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LEGAL CHALLENGES AND TREATY OBLIGATIONS IN THE ENFORCEMENT OF INVESTMENT ARBITRAL AWARDS UNDER CPEC**

Abstract: This article explores the enforcement of arbitral awards under the legal framework of the China-Pakistan Economic Corridor (CPEC), under the Belt and Road Initiative (BRI). It highlights ongoing concerns about the protection of investors' rights and Pakistan's regulatory autonomy, stemming from the absence of a coordinated legal framework, enforceable treaty-based obligations, and transparent dispute-resolution mechanisms. Drawing on international practices, case law, and Pakistan's emerging legal reforms—particularly the proposed 2024 Arbitration Act—this study identifies weaknesses in the current enforcement structure. The reforms about the dedicated tribunal for CPEC-related disputes, updated treaty clauses aligned with global norms, and stronger domestic legal oversight are advocated. This study offers a legal analysis of both investor confidence and the protection of sovereign policy space under international law. This also focuses on the implementation of a CPEC-specific investment court, modernised treaty provisions consistent with international standards, and robust judicial reforms for public accountability and legal certainty. Through comparative and doctrinal analysis, the article provides a comprehensive roadmap for reconciling the legal expectations of foreign investors with sovereign policy space in line with international investment law.

Keywords: CPEC, BRI, Investor-State Dispute Settlement (ISDS), Investment Arbitral Awards, Arbitration Act 2024.

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1. Preface

The international investment law regime provides the foundation for the legitimacy of investment arbitration awards, ensuring that investors have access to binding remedies for contractual breaches by host states[1]. Furthermore, the implementation of awards in line with Article 54 shows the feasibility of international law[2]. The rationality of the entire investment protection regime is closely tied to the effectiveness of the dispute-resolution mechanisms. Commercial arbitral awards are enforced obligations that exceed domestic judicial review, under frameworks of the ICSID Convention (1965)[3] and the New York Convention (1958)[4]. The China-Pakistan Economic Corridor (CPEC), a US$62 billion megaproject of the Belt and Road Initiative (BRI), raises significant legal concerns regarding the enforceability of arbitral awards. In addition, the accessibility of effective remedies for Chinese investors doing business in Pakistan is challenging[5]. Although Pakistan is a contracting party to the ICSID and New York Conventions, the majority of CPEC agreements are implemented through non-treaty instruments, such as Memoranda of Understanding (MoUs)[6]. These instruments are not typically registered under Article 102 of the UN Charter[7], which is indicative of their political rather than binding legal character[8], and they do not meet the criteria established in line with Article 2(1)(a) of the Vienna Convention on the Law of Treaties (1969)[9]. Usually, these agreements lack robust ISDS clauses and are deficient in the norms of treaty-based enforceability in terms of legal structure[10]. As Peter Muchlinski discussed, the treaty-based enforcement norms with legal

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[1] L. BORLINI – A. SILINGARDI, *Enforcement of International Arbitral Awards*, in *Handbook of International Investment Law and Policy*, 2020, 1-24 ss; International Centre for Settlement of Investment Disputes, *Compliance with and Enforcement of ICSID* Awards, World Bank Group, 2024, 1-104 ss; C. H. SCHREUER, *ICSID Convention: A* Commentary, Cambridge University Press, 2009, 1-97 ss.

[2] *Convention on the Settlement of Investment Disputes between States and Nationals of Other States, (ICSID Conventions),* Rules and Regulations, Art. 54.

[3] *ICSID Convention*, 1965.

[4] A. K. BJORKLUND, *The Legitimacy of the International Centre for Settlement of Investment Disputes*, in *Legitimacy and International Courts,* Cambridge, Cambridge University Press, 2018, 234-283 ss; E. GAILLARD – I. M. PENUSHLISKI, *State Compliance with Investment Awards*, in *ICSID Review – Foreign Investment Law Journal*, n. 3/2021, 540–594 ss; A. BATTISON – T. MILLS, *Enforcement and Recovery: The Theory and Practice of Investor – State Arbitration Awards*, in *Global Arbitration Review*, 2025.

[5] A. SHOUZAB, *From Fluidity to Clarity? Pakistan's Arbitration Act of 2024 and the Future of Public Policy*, in *Kluwer Arbitration Blog,* 2025; M. I. TAHIR, *Arbitration System in Commercial Disputes in Pakistan and Enforcement of Foreign Awards,* in *Al-Nasr*, n. 3/2023, 73-92*;* R. Q. IDREES – I. AZHAR – M. S. R. BAIG, *The Enforcement of Foreign Arbitral Awards: A Critical Analysis of Current Pakistan Arbitration Mechanism*, in *Global Political Review*, n. 4/2020, 11-20 ss; H. RAZA, *An End to the Taisei Saga in Pakistan*, in *Kulwar Arbitration Award*, 2024; UNCTAD, *Reforming Investment Dispute Settlement: A Stocktaking*, IIA Issues Note, n. 1/2019.

[6] M. MCLAUGHLIN, *The Geoeconomics of Belt and Road Disputes: A Case Study on the China-Pakistan Economic Corridor*, in *Asian Journal of International Law*, n. 1/ 2023, 94-122 ss.

[7] *Charter of the United Nations*, adopted 26 June 1945, Art. 102.

[8] A. REINISCH – C. SCHREUER, *International Protection of Investments: the Substantive Standards*, Cambridge, Cambridge University Press, 2020.

[9] *Vienna Convention on the Law of Treaties*, adopted 23 May 1969, Art. 2(1)(a).

[10] P. T. MUCHLINSKI, *Multinational Enterprises and the Law,* 3rd ed., Oxford, Oxford University Press, 2021.

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uncertainty are not incorporated into the commercial contracts for regulations of multilateral operations in the absence of ISDS clauses[11].

Instead of the Vienna Convention and ISDS, CPEC is subject to Pakistan's domestic legal framework, which provides insufficient international enforcement protections. Along with this, CPEC faces significant legal uncertainty due to the absence of an explicit treaty-based dispute resolution mechanism[12]. For example, the ICSID tribunal in *Saipem v. Bangladesh* determined that the failure to enforce an arbitral award may constitute an indirect expropriation[13]. In *ATA v. Jordan,* the fair and equitable treatment (FET) standard shows the violation of the non-enforcement of an award[14]. These decisions are indicative of the growing notion that arbitral awards, while not investments in themselves, are inextricably connected to the protection of existing investments under BITs. Further, several commentators have posited that FET is an independently treaty standard that surpasses a plain restatement of customary international law[15].

In Pakistan, the enforcement of foreign arbitral awards is further compromised by systemic judicial delays and a limited understanding of international arbitration law[16]. Pakistani courts experience challenges in distinguishing commercial arbitration from investment arbitration, undermining investor confidence[17], despite the implementation of the Recognition and Enforcement (Arbitration Agreements and Foreign Arbitral Awards) Act, 2011[18]. For example, Pakistan is ranked unfavourably in contract enforcement by the World Bank's Doing Business Report (2020), attributed to procedural inefficiencies and delays[19]. Moreover, the failure of states to impose a valid award may be considered an internationally unjustified act, thus triggering state responsibility[20]. Expropriation surrounds the judicial nullification of arbitral outcomes[21], as clarified in Article 4 of the

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[11] *ICSID Convention*, 1965, cit., 3.

[12] Government of Pakistan*, CPEC Long Term Plan for China-Pakistan Economic Corridor (2017-2030),* Ministry of Planning Development Reform, 2017, 1-36 ss.

