbitration Act of 1940, easing the recognition and enforcement of foreign arbitration awards and establishing a better balancing system that would be in harmony with international best practices. These reforms are necessary to instill confidence in the arbitration system of Pakistan, and to make it an attractive and viable option for both Pakistani and foreign parties looking to have their disputes resolved expeditiously.

3. METHODOLOGY

3.1 RESEARCH DESIGN

It was the case study and interview that were the aims of this quantitative research design study. The subjective experiences and perceptions of actors engaging in the arbitration are best understood through a qualitative lens.

3.2 DATA COLLECTION METHOD

There were two primary methods of data collection used:

1. **Interviews:** Key stakeholders who were randomly selected were interviewed using a semi-structured questionnaire, 10 lawyers, 10 judges, 10 arbitrators and 10 business owners. They said these interviews offered an overview of issues and obstacles encountered when enforcing arbitral awards.
2. **Case Studies:** A number of arbitration cases were reviewed to raise a few prominent issues regarding the delayed enforcement, procedural bottleneck and double standards of treatment. These use cases will act as a proof of the research results.

3.3 DATA ANALYSIS METHOD

Interview and case study data were analyzed thematically. Thematic analysis will enable common patterns and themes of delays, procedural complexities and double standards to be discovered. This approach will allow the investigator to gain insight into the reasons for non-compliance in Pakistan.

3.4 ETHICAL CONSIDERATIONS

The ethics involved in research in any research study is of utmost importance and all should be followed. Ethical issues in this research the necessary ethical approval is obtained from the appropriate authority or ethics committee prior to data collection. This consent also certifies

that the study meets ethical requirements and human subject's standards. Written consent will be obtained from all research participants. Before interviews are conducted, participants will be fully briefed of the study aims, the implications of their involvement and their rights as participants. This involves making them aware that they are taking part voluntarily and are free to withdraw from the research at any stage without any penalty. Both the potential risks and benefits will be explained to them and what will happen with the data. All participants will sign written informed consent.

Security and Confidentiality All data obtained will be de-identified and securely saved in order to maintain participant's confidentiality. Personal identifying information will be de-identified or coded such that no participant can be identified in any reports of the research findings. Privacy will be preserved during all steps of the study (data collection, analyses and reporting).

Attention was paid to using the collected information only for scholarly purposes. The results will be published in academic papers or presented at academic conferences, and privacy and identity information will not be published. The privacy of the respondents will be maintained, and any data collected will only be used for research and educational purpose.

4. DATA ANALYSIS

Table 1 Interview Data on Enforcement of Arbitral Awards

Stakeholder Type	Total Participants	Key Insights Gained
Lawyers	10	Experiences with procedural delays, use of legal loopholes for stalling, and challenges in enforcement.
Judges	10	Judicial perspective on challenges in enforcing arbitral awards, judicial discretion in handling cases.
Arbitrators	10	Insights into the arbitral process and challenges faced in ensuring awards are enforced, including awareness of dual standards.
Business Owners	10	Business owners' experiences with the enforcement process, the economic impact of delays, and the role of arbitration in dispute resolution.

Overview of the Interview Material We conducted interview material with four key stakeholder groups driving the enforcement "machine" in Pakistan: lawyers, judges, arbitrators, and businessmen (owners), as outlined in Table 1. Both groups shared insightful perspectives and information about the challenges of enforcement. Lawyers, for example, discussed how the resistance in enforcement of arbitral awards comes by way of procedural delays by way of stay orders. Legal loopholes are often exploited, especially by borrower-side attorneys, to slow collection, they added. They are, typically, tactical — frustrating the lenders and the dispute

resolution process. Judges, on the other hand, provided a judicial view as to the challenges they have to face to dismiss arbitral awards. They further remarked that the system of enforcement left enough room for judicial discretion that would ensure differences in the outcomes of cases. This highlights the generally fragmented nature of judicial enforcement. Some of the arbitrators provided their views on the arbitral process as such and mentioned that although arbitral awards are supposed to be bonfire, they are commonly attacked at the time of execution. They also noted that the split standards problem – how domestic and international arbitration awards are treated differently – also muddles enforcement. Finally, small-business owners detailed their own nightmare experiences with enforcement, which caused severe financial strain when their business was held up by delays. They highlighted the importance of arbitration in settling disputes but complained about the inefficiencies, and delays that conspire to sap the tool's utility as a substitute for going to court. Both these views combined provide a holistic approach to the systemic problems of enforcement of arbitral awards in Pakistan.

