



Business Environment Reform Facility

Assessment of Commercial Laws and the Establishment of a Commercial Court System in Punjab

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About this Report

Research for this study was conducted by Mohsin Abbas Syed and Ahmad Nazir Warraich between December 2018 and March 2019.

The views contained in this report are those of the authors and do not necessarily represent the views of any BERF consortium member or DFID.

This is a working paper shared for discussion purposes only. No reliance should be placed upon this report.



Acronyms and Abbreviations

ADR	Alternative Dispute Resolution
BERF	Business Environment Reform Facility
DB	Doing Business
DFID	Department for International Development
DF	Distance to Frontier
OECD	Organisation for Economic Co-operation and Development
UK	United Kingdom
USD	United States Dollars



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Executive Summary

Background

This Report was commissioned by the Government of Punjab to analyse the commercial laws in Punjab Province of Pakistan. It was based on a desk review, stakeholder consultation and international best practices. It makes recommendations for improvements to the relevant laws and procedures, and for the establishment of a commercial court.

Like many other countries, Pakistan is aspiring to become an investment friendly country. It has a population of 207.7 million¹ with a high ratio (two-thirds of the total population)² of youth in the labour force. To boost its economy and create job opportunities for unemployed youth, it is important to focus on promotion of investment through targeted short, medium and long-term measures. Effective business regulation affords micro and small firms the opportunity to grow, innovate and move from the informal to the formal economy.³

A desk review of nine provincial laws was conducted: the Contract Act 1872; the Partnership Act 1932; the Sales of Goods Act 1930; the Specific Relief Act 1877; the Arbitration Act 1940; the Stamp Act 1899; the Limitation Act 1908; the Registration Act 1908; and the Code of Civil Procedure 1908. Relevant stakeholders were consulted using a questionnaire instrument. Recommendations are based on a detailed assessment of problems and gaps in the existing legal system.

Findings

The World Bank's Doing Business (DB) Report 2019 ranks Pakistan at 156 out of 190 economies on the 'enforcing contracts' indicator, which is based on time, cost and quality of judicial processes. Ranking for Pakistan is based on assessment of the enforcing contract framework in Karachi (Sindh Province) with 65% weight and Lahore (Punjab Province) with 35% weight.⁴

It takes 1,072 days on average⁵ for a commercial dispute to be resolved in Pakistan. By comparison, it takes 164 days on average in Singapore, 216 days in New Zealand and 437 days in United Kingdom (UK) (See Table 1 below). Lahore is however competitive on this indicator within its region – legal systems in Bangladesh and India take considerably longer.

Lahore is assessed as competitive in terms of costs incurred in remedying breach of contract. On average a person may incur costs of 25% of the value of the claim for enforcing a contract

¹ <http://www.pbs.gov.pk/content/provisional-summary-results-6th-population-and-housing-census-2017-0>, last visited on 11 March 2019.

² UNDP Pakistan, Pakistan National Human Development Report 2017, Unleashing the Potential of Young Pakistan.

³ World Bank Group, Doing Business 2019, Training for Reform, 16th Edition, page 1.

⁴ The weight of these two commercial cities is based on the amount of business that is carried out in each city. Lahore is the area assessed in DB Report, but recommendations in this report are to the Punjab Government for improving the enforcing contracts system in Lahore and the whole of the Punjab.

⁵ World Bank Group, Doing Business 2019



through the first level court. In Singapore, UK and New Zealand, this cost is measured at 25.8%, 45.7% and 27.2% respectively of the claim for the same remedy. Regionally, Pakistan is also competitive with India and Bangladesh, where costs are higher. In terms of the index of quality of judicial processes, on a scale of 0 to 18, Lahore scored five, whereas Singapore scored 15.5, UK scored 15 and New Zealand scored 9.5. Quality scores are also stronger in the region, with India scoring 10.5 and Bangladesh 7.5. This shows that Lahore has considerable room for improvement in the 'enforcing contract' indicator.

Table 1: World Bank Doing Business Enforcing Contracts Indicators

Indicator	Lahore	Singapore	UK	New Zealand	Bangladesh	India
Time (Days)						
Filing	60	6	30	7	30	45
Trial	600	118	345	167	1,047	1,095
Enforcement	365	40	62	42	365	305
Total	1,025	164	437	216	1,442	1,445
Costs (% Claim)						
Lawyer's Fees	15.0	25.8	45.7	22.7	66.8	31.0
Quality (Max Score)						
Court Structure (5)	2	4.5	4.5	3	3	2.5
Case Management (5)	0.5	4.5	4.5	3	1	1.5
Court Automation (5)	0.5	4	3.5	1.5	0.5	2.0
ADR (3)	2	2.5	3.5	2.0	3	4.5
Total (18)	5.0	15.5	15.0	9.5	7.5	10.5

Source: World Bank Doing Business 2019



Time and quality of judicial processes are the key factors in the low performance of Lahore in DB Report 2019. Both these parameters of the 'enforcing contracts' indicator in the DB index are interlinked. They are mainly based on the legal system. Hence, quality of substantive and procedural laws relating to contracts determine the relative scores of city/ country on this indicator.

Laws relating to contracts and the procedures for enforcement of contracts in the Punjab, including Lahore, are outdated. Almost all these laws are more than one hundred years old without any major change in them since their enactment. These include substantive laws like the Contract Act 1872, Specific Relief Act 1877, Stamp Act 1899, Registration Act 1908 and Partnership Act 1932 and procedural laws like the Code of Civil Procedure 1908, Limitation Act 1908 and Arbitration Act 1940. These laws do not encourage written contracts including electronically made contracts. Too little has been done to date for the introduction of an alternative dispute resolution (ADR) system. There is no designated commercial court in Lahore, and use of technology in all aspects of the contract system including judicial processes is minimal and highly unsatisfactory.

In evidence before the civil court, a woman's testimony has the same evidentiary weight as that of a man's. The general principle as to who may testify states that all persons are competent to testify unless the court considers that they are prevented from understanding the questions put to them, or from giving rational answers to those questions.

Recommendations

Establishment of a special commercial court through a separate law. Such a court may be set up at the second-tier level, that is, at the District or Additional District Judge, both of whom have concurrent jurisdiction. Such a court should have jurisdiction over most commercial matters, except those for which special courts already exist. This court should have its own procedures to facilitate resolving of commercial disputes in an efficient and effective manner. The commercial court should be automated starting from filing an application to serving notices, to sending updating notices to attorneys/parties, case management and uploading of court orders and judgments.

Through the following recommended measures (full details are provided in Section 5) the time parameter and quality of judicial process in enforcing commercial contracts will improve, which will improve Lahore's score on 'enforcing contracts' thereby improving the ranking of Pakistan on this indicator of the DB index.

Amendments to the following laws: Contract Act 1872, Specific Relief Act 1877, Stamp Act 1899, Registration Act 1908 and the Limitation Act 1908 in addition to amendment or substitution of the Arbitration Act 1940.

Enactment of a standalone ADR Act, mandatory provisions for case management, cost of litigation and adjournments.



Automation of processes from execution of contract to ADR to commercial court proceedings.

1. Introduction

1.1 Purpose of the assignment

The assignment was commissioned by DFID Pakistan under the BERF Programme, as part of UK Government's support for strengthening and reforming of commercial laws and making recommendations for establishing a dedicated commercial court in Punjab. The assignment was conducted in coordination with the Planning & Development (P&D) Department, Government of the Punjab, which has embarked on improving the sub-national Doing Business ranking and overall business environment in the Province.

Since the passage of the Constitution (Eighteenth Amendment) Act 2010, the authority to legislate on most of the aspects of enforcing contracts has been devolved to the Provincial Assemblies. With the omission of the Concurrent Legislative List from the Constitution, the subjects of 'contracts', 'arbitration', 'alternate dispute resolutions', 'civil procedure', 'transfer of property', 'registration', 'specific relief' and 'limitations' have become residuary subjects⁶. Only a Provincial Assembly is competent to legislate on these subjects under Article 142 of the Constitution.⁷ In view of this, almost the entire responsibility for reforming the enforcing contracts mechanisms falls on the Provincial Governments.

Government of the Punjab and Lahore High Court are eager to introduce legal, judicial and administrative reforms to improve contract enforcement in the Punjab. But judicial and administrative reforms alone may not be effective without appropriate law reforms for efficient and effective contract enforcement system. This assignment is part of an overall effort to bring changes in the legal system which is based on more than hundred years old laws. This report provides policy perspective for legislative reforms for improving enforcing contracts system of the Punjab.

The objectives of this assignment are to:

- Review and make recommendations for the strengthening and reform of commercial laws in Punjab; and
- Make recommendations for establishing a dedicated commercial court in Punjab.

1.2 Report methodology

This report highlights the current position of Lahore (Punjab) on the 'enforcing contracts' indicator of the World Bank's DB Report 2019.⁸ It contains a brief examination of three legal systems performing better on this DB indicator. A comprehensive stakeholder consultation (Appendix 4) was conducted which included the relevant government departments, officials of

⁶ It relates to distribution of powers between Parliament (Federal Legislature) and Provincial Assemblies (Legislatures of Federating Units)., Pakistan has a Federal Legislative List. Only Parliament can make laws on subjects in this list. There are three concurrent subjects. All subjects which part of this list are not and are not included in concurrent subjects, are considered as residuary subjects and only a Provincial Assembly can make laws on these residuary subjects.