[13] *Saipem S.p.A. v. The People's Republic of Bangladesh*, ICSID Case No. ARB/05/07, Decision on Jurisdiction, 21 March 2007.

[14] *ATA Construction, Industrial and Trading Company v. The Hashemite Kingdom of Jordan,* ICSID Case No. ARB/08/2, Award, 18 May 2010.

[15] U. Kriebaum – C. Schreuer – R. Dolzer, *Principles of International Investment Law,* 3rd. ed., Oxford, Oxford University Press, 2022.

[16] A. Reinisch – C. Schreuer, *International Protection of Investments: the Substantive Standards*, Cambridge, Cambridge University Press, 2020, cit., 8.

[17] Government of Pakistan, *The Recognition And Enforcement (Arbitration Agreement and Foreign Arbitral Awards) Act*, 2011, 1-9 ss.

[18] *Ibid*.

[19] World Bank, *Doing Business Report (2020)*: *Enforcing Contracts – Pakistan,* World Bank Group, 2020.

[20] International Law Commission, *Responsibility of States for Internationally Wrongful Acts*, Doc A/56/10, 2001.

[21] S. Ahmad, *The Role of Developing Countries in Investor-State Arbitration: Reflections on Tethyan Copper v Islamic Republic of Pakistan*, in *London School of Economics Law Review,* n. 3/2023, 453-469 ss; V. Prislan, *Judicial Expropriation In International Investment Law*, in *International & Comparative Law Quarterly*, n. 1/2021, 165–195 ss.

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China-Pakistan Bilateral Investment Treaty (1989)[22]. The legal obligation of the state to guarantee enforceability cannot be disregarded without violating international law[23]. This article expresses the structural deficiencies in the legal framework of CPEC, undermining the legal protections afforded to Chinese investors. These inconsistencies show the need for reforms for future agreements under CPEC, including enforceable arbitration mechanisms and ISDS clauses to ensure investor trust, adherence to international norms, and legal certainty.

2. Treaty-Based Enforceability of Investment Arbitral Awards

The principles of recognition, enforcement, and state obligation are codified in international treaties, the source of the binding legal character of investment arbitral awards[24]. Furthermore, enforceability is a procedural formality as well as a fundamental component of the legal framework to regulate foreign investment. Although they differ considerably in procedural autonomy and domestic judicial oversight[25]. The global enforcement of such awards is governed by the ICSID Convention (1965)[26] and the New York Convention (1958)[27].

3. Enforceability under the ICSID Convention

The International Centre for Settlement of Investment Disputes (ICSID)[28] functions independently and maintains its own legal framework for arbitration. It provides a self-

[22] *Agreement Between the Government of the People's Republic of China and the Government of the Islamic Republic of Pakistan on the Reciprocal Encouragement and Protection of Investments (China-Pakistan BIT),* signed 12 February 1989, Art. 4.

[23] *Convention on the Settlement of Investment Disputes between States and Nationals of Other States (ICSID Convention),* Rules and Regulations, 1-27 ss.

[24] S. A. ALEXANDROV, *Enforcement of ICSID Awards: Articles 53 and 54 of the ICSID Convention*, in *International Investment Law for the 21st Century: Essays in Honour of Christoph Schreuer*, Oxford, Oxford University Press, 2009, 322-338 ss; *Convention on the Recognition and Enforcement of Foreign Arbitral Awards,* (New York Convention*)*, 1958, Art. III; Article III establishes that "*Each Contracting State shall recognize arbitral awards as binding and enforce them... "* and Article V provides limited exceptions to enforcement, presedring their binding legal character; R. DOLZER – C. SCHREUER, *Principles of International Investment Law,* 2nd ed*.*, Oxford, Oxford University Press, 2012; ICSID Convention 1965, Art. 53–54; Art. 53(1) provides: *"The award shall be binding on the parties and shall not be subject to any appeal or to any other remedy except those provided for in this Convention[...];* Art. 54(1) obligates every contracting state to *"recognize an award... as binding and enforce the pecuniary obligations... as if it were a final judgment of the courts of a constituent state*,"; C. H. SCHREUER, *The ICSID Convention: A Commentary,* 1st edn., Cambridge, Cambridge University Press, 2001, 1466 ss.

[25] S. D. FRANCK, *The Legitimacy Crisis in Investment Treaty Arbitration: Privatising Public International Law through Inconsistent Decisions*, in *Fordham Law Review,* n. 4/ 2005, 1521-1626 ss.

[26] *ICSID Convention*, 1965, cit., 3.

[27] *Convention on the Recognition and Enforcement of Foreign Arbitral Awards, (New York Convention*), 1958.

[28] R. ROSENSTOCK, *The Forty-Fourth Session of the International Law Commission*, in *American Journal of International Law*, n. 1/1993, 138-144 ss; C. H. SCHREUER, *ICSID Convention: A Commentary*, Cambridge, Cambridge University Press,

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contained enforcement mechanism. The following obligation is stipulated in Article 54(1) of the ICSID Convention:

«*Each Contracting State shall recognize an award rendered pursuant to this Convention as binding and enforce the pecuniary obligations imposed by that award within its territories as if it were a final judgment of a court in that State […]*»[29].

Furthermore, this mechanism eliminates the necessity for judicial review of the award based on its merits[30]. In the ICSID legal system[31], allowed recourses like annulment, interpretations, and revision are outlined in the Convention. This methodology considerably reduces uncertainty and promotes investor confidence[32]. In *Tethyan Copper Company v. Pakistan*, the tribunal awarded against Pakistan over USD 5.9 billion for arbitrarily denying a mining lease, thereby drastically illustrating the concept of enforceability under ICSID[33]. The decision underscored the binding nature of ICSID awards, even in the face of strategic national interests, in terms of fiscal liability and reputational damage[34].

4. Enforceability under the New York Convention

The New York Convention, on the other hand, governs the recognition and enforcement of foreign arbitral awards that are not subject to the ICSID framework[35]. Article III of the Convention obliges signatory states to enforce awards without imposing discriminatory procedural burdens:

«*Each Contracting State shall recognize arbitral awards as binding and enforce them in accordance with the rules of procedure of the territory where the award is relied upon under the conditions… than are imposed on the recognition or enforcement of domestic arbitral awards*»[36].

The New York Convention enforces awards with limited review under Article V, which permits refusal based on public policy, incapacity, or improper notice, in contrast to ICSID[37]. However, the New York Convention framework introduces a potential obstacle

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2009, 1-97 ss, cit., 1; UNCTAD, *Investor-State Dispute Settlement: A Sequel*, Series on Issues in International Investment Agreements II, UNCTAD/DIAE/IA/2013/2, 2014.

[29] *ICSID Convention*, Art. 54 (1).

[30] *ICSID Convention*, Art. 54.

[31] C. H. SCHREUER, *ICSID Convention: A* Commentary, Cambridge, Cambridge University Press, 2009, 1-97 ss. cit., 1.

[32] M. SORNARAJAH, *The International Law on Foreign Investment*, 5th ed., Cambridge, Cambridge University Press, 2021.

[33] *Tethyan Copper Company Pty Limited v. Islamic Republic of Pakistan*, ICSID Case No. ARB/12/1, Award, 12 July 2019.

[34] T. JONES, *Pakistan Liable for Billions over Minig Project*, in *Global Arbitration Review,* 2019.

[35] G. B. BORN, *International Commercial Arbitration,* 3rd ed., Wolters Kluwer, 2020, 5048 ss; United Nations Commission on International Trade Law (UNCITRAL), *Guide on the Convention on the Recognition and Enforcement of Foreign Arbitral Awards (New York, 1958)*, United Nations, 2016.