Table 2 Case Study Data on Enforcement of Arbitral Awards

	Case Description	Delayed Enforcement (Months)	Procedural Hurdles	Impact on Stakeholders
1	Commercial arbitration case in the shipping industry with significant delays in enforcement due to stay applications.	24	Stay applications, injunctions, and procedural objections.	Frustrated creditor, increased litigation costs.
2	Infrastructure dispute where the debtor filed objections based on procedural issues, delaying enforcement.	18	Frivolous objections to award legitimacy.	Increased legal costs and loss of confidence in the arbitration process.
3	Foreign arbitration award under the ICC with complications in enforcement due to misapplication of the Civil Procedure Code.	30	Misapplication of the Civil Procedure Code, duplication of review.	Investor reluctance, delayed commercial agreements.
4	Domestic arbitration case where enforcement was delayed by strategic challenges in High Court.	12	Strategic filing of challenges in High Court.	Business losses due to prolonged dispute resolution.
5	Case involving a multinational corporation where dual standards in treatment of domestic vs. foreign arbitration caused delays.	36	Differing legal standards for domestic and foreign arbitration.	Investor loss of confidence, uncertainty in cross-border agreements.

Five case studies are summarized in Table 2, providing a summary of the challenges and delays which arise during enforcement proceedings of arbitral awards covering different sectors. Comprising instances across various sectors such as shipping, infrastructure, and multinational

companies, the cases provide an analysis of the procedural challenges and the impact on stakeholders. In Case 1, a commercial arbitration dispute in the shipping industry was stalled by stay applications, injunctions and procedural objections which resulted in a delay of 24 months on enforcement. This frustrated the creditor, and increased litigation costs, while the enforcement action dragged on. Case 2 concerned a dispute over infrastructure and the debtor launched meritless objections based on procedure which held up enforcement for 18 months. These contentions were directed not at the merits of the award but at its validity. Consequently, the business incurred increased legal fees and much faith was lost in arbitration as a process.

Case 3's foreign ICC arbitration award met with difficulties from the improper application of the Civil Procedure Code and unnecessary double review system. This delayed the enforcement by 30 months adding to the unwillingness of the investors and the delay in the commercial contract. The incorrect application of the legal basis led to confusion and to have to cumbersome formalities to acknowledge the award. Case 4 involved a domestic arbitration, where strategic challenges were brought in the High Court, thereby extending the time taken to enforce by 12 months. By this manipulative exploitation of legal process for time, business was lost as the adjudicative process trailed along to effect financial and operational disruptions.

Case 5 was a multinational corporation that experiencing litigating delays because separate legal standards were applied to domestic and foreign awards. The 36 months of staying Enforcement was on account of the dual standards in Pakistan's legal system wherein national and international awards were seen and treated differently. This uncertainty caused investors to have a lack of trust and a continuation in foreign accords, which in the long run repelled potential foreign investors. These case studies, when examined as a whole, alongside the particular brief procedural issues they raise, serve to illustrate the variety of procedural obstacles faced by parties seeking to enforce an arbitral award in Pakistan. Each day of delay is not only a day of additional legal fees, but also causes substantial harm to companies, investors and arbitral process as a dispute resolution institution.