⁷ Constitution of the Islamic Republic of Pakistan, clause (c) of Article 142.

⁸ World Bank Group, Doing Business 2019, 16th Edition, published in October 2018.



the Lahore High Court, serving and retired judges of the lower judiciary, lawyers and the business community. A desk review of nine provincial laws was conducted, including the Contract Act 1872, the Partnership Act 1932, the Sale of Goods Act 1930, the Specific Relief Act 1877, the Arbitration Act 1940, the Stamp Act 1899, the Limitation Act 1908, the Registration Act 1908 and the Code of Civil Procedure 1908 (see documents reviewed in Appendix 3). Relevant stakeholders were consulted using a questionnaire instrument (Appendix 4).

In approaching these issues and formulating recommendations, reference is made to model systems of contract enforcement in Singapore, (London) UK and (Auckland) New Zealand. As acknowledged in the DB Report 2019, these systems are efficiently and effectively resolving commercial contractual disputes.

Recommendations (changes to commercial laws and establishment of a commercial court) to address the areas of concern in enforcing contracts in the Punjab identified in consultations with key informants and highlighted in the DB Report 2019 are based on a detailed assessment of problems and gaps in the existing legal system.

1.3 Report Structure

The report is set out with the following structure

- Section 2 considers relevant Doing Business Indicators for Punjab
- Section 3 considers relevant Doing Business Indicators in model jurisdictions (Singapore, UK, New Zealand)
- Section 4 provides an analysis of laws and contract laws and contract enforcement in Punjab
- Section 5 makes recommendations to strengthen the Enforcing Contract System in Punjab



2. Doing Business Report 2019: Enforcing Contracts Indicators

2.1 Doing Business: Enforcing contracts indicator

The Annual DB Report is an international benchmark to measure the regulatory and administrative environment conducive to investment in an economy.⁹ It uses four main sources of information: *relevant laws and regulations, Doing Business respondents, the governments of the economies covered and World Bank Group regional staff*. Approximately two-thirds of the data embedded in the *Doing Business* indicators are based on a reading of the law. In addition to filling out questionnaires, *Doing Business* respondents submit references to the relevant laws, regulations and fee schedules.¹⁰

In 2017/18, major developments took place in various economies of the world making it easier to enforce contracts in their respective jurisdictions.¹¹ Most of these are developing economies like Albania, Armenia, Kazakhstan, Kyrgyz Republic, Jordan, Nigeria, Saudi Arabia and Turkey. But some developed economies like Canada, Denmark, Ireland, Puerto Rico (US) and Singapore also introduced reforms for an efficient contract enforcement system. The reforms included amendments in the civil procedure rules to introduce a pre-trial conference as part of case management techniques used in court; issuance of new rules of procedure for small claims; introduction of electronic fee payment systems; introduction of random and automatic assignment of cases to judges throughout the courts; implementation of electronic service of process; making publicly available decisions rendered in commercial cases; introduction of an electronic case management system; publication of performance measurement reports; introduction of an electronic filing system for commercial cases; introduction of dedicated benches to resolve commercial disputes; adoption of laws that regulate all aspects of mediation as an alternative dispute resolution mechanism; and provision of financial incentives for mediation.

The 'enforcing contracts' indicator of DB was the second most popular indicator of reforms amongst world economies during this period.¹² A total of 49 economies improved various aspects of enforcing contracts, second only to the starting a business indicator which was improved by 50 economies. Enforcing contracts has not been a subject-matter of business reforms in Pakistan during the past ten years.¹³

⁹ At the outset it says 'what gets measured gets done'. No other report or index has illustrated this aphorism better than *Doing Business*. Anchored in rigorous research and methodology, *Doing Business* gathers detailed and objective data on 11 areas of business regulation, helping governments diagnose issues in administrative procedures and correct them. It inspired thousands of research articles published in peer reviewed journals. It has inspired more than 35000 reforms throughout the world since its launch in 2003 DB Report, Foreword p iv.

¹⁰ DB Report p27.

¹¹ DB Report p20.

¹² DB Report p10.

¹³ World Bank Group, *Doing Business 2019, Training for Reform, Economy Profile Pakistan*, 16th Edition, page 104.



In the DB Report 2019, Pakistan is ranked 156 out of 190 economies in ‘enforcing contracts’, which is lower than Pakistan’s overall ranking of 136 out of 190.¹⁴ It achieved a total score of 43.49 out of 100 on ‘enforcing contracts’. It is estimated that it takes 1,072 days at an average cost of 20.5% of claim value to redress a low level commercial dispute of about US\$ 5,000. The quality of judicial processes scored 5.7 out of 18. Lahore has achieved a DB score of 41.86 on ‘enforcing contracts’ while Karachi fared slightly better than Lahore with a DB score of 44.86 for this indicator.¹⁵ These figures clearly show systemic failure in enforcing contracts in Sindh and Punjab Provinces.

On the overall ‘enforcing contracts’ indicator ranking for Pakistan, Karachi in Sindh Province (65% weight) and Lahore in Punjab Province (35% weight) are assessed on the basis of the amount of business that is carried out in each city.¹⁶ Rankings on the ‘enforcing contracts’ indicator are based on scores for the following three measures:

Time: days required to resolve a commercial dispute through the courts;

Cost: attorneys’ fees, court and enforcement costs, as percentage of claim value; and

Quality of judicial processes: use of good practices promoting quality and efficiency.

Any reform of the civil procedure would need to look into the cost, delay and complexity of the civil justice system. This is perhaps the reason for assessing a system on the above three indicators.

2.1.1 Time

Time is measured as the average of three stages of dispute resolution, i.e. (i) filing and service; (ii) trial and judgment; and (iii) enforcement. The filing and service phase starts with the demand letter written by the seller to obtain payment and adds the time of hiring a lawyer, gathering supporting documents, filing complaint, serving notice and the actual trial and judgement time. The trial and judgement phase include the time from any pre-trial protocol until the final appeal. The enforcement time calculates time needed for enforcement of the judgement, including the attachment and auction of the property.

2.1.2 Cost

Three types of costs are recorded: average attorney fees, court costs and enforcement costs.

2.1.3 Quality of judicial processes

This indicator looks at four factors: court structure and proceedings, case management, court automation and alternative dispute resolution.

There are marks for a **dedicated specialised court for commercial matters** and for having a small claims court that adopts a simplified fast track method. Points are awarded for

¹⁴ DB Report p4.

¹⁵ DB Report p82.

¹⁶ Both cities are assessed separately and their combined score with the ratio of 65% and 35% reflects the ranking of Pakistan in the Doing Business Index.



facilitating the sale of a defendant's assets, which saves time in case of an adverse award. The index also works on the assumption that if cases are randomly assigned, then it would result in a more competent disposal of cases.

The **case management index** measures (i) service of process; (ii) first hearing; (iii) filing of the statement of defence; (iv) completion of the evidence period; (v) filing of testimony by an expert; and (vi) submission of the final judgment. Unnecessary or too many adjournments are also measured.

Another important measure is automation of the information system, including access to case law, laws, the hearing schedule, notifications, viewing of case documents, generation of court orders, and judgements on the internet.

The **court automation index** includes electronic complaint filing, payment of court fees and availability of court judgments and orders online.

The **alternative dispute resolution (ADR)** index ranges from 0 to 3, with higher values associated with greater availability of alternative dispute resolution mechanisms. The ADR measures how commercial disputes are submitted for arbitration and how the courts implement arbitration clauses of commercial agreements; it also measures how mediation and conciliation are recognised as mechanisms for dispute resolution.

2.2 DB Report 2019: Enforcing contracts in Lahore

In the Constitution, Holy Quran¹⁷ is the foundation of Pakistan's legal system. It is one of the clear obligations under the Holy Quran to "*fulfil the promise, surely (every) promise shall be questioned about.*" (Surah al-'Isrā', 17:34). It is, hence, a constitutional obligation to ensure an efficient and cost-effective system of resolution of contractual disputes.

Pakistan is one of the worst performing countries in the world in terms of enforcing contracts. In Lahore, the time for enforcing a standardised contract is 1,025 days.¹⁸ A person has to spend 25% of the value of the claim to enforce the contract.¹⁹ Lahore scored only 5 out of 18 on the quality of judicial processes.²⁰

2.2.1 Gender issues in court proceedings

In questions relating to court structure and proceedings, on the question '*does a woman's testimony carry the same evidentiary weight in court as a man's?*' a negative (-1) mark is assigned to Lahore.²¹ After the desk review and consultation with stakeholders including former Chief Justice of Pakistan and other serving judges, this negative marking is based on a misunderstanding of Article 17 of the Qanoon-e-Shahadat Order 1984 federal law of

¹⁷ DB Report Preamble, Articles 2A, 31, 203D, 227 and 230.

¹⁸ World Bank Group, Doing Business 2019, Training for Reform, Economy Profile Pakistan, 16th Edition, page 86.

¹⁹ DB Report.

²⁰ DB Report.

²¹ DB Report p84.



evidence of Pakistan. It provides that unless otherwise provided in any law relating to the enforcement of Hudood or any other special law, in matters pertaining to financial or future obligations, if reduced to writing, the instrument shall be attested by two men, or one man and two women. This provision only refers to attesting witnesses of a document relating to financial or future obligation.²²

In evidence before the civil court, a woman's testimony has the same evidentiary weight as that of a man's. In any case, a special law may even override this provision. The general principle as to who may testify states that all persons are competent to testify unless the court considers that they are prevented from understanding the questions put to them, or from giving rational answers to those questions, by youth, extreme old age, disease, whether of body or mind, or any other cause of the same kind.²³

Full details of the scoring results for quality of judicial processes are provided in Appendix 5.