[36] *Convention on the Recognition and Enforcement of Foreign Arbitral Awards (New York Convention),* 1958, Art. III.

[37] J. PAULSSON, *The Idea of Arbitration,* in *Oxford University Press*, 2013.

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to uniform enforcement by granting national courts a degree of procedural discretion, particularly under Article V[38]. In the case of megaprojects such as CPEC, which frequently involve sensitive political aspects, these grounds may lead to enforcement delays or denials[39].

5. Definition between Commercial and Investment Awards

International investment law norms do not strictly distinguish between commercial and investment awards for their legal status[40], even though the New York and ICSID Conventions operate in parallel. Both are enforceable under treaty obligations. Nevertheless, investment awards are by definition associated with sovereign conduct, treaty transgressions, and state responsibility, which elevate them beyond private contractual remedies[41]. This obligation is further ingrained in customary international law by the Articles on State Responsibility (ARSIWA) of the International Law Commission. Article 4(1) provides that:

«*The conduct of any State organ shall be considered an act of that State under international law, whether the organ exercises legislative, executive, judicial or any other functions […]*»[42].

Furthermore, the state may be held accountable for a transgression if a judicial decision fails to enforce an arbitral award[43]. This behaviour contravenes the obligations of legal certainty and good faith of international law[44].

6. Implications for CPEC Disputes

In terms of enforceability, the majority of CPEC-related agreements are put into effect through project-specific MoUs and contracts that do not include ICSID clauses or

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[38] *Convention on the Recognition and Enforcement of Foreign Arbitral Awards (New York Convention),* 1958, Art. V; J. T. MCLAUGHLIN – L. GENEVRO, *Enforcement of Arbitral Awards under the New York Convention-Practice in US Courts*, in *Berkeley Journal of International Law,* n. 2/ 1985, 249 ss.

[39] UNCTAD, *Investor-State Dispute Settlement: A Sequel*, Series on Issues in International Investment Agreements II, UNCTAD/DIAE/IA/2013/2, 2014. cit., 28; United Nations, *World Investment Report 2023: Investing in Sustainable Energy for All*, UN Investment Policy Hub, 2023.

[40] A. REINISCH – C. SCHREUER, *International Protection of Investments: the Substantive Standards*, Cambridge, Cambridge University Press, 2020, cit., 8.

[41] P. T. MUCHLINSKI, *Multinational Enterprises and the Law,* 3rd ed., Oxford, Oxford University Press, 2021, cit., 10.

[42] International Law Commission, *Responsibility of States for Internationally Wrongful Acts*, Doc A/56/10, 2001, cit., 20.

[43] J. CRAWFORD, *Brownlie's Principles of Public International Law*, 8th ed., Oxford, Oxford University Press, 2012.

[44] S. TALMON, *Recognition of Governments in International Law: With Particular Reference to Governments in exile*, Oxford, Oxford University Press, 2001.

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comprehensive ISDS frameworks[45]. These instruments are not recognised in line with Article 102 of the UN Charter, undermining its legal predictability[46]. This legal vacuum renders Chinese investors susceptible to unpredictable treatment, domestic implementation delays, and high sovereign risk[47]. The concerns about compliance with international legal obligations under the BIT regime are highlighted by the absence of dispute-resolution norms within CPEC[48]. The legal framework within CPEC shows a compromised and ambiguous structure concerning the enforceability of arbitral awards and the protection of investors[49]. Moreover, the lack of obligations to fair and equitable treatment creates legal uncertainty for future investments[50]. Thus, the absence of enforceable dispute resolution mechanisms and binding legal instruments within the CPEC framework not only exposes investors to increased legal uncertainty but also undermines the credibility of Pakistan's international investment commitments.

7. Challenges of Enforcement in Pakistan's Legal Context

An arbitration is a way of resolving disputes in the civil field between contracting parties through an arbitrator or arbitrators who are not under the jurisdiction of the court. Pakistan continues to face significant challenges in enforcing arbitral awards due to its complex judicial architecture, unclear legal frameworks, and institutional resistance to international obligations[51], even though a signatory to both the ICSID and the New York Conventions[52]. Despite the state having implemented laws such as the Recognition and Enforcement (Arbitration Agreements and Foreign Arbitral Awards) Act, 2011, their implementation has been inconsistent, particularly when enforcement conflicts with perceived national interests or executive policies[53]. The dual court system of Pakistan—civil courts and Shariat tribunals—complicates the cross-border enforcement[54]. Lower courts entertain

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[45] R. Q. A. KHAN, *CPEC Investment Court—An Investment Protection and Dispute Resolution Mechanism for the China-Pakistan Economic Corridor*, 2018.

[46] *Charter of the United Nations*, Art. 102.

[47] Government of Pakistan, *The Recognition And Enforcement (Arbitration Agreement and Foreign Arbitral Awards) Act*, 2011, 1-9 ss, cit., 17.

[48] Government of Pakistan, *Ministry of Planning, Development & Special Initiatives, China-Pakistan Economic Corridor*, CPEC Secretariat, Official website.

[49] D. GAUKRODGER – K. GORDON, *Investor-State Dispute Settlement: A Scoping Paper for the Investment Policy Community,* in *EconPapers,* OECD Working Papers on International Investment No. 2012/03, 2012.

[50] UNCTAD, *Investment Dispute Settlement Navigator*, Investment Policy Hub.

[51] UNCTAD, *Investment Dispute Settlement Navigator, Country Profile – Pakistan,* Investment Policy Hub, 2021.

[52] A. WAHEED – T. B. FISCHER – KOUSAR – M. I. KHAN, *Climate Change Policy Coherence Across Policies, Plans, and Strategies in Pakistan —Implications for the China-Pakistan Economic Corridor Plan*, in *Environmental Management*, n. 5/2021, 793-810.

[53] A. SHOUZAB, *From Fluidity to Clarity? Pakistan's Arbitration Act of 2024 and the Future of Public Policy*, in *Kluwer Arbitration Blog,* 2025, cit., 5.

[54] S. ANWAR, *International and Domestic Arbitration in Pakistan: Law and Practice: A Book Review*, 2018.

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jurisdictional objections even after awards are processed through ICSID[55]. The *Bayindir v. Pakistan* dispute shows delays in domestic enforcement[56]. Additionally, the broad interpretation of courts in Pakistan deviates from international standards, invoking the exception of public policy under Article V of the New York Convention[57]. In Broadsheet LLC v. NAB, the London Court of International Arbitration (LCIA) has issued an award against Pakistan. However, domestic enforcement proceedings are objected to due to national sovereignty and corruption concerns[58].

The absence of specialised arbitration panels in Pakistani courts has resulted in inconsistent jurisprudence and delays[59]. Pakistan's reputation as an unreliable enforcement jurisdiction is attributed, according to scholars, to the absence of training for justices on international arbitration norms[60]. Pakistan is ranked low in terms of procedural efficacy and arbitral support in a report by the World Bank[61]. The absence of a unified arbitration code also impedes enforcement. Although Pakistan adopted UNCITRAL-based principles in its 2011 legislation, it still has inconsistencies between modern arbitration standards and local procedural codes (*e.g.,* the Civil Procedure Code, 1908)[62]. These gaps create opportunities for legal challenges, particularly when CPEC-related contracts do not specify arbitration forums or dispute-resolution hierarchies. In the *Tethyan Copper v. Pakistan* dispute, the ICSID tribunal awarded US$5.9 billion as damages due to the wrongful denial of a mining agreement[63]. The investment profile of Pakistan is severely affected by the refusal to recognise this award due to its assets abroad[64]. Therefore, a transparent framework is necessary for the harmonisation of legal frameworks in the context of BRI, as prescribed by UNESCAP[65].