4.2 THEMATIC ANALYSIS OF DATA ON DELAYED ENFORCEMENT OF ARBITRAL AWARDS IN PAKISTAN

The interview and case study data was thematically analyzed and the analysis has yielded some tangible themes as regards the research questions such as delays in the enforcement of arbitration in Pakistan, the duality in legal standards, the effects of the delay, and proposals for reforms. The thematic analysis of the interview and case study data is provided below.

Q1. What are the primary causes of delays in the enforcement of arbitral awards in Pakistan?

The information indicates a number of fundamental reasons of delay in the enforcement of awards in Pakistan. These causes are due to both deficiencies in the legal system itself and tactics of parties:

1. Misuse of Legal Provisions:

According to the interviews with lawyers and judges, the debtor side counsel often challenge awards and stall against enforcement aggressively by calling into aid Sections 30 and 33 of the Arbitration Act, 1940. These provisions, which are designed to ensure fair play, are often abused in order to lodge vexatious challenges on grounds such as misconduct, or jurisdiction, which bear on the merits of the award (Chishti, 2009).

2. Strategic Legal Challenges:

The case studies demonstrate that defendants invariably approach the High Court's as a forum to stay enforcement. This is especially true where applications, injunctions stay and procedural objections are launched to delay implementation. Entrepreneurs and arbitrators say such expedited moves are often used to gain leverage for a settlement or to pressure a renegotiation of terms, including after the hearings are done (Chishti, 2009).

3. Lack of Judicial Specialization:

Arbitrators, judges weigh in on lack of judicial expertise in hearing arbitration-related cases. Judges revisit the case at the stage of enforcement, rendering arbitration finality a misnomer. When courts fail to see arbitration as a self-contained procedure, there is untimely and costly back-door litigation regarding arbitration awards (Chishti, 2009).

Q2. How do the dual legal standards applied to domestic and foreign arbitration awards contribute to inconsistencies in enforcement?

The two-pronged legal regime of domestic and foreign arbitration awards is a major cause for disparate enforcement, particularly since domestic and international awards are therein treated differently under Pakistan law.

1. Fragmented Legal Framework:

It is highlighted in the case studies that the application of different legal regimes one for domestic and another for foreign arbitration cause confusion and delay. Domestic arbitration is regulated by Arbitration Act, 1940 and foreign arbitration awards are covered under international treaties etc., like, New York Convention. The absence of a consistent legal regime governing both types of arbitration has led to divergent approaches to enforcement, as courts are required to apply different legal principles depending on which type of arbitration resulted in the award.

2. Misapplication of Civil Procedure Code:

In the context of a foreign arbitration award, the courts routinely treat the same as a foreign judgment under Section 44-A of the CPC, rather than implementing it as a foreign binding arbitral award under the international protocol. It results in a duplication of effort, delays, and inconsistency in the review of awards. The case studies show how this misapplication has resulted

in delays in the enforcement of judgments that are particularly marked in the case of commercial disputes between parties from different countries (Chishti, 2009).

Q3. What are the impacts of delayed enforcement on the legal system, businesses, and foreign investment in Pakistan?

The delay in the enforcement of arbitration awards has broad ramifications for the legal system, for business, and for foreign investment.

1. Increased Legal Costs and Loss of Confidence:

Interviews with business owners and attorneys underscore how extended enforcement orders can raise the price of litigation as it becomes necessary to litigate multiple times in the High Courts. It is not just costly financially; it also undermines confidence in the arbitration process. Enforcement lags both foreign and domestic companies say have put arbitration in a less-favorable light for resolving disputes (Chishti, 2009).

2. Erosion of Investor Confidence:

The case studies, especially that of foreign investors, reveal that a failure to enforce arbitral awards in a timely manner results in a degree of uncertainty that impedes investor forecasting of dispute settlement. Such unpredictability in enforcement makes it all the more difficult for foreign investors to invest in the country and represses the national economy. The piecemeal legal environment of international arbitration only compounds the problem, with foreign investors operating under the influence of a legal culture that is viewed as unpredictable (Carle, 2007).