²² Qanoon-e-Shahadat Order 1984, Article 17(2) (a).

²³ Above Order Article 3.



3. Doing Business Report 2019: Enforcing Contracts in Model Jurisdictions

Some countries have made very rapid progress on the ladder of ease of doing business. Pakistan in general and Punjab specifically could learn from the experience and systems of some of the leading nations in DB to become a favoured destination for investment. An analysis of performance of Singapore, UK and New Zealand in enforcing contracts is provided for comparison.²⁴

3.1 Enforcing contracts in Singapore²⁵

South East Asia including Singapore is one of the fastest improving regions with good scores on ease of doing business indicators. Singapore's DB score is 85.24 which ranks second out of 190 countries. It ranks first on enforcing contracts with a DB score of 84.53. It takes an average of 164 days to enforce a standardised contract in Singapore, whereas in Lahore on average it takes 1,025 days. However, the percentage cost of pursuing a claim is roughly the same as in Lahore: in Singapore it is 25.8% of the total cost, whereas in Lahore a person has to spend 25% of the value of the claim for enforcing a contract. Singapore achieved a very high score of 15.5 out of 18 in quality of judicial processes against Lahore's score of 5.

3.2 Enforcing contracts in the UK²⁶

UK is a high income developed country. London is assessed for determining DB and ranking of UK in the DB index. It is one of the better performing countries in the DB index 2019 with a DB score of 82.65, ranked 9 out of 190 countries. Its DB enforcing contracts score is estimated at 68.69 ranking 32 on this indicator. Time for enforcing a standardised contract is 437 days. However, a plaintiff has to spend 45.7% of the value of the claim to enforcing the contract, which is much higher than the average for Organisation for Economic Co-operation and Development (OECD) countries (21.2%), and also much higher than Lahore's 25%. The UK achieved a score of 15 out of 18 on quality of judicial processes as against Lahore's score of 5.

3.3 Enforcing contracts in New Zealand²⁷

New Zealand is a high income developed country. Its business capital Auckland is assessed for determining its DB and ranking in the DB index. It is the best performing country in the world on DB index 2019. New Zealand achieved a DB score of 86.59 and ranked number one in the world. On enforcing contracts, its DB score was 71.48 ranking 21 out of 190 countries. Time for enforcing a standardised contract is estimated at 216 days. A person has to spend on average 27.2% of the value of the claim to enforce a contract. New Zealand achieved a score of 9.5 out of 18 on quality of judicial processes.

²⁴ World Bank Group, Doing Business 2019, Training for Reform, 16th Edition, published in October 2018.

²⁵ World Bank Group, Doing Business 2019, Training for Reform, Economy Profile Singapore, 16th Edition.

²⁶ World Bank Group, Doing Business 2019, Training for Reform, Economy Profile United Kingdom, 16th Edition.

²⁷ World Bank Group, Doing Business 2019, Training for Reform, Economy Profile New Zealand, 16th Edition.



4. Analysis of Laws of Contract and Enforcement of Contracts

There are multiple substantive and procedure laws relating to contracts in the Punjab. Most of these laws are provincial laws on delegated subjects as set out in the Constitution (Eighteenth Amendment) Act 2010. These laws include the Contract Act 1872, the Partnership Act 1932, the Sales of Goods Act 1930, the Specific Relief Act 1877, the Arbitration Act 1940, the Stamp Act 1899, the Limitation Act 1908, the Registration Act 1908 and the Code of Civil Procedure 1908. A brief analysis of these laws is necessary to understand the poor performance of Pakistan and Punjab on 'enforcing contracts' in the DB Report 2019.

All the above laws have remained unchanged since they were enacted before the independence of Pakistan in 1947. Laws, especially procedural laws, have not kept pace with economic, social and political change. The following analysis is based on a desk review (see Appendix 3 for bibliography) and stakeholders' consultation (Appendix 7) based on a questionnaire distributed to the stakeholders (Appendix 4).

4.1 Contract Act 1872

A contract is an agreement made for a lawful consideration between two or more persons competent to enter into a contract with their free consent and for a lawful purpose.²⁸ The desk research and stakeholders' consultation identified the only major flaw in the Contract Act 1872 in terms of enforcing contracts, section 28. This voids any agreement where any party is restricted absolutely from enforcing his/her rights under or in respect of any contract by the usual legal proceedings in the ordinary tribunals, or which limits the time within which he/she may enforce his/her rights. It recognises only arbitration as an exception.

Pakistan's superior courts have liberally interpreted this provision to protect and uphold choice of forum, choice of law, and venue of arbitration clauses in the contracts.²⁹ The foreign arbitration clause is protected and interpreted to fall within the exception under section 28 of the Contract Act 1872.³⁰ If two or more courts have jurisdiction to try a suit and parties agree on exclusive jurisdiction of one court, such agreement has to be enforced as long as it is not contrary to public policy or section 28 of the Contract Act 1872.³¹

At present, the Contract Act 1872 does not recognise other ADR mechanisms except arbitration. Mediation and conciliation are not recognised exceptions to this provision thus voiding contracts in restraint of legal proceedings under section 28. The existing provision neither promotes ADR, nor encourage parties to make it contractually binding as a means of settling a dispute before approaching the court.

Further, the existing law does not mandate the Provincial Government or any agency of the Government to publish electronically routine model business contracts. There is no schedule

²⁸ Contract Act 1872, section 10.

²⁹ Kadir Motors (Regd.) Rawalpindi v National Motors Ltd. Karachi 1992 SCMR 1174, see also 2008 CLC 1618 and 2009 CLC 1113.

³⁰ Messrs Hassan Ali Rice Export Co v Flame Maritime Limited 2004 CLD 334.

³¹ Global Quality Foods (Pvt.) Ltd. v Hardee's Food Systems, Inc. PLD 2016 Karachi 169.



of implied conditions in specific routine business contracts. The absence of these has resulted in uncertainty in contractual obligations, and made it difficult to enforce contracts.

4.2 Partnership Act 1932

A 'partnership' is the relationship between persons who have agreed to share the profits of a business carried on by all or any of them acting for all.³² The Act does not mandate partnership deeds in writing and even registration of a partnership firm is voluntary. Punjab Portal has numerous online services including a dedicated business registration portal.³³ This website does provide partial electronic registration of partnership firms. Payment of a registration fee is still manual. But model partnership deeds are not available on this website. This is important because registration of a partnership entitles it to sue or be sued; whereas non-registration bars lawsuits by or against partnerships and its present or past members under section 69 of the Partnership Act 1932.³⁴

4.3 Sale of Goods Act 1930

Contracts for the sale of goods are regulated under the Sale of Goods Act 1930, whereby the seller transfers or agrees to transfer the property in goods to the buyer for a price.³⁵ Goods are defined to mean every kind of movable property other than actionable claims and money, and include electricity, water, gas, stock and shares, growing crops, grass, and things attached to or forming part of the land which are agreed to be severed before sale or under the contract of sale.³⁶ The Act gives the parties to the contract authority to ignore the general rules incorporated in the Act – such a sale agreement is valid. The rules inserted in the Act are general in nature and are guidelines for the contracting parties to the sale of goods. Desk research and stakeholder consultation confirm that there is no problem with this law in relation to reforming the enforcing contract system.

4.4 Specific Relief Act 1877

A chapter³⁷ on specific performance of contracts is included in the Specific Relief Act 1877. The chapter has a list of contracts which cannot be specifically enforced³⁸ and a clause that a contract, where the court cannot establish the terms with reasonable certainty, cannot specifically be enforced.

Frivolous lawsuits are often filed on the basis of alleged oral contracts with the plea that this chapter does not expressly bar a lawsuit for specific performance on the basis of an oral contract. Oral contracts are typically cited in respect of alleged deprivation of rightful ownership of property, and are the basis of frivolous protracted litigation. This misuse of the

³² Partnership Act 1932, section 4.

³³ https://www.punjab.gov.pk/get_services; last visited on 11 March 2019.

³⁴ *Abid Ali v Bazar-e-Faisal Builders and Developers* 2015 CLC 1074, also see 2015 YLR 1507.

³⁵ Sales of Goods Act 1930, section 4(1).

³⁶ Sales of Goods Act, section 2(7).

³⁷ Specific Relief Act 1877, chapter II.

³⁸ Specific Relief Act, section 21.



law should be remedied by expressly barring specific enforcement of oral contracts. Procedural safeguards, like the deposit of the remaining amount at the time of filing of a lawsuit for specific performance, is not available in the existing law. This would enforce compliance by a plaintiff who avers in the pleadings that he/she is ready and willing to perform his/her part of the contract. The period of limitation for filing of the lawsuit based on contract is six years for registered contracts and three years in other contracts. This period is too long and parties lose interest in a swift resolution.