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[55] *ICSID Convention*, 1965, cit., 3.

[56] *Bayindir Insaat Turizm Ticaret Ve Sanayi A.S. v. Islamic Republic of Pakistan* (I), ICSID Case No. ARB/03/29.

[57] *Convention on the Recognition and Enforcement of Foreign Arbitral Awards (New York Convention),* 1958, cit., 38.

[58] *Broadsheet LLC v. NAB,* LCIA Case No. 132011, Final Award, 24 December 2018.

[59] S. ANWAR, *International and Domestic Arbitration in Pakistan: Law and Practice: A Book Review*, 2018, cit 54.

[60] A. SHOUZAB, *From Fluidity to Clarity? Pakistan's Arbitration Act of 2024 and the Future of Public Policy*, in *Kluwer Arbitration Blog,* 2025; M. I. TAHIR, *Arbitration System in Commercial Disputes in Pakistan and Enforcement of Foreign Awards,* in *Al-Nasr*, n. 3/2023, 73-92*;* R. Q. IDREES – I. AZHAR – M. S. R. BAIG, *The Enforcement of Foreign Arbitral Awards: A Critical Analysis of Current Pakistan Arbitration Mechanism*, in *Global Political Review*, n. 4/2020, 11-20 ss; H. RAZA, *An End to the Taisei Saga in Pakistan*, in *Kulwar Arbitration Award*, 2024; UNCTAD, *Reforming Investment Dispute Settlement: A Stocktaking*, IIA Issues Note, n. 1/2019, cit., 5.

[61] World Bank Group, *Doing Business 2020*: *Enforcing Contracts – Pakistan*, 2020.

[62] Government of Pakistan, *Code of Civil Procedure, 1908*.

[63] *Tethyan Copper Company Pty Limited v. Islamic Republic of Pakistan*, ICSID Case No. ARB/12/1, Award, 12 July 2019, cit., 32.

[64] T. FISHER, *Pakistan Fails to Stay Tethyan Award in US*, in *Global Arbitration Review,* 2022; C. SANDERSON, *Tethyan Targets Law Firms over Pakistan Hotel*, in *Global Arbitration Review*, 2021.

[65] United Nations, ESCAP, *Work on Sustainable Transport Connectivity in Relation to the Belt and Road Initiative,* Workshop on Assessing the Potential Impact of the Belt and Road Initiative on Sustainable Development Goals in Asian Economies, Bangkok, 2019.

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8. Treaty Obligations and Dispute Clauses in CPEC Agreements

The CPEC operates in a distinctive legal environment in which investment contracts either intentionally omit or inadequately articulate treaty obligations and dispute resolution clauses. Furthermore, the absence of codified dispute norms results in a problematic framework that lacks enforceable legal protections under international law[66]. The majority of CPEC-related instruments are non-binding Memoranda of Understanding (MoUs), which lack enforceable provisions for Investor-State Dispute Settlement (ISDS) in terms of legal effect. As of April 2015, Pakistan and China executed fifty-one (51) MoUs that addressed a variety of bilateral relations, including the Pakistan-China Economic Corridor. These MoUs include important projects related to energy, the development of infrastructure and cooperation agreements[67].

Similarly, the CPEC plan includes the details of cost and other related information about the developmental projects[68]. However, these signed MoUs lack the legal framework to resolve investor disputes for any potential conflict that arises between the investors regarding the investment[69]. Despite their strategic significance, the MoUs of the CPEC lack the established binding treaty obligations. Along with this, they do not invoke *pacta sunt servanda* under Article 26 of the VCLT, which provides:

«*Every treaty in force is binding upon the parties to it and must be performed by them in good faith*»[70].

Therefore, these documents are intended to confer rights and obligations that are enforceable under international law, in contrast to BITs or FTAs, which are more like instruments of diplomatic cooperation than enforceable agreements. This avoidance of binding treaty language, as a framework of CPEC's long-term plan, allows for diplomatic flexibility but also undermines the legal concept of predictability and certainty in investor protection[71]. On the other hand, arbitration clauses that are incorporated into CPEC project contracts frequently neglect to specify the location of arbitration, the procedural regulations, or the governing law.

The legitimacy and enforceability of awards in transnational disputes are compromised by this ambiguity[72]. The China–Pakistan BIT (1989) is the sole binding treaty instrument that applies to the CPEC; however, it does not explicitly reference ICSID jurisdiction or

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[66] United Nations, *World Investment Report 2022: International Tax Reforms and Sustainable Investment*, Investment Policy Hub, 2022.

[67] I. HAIDER – M. HAIDER, *Economic Corridor in Focus as Pakistan, China Sign 51 MoUs*, in *Dawn*, 2015.

[68] Government of Pakistan*, CPEC Long Term Plan for China-Pakistan Economic Corridor (2017-2030),* Ministry of Planning Development Reform, 2017, 1-36 ss, cit., 12.

[69] I. HIADER, *Details of Agreements Signed during Xi's Visit to Pakistan* in *Dawn*, 2015.

[70] *Vienna Convention on the Law of Treaties*, 1969, Art. 26.

[71] Government of Pakistan*, CPEC Long Term Plan for China-Pakistan Economic Corridor (2017-2030),* Ministry of Planning Development Reform, 2017, 1-36 ss, cit., 12.

[72] D. PATHIRANA, *China's International Investment Strategy: Bilateral, Regional, and Global Law and Policy. Book Review,* Oxford, Oxford University Press, 2019, 143-145 ss.

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incorporate contemporary ISDS norms[73]. This represents a substantial legal deficiency in the terms of investment treaty evolution[74]. Moreover, the legal forum for dispute resolution is silent in the CPEC Authority Ordinance (2019), which governs the implementation of CPEC. Moreover, this legislative omission is indicative of a neglected obligation to establish investor rights and legal certainty[75]. UNCTAD (2022) observes that Pakistan's CPEC governance is devoid of formal institutional redress mechanisms and transparency, causing the compromise of procedural justice[76]. Pakistan-Turkey BIT (2016) adopts the ISDS, while CPEC do not comply with it, expressing discriminatory application of international legal protections[77]. Furthermore, the Investment Court System (ICS) are not implemented in Pakistan as the European Union does[78]. The implementation of *ad hoc* arbitration with different neutrality standards shows legal uncertainty and enforcement risk[79]. Additionally, Gus Van Harten contends that the reliance on *ad hoc* investor-state arbitration causes jurisprudential inconsistency, disproportionality favours investors, and subjects sovereign states to legitimacy crises[80]. Pakistan and China have also resolved investment disputes through diplomatic negotiations or opaque government-to-government mechanisms due to concerns about sovereignty. In terms of rule-of-law standards, this approach denies providing investors with equitable and impartial remedies[81]. Scholars have found that CPEC represents a setback in treaty-based investment governance due to the lack of international arbitration mechanisms[82]. Legal scholars advocate for a comprehensive reform of the dispute resolution architecture of CPEC in light of these deficiencies. Standardised arbitration clauses, the adoption of ICSID mechanisms, and the establishment of enforceable legal oversight platforms consistent with international obligations are aligned with the recommendations[83].

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[73] United Nations, *Yearbook of the International Law Commission*, 1966, 371 ss.

[74] *China-Pakistan Bilateral Investment Treaty,* 1989.

[75] A. Small, *Returning to the Shadows: China-Pakistan and the Fate of CPEC,* German Marshall Fund and the United States, 2020.