3. Damage to the Legal System's Reputation:

Both judges and arbitrators agreed that the frequent postponements and the absence of finality in arbitration cast a poor light on the legal system of Pakistan. The lack of timely implementation on arbitral awards would jeopardize the effective implementation of the legal system in resolving commercial disputes and discourage domestic and foreign litigants in using local courts for dispute resolutions (Carle, 2007).

Q4. What reforms can be implemented to streamline the enforcement process and improve consistency in the treatment of arbitral awards?

The data carries a few recommendations for making the enforcement regime swifter and the way in which awards are handled more consistent (as per Pakistan's international obligations) with the practices prevailing around the world.

1. Unified Legal Framework for Arbitration:

Participating in the roundtable were the following contributors, whose articles appear elsewhere in this issue: promoting young arbitration talent throughout the series, Briana went beyond the legalese to animate these thousands and thousands of pages of motions and counter-motions, interviews, expense reports, logs, entries, case law, archival material, transcripts, and exhibits with life, with the arguments, the gamesmanship, and the drama at the core of these cases and issues. There would be one all-compassing piece of legislation which would erase the current bifurcation of standards and furnish clear, compliant mechanism for the enforcement of both domestic and international arbitration awards. This would also help avoiding fragmentation in legal systems and provide a predictable and efficient enforcement mechanism (Carle, 2007).

2. Finality and Limited Court Intervention:

Interviews with arbitrators and lawyers echo the need for changes to center on preventing the courts from intervening in arbitrations unless there are specific, agreed-upon circumstances such as fraud, incapacity or breaches of public policy. This will enable the arbitral awards to be executed in a manner consistent with international practice and avoid the protracted litigation practices that currently prolong the enforcement proceedings (Carle, 2007).

3. Time-Bound Enforcement Process:

One suggestion has been to provide for mandatory time periods for challenge or enforcement of arbitralcrees. This would minimize the scope for delay, and would allow enforcement to take place within a reasonable period of time. Time frames may also be prescribed for the submission of objections, requiring the parties to act expeditiously and minimizing the workload of courts (Haque, 2007).

4. Specialized Arbitration Benches:

Specialized commercial or arbitration benches in the High Courts are something that would ensure that arbitration cases go to judges who have that special knowledge for deciding such money-values quickly. This would also enhance uniformity in decisions and begin to restore faith in the arbitral process.

5. FINDINGS

This article concludes that in spite of arbitration envisaging as a practical alternative to litigation, the enforcement of arbitral awards in Pakistan is largely derailed post-award and, in particular, in the High Courts. Debtor lawyers too play truant and take advantage of procedural pooches in the Arbitration Act, 1940 and exploit on delay tactics which disillusion the award creditors and erode effectiveness of arbitration. This dual system of law – one for domestic arbitration, and a separate opaque structure for international awards – only adds to the legal uncertainty.

An ongoing problem in all cases is that despite protracted arbitration, the award is regarded as neither binding nor final. Rather, they are scrutinized much like they would be in a litigation scenario in direct contrast to the basic tenet of arbitration. The upshot is that the arbitration is discredited both for the foreign investor and for the domestic stakeholder. The position as of 2010 in Pakistan is that it does not have a well developed and up to date arbitration regime compatible with international standards. This is the reason why the enforcement of awards is so inefficient; why judgments of the court in various countries are disparate; and as a corollary, why cross-border agreements are not safeguarded.

Despite a growing body of jurisprudence and some legislative progress since Pakistan's accession to the New York Convention, arbitral enforcement remained inefficient and inconsistent until 2017. However, developments future should indicate a shifting trajectory, albeit uneven. The

dual-track approach to domestic and foreign arbitration persisted in many areas, but important reforms and judicial clarity have begun to reshape the landscape.