4.5 Arbitration Act 1940

The Arbitration Act 1940 is the law on domestic arbitration and is widely used in local commercial contracts. There is a need to limit the role of the courts in arbitration, a need for discipline of arbitrators, and the need for agreement on the basis of for settlement of a dispute. The court can declare an award void for failure of the arbitrator within a stipulated time to answer a question from the court.³⁹ If the court declares an award void under sub-section (3) of section 16, or sets aside the award, the court may order that the arbitration agreement has ceased to have effect.⁴⁰

The Arbitration Act only bars a lawsuit, in the presence of an arbitration clause or agreement, if the defendant submits an application for stay of proceedings before submission of a written statement.⁴¹ Even if timely application is filed, the applicant has to prove their good faith for reference to arbitration and stay of proceedings. Desk research and stakeholders' consultation confirm that this provision discourages arbitration, even in the presence of an arbitration agreement.

The courts have held that where a defendant has requested adjournment for filing of a written statement, and subsequently files an application for stay of proceedings, the application may be dismissed, and the arbitration agreement may be overridden.⁴² Any party to an arbitration agreement may challenge the award, and the court may decide the question on affidavits, or may allow leading of other evidence.⁴³ The court may set aside the award on misconduct of the arbitrator, if the award was made after the court superseded the arbitration agreement, or the award is improperly procured, or it is otherwise invalid.⁴⁴ In view of this provision, a person against whom an award is announced can challenge the award on numerous grounds, including trivial factual controversies, to prolong the proceedings. The provisions have been interpreted as making it unnecessary for an objector to furnish security for the satisfaction of an award to proceed with his/her objections.⁴⁵

³⁹ Arbitration Act 1940, section 16(3).

⁴⁰ Arbitration Act section 19.

⁴¹ Arbitration Act section 34.

⁴² Aftab Ahmad Khan v Wazir Ahmad 2014 CLC 1401, also see PLD 2006 SC 196.

⁴³ Arbitration Act 1940, section 34.

⁴⁴ Arbitration Act section 30.

⁴⁵ Mehran Metal Containers (Pvt.) Ltd. v National Refinery Ltd. 2010 YLR 991.



There is no mandatory system of training and certification of arbitrators, and the law does not recognise arbitration centres. Courts are being burdened unnecessarily with powers of appointment of the arbitrator in case parties fail to reach an agreement on appointment of arbitrator. Under the existing law, an arbitrator is dependent on the court for service of process to parties or witnesses. Only the court may pass an interim order. Existing law does not allow the arbitrator to proceed against a party which, despite electronic notice, fails to join arbitration proceedings. It does not permit the court, without express consent of the parties, to override an arbitration clause or agreement. It allows multiple grounds for objections against an award, without limiting the grounds to legality of the award. There is a conspicuous absence of procedural safeguards for swift enforcement of awards, such as security for compliance of the award, or judgement for filing of objections against the award, or appeal against the judgement and decree of the court.

4.6 Stamp Act 1899

The Act levies stamp duty on instruments, including various forms of contracts. Schedule I of the Act contains a description of the instruments, and stamp duty chargeable on each instrument. The Act is not applicable to oral transactions. There are contractual instruments, such as rent deeds with an advance or security of future rent, where it is possible to evade stamp duty. There are some fifty entries in the Schedule of the Stamp Act 1899 relating to contracts, but recovery of stamp duty on contracts other than those relating to sale or transfer of immovable property is negligible.

The Government has complete electronic data on duty recovered. Consultation with stakeholders revealed that very meagre duty is recovered on the basis of entries relating to contracts, except those relating to transfer of immovable property. Taxation is easily avoided or even evaded by parties to a contract by entering into oral transactions, or keeping their agreements confidential. Existing law does not exempt even electronic contracts from the levy of stamp duty. This is despite the fact that electronic transactions are efficient, cheaper to administer, and easier to prove, compared even with registered contracts.

4.7 Limitation Act 1908

The Act provides maximum limitation for bringing an action including appeals before the court. In the case of an alleged breach of contract, limitation in most cases is three years⁴⁶ while in the case of written registered contracts it is six years.⁴⁷ This period is too long and parties lose the incentive for a swift resolution of the dispute. The Limitation Act does not exclude from the period of limitation the time spent on ADR including arbitration or mediation or both before initiation of proceedings in the court.

⁴⁶ Limitation Act 1908, First Schedule, Articles 113 to 115.

⁴⁷ Limitation Act, Article 116.



4.8 Registration Act 1908

Registration of contracts, other than transfer of immovable properties, is not mandatory. The registration fee charged under the Registration Act is high, and the process of registration of contracts is cumbersome. The Act is not aimed at promoting voluntary registration of transactions.

4.9 Code of Civil Procedure 1908

The Code of Civil Procedure is the default procedural law for enforcing contracts through the courts. It is one of the main causes of delay in disposal of civil cases, including cases relating to contracts. No major reforms have been made to this law since its enactment in 1908. Filing of lawsuits,⁴⁸ service of process on the defendant,⁴⁹ the appearance,⁵⁰ the written statement⁵¹ of the defendant, the trial,⁵² adjournments⁵³ and the judgment⁵⁴ are provided for in the subordinate legislation of rules and orders of this procedural law. The lengthy execution⁵⁵ process is a further hurdle. Case management is not mandatory, and there is no bar on the number of adjournments. Although the High Court issued a Case and Court Management Plan in 2017⁵⁶ for the District Judiciary, it is not being strictly implemented due to administrative instructions without clear legal consequences.

In 2002 a skeleton provision for court-annexed ADR centres was inserted as section 89-A⁵⁷ in the Code of Civil Procedure 1908, to empower the court, with the consent of the parties, to adopt ADR methods, including mediation and conciliation, for the rapid disposal of the lawsuit. Until recently this provision remained unutilised, because of the absence of a detailed framework for ADR. The Lahore High Court has made mediation and conciliation effective through the establishment of court-annexed ADR centres in all districts of the Punjab.⁵⁸

In conclusion, the Code of Civil Procedure is one of the major causes of delay in the service, decision, and enforcement of contracts. The quality of judicial processes also mostly depends on this law. Desk research and stakeholder consultations have revealed many aspects of this law which have resulted in delay in disposal of cases, as follows:

- There is no provision for a special commercial court under this law.
- Processes for filing of pleadings, service of notices, filing of replies and the trial of cases are outdated.

⁴⁸ Code of Civil Procedure 1908, Orders II, IV and VII.

⁴⁹ Code of Civil Procedure Order V.

⁵⁰ Code of Civil Procedure, Order IX.

⁵¹ Code of Civil Procedure, Order VIII.

⁵² Code of Civil Procedure, Order XVIII.

⁵³ Code of Civil Procedure, Order XVII.

⁵⁴ Code of Civil Procedure, Order XX.

⁵⁵ Code of Civil Procedure, Order XXI.

⁵⁶ https://lhc.gov.pk/system/files/CMP_Booklet_DJ_%28Revised%29_Updated_Update.pdf last visited on 6 March 2019.

⁵⁷ Inserted by the Code of Civil Procedure (Amendment) Ordinance, 2002 (XX XIV of 2002), published in the Gazette of Pakistan (Extraordinary), dated: 27 July 2002, pp. 877-878, s. 2.

⁵⁸ https://lhc.gov.pk/Adr_Centers last visited on 6 March 2019.



- Case management is not mandatory.
- This law makes hardly any use of modern technology filing, service of notices, case management, trial and judgment.
- The law of adjournment is very lax – there is no legal restriction on the number of adjournments.
- Costs of litigation are not mandatory, and are rarely awarded to a successful party.
- Lawyers do not issue a receipt for professional fees received, nor is any such receipt made part of the court record. Professional fees account for the majority of the cost of litigation.
- There is a time-consuming procedure for execution of court.
- A complete ADR system is not available under the Code.

5. Recommendations to Strengthen the Enforcing Contract System in Punjab

It is evident from the global DB Report 2019 that ‘starting a business’ and ‘enforcing contracts’ remain the most popular areas for reforms during 2017-18.⁵⁹ It is imperative for the Punjab to adopt immediate measures to reform the contract enforcement system. In view of this, specific recommendations for improved performance in enforcing commercial contracts are as follows:

5.1 Contracts

5.1.1 The Contract Act 1872

- Make it mandatory for the Provincial Government or any agency of the Government to publish a routine model contract in English and Urdu for different business sectors, especially for small and medium enterprises;
- Provide a schedule of implied conditions of a contract, and unless an implied condition is expressly overridden in a contract, all the implied conditions are to be read in every contract;
- Recognise ADR as the exception to the principle of voiding agreements in restraint of legal proceedings;
- Expressly recognise payment receipts and invoices as contracts with implied conditions; and
- Require the provision of a mobile phone number, email address and national identity card number or passport number of the parties or persons privy to a contract; and that service of any notice or communication will be presumed after three days of electronic communication to the given mobile phone number and email address.

5.1.2 The Stamp Act 1899

- Amend the Act to eliminate levy of stamp duty on contracts other than those relating to transfer of immovable property.

5.1.3 The Registration Act 1908

- Amend the Act to provide for electronic registration of contracts; and
- Abolish the fee for registration of contracts other than contracts for transfer of immovable property.

5.1.4 The Specific Relief Act 1877

- Amend the Act to bar specific enforcement of oral contracts;
- Make mandatory the deposit of the remaining amount along with filing of lawsuits for specific performance.

⁵⁹ DB Report page 10.

5.1.5 The Limitation Act 1908

- Reduce the limitation period of three and six years to one year from the date of breach or alleged breach of contract; and
- Exclude from the period of limitation the period spent on ADR including arbitration and mediation before initiation of proceedings in the court.