[76] UNCTAD, *Investment Dispute Settlement Navigator: Pakistan,* 2022.

[77] *Pakistan-Turkey Bilateral Investment Treaty,* 2016, Arts. 7–9; UNCTAD, *World Investment Report 2020: International Production Beyond the Pandemic*, 2020.

[78] European Commission, *EU Finalises Proposal for Investment Protection and Court System for TTIP*, Press Release, Brussels, 2015, 1-2 ss.

[79] UNCTAD, *Reforming Investment Dispute Settlement: A Stocktaking,* n. 1/ 2019, 1-30 ss.

[80] G. V. HARTEN, *Investment Treaty Arbitration and Public Law,* Oxford, Oxford University Press, 2009.

[81] S. W. SCHILL, *The Multilaterlization of International Investment Law*, Cambridge, Cambridge University Press, 2010; J. WANG, *Flexible Institutionalization: A Critical Examination of the Chinese Perspective on Dispute Settlement for the Belt and Road*, in *Asia Pacific Law Review*, n. 1/2022, 1-16 ss.

[82] M. MCLAUGHLIN, *The Geoeconomics of Belt and Road Disputes: A Case Study on the China-Pakistan Economic Corridor*, in *Asian Journal of International Law*, n. 1/ 2023, 94-122 ss, cit., 6.

[83] B. AZIZ – M. BATOOL, *China-Pakistan Economic Corridor: A Quest for a Dispute Resolution Mechanism*, LUMS Centre for Chinese Legal Studies, 2023, 16 ss; B. KINGSBURY – S. W. SCHILL, *Investor-State Arbitration as Governance: Fair and Equitable Treatment, Proportionality and the Emerging Global Administrative Law*, in *Global Administrative Law Series*, 2009, 1-57 ss.

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9. Comparative Analysis with other BRI Countries

The legal innovations adopted by other BRI participant states are contrasted with the enforcement challenges and treaty design deficiencies observed in the CPEC. Furthermore, the reluctance of Pakistan to establish enforceable arbitration frameworks expresses structural divergence from the norms of international investment law[84]. The countries such as Sri-Lanka, Kazakhstan, and ASEAN members have adopted proactive legal reforms to guarantee the obligations of arbitral awards[85]. Sri Lanka has implemented the explicit dispute resolution clauses in Chinese-financial projects, despite legitimate concerns about environmental supervision and governance[86]. The Colombo Port City Act (2021) establishes a legal framework to support international arbitration in line with UNCITRAL regulations, under the supervisory judicial body of the Financial Court[87]. This clarity provides an institutional foundation that is largely absent in CPEC project contracts. Similarly, Kazakhstan implemented a legal system restructuring in response to the ICSID case *Caratube v. Kazakhstan,* which exposed deficiencies in its previous dispute resolution framework[88]. This led to the establishment of the Astana International Financial Centre (AIFC), modelled after the DIFC framework and includes an independent arbitration centre and a common-law court[89]. However, this framework serves to mitigate forum shopping and procedural delays, specifically in terms of high-value infrastructure investments. The rules correspond in both content and structure to those of leading arbitral institutions like the LCIA and HKIAC, and contain procedural rules for initiating arbitration, appointing arbitrators, obtaining interim or emergency relief, and consolidating proceedings[90]. The ASEAN Comprehensive Investment Agreement (ACIA) serves as the region's binding Investor-State Arbitration (ISA) provisions. This treaty recognises

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[84] J. J. NEDUMPARA, *International Trade and Investment Dispute Settlement in the Asia Pacific Region: Inspiring the New Asian Regionalism,* in *Asia Pacific Law Review,* n. 2/ 2023, 556-575 ss; S. JINGXIA, *The Belt and Road Initiative and International Law: Viewed from the Perspective of the Supply of International Public Goods*, in *Social Sciences in China,* n. 4/ 2021, 20-37 ss; F. SHAH – J. WANG, *Climate Change Vulnerability, and Its Impacts in Rural Pakistan: A Review*, in *Environmental Science and Pollution Research,* n. 2/ 2020, 1334-1338 ss; H. WANG, *The Belt and Road Initiative Agreements: Characteristics, Rationale, and Challenges,* in *World Trade Review*, n. 3/ 2021, 282–305 ss.

[85] K. P. SAUVANT – L. E. SACHS, *The Effects of Treaties on Foreign Direct Investment: Bilateral Investment Treaties, Double Taxation Treaties, and Investment Flows*, in *Oxford Scholarship Online,* 2009.

[86] D. PATHIRIANA, *The Paradox of Chinese Investments in Sri Lanka: Between Investment Treaty Protection and Commercial Diplomacy*, in *Asian Journal of International Law*, n. 2/ 2020, 375–408; G. Wignaraja – D. Panditaratne – P. Kannangara – D. Hundlani, *Chinese Investment and the BRI in Sri Lanka,* in *Asia-Pacific Programme*, 2020, 1-37 ss.

[87] R. A. PANCHALI – A. GUNAWARDANA, *Sri Lanka Port City Economic Commission Act: A Socio-Legal Insight*, National University of Singapore, 2021, 1-11 ss; United Nations Environment Programme, *Colombo Port City Economic Commission Act*, No. 11 of 2021, Sri Lanka, 2021.

[88] *Caratube International Oil Company LLP v. Republic of Kazakhstan (I)*, ICSID Case No. ARB/08/12, Award, 5 June 2012.

[89] *Astana International Financial Centre* (AIFC).

[90] K. L. KIM, *Why arbitrate at the Astana International Financial Centre?*, in *Kluwer Arbitration Blog*, 19 September 2018.

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institutional forums such as ICSID, UNCITRAL, and SIAC to ensure procedural uniformity[91]. Vietnam and Indonesia have updated their arbitration rules to comply with global enforcement norms for improved award recognition and to reduce judicial discretion[92].

In contrast to this, the CPEC is plagued by a fragmented legal system. An inconsistent legal instruments govern the majority of contracts, ranging from executive memoranda of understanding (MOUs) to project-specific arrangements under domestic Pakistani law[93]. This notion of *ad hocism* risks the security of investors and the harmonisation of the law[94]. Furthermore, countries like Uzbekistan have implemented reforms in accordance with the New York Convention by revising their Civil Procedure Codes in Article 27 to reduce judicial interference and establish specialised economic courts for arbitration enforcement[95]. As article 27 provides that:

«*When several interrelated claims are brought together, some of which fall within the jurisdiction of the civil court and others fall within the jurisdiction of the economic court, all claims shall be subject to consideration by the civil court. It is not allowed to combine several related claims, some of which are within the jurisdiction of the civil court, and others of the administrative court*»[96].

This procedural clarity provides an important comparative model for Pakistan's CPEC-related enforcement challenges, to promote judicial efficiency and reduce jurisdictional fragmentation. Additionally, these structural innovations cause the tangible enhancements in investor trust, as evidenced by UNCTAD's Investment Policy Reviews[97]. According to legal commentators, Pakistan must either establish a specialised CPEC investment court or a treaty framework like the EU's investment framework to enhance investor confidence and for a sustainable legal CPEC architecture[98].

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[91] UNCTAD, *Investment Policy Hub, ASEAN Comprehensive Investment Agreement,* 2009.

[92] S. LE, *Vietnam's Arbitration Law: A Stronger Framework for Dispute Resolution*, Le & Tran, 2025.