6. DISCUSSION

The themes obtained from the thematic analysis illuminate different facets underlying the delay in the enforcement of the arbitral award in Pakistan. They identified the main culprit to be misuse of procedural provisions, specifically Sections 30 and 33 of the Arbitration Act, 1940. Although designed to be fair, these provisions have frequently been abused by debtor-side attorneys as an abuse to slow down enforcement, instead of the resolution of bona-fide legal issues. This abuse of the legal process flies in the face of a fundamental tenet of arbitration: arbitral awards are final and binding and not subject to a lengthy and expensive enforcement process." There are also large number of applications filed in the high courts, which are more for the purpose of stalling the enforcement rather than for a challenge to the merits of the award. This "strategic litigation" frequently leads to substantial delay, at times even longer for enforcement than for the arbitration, as exemplified in the given case studies (Haque, 2007).

One notable issue in particular is the dichotomy between native and foreign arbitration rules. This study reveals that the Pakistani legal regime gives preferential treatment to the domestic and international arbitral awards, and hence, this differences lead to the variations of enforcement. Domestic arbitration is controlled by the Act of 1940, but foreign award are subject to international treaties like New York Reflection (which is generaly misplaced under the Code of Civil Procedure (CPC). It tends to make even more confusion and it certainly creates duplicated reviews and even more delays. Without a uniform body of law for arbitrations, there is uncertainty, particularly among foreign investors who are subject to varying enforcement, which ultimately deters investment and hinders economic development (Khan, 2009).

These delays are having wider adverse effects on business and foreign investment, not just on the country's laws. The interviews show that failures to enforce decisions mount legal costs of companies and add to their lack of faith in the arbitration system. Companies tell a different story, saying extended enforcement makes a mockery of the big draw of arbitration: its speed and efficiency. This is even more so to foreign investors, because the delays and the opaque enforcement regime only breed more uncertainty, thus making it difficult to predict the outcome of disputes. This lack of certainty detracts from the appeal of Pakistan's legal system even when compared with places that do not have Pakistan's cumbersome arbitration process. As shown by the case studies, the uncertainty also results in investor resistance with companies reluctant to contract with Pakistani entities for fear that arbitral awards against them would not be enforceable (Zahid, & Haque, 2009).

Regarding the reforms, the research paper offers some of the recommendations to resolve these fundamental problems and improve the system of arbitration in Pakistan. A single legal regime which utilizes the same yardstick for the purposes of domestic as well as international arbitration will certainly go a long way in removing the confusion of two parallel legal systems and more particularly, in ensuring certainty and predictability of law for all parties concerned.

Also, narrowing down the intervention standard to clear and specific reasons like fraud or contravention of public policy would militate against challenging the finality and conclusiveness of an award which is the norm internationally. The adoption of time limits for challenging or enforcing awards in legislation would cut down on such potential for delay and speed the enforcement process. Finally, the establishment of specialized arbitration benches within the High Courts would mean that a case will be dealt with by a judge who handles essentially similar cases, leading to more consistent and efficient enforcement (Zahid, & Haque, 2009). In sum, the results of this study emphasize that Pakistan urgently requires major legal reform to redress the lengthy and uneven process of enforcement of arbitral awards. If these reforms were enacted, Pakistan could bring its arbitration system into the future, restore confidence in investors, and increase the efficacy of its legal system - thus making arbitration a more effective and trusty resolution of disputes in the country.

7. CONCLUSION

To rescue Pakistani arbitration system back in line with international norms, Pakistan must resolve its arbitration system with the soonest judicial soul-searching and policy dialogue. In spite of increasing consciousness, laws of yesteryears, like the Arbitration Act 1940, are continuing to impede the credibility and effectiveness of arbitration. In the past, the arbitration framework in Pakistan has been mired with perpetual inefficiencies, outdated laws, strategic litigation strategies and lack of uniformity when it comes to the enforcement of awards, mainly on account of the existence of two distinct legal systems governing the practice of arbitration (namely domestic arbitration and foreign arbitration). There is also a lack of specialized arbitration courts as well as trained staff. If Pakistan wants to regain confidence and draw in more foreign investment, it needs to go for a transformative change in the system; introducing a single legal model, curtailing judiciary's interference, time-bound exercise and dispensation and special benches of arbitrators. Without such reforms, Pakistan remains at risk of continuing to impede investment and maintain an inefficient and ineffective mechanism for resolving disputes.