5.1.6 The Partnership Act 1932

- Ensure the availability of model partnership deeds on a website and online registration of partnerships without human interface.

5.2 Alternative Dispute Resolution and contracts

A separate law for ADR should be enacted. In fact according to the stakeholders, a Bill has already been drafted and it is at approval stages within the Government. The following recommendations are not specifically covered in the Bill. These can be made part of the Bill at any stage before introduction in the Provincial Assembly or during committee stage in the Assembly. The Alternative Dispute Resolution Act should encourage consensual dispute resolution through mediation and conciliation by including the following measures:

- A mediation clause should be an implied part of every contract;
- Mediation even before arbitration in contractual disputes should be encouraged;
- Settlement of disputes through mediation should be made a decree of the court for its execution through the judicial process in case a party to the settlement fails to abide by conditions of the settlement;
- The mediation process at a public-sector commercial mediation centre for small and medium contracts should either be free of cost or low-cost especially for the initial three to five years;
- Court fees and stamp duty should not be levied on making a mediation settlement decree of the court; and
- If the mediator reports that a party obstructed the mediation process and the party loses the case in the court, the court should award mandatory penal costs.
- The Arbitration Act should be amended or substituted to:
 - Provision should be made for training and certification of arbitrators;
 - Establishment of arbitration centres with powers of appointment and discipline of arbitrators;
 - Empowering of arbitrators to issue summons and notices, and pass interim orders and orders to proceed against a party which, despite electronic notice, fails to join arbitration proceedings;

- Provide that a court may not override an arbitration clause or agreement without express consent of the parties;
- Limit the grounds for objections against an award to legality only;
- Provide a summary procedure for declaring an award as judgement and decree of the court; and
- Place procedural safeguards for swift enforcement of awards or judgement and decree of the court, such as security for compliance with an award or judgement may be made mandatory for filing of objections against the award or appeal against the judgement.

5.3 Court structure including establishment of commercial courts

In addition to being one of the parameters in the ‘enforcing contract’ indicator of the DB Report, a commercial court will promote specialisation. This makes it easier to identify judges for training to handle contractual disputes. Judges take less time in deciding routine issues, and the business community becomes more confident about judicial handling of commercial disputes. Dedicated courts for handling family and rent cases, along similar lines, are cited as success stories by the stakeholders. The following recommendations are made, taking into account the stakeholder’s consultation, for establishment of commercial courts:

- A separate law should be enacted to establish one or more commercial courts within an existing district court, to be presided by the District Judge or an Additional District Judge.
- The commercial court should have exclusive jurisdiction to take cognisance of cases of contractual disputes based on written contracts, except cases for which a separate court structure is already in place, such as banking courts, special judge (rent), insurance tribunals, and family courts.
- The commercial court should:
 - Exercise exclusive jurisdiction to make an arbitration award and mediation settlement as judgement and decree of the court;
 - Not override arbitration, mediation or reconciliation clauses except with the express consent of the parties;
 - Only entertain legal objections against an award or correct a patent legal error in a consensual settlement;
 - Not ordinarily entertain oral evidence against an award and should not interfere in findings of facts in the award;
 - Return the award to the arbitrator for reconsideration where the findings of facts are not based on evidence;

- Not entertain objections to an award without provision of adequate security for satisfaction of the award; and
- Initiate execution proceedings based on the judgement and decree of the court without a separate application, but provide enough time to the parties to file an appeal against the decree.
- Not entertain any appeal or revision against an interim order of a commercial court.
- An aggrieved person should, within thirty days, file an appeal in the High Court against a judgement, and a decree of the court and the High Court should admit the appeal on a question of law. Notice should only be issued to the respondents in the appeal, if the case is admitted by the High Court. The High Court should admit an appeal subject to submission of security in the commercial court, for satisfaction of the judgement and decree.
- The law for the establishment of commercial courts should contain detailed case management procedures for filing the case; service of process; filing of objections or replies; first hearing; recording of evidence if necessary; judgment and execution of the judgement.
- On first hearing, the court should hold a mandatory pre-trial conference, with or without consent of the parties, and issue a detailed schedule of each step until judgment.
- In a commercial court, a woman's testimony should have the same evidentiary weight as that of a man's testimony. An express provision to this effect should be part of the law under which commercial courts are established.
- The commercial court should be made bound by law to publish a monthly progress report of cases decided during the previous month, cases instituted during that month, pending cases specifying year of institution of the case, and progress report of every more than two years old case.

5.4 Costs of litigation and adjournments

- The costs of litigation should be made mandatory in a case decided by a commercial court. In the absence of a fee bill or invoice of a lawyer, 10% of the amount or thirty thousand rupees, whichever is greater, should be included in the costs.
- Minimum penal costs should be the amount equal to the actual costs including the presumptive lawyer's fee. Penal costs should be awarded in case the losing party launches a frivolous case or defence, or the mediator reports the conduct of the party as a reason for failure of mediation, for example, where the losing party tried to prolong proceedings or where the losing party denied the contract.



- In the case of a scheduled hearing, a party should be able to seek one adjournment, subject to extraordinary circumstances narrated in a written or electronically submitted application, and payment of costs which should not be less than ten thousand rupees. No further adjournment should be granted to any party. In the case of absence of a party at a scheduled hearing, the commercial court should proceed with the stage of the case for which the hearing was scheduled.
- The law should prescribe a maximum time for filing of objections, application, reply or written statement and in the case of failure to file any such document within the stipulated time, the right to file the document should be closed by a mandatory legal provision providing for consequences of such failure.
- The law should envisage the eventuality of failure of a commercial court to proceed with the case on a scheduled date of hearing.

5.5 Use of Technology

- The commercial courts in the major cities and commercial hubs should be fully automated;
- The special law should permit electronic filing of a case, documents and replies in the commercial court through a dedicated website and software providing for identity verification of the filer, his/her attorney or both through national identity card number and lawyer's license number, and proof of signatures through automatically generated code on mobile phones registered in the name of the person and lawyer filing the case;
- The law should contain an enabling provision for electronic payment of court fees even of a small amount;
- Where parties have mobile phone numbers, email addresses or both in the contract or otherwise, service of summons or notices on the phone numbers or email addresses should give rise to strong legal presumption of service and the onus will be on the person denying service; and no other mode should be used for service of process in these cases and, to promote certainty, this process of service should be free of cost or a fixed court fee should be charged in every case;
- Relevant laws and leading judgments should be electronically available for the commercial courts;
- System-generated hearing schedules should be provided for all cases on the docket of a commercial court;
- System-generated notices and notifications (SMS and e-mails) should be in place for all parties and lawyers;
- Tracking the status of a case on a docket should be electronically available on the website;

- The court should be able to view electronically and manage case documents and pass automatically generated interim orders.
- Prompt availability of interim orders and judgments of commercial courts should be ensured on the website.
- Automatically generated and updated performance measurement monthly reports of each commercial court should be publicly available on the website.
- In the case of more than one commercial court, cases should be electronically registered and assigned to each commercial court in lieu of manual assignment.

5.6 Role of Federal Government

The Federal Government may consider:

- Amendment in Article 17 of the Qanoon-e-Shahadat Order, 1984 and insert an express provision that in a civil case before any court, a woman's testimony has the same evidentiary weight as that of a man's testimony.
- Allowing tax rebate or credit to a business if the business has settled a contractual dispute through alternative dispute resolution.
- Amendments in the Electronic Transactions Ordinance 2000 to grant complete exemption from stamp duty and notarisation of electronic contracts.

Appendix 1 Implementation Mechanism for Recommendations



No.	Recommendation	Responsibility for Implementation	Timeline/ Cost
1.	<p>Amendments in the Contract Act 1872:</p> <ul style="list-style-type: none"> ▪ Addition of a section making it mandatory for the Provincial Government or any agency of the Government to publish a routine model contract in English and Urdu for different business sectors, especially for small and medium enterprises. ▪ Amendment in section 28 recognising ADR as the exception to the principle of voiding agreements in restraint of legal proceedings. ▪ Addition of a section expressly recognising payment receipts and invoices as contracts with implied conditions contained in a schedule. <p>Addition of a section requiring the provision of a mobile phone number, email address and national identity card number or passport number of the parties or persons privy to a contract; and that service of any notice or communication will be presumed after three days of electronic communication to the given mobile phone number and email address.</p>	Law & Parliamentary Affairs Department, Government of the Punjab	<p>Short term (within one year)</p> <p>A dedicated Contract Wing in Law & Parliamentary Affairs Department. May have a recurring cost of 20 million rupees per annum in addition to fixed cost 10 million Rupees.</p>
	<ul style="list-style-type: none"> ▪ Addition of a schedule of implied conditions of a contract and unless an implied condition is expressly overridden in a contract, all the implied conditions are to be read in every contract. 		
2.	<p>Amendment in the Stamp Act 1899:</p> <ul style="list-style-type: none"> ▪ Deletion of entries from Schedule-I relating to contracts other than those relating to transfer of immovable property. 	Board of Revenue, Government of the Punjab.	<p>Short term (within one year)</p> <p>Loss of annual revenue of about 20 million rupees.</p>