[93] A. H. QURESHI, *China/Pakistan Economic Corridor: A Critical National and International Policy Based Perspective*, in *Chinese Journal of International Law,* n. 4/ 2015, 777-799 ss; S. R. – R. Q. IDREES, *China Pakistan Economic Corridor (CPEC); Most Valuable Dream for Pakistan through Economic Integration in the Region but May Not Become True without upgradation of Physical Infrastructure and Legal System!,* in *Beijing Law Review,* n. 4/ 2017, 481-498 ss.

[94] J. GARLICK, *The Regional Impacts of China's Belt and Road Initiative,* in *Journal of Current Chinese Affairs,* n. 1/ 2020, 3-13; M. N. ISLAM – E. E. CANSU, *BRI, CPEC, and Pakistan,* in *International Journal on World Peace*, n. 3/ 2020, 35-64.

[95] *Code of Civil Procedure of the Republic of Uzbekistan*, as amended 28 January 2025.

[96] *Civil Procedure Code of the Republic of Uzbekistan,* Section I (General Provisions), Art. 27.

[97] UNCTAD, *Investment Policy Review: Uzbekistan,* UNCTAD/ITE/IIP/Misc.13, 7 March 1999.

[98] European Union, *The Future of EU International Investment Policy*, COM(2021) 2176 (INL), 2021.

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10. Institutional Reform and the Case for a CPEC-Specific Investment Court

The CPEC project has revealed the structural deficiencies in investment governance and dispute resolution due to an unclear legal framework[99]. However, this has led to an increasing number of proposals for institutional reform from legal scholars and international institutions[100]. The most prominent project is the initiation of a CPEC-specific Investment Tribunal, modelled after established mechanisms such as the Iran–United States Claims Tribunal[101], and consistent with the reform initiatives of UNCITRAL Working Group III on investor–state dispute settlement (ISDS)[102]. Pakistan's historical pattern of inconsistent enforcement, judicial congestion, and the absence of harmonised treaty norms constitute the rationale for the establishment of such a tribunal[103]. A CPEC investment court could serve as a permanent legal structure with exclusive jurisdiction over investment-related disputes within the dispute-resolution architecture. This would not only establish neutrality and transparency but also institutionalise procedural efficiency, thereby reducing *ad hocism* and state interference[104]. Bernasconi-Osterwalder posits that the notion of a specialised tribunal is intended to reduce the structural bias that is prevalent in traditional ISDS mechanisms and depoliticise investor–state disputes[105].

Moreover, such an institution would ensure compliance with international obligations, which encompass customary international law, bilateral investment treaties (BITs), and evolving environmental and human rights norms[106]. Investors and host communities have limited access to legal remedies due to the lack of a neutral adjudicative forum under CPEC[107]. The dispute related to environmental degradation and land acquisition in Gwadar and Hoshab remains unresolved due to administrative lack and jurisdictional ambiguity[108]. The affected communities can claim the environmental and social outcomes of the CPEC

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[99] M. MCLAUGHLIN, *The Geoeconomics of Belt and Road Disputes: A Case Study on the China-Pakistan Economic Corridor*, in *Asian Journal of International Law*, n. 1/ 2023, 94-122 ss, cit., 6.

[100] United Nations, ESCAP, *Work on Sustainable Transport Connectivity in Relation to the Belt and Road Initiative,* Workshop on Assessing the Potential Impact of the Belt and Road Initiative on Sustainable Development Goals in Asian Economies, Bangkok, 2019, cit., 65.

[101] B. SABAHI – N. RUBINS – D. WALLACE, *Investor-State Arbitration*, 2nd edn., Oxford University Press, 2019.

[102] UNCITRAL, *Working Group III: Investor-State Dispute Settlement Reform*, *Reports and Materials,* United Nations Documents, 2019-2024.

[103] R. Q. IDREES – R. SHAPIEE – H. AHAMAT, *Paradigm Shift; The Emergence of Arbitral Forum Shopping in CPEC Investment Disputes*, in *Journal of International Trade Law and Policy*, n. 3/ 2019, 136-151 ss.

[104] A. TAHIR, *CPEC and Dispute Resolution*, in *Daily Times*, 5 June 2018.

[105] N. B. OSTERWALDER, *Inclusion of Investor Obligations and Corporate Accountability Provisions in Investment Agreements*, in *Handbook of International Investment Law and Policy*, Springer, 2021, 463-482 ss.

[106] International Law Commission, *Responsibility of States for Internationally Wrongful Acts*, UN Doc A/56/10, 2001

[107] *China–Pakistan Bilateral Investment Treaty*, 1989, Art. 9.

[108] A. WAHEED – M. I. KHAN – T. B. FISCHER, *Assessing Environmental Policy Coherence in Pakistan: Implications for the Sustainability of Belt and Road Initiative's China-Pakistan Economic Corridor Plan (2017-2030)*, in *Journal of Environmental Policy & Planning*, n. 5/ 2025, 573-598 ss.

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projects[109], in line with the EU-Vietnam Investment Protection Agreement (EVIPA)[110], and to improve CPEC's democratic legitimacy. However, issues like government influence and funding challenges could be addressed through proper design. The proposed investment court could be jointly financed through a bilateral trust mechanism, which would guarantee independence while protecting shared governance[111]. As a sustainability measure, operational costs could be mitigated by project-specific levies or contributions from Chinese state-owned enterprises (SOEs), which benefit from legal certainty. The Asian Infrastructure Investment Bank (AIIB) is one of the institutions that has expressed interest in supporting the development of legal infrastructure under the BRI umbrella[112].

The investment court has the option to observe the UNCITRAL Transparency Rules for the publication of arbitration agreements, procedural orders, and awards[113]. Thus, it would advance public accountability and open governance for the protection of long-term legitimacy[114]. Article 8 of the China–Pakistan BIT (1989) provides investor–state arbitration to function as a jurisdictional foundation for the establishment of a specialised tribunal[115]. Nevertheless, to establish institutional protection, define procedural rules, and formalise jurisdiction, governments require the enactment of enabling legislation[116]. As a long-term sustainable project, a well-structured CPEC investment court would protect investor rights, consistent with both domestic constitutional values and international law.

11. Implications for Sovereignty and Regulatory Autonomy

The tension between Pakistan's sovereign regulatory autonomy and investor rights is one of the most contentious themes in the discussion of the enforceability of investment arbitral awards under the CPEC regime[117]. International investment agreements (IIAs) impose binding obligations on host states, including the obligation to comply with final

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[109] G. BORN – S. FORREST, *Amicus Curiae Participation in Investment Arbitration*, in *ICSID Review - Foreign Investment Law Journal*, n. 3/ 2020, 626-665 ss.

[110] *European Union and Socialist Republic of Vietnam Investment Protection Agreement,* signed 30 June 2019, not yet in force, Arts. 3.38-3.39.

[111] S. S. JASWANT, *A New and Improved Investment Protection Regime: Truth Or Myth!,* in *Blog of the European Federation for Investment Law and Arbitration*, 17 December 2018.

[112] Asian Infrastructure Investment Bank, *The Role of Law at the Asian Infrastructure Investment Bank*, 2019, 1-24 ss.

[113] M. ELSIG – R. POLANCO – P. BOSSCHE, *Current Challenges in International Investment Dispute Settlement*, 2nd ed., Cambridge, Cambridge University Press, 2021.

[114] Open Government Partnership, *Open Government: Empowering Society through Transparency and Participation,* 2023-2028.

[115] *China–Pakistan Bilateral Investment Treaty*, 1989, Art. 8; Art. 8 provides as: "*This Agreement shall apply to investments which are made after September 1, 1954 by investors of either Contracting Party in accordance with the laws and regulations of the other Contracting Party in the territory of the latter one.*"

[116] China–Pakistan *Bilateral Investment Treaty*, 1989.