8. RECOMMENDATIONS

8.1 ENACTMENT OF A COMPREHENSIVE ARBITRATION STATUTE

Pakistan should take a firm initiative and come up with a modern and comprehensive arbitration law, even if it is on the lines of the United Nations Commission on International Trade Laws(Uncitral) Model Law on International Commercial Arbitration. The outdated 1940 Arbitration Act is unsuitable for modern commercial arbitration. A new comprehensive law is needed that encompasses domestic arbitration and also foreign arbitral award recognition and enforcement in a consistent and uniform manner. Basic principles such as the enforceability of awards, the Kompetenz-kompetenz principle (where the arbitral tribunal decides on the scope of its own jurisdictionship) and minimum judicial interference should be built into the statute. This would not only serve to increase the efficiency and reliability of arbitration in Pakistan, but would consequently bolster Pakistan's reputation and attractiveness as an arbitration friendly jurisdiction

8.2 LEGISLATIVE REFORMS EXPANDED AND CODIFIED

Although it was a step forward for Nigeria to pass the Act, the recognition of foreign awards could not be complete unless and until there is a robust procedure for its enforcement. Recent case law and internal policy discussions have shown a growing tendency towards the requirement of codified practices, strict deadlines and the predictability of enforcement and challenge procedures. Having achieved success from novel reforms in places like India and Singapore, Pakistan must now put these procedural aspects on a statutory footing through holistic legislative revisions. Enabling laws should also specify fixed, stiff deadlines to apply for the enforcement or setting aside of awards, under pain of sanctions for unjustified delay. This would prevent the chronic disease of prolonged trials and create trust in Indian and foreign investors.

8.2 SPECIALIZED ARBITRATION TRIBUNALS AND BENCHES

In order to develop specialization and uniformity in the adjudication of arbitration centric matters, Pakistan must establish dedicated arbitration benches in the provincial high courts and federal/quasi-federal level (Supreme Court). These special benches must have exclusive jurisdiction to decide arbitration issues and specifically enforcement, recognition and setting aside of arbitral awards. The judges assigned to such courts should be specially trained in international arbitration law and procedure. Formalizing such benches would go a long way to ensure that decisions are rendered by learned judges with the ability to achieve uniformity, expedition and compliance with the best international practices in the jurisprudence of arbitration.

8.3 CLEAR STANDARDS FOR "PUBLIC POLICY" AND JUDICIAL REVIEW

Even though there is a recent trend in jurisprudence to discourage broad interpretations of "public policy," there still exists a great deal of ambiguity in the courts of Pakistan when it comes to the review of arbitral awards. The new legal regime would have to introduce a specific, balanced and internationally recognized concept of public policy (on the line of international reference set by the New York Convention). Enforcement of arbitral awards must be confined to those cases where enforcement would violate the most basic principles of morality and justice, rather than extended to allow for plenary review on the merits. This standard should be codified, to limit the scope of random enforcement refusals and increase the finality of arbitration awards.

8.4 RECOGNITION OF INSTITUTIONAL ARBITRATION AND ONLINE PROCEEDINGS

Pakistan will have to adopt along with the rest of the world the need for adopting the institutional arbitration and online dispute resolution (ODR) platforms as formally valid and enforceable process of resolving disputes. The Ministry of Law (in partnership with the private sector) should promote the growth of domestic arbitral institutions with their own set of procedural rules. Moreover, the legal reforms should expressly recognize that the arbitration proceedings may take place through digital mechanism (like virtual hearing, electronic filing and on-line submission of evidence). Promoting new technology through viable public private partnership (PPP) initiatives

would improve access to, drive down costs and modernize Pakistan's arbitration landscape for an increasingly digital global economy.