No.	Recommendation	Responsibility for Implementation	Timeline/ Cost
3.	<p>Amendment in the Registration Act 1908:</p> <ul style="list-style-type: none"> ▪ Addition of a section to provide for electronic registration of contracts. ▪ Amendment in section 78 to abolish the fee for registration of contracts other than contracts for transfer of immovable property. 	Board of Revenue, Government of the Punjab.	<p>Short term (within one year)</p> <p>Loss of annual revenue of about 5 million rupees.</p>
4.	<p>Amendment in the Specific Relief Act 1877:</p> <ul style="list-style-type: none"> ▪ Amendment in section 21 to bar specific enforcement of oral contracts. ▪ Addition of a section to make mandatory the deposit of the remaining amount along with filing of lawsuits for specific performance. 	Law & Parliamentary Affairs Department, Government of the Punjab	<p>Short term (within one year)</p> <p>No substantial cost is involved.</p>
5.	<p>Amendment in the Limitation Act 1908</p> <ul style="list-style-type: none"> ▪ Amendment in Article 113 to 115 of the First Schedule to reduce the limitation period of three and six years to one year from the date of breach or alleged breach of contract. ▪ Addition of a section to exclude from the period of limitation the period spent on ADR including arbitration and mediation before initiation of proceedings in the court. 	Law & Parliamentary Affairs Department, Government of the Punjab	<p>Short term (within one year)</p> <p>No substantial cost is involved.</p>

No.	Recommendation	Responsibility for Implementation	Timeline/ Cost
6.	Ensure the availability of model partnership deeds on a website and online registration of partnerships without human interface.	Commerce & Industries Department, Government of the Punjab	Short term (within one year) No substantial cost is involved.
7.	<p>A separate law for ADR should be enacted. The Alternative Dispute Resolution Act should encourage consensual dispute resolution through mediation and conciliation by including the following measures:</p> <ul style="list-style-type: none"> ▪ A mediation clause should be an implied part of every contract; ▪ Mediation even before arbitration in contractual disputes should be encouraged; ▪ Settlement of disputes through mediation should be made a decree of the court for its execution through the judicial process in case a party to the settlement fails to abide by conditions of the settlement; ▪ The mediation process at a public-sector commercial mediation centre for small and medium contracts should either be free of cost or low-cost especially for the initial three to five years; ▪ Court fees and stamp duty should not be levied on making a mediation settlement decree of the court; and ▪ If the mediator reports that a party obstructed the mediation process and the party loses the case in the court, the court should award mandatory penal costs. 	Law & Parliamentary Affairs Department, Government of the Punjab	Short term (within one year) Costs on establishment of mediation centres are involved.

No.	Recommendation	Responsibility for Implementation	Timeline/ Cost
8.	<p>The Arbitration Act should be amended or substituted to:</p> <ul style="list-style-type: none"> ▪ Provide for training and certification of arbitrators; ▪ Establish arbitration centres with powers of appointment and discipline of arbitrators; ▪ Empower arbitrators to issue summons and notices, and pass interim orders and orders to proceed ex parte against a party which despite electronic notice fails to join arbitration proceedings; ▪ Provide that a court may not override an arbitration clause or agreement without express consent of the parties; ▪ Limit the grounds for objections against an award to legality only; ▪ Provide a summary procedure for declaring an award as judgement and decree of the court; and ▪ Place procedural safeguards for swift enforcement of awards or judgement and decree of the court, such as security for compliance with an award or judgement may be made mandatory for filing of objections against the award or appeal against the judgement. 	Law & Parliamentary Affairs Department, Government of the Punjab	<p>Medium term (within two years)</p> <p>Substantial costs on establishment arbitration centres etc. are involved.</p>

<p>9.</p>	<p>A separate law should be enacted to establish one or more commercial courts within an existing district court to be presided by the District Judge or an Additional District Judge. The commercial court should have exclusive jurisdiction to take cognisance of cases of contractual disputes based on written contracts except cases for which a separate court structure is already in place, such as banking courts, special judge (rent), insurance tribunals and family courts.</p> <p>The commercial court should:</p> <ul style="list-style-type: none"> ▪ Exercise exclusive jurisdiction to make an arbitration award and mediation settlement as judgement and decree of the court; ▪ Not override arbitration, mediation or reconciliation clauses except with the express consent of the parties; ▪ Only entertain legal objections against an award or correct a patent legal error in a consensual settlement; ▪ Not ordinarily entertain oral evidence against an award and should not interfere in findings of facts in the award; ▪ Return the award to the arbitrator for reconsideration where the findings of facts are not based on evidence; ▪ Not entertain objections to an award without provision of adequate security for satisfaction of the award; and ▪ Initiate execution proceedings based on the judgement and decree of the court without a separate application, but provide enough time to the parties to file an appeal against the decree. ▪ Not entertain appeal or revision against an interim order of a commercial court. <p>An aggrieved person should, within thirty days, file an appeal in the High Court against a judgement and decree of the court and the High Court should admit the appeal on a question of law. Notice in appeal should only be issued to the respondents in appeal if the appeal is admitted by the High Court. The High Court should admit an appeal subject to submission of security in the commercial court for satisfaction of the judgement and decree.</p> <p>The law for the establishment of commercial courts should contain detailed case management procedures for filing the case, service of process, filing of objections or replies, first hearing, recording of evidence if necessary, judgment and execution of the judgement.</p>	<p>Law & Parliamentary Affairs Department, Government of the Punjab</p>	<p>Short term (within one year)</p> <p>No substantial costs are involved as the courts are to be established using the existing resources.</p>
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No.	Recommendation	Responsibility for Implementation	Timeline/ Cost
	<p>On first hearing, the court should mandatory pre-trial hearing, with or without consent of the parties, issue a detailed schedule of each step until judgment.</p> <p>In a commercial court, a woman's testimony should have the same evidentiary weight as that of a man's testimony. An express provision to this effect should be part of the law under which commercial courts are established.</p> <p>The commercial court should be made bound by law to publish a monthly progress report of cases decided during the previous month, cases instituted during that month, pending cases specifying year of institution of the case, and progress report of every more than two years old case.</p>		

No.	Recommendation	Responsibility for Implementation	Timeline/ Cost
10.	<p>Costs of litigation and adjournments</p> <ul style="list-style-type: none"> ▪ The costs of litigation should be made mandatory in a case decided by a commercial court. In the absence of a fee bill or invoice of a lawyer, 10% of the amount or thirty thousand rupees, whichever is greater, should be included in the costs. ▪ Minimum penal costs should be the amount equal to the actual costs including the presumptive lawyer's fee. Penal costs should be awarded in case the losing party launches a frivolous case or defence, or the mediator reports the conduct of the party as a reason for failure of mediation, for example, where the losing party tried to prolong proceedings or where the losing party denied the contract. ▪ In the case of a scheduled hearing, a party should be able to seek one adjournment subject to extraordinary circumstances narrated in a written or electronically submitted application and payment of costs which should not be less than ten thousand rupees. No further adjournment should be granted to any party. In the case of absence of a party at a scheduled hearing, the commercial court should proceed with the stage of the case for which the hearing was scheduled. ▪ The law should prescribe a maximum time for filing of objections, application, reply or written statement and in the case of failure to file any such document within the stipulated time, the right to file the document should be closed by a mandatory legal provision providing for consequences of such failure. ▪ The law should envisage the eventuality of failure of a commercial court to proceed with the case on a scheduled date of hearing. 	Law & Parliamentary Affairs Department, Government of the Punjab	Short term (within one year) No substantial cost is involved.

11.	<p>Use of Technology</p> <ul style="list-style-type: none"> ▪ The commercial courts in the major cities and commercial hubs should be fully automated. ▪ The special law should permit electronic filing of a case, documents and replies in the commercial court through a dedicated website and software providing for identity verification of the filer, his/her attorney or both through national identity card number and lawyer's license number, and proof of signatures through automatically generated code on mobile phones registered in the name of the person and lawyer filing the case. ▪ The law should contain an enabling provision for electronic payment of court fees even of a small amount. ▪ Where parties have mobile phone numbers, email addresses or both in the contract or otherwise, service of summons or notices on the phone numbers or email addresses should give rise to strong legal presumption of service and the onus will be on the person denying service; and no other mode should be used for service of process in these cases and, to promote certainty, this process of service should be free of cost or a fixed court fee should be charged in every case. ▪ Relevant laws and leading judgments should be electronically available for the commercial courts. ▪ System-generated hearing schedules should be provided for all cases on the docket of a commercial court. ▪ System-generated notices and notifications (SMS and e-mails) should be in place for all parties and lawyers. ▪ Tracking the status of a case on a docket should be electronically available on the website. ▪ The court should be able to view electronically and manage case documents and pass automatically generated interim orders. ▪ Prompt availability of interim orders and judgments of commercial courts should be ensured on the website. ▪ Automatically generated and updated performance measurement reports of each commercial court should be publicly available on the website. ▪ In the case of more than one commercial court, cases should be electronically registered and assigned to each commercial court in lieu of manual assignment. 	<p>Law & Parliamentary Affairs Department, Government of the Punjab</p> <p>Lahore High Court, Lahore</p> <p>And</p> <p>Punjab Board of Information Technology, Government of the Punjab.</p>	<p>Medium term (within two years)</p> <p>Substantial costs for automation of all the commercial courts are involved.</p>
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No.	Recommendation	Responsibility for Implementation	Timeline/ Cost
12.	<p>The Federal Government may consider:</p> <ul style="list-style-type: none"> ▪ Amendment in Article 17 of the Qanoon-e-Shahadat Order, 1984 and insert an express provision that in a civil case before any court, a woman's testimony has the same evidentiary weight as that of a man's testimony. ▪ Allowing tax rebate or credit under the Income Tax Ordinance 2001 to a business if the business has settled a contractual dispute through alternative dispute resolution. ▪ Amendments in sections 10 and 11 of the Electronic Transactions Ordinance 2002 to grant complete exemption from stamp duty and notarisation of electronic contracts. 	<p>Ministry of Interior, Government of Pakistan</p> <p>Federal Board of Revenue, Government of Pakistan</p> <p>And</p> <p>Ministry of Information Technology, Government of Pakistan</p>	<p>Short term (within one year)</p> <p>No substantial cost is involved in amendments of laws but unspecified revenue loss is involved in provision of tax rebate on taxable income of a business.</p>