[117] J. E. VINUALES, *Sovereignty in Foreign Investment Law*, in *The Foundations of International Investment Law: Bringing Theory into Practice*, Oxford, Oxford University Press, 2014, 317-362 ss.

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arbitral awards, in terms of legal hierarchy. Nevertheless, these obligations frequently conflict with local priorities, including equitable economic development, public health, and environmental sustainability, in the context of domestic governance[118]. Moreover, Pakistan is obligated to fulfil two distinct obligations: one to its citizens in accordance with constitutional and environmental norms, and another to foreign investors under treaty law. Arbitral tribunals have begun to acknowledge a state's inherent right to regulate in the public interest, as evidenced by the groundbreaking cases *Philip Morris v. Uruguay and Methanex v. United States*[119]. If the states fail to protect public interests, the tribunals may hold them accountable[120]. The context of harmonising investors' rights with regulatory autonomy is more complex in the case of CPEC[121]. Legal scholars warn that a regulatory issue may arise when governments are reluctant to implement progressive legislation for fear of unlawful, costly investor-state disputes[122], particularly in the main sectors such as energy and environment, which raise ecological and social issues[123]. The federal government has been accused by environmental watchdogs and provincial authorities of disregarding local norms and undermining protections that are intended to preserve indigenous rights and biodiversity[124]. Concerns regarding the erosion of transparency standards are further exacerbated by Pakistan's withdrawal from the Open Government Partnership in 2022[125]. Furthermore, it appears that a more extensive retreat from open governance is currently underway, at least partially motivated by pressure from foreign stakeholders seeking to protect their investments from local contestation[126].

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[118] J. COLEMAN – E. MERRILL – L. SACHS – L. JOHNSON, *International Investment Law and Extractive Industries,* Columbia Center on Sustainable Investment, 2022.

[119] *Methanex Corporation v. United States of America,* UNCITRAL, Final Award, 3 August 2005; *Philip Morris Brands Sàrl, Philip Morris Products S.A. and Abal Hermanos S.A. v. Oriental Republic of Uruguay,* ICSID Case No. ARB/10/7, Award, 8 July 2016.

[120] K. J. VANDEVELDE, *A Unified Theory of Fair and Equitable Treatment*, in *International Law & Politics*, 2013, 43-106 ss.

[121] M. ALI, *CPEC and Pakistan's Complex and Weird Political and Security Challenges*, in *Sino-Pakistan Partnership Under the China-Pakistan Economic Corridor and the Burden of Expectations*, Springer Nature, 2025, 155-198 ss.

[122] J. BONNITCHA – L. N. S. POULSEN – M. WAIBEL, *The Political Economy of Investment Treaty Regime*, Oxford, Oxford University Press, 2017.

[123] K. ZULFIQAR – M. J. BUTT – Y. C. CHANG, *A Comparative Analysis of the Environmental Policies in China and Pakistan: Developing a Legal Regime for Sustainable China-Pakistan Economic Corridor (CPEC) under the Belt and Road Initiative (BRI)*, in *IPRI Journal*, n. 1/ 2021, 82-122 ss; A. KHALID – I. NASEEM – S. M. KAMRAN – M. B. KHAN – M. M. Q. ABRO – K. ZAMAN, *Strategic Dimensions of Pakistan's Foreign Policy: The Role of CPEC', Energy Security, and Environmental Sustainability*, in *Journal of Asian Development Studies*, n. 1/ 2025, 74-88; S. KOUSER – A. SUBHAN – ABEDULLAH, *Uncovering Pakistan's Environmental Risks and Remedies under the China-Pakistan Economic Corridor*, in *Environmental Science and Pollution Research*, n. 5/ 2019, 4661-4663 ss; A. WAHEED – S. KOUSAR – M. I. KHAN – T. B. FISCHER, *Environmental Governance in Pakistan: Perspectives and Implications for the China-Pakistan Economic Corridor Plan*, in *Environmental and Sustainability Indicators*, 2024, 100443 ss.

[124] D. M. QAYYUM – M. B. KHAN, *The Environmental Impact of China-Pakistan Economic Corridor (CPEC): A Case Study*, in *Abasyn University Journal of Social Sciences,* n. 1/ 2018, 201-221 ss.

[125] *Open Government Partnership, Pakistan (Withdrawn)*, OGP, 2022.

[126] V. BITZER – GREETJE SCHOUTEN, *Out of Balance: Global-Local Tensions in Multistakeholder-Partnerships and the Emergence of Rival Initiatives in Producing Countries*, in *Organization and Environment,* n. 3/ 2023, 387-410 ss.

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According to Schneiderman, the legal environment is asymmetrical because dispute resolution systems are primarily shaped around investor interests, without equal consideration for local voices[127]. This asymmetry is further emphasised by Article 27 of the Vienna Convention on the Law of Treaties (VCLT), which states that 'a party may not invoke the provisions of its internal law as justification for its failure to perform a treaty'. As article 27 provided hereunder:

«*A party may not invoke the provisions of its internal law as justification for its failure to perform a treaty. This rule is without prejudice to article 46*»[128].

This reinforces the superiority of international obligations over domestic law in terms of legal authority. However, in practice, Pakistan lies in a precarious position when arbitral awards challenge policies that are implemented for the public benefit[129]. Furthermore, Bonnitcha et al. highlighted that IIAs frequently contain ambiguous critical concepts, such as fair and equitable treatment (FET) or legitimate expectations, thereby affording tribunals a broad range of interpretive discretion[130]. This notion causes numerous instances of state liability being imposed as a consequence of non-discriminatory and socially necessary regulations. Such outcomes raise questions on the democratic legitimacy of foreign investment law that plainly undermine regulatory autonomy[131].

To address these shortcomings, Pakistan must contemplate the possibility of renegotiating IIAs or issuing interpretive statements that delineate the boundaries between sovereign prerogatives and investor protections[132]. The states such as India and South Africa adopted the model BITs to facilitate reform and to formalise the state's right to regulate. Their methods offer instructive examples for rebalancing investment law for sustainable development and democratic governance[133]. In the absence of such fundamental changes, the buildup of binding investment awards under CPEC could significantly restrict Pakistan's policy flexibility, impose considerable fiscal burdens, and lead to increasing public dissatisfaction. Furthermore, the enduring legitimacy and sustainability of the CPEC initiative can solely be secured through a legally balanced framework that upholds national sovereignty and protects investor rights.

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[127] D. SCHNEIDERMAN, *Constitutionalizing Economic Globalization: Investment Rules and Democracy's Promise,* Cambridge, Cambridge University Press, 2008; S. W. SCHILL – G. VIDIGAL, *Investment Dispute Settlement à la carte: A Proposal for the Reform of Investor–State Dispute Settlement*, in *Mark. Elsig, Rodrigo Polanco, and Peter van den Bossche (eds), International Economic Dispute Settlement: Demise or Transformation?,* Cambridge, Cambridge University Press, 2021, 220–263 ss.

[128] United Nations, *Vienna Convention on the Law of Treaties,* 1969, Art. 27.

[129] E. U. PETERSMANN, *Multilevel Constitutionalism for Multilevel Governance of Public Goods: Methodology Problems in International Law,* Bloomsbury Publishing, 2017.

[130] J. BONNITCHA – L. N. S. POULSEN – M. WAIBEL, *The Political Economy of Investment Treaty Regime*, Oxford, Oxford University Press, 2017, cit., 122.