8.5 AWARENESS, EDUCATION, AND JUDICIAL CAPACITY BUILDING

This is important in Pakistan, and there has been significant progress of increasing lawyers' involvement in scholarships in international arbitration. Exploiting this trend, formal training programs should be initiated at various levels. Training Academies of the Judiciary should have a course on laws and procedure of arbitration as a compulsory program. International arbitration courses should be included in university and law school courses so that future lawyers are trained with art. At the same time, this should be accompanied by standard training courses, certification programs or exchange programs with leading international arbitration centers to further provide the judiciary, the practice and the arbitrators with an understanding of the latest global developments and benchmarks.

8.6 ALIGNMENT WITH INVESTMENT ARBITRATION STANDARDS

As Pakistan has been getting acquainted with FDI, the country has also been witnessing a rise in investor-state disputes that require a well-defined and robust ISDS framework. The administration needs to create dedicated bureaus in either the Ministry of Commerce or the Ministry of Law to address BITs, international arbitration, and enforcement. By ensuring adherence with its obligations under the ICSID Convention and other international agreements, Pakistan should facilitate timely and equitable enforcement of award. An ISDS policy would not only reduce reputational risks but would also create a more stable and predictable climate for investment.

CONCLUSION

This paper is an extension of the author's earlier research published in 2010 on the same subject of arbitration, updated with fresh analysis based on recent developments. The earlier study had identified critical gaps in Pakistan's arbitration framework and had recommended key reforms to align the system with international standards. Subsequently, the policy reforms suggested in that research were partially adopted by the government, leading to some legislative modernization; however, the reforms were not implemented to the extent necessary to fully resolve the systemic issues.

This updated study finds that unfinished business remains regarding the enforcement of arbitral awards in Pakistan, particularly under the prevailing 2017 law. Although arbitration was designed to simplify commercial dispute resolution, procedural abuses — especially during post-award litigation — continue to undermine due process. Despite Pakistan's accession to the New York Convention in 2005, the country retains a bifurcated system for domestic and foreign awards, with domestic arbitration governed by the outdated Arbitration Act of 1940 and foreign awards controlled by international conventions.

Through semi-structured interviews with key stakeholders — including lawyers, judges, and arbitrators — and qualitative case study analysis, the article demonstrates how inconsistent application of standards, judicial overreach, and procedural inefficiencies have severely eroded trust in Pakistan's arbitration system. It highlights how these delays adversely impact trade, weaken the rule of law, and deter foreign investment.

Recommendations from 2010 Paper	Status by 2017	Comments
Unified legislative regime for domestic and international arbitration	Partially adopted	The 2011 Act applied only to foreign arbitral awards. Domestic arbitration remained under the Arbitration Act, 1940. No single unified framework was established.
Judicial non-interference after arbitral award	Partially adopted for foreign awards	The 2011 Act reduced court intervention for foreign awards, but judicial overreach continued, particularly in domestic arbitrations.
Strict, time-bound enforcement of arbitral awards	Not adopted effectively	Although some improvements were made, there was no strict legislative mandate for time-bound enforcement, leading to continued procedural delays.
Alignment of arbitration framework with international standards (e.g., New York Convention compliance)	Partially adopted for foreign awards	The 2011 Act aligned the enforcement of foreign awards with international standards, but domestic arbitration laws remained outdated and inconsistent with international norms.

The paper concludes that Pakistan must urgently enact a unified legal regime for both domestic and international arbitration, limit court interventions, and establish time-bound enforcement procedures. Only through comprehensive reform can Pakistan hope to align its arbitration laws with international expectations, restore investor confidence, and support the development of a fair and efficient dispute resolution environment.

The author's 2010 recommendations advocating a unified arbitration regime, judicial restraint, and time-bound enforcement partially influenced Pakistan's Recognition and Enforcement (Arbitration Agreements and Foreign Arbitral Awards) Act, 2011. However, reforms remained confined to foreign awards, leaving domestic arbitration governed by the outdated 1940 Act and key systemic challenges unresolved by 2017**.**

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