Appendix 2 Impact of implementation on 'enforcing contract' indicator

If the recommendations are implemented, these will have significant impact on two parameters of the enforcing contract indicator, i.e. time and quality of judicial processes. In fact, quality of judicial processes encompasses time required to finally resolve a commercial dispute through formal judicial or quasi-judicial mechanisms like ADR. There will be minimal impact on costs a party is likely to incur to resolve the dispute. As explained earlier, cost is already on the lower side in comparison to the model jurisdictions. The follow table of quality of judicial processes shows proposed reforms regarding each aspect of the parameter:

Court Structure and Proceedings in Punjab after reforms	Answer	Remarks
1. Is there a court or division of a court dedicated solely to hear commercial cases?	Yes	Establishment of commercial court is recommended.
2. Is there small claims court or fast track procedure for small claims? If yes, is self-representation allowed?	Yes	Already in place.
3. Is pre-trial attachment available?	Yes	Already in place. Now, security for satisfaction of award and court decree are recommended.
4. Are new cases assigned randomly to judges?	Yes	Presently, manually assigned. Electronic random assignment of cases is recommended.
5. Does a woman's testimony carry the same evidentiary weight in court as a man's?	Yes	A section in the law of commercial court will change the existing no to yes. Amendment in the Qanoon-e-Shahadat Order 1984 is also proposed for the consideration of the Federal Government.

Case Management in Punjab after reforms	Answer	Remarks
1. Time standards		
1a. Are there laws setting overall time standards for key court events in a civil case?	Yes	It is recommended that the new law for establishment of commercial court should provide time standard for all court events.
1b. If yes, are the time standard set for at least three court events?	Yes	It will be for all court events in a commercial case.
1c. Are these time standards respected in more than 50% of cases?	Yes	The recommendations provide consequences for non-adherence which will ensure implementation.
2. Adjournments		
2a. Does the law regulate the maximum number of adjournments that can be granted?	Yes	The recommended law will regulate adjournments by limiting to one adjournment for each party in extraordinary circumstances subject to payment of costs.
2b. Are adjournments limited to unforeseen and exceptional circumstances?	Yes	It is recommended that adjournment may only be allowed in exceptional cases subject to payment of costs.



Case Management in Punjab after reforms	Answer	Remarks
2c. If rules on adjournments exist, are they respected in more than 50% of cases?	Yes	When the law provides consequences for non-adherence, there is every likelihood that it is respected.
3. Can two of the following four reports be generated about the competent court: (i) time to deposition report; (ii) clearance rate report; (iii) age of pending cases report; and (iv) single case progress report?	Yes	The monthly progress report of cases will be available on the website of the commercial courts.
4. Is a pre-trial conference among the case management techniques used before the competent court?	Yes	Pre-trial conference in a commercial court will become mandatory after implementation of the recommendations.
5. Are there any electronic case management tools in place within the competent court for use by judges?	Yes	Commercial court will be fully automated.
6. Are there any electronic case management tools in place within the competent court for use by lawyers?	Yes	Layers and litigants will have access to all details of their cases before the commercial courts.

Court Automation in Punjab after reforms	Answer	Remarks
1. Can the initial complaint be filed electronically through a dedicated platform within the competent court?	Yes	Law will provide a system for electronic filing of cases before commercial courts with a system of electronic verification of signatures.
2. Is it possible to carry out service of process electronically for claims filed before the competent court?	Yes	It will be possible after implementation of recommendations.
3. Can court fees be paid electronically within the competent court?	Yes	Electronic payment of court fee will become possible after implementation of recommendations.
4. Publication of judgments		
4a. Are judgments rendered in commercial cases at all levels made available to the general public through publication in official gazettes, in newspapers or on the internet or court website?	Yes	Judgements are and court order will be available online on the website of commercial courts. Judgements of superior courts are already available online.
4b. Are judgments rendered in commercial cases at the appellate and supreme court level made available to the general public through publication in official gazettes, in newspapers or on the internet or court website?	Yes	Already available on internet.

Alternative Dispute Resolution in Punjab after reforms	Answer	Remarks
1. Arbitration		
1a. Is domestic commercial arbitration governed by a consolidated law or	Yes	Arbitration Act 1940 exists but the recommendations provide a robust and reformed Arbitration Act.



Alternative Dispute Resolution in Punjab after reforms	Answer	Remarks
consolidated chapter or section of the applicable code of civil procedure encompassing substantially all its aspects?		
1b. Are there any commercial disputes—aside from those that deal with public order or public policy—that cannot be submitted to arbitration?	No	
1c. Are valid arbitration clauses or agreements usually enforced by the courts?	Yes	Further reforms are recommended to make it mandatory for the courts to respect arbitration clause are agreements.
2. Mediation/ conciliation		
2a. Is voluntary mediation or conciliation available?	Yes	An effective mediation system is recommended.
2b. Are mediation, conciliation or both governed by a consolidated law or consolidated chapter or section of the applicable code of civil procedure encompassing substantially all their aspects?	Yes	A bill is already in the offing. The recommendations are to make it more effective.
2c. Are there financial incentives for parties to attempt mediation or conciliation (i.e., if mediation or conciliation is successful, a refund of court filing fees, income tax credit or the like)?	Yes	Waiver of court fee and stamp duty by law, and tax rebate by the Federal Government in case of settlement of dispute through mediation are recommended.

Appendix 3 Bibliography

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Appendix 4 Questionnaire for Stakeholder Consultation

1) What are main flaws in our substantive and procedural laws relating to contracts?

Are there gaps in our Partnership Act, Arbitration Act, Contract Act, Stamp Act and Civil Procedure? If yes, what are those gaps?

How to reduce time in resolution contractual disputes, service, trial and execution in cases based on contracts?

How to reduce costs in resolution of contractual disputes and execution of decision based on contracts?

How best to establish a special commercial court to deal with all cases based on contracts for which there is no special court?

Should there be automated assignment of contractual cases to more than one commercial court judges?

Should a woman's testimony carry the same evidentiary weight in court as a man's?

Should there be predetermined time schedule for:

- a) service of process;
- b) first hearing;
- c) filing of the statement of d (??)
- d) completion of the evidence period;
- e) filing of testimony by expert; and
- f) submission of the final judgment.

Should there be law against adjournments?

Should performance measurement report of commercial courts be publicly available (this includes parameters like time taken by the court to dispose of each case; number of cases resolved versus the number of incoming cases; age of pending cases; and model single case progress report)

Is there need for mandatory pretrial conference (scheduling; case complexity and projected length of trial; possibility of ADR; exchange of witness lists; evidence; jurisdiction and other technical issues; and contentious issues)



Will electronic case management system help improve the judicial processes? This includes changes like better access to laws, regulations and case law, to automatically generate a hearing schedule for all cases on their docket; to send notifications (sms, e-mails) to lawyers; to track the status of a case on docket; to view and manage case documents; to assist in writing judgments; to semi-automatically generate court orders; and to view court orders and judgments in a particular case)

Should there be system of electronic:

- g) filing of a case before a commercial court;
- h) service of notices / summons; and
- i) publication of judgments of commercial courts?

Should there be dedicated mediation law like Arbitration Act?

Should there be incentives for resolution of contractual disputes through ADR?

Appendix 5 Doing Business: Quality of Judicial Processes Indicators for Punjab

Issue: Court Structure and Proceedings in Punjab	Answer	Score
1. Is there a court or division of a court dedicated solely to hear commercial cases?	No	0.0
2. Is there small claims court or fast track procedure for small claims? If yes, is self-representation allowed?	Yes	1.5
3. Is pre-trial attachment available?	Yes	1.0
4. Are new cases assigned randomly to judges?	Yes, manual	0.5
5. Does a woman's testimony carry the same evidentiary weight in court as a man's?	No	-1.0
Total		2.0

Issue: Case Management in Punjab	Answer	Score
1. Time standards		0.5
1a. Are there laws setting overall time standards for key court events in a civil case?	Yes	
1b. If yes, are the time standard set for at least three court events?	Yes	
1c. Are these time standards respected in more than 50% of cases?	No	
2. Adjournments		0.0
2a. Does the law regulate the maximum number of adjournments that can be granted?	No	
2b. Are adjournments limited to unforeseen and exceptional circumstances?	No	
2c. If rules on adjournments exist, are they respected in more than 50% of cases?	n/a	
3. Can two of the following four reports be generated about the competent court: (i) time to deposition report; (ii) clearance rate report; (iii) age of pending cases report; and (iv) single case progress report?	No	0.0
4. Is a pre-trial conference among the case management techniques used before the competent court?	No	0.0
5. Are there any electronic case management tools in place within the competent court for use by judges?	No	0.0
6. Are there any electronic case management tools in place within the competent court for use by lawyers?	No	0.0
Total		0.5