[131] J. BONNITCHA – L. POULSEN – J. YACKEE, *A Future Without (Treaty-Based) ISDS: Costs and Benefits*, in *M. Elsig, R. Polanco, and P. van den Bossche (eds), International Economic Dispute Settlement: Demise or Transformation?*, Cambridge, Cambridge University Press, 2021, 191–219 ss.

[132] *South Africa Model Bilateral Investment Treaty*, 2012; *Model Text Indian Bilateral Investment Treaty*, 2016.

[133] *Model Text Indian Bilateral Investment Treaty*, 2016, cit.

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12. Pakistan's Draft Arbitration Act and Domestic Legal Reforms

Pakistan approved a Draft Arbitration Act in 2024 to resolve the problems regarding procedural inefficiencies and the non-enforcement of international arbitral awards, to modernise the previous arbitration framework[134]. The Draft Act is designed to ensure the consistency of Pakistan's arbitration law with international standards. This legislative initiative addresses the jurisdictional ambiguities in CPEC-related disputes, aligns enforcement mechanisms with international norms, and consolidates scattered arbitration laws with reform objectives[135]. The Draft Act is designed based on the UNCITRAL Model Law and includes provisions to promote party autonomy, interim relief, and minimal judicial interference[136]. Moreover, it shows a departure from the antiquated Arbitration Act of 1940, characterised by judicial overreach, conflicting interpretations, and delay in procedural functionality[137]. The establishment of a unified legal code applicable to both national and international commercial arbitration, as well as fast-track mechanisms and specialised arbitration seats in High Courts, is proposed by the new framework[138].

Mansoor (2024) and other legal scholars contend that the proposed legislation has the potential to redefine Pakistan's role in the BRI by establishing a neutral and credible dispute resolution environment[139]. Furthermore, this could potentially reverse Pakistan's previous practice of resisting foreign arbitral awards through public policy exceptions or procedural challenges[140]. The Draft Act proposes a standalone enforcement chapter that outlines the grounds for refusal of enforcement in accordance with Article V of the New York Convention[141]. In terms of comparative law, this is comparable to the reforms adopted by jurisdictions such as Malaysia[142] and Bangladesh[143], which revised their arbitration laws in 2019 and 2021, respectively. A National Arbitration Registry is a centralised digital platform for the filing, tracking, and publication of arbitral awards[144]. This development has the capacity to explain the unclear CPEC proceedings and promote public trust and accountability through the execution of transparency[145]. Moreover, Parliament has not yet

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[134] M. F. HAYAT, *Arbitration Revolution: Decoding Pakistan's Draft Bill on Arbitration Act 2024*, in *Kluwer Arbitration Blog*, 2024.

[135] K. BAIG, *Arbitration Reimagined: Analyzing Pakistan's New Draft Bill on Arbitration Act 2024*, in *Journal of Law & Social Studies*, n. 4/ 2024, 347-358 ss.

[136] UNCITRAL, *Model Law on International Commercial Arbitration (1985)*, as amended in 2006.

[137] W. MAJEED, *The Draft Pakistan Arbitration Act 2024*, in *Daily Jus*, 1 October 2024.

[138] *Draft Arbitration Act (2024)*, Section 14, *CLC 2025*, 181.

[139] SC Judge Proposes Idea of Judicial Silk Route, in *The Express Tribune,* 2024.

[140] UNCITRAL, *Model Law on International Commercial Arbitration (1985)*, as amended in 2006, cit., 136.

[141] *Draft Arbitration Act (2024)*, Section 14, *CLC 2025*, 181, cit., 138.

[142] J. TAY – O. CHIH-WEN, *International Arbitration Yearbook 2024-2025-Malaysia,* in *Global Arbitration News*, 2025.

[143] VDB LOI, *The Good News is You Can Now Get Interim Measures in Bangladesh for a Foreign Arbitration. That Is Also the Bad News,* in *Bangladesh Briefing Note*, 2021, 1-5 ss.

[144] *Draft Arbitration Act*, Section 22.

[145] F. A. AHMED – S. GUL – S. SHAHZAD, *Ensuring Accountability and Transparency in AI-Driven Corporate Governance*, in *International Journal of Social Sciences Bulletin*, n. 5/2025, 330-341 ss.

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considered this legislation, and without stakeholders' input, the law may be a symbolic gesture rather than a major institutional transformation[146]. In particular, there has been a growing demand for the inclusion of environmental safeguards and public interest exceptions, particularly in cases where disputes pertain to land acquisition or natural resources under foreign-funded initiatives[147]. Furthermore, the notion of legal reform cannot be confined to procedural modernisation alone; it must also account for Pakistan's broader obligations under human rights law, environmental protection, and sustainable development[148]. Even the most progressive arbitration laws may be ineffectively enforced or underutilised due to the lack of investments in institutional infrastructure, resources, and education.

Lastly, the Draft Arbitration Act is a significant legislative initiative to improve Pakistan's dispute resolution framework and to support the enforceability of CPEC-related awards[149]. Nevertheless, its effectiveness will ultimately depend upon political intent, stakeholder participation, and compliance with international norms and domestic constitutional obligations. It will be necessary to adopt a comprehensive and inclusive approach to ensure that this reform strengthens the sovereign regulatory autonomy and investor confidence.

13. Conclusion

In summary, Pakistan faces legal and institutional challenges in the implementation of investment arbitral awards under the CPEC. Additionally, an excessive dependence on executive discretion and non-binding Memoranda of Understanding (MoUs) in CPEC causes legal ambiguity, resulting in an *ad hoc* mechanism of dispute resolution and unclear investor protections. To rectify these deficiencies, a comprehensive reform strategy is required in Pakistan. It is necessary to formalise all CPEC-related contracts within a model investment treaty framework that incorporates Investor-State Dispute Settlement (ISDS) clauses in accordance with the regulations of UNCITRAL or ICSID. To mitigate the risks of jurisdictional fragmentation, such clauses should be standardised across all initiatives for legal harmonisation. Furthermore, the government must expedite the reforms in the Draft Arbitration Act 2024 to upgrade the procedural enforcement and alignment of Pakistan's domestic arbitration with international standards. Moreover, strengthening the institutional capacity requires the establishment of specialised arbitration benches within High Courts

[146] Y. KHOSA – M. M. KAZI – S. PIRZADA – S. MALIK, *Pakistan's Arbitration Law: Current Framework & Reform Proposals,* RIAA Barker Gillette, 2025.

[147] A. ARCURI – F. VIOLI, *Public Interest and International Investment Law: A Critical Perspective on Three Mainstream Narratives*, in *Handbook of International Investment Law and Policy*, Singapore, Springer, 2021, 1-27 ss.

[148] A. MANZUR, *Interim Relief under Pakistan's Proposed Arbitration Act: Promoting Judicial Non-Intervention?*, in *Kulwer Arbitration Blog*, 2024.

[149] *Draft Arbitration Act (2024)*, Section 14, CLC 2025, 181, cit., 138.

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and the implementation of judicial training in investment law. In addition, the establishment of an investment tribunal in Pakistan could provide a neutral legal forum with procedural transparency for CPEC-related legal issues. Pakistan must revise its outdated BITs to explicitly include provisions protecting the right to regulate, promoting environmental sustainability and upholding human rights commitments. Furthermore, the governance of the CPEC must be founded on the principles of transparency and participatory accountability, public access to environmental impact assessments, arbitration awards, and contractual terms for democratic oversight. The legitimacy and long-term sustainability of CPEC will continue to be uncertain if opacity dominates investment governance.

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