Issue: Court Automation in Punjab	Answer	Score
1. Can the initial complaint be filed electronically through a dedicated platform within the competent court?	No	0.0
2. Is it possible to carry out service of process electronically for claims filed before the competent court?	No	0.0
3. Can court fees be paid electronically within the competent court?	No	0.0
4. Publication of judgments		0.5



Issue: Court Automation in Punjab	Answer	Score
4a. Are judgments rendered in commercial cases at all levels made available to the general public through publication in official gazettes, in new papers or on the internet or court website?	No	
4b. Are judgments rendered in commercial cases at the appellate and supreme court level made available to the general public through publication in official gazettes, in new papers or on the internet or court website?	Yes	
Total		0.5

Issue: Alternative Dispute Resolution	Answer	Score
1. Arbitration		1.5
1a. Is domestic commercial arbitration governed by a consolidated law or consolidated chapter or section of the applicable code of civil procedure encompassing substantially all its aspects?	Yes	
1b. Are there any commercial disputes—aside from those that deal with public order or public policy—that cannot be submitted to arbitration?	No	
1c. Are valid arbitration clauses or agreements usually enforced by the courts?	Yes	
2. Mediation/ conciliation		0.5
2a. Is voluntary mediation or conciliation available?	Yes	
2b. Are mediation, conciliation or both governed by a consolidated law or consolidated chapter or section of the applicable code of civil procedure encompassing substantially all their aspects?	No	
2c. Are there financial incentives for parties to attempt mediation or conciliation (i.e., if mediation or conciliation is successful, a refund of court filing fees, income tax credit or the like)?	No	
Total		2.0

Appendix 6 Doing Business: Quality of Judicial Processes Indicators for Singapore, UK and New Zealand

Singapore

Issue: Court Structure and Proceedings for Singapore	Answer	Score
1. Is there a court or division of a court dedicated solely to hear commercial cases?	Yes	1.5
2. Is there small claims court or fast track procedure for small claims? If yes, is self-representation allowed?	Yes	1.5
3. Is pre-trial attachment available?	Yes	1.0
4. Are new cases assigned randomly to judges?	Yes, but manual	0.5
5. Does a woman's testimony carry the same evidentiary weight in court as a man's?	Yes	0.0
Total		4.5

Issue: Case Management for Singapore	Answer	Score
1. Time standards		0.0
1a. Are there laws setting overall time standards for key court events in a civil case?	Yes	
1b. If yes, are the time standard set for at least three court events?	No	
1c. Are these time standards respected in more than 50% of cases?	Yes	
2. Adjournments		0.5
2a. Does the law regulate the maximum number of adjournments that can be granted?	No	
2b. Are adjournments limited to unforeseen and exceptional circumstances?	Yes	
2c. If rules on adjournments exist, are they respected in more than 50% of cases?	Yes	
3. Can two of the following four reports be generated about the competent court: (i) time to deposition report; (ii) clearance rate report; (iii) age of pending cases report; and (iv) single case progress report?	Yes	1.0
4. Is a pre-trial conference among the case management techniques used before the competent court?	Yes	1.0
5. Are there any electronic case management tools in place within the competent court for use by judges?	Yes	1.0
6. Are there any electronic case management tools in place within the competent court for use by lawyers?	Yes	1.0
Total		4.5

Issue: Court Automation for Singapore	Answer	Score
1. Can the initial complaint be filed electronically through a dedicated platform within the competent court?	Yes	1.0
2. Is it possible to carry out service of process electronically for claims filed before the competent court?	Yes	1.0
3. Can court fees be paid electronically within the competent court?	Yes	1.0



Issue: Court Automation for Singapore	Answer	Score
4. Publication of judgments	Yes	1.0
4a. Are judgments rendered in commercial cases at all levels made available to the general public through publication in official gazettes, in new papers or on the internet or court website?	Yes	
4b. Are judgments rendered in commercial cases at the appellate and supreme court level made available to the general public through publication in official gazettes, in new papers or on the internet or court website?	Yes	
Total		4.0

Issue: Alternative Dispute Resolution for Singapore	Answer	Score
1. Arbitration		1.5
1a. Is domestic commercial arbitration governed by a consolidated law or consolidated chapter or section of the applicable code of civil procedure encompassing substantially all its aspects?	Yes	
1b. Are there any commercial disputes—aside from those that deal with public order or public policy—that cannot be submitted to arbitration?	No	
1c. Are valid arbitration clauses or agreements usually enforced by the courts?	Yes	
2. Mediation/ conciliation		1.0
2a. Is voluntary mediation or conciliation available?	Yes	
2b. Are mediation, conciliation or both governed by a consolidated law or consolidated chapter or section of the applicable code of civil procedure encompassing substantially all their aspects?	Yes	
2c. Are there financial incentives for parties to attempt mediation or conciliation (i.e., if mediation or conciliation is successful, a refund of court filing fees, income tax credit or the like)?	No	
Total		2.5

UK

Issue: Court Structure and Proceedings for UK	Answer	Score
1. Is there a court or division of a court dedicated solely to hear commercial cases?	Yes	1.5
2. Is there small claims court or fast track procedure for small claims? If yes, is self-representation allowed?	Yes	1.5
3. Is pre-trial attachment available?	Yes	1.0
4. Are new cases assigned randomly to judges?	Yes, but manual	0.5
5. Does a woman's testimony carry the same evidentiary weight in court as man's?	Yes	0.0
Total		4.5

Issue: Case Management for UK	Answer	Score
1. Time standards		1.0



Issue: Case Management for UK	Answer	Score
1a. Are there laws setting overall time standards for key court events in a civil case?	Yes	
1b. If yes, are the time standard set for at least three court events?	Yes	
1c. Are these time standards respected in more than 50% of cases?	Yes	
2. Adjournments		0.0
2a. Does the law regulate the maximum number of adjournments that can be granted?	No	
2b. Are adjournments limited to unforeseen and exceptional circumstances?	No	
2c. If rules on adjournments exist, are they respected in more than 50% of cases?	n/a	
3. Can two of the following four reports be generated about the competent court: (i) time to deposition report; (ii) clearance rate report; (iii) age of pending cases report; and (iv) single case progress report?	Yes	1.0
4. Is a pre-trial conference among the case management techniques used before the competent court?	Yes	1.0
5. Are there any electronic case management tools in place within the competent court for use by judges?	Yes	1.0
6. Are there any electronic case management tools in place within the competent court for use by lawyers?	Yes	1.0
Total		5.0

Issue: Court Automation for UK	Answer	Score
1. Can the initial complaint be filed electronically through a dedicated platform within the competent court?	Yes	1.0
2. Is it possible to carry out service of process electronically for claims filed before the competent court?	Yes	1.0
3. Can court fees be paid electronically within the competent court?	Yes	1.0
4. Publication of judgments		0.5
4a. Are judgments rendered in commercial cases at all levels made available to the general public through publication in official gazettes, in newspapers or on the internet or court website?	No	
4b. Are judgments rendered in commercial cases at the appellate and supreme court level made available to the general public through publication in official gazettes, in newspapers or on the internet or court website?	Yes	
Total		0.5

Issue: Alternative Dispute Resolution for UK	Answer	Score
1. Arbitration		1.5
1a. Is domestic commercial arbitration governed by a consolidated law or consolidated chapter or section of the applicable code of civil procedure encompassing substantially all its aspects?	Yes	
1b. Are there any commercial disputes—aside from those that deal with public order or public policy—that cannot be submitted to arbitration?	No	



Issue: Alternative Dispute Resolution for UK	Answer	Score
1c. Are valid arbitration clauses or agreements usually enforced by the courts?	Yes	
2. Mediation/ conciliation		0.5
2a. Is voluntary mediation or conciliation available?	Yes	
2b. Are mediation, conciliation or both governed by a consolidated law or consolidated chapter or section of the applicable code of civil procedure encompassing substantially all their aspects?	No	
2c. Are there financial incentives for parties to attempt mediation or conciliation (i.e., if mediation or conciliation is successful, a refund of court filing fees, income tax credit or the like)?	No	

New Zealand

Issue: Court Structure and Proceedings for New Zealand	Answer	Score
1. Is there a court or division of a court dedicated solely to hear commercial cases?	No	0.0
2. Is there small claims court or fast track procedure for small claims? If yes, is self-representation allowed?	Yes	1.5
3. Is pre-trial attachment available?	Yes	1.0
4. Are new cases assigned randomly to judges?	Yes, but manual	0.5
5. Does a woman's testimony carry the same evidentiary weight in court as man's?	Yes	0.0
Total		3.0

Issue: Case Management for New Zealand	Answer	Score
1. Time standards		1.0
1a. Are there laws setting overall time standards for key court events in a civil case?	Yes	
1b. If yes, are the time standard set for at least three court events?	Yes	
1c. Are these time standards respected in more than 50% of cases?	Yes	
2. Adjournments		0.0
2a. Does the law regulate the maximum number of adjournments that can be granted?	No	
2b. Are adjournments limited to unforeseen and exceptional circumstances?	No	
2c. If rules on adjournments exist, are they respected in more than 50% of cases?	n/a	
3. Can two of the following four reports be generated about the competent court: (i) time to deposition report; (ii) clearance rate report; (iii) age of pending cases report; and (iv) single case progress report?	Yes	1.0
4. Is a pre-trial conference among the case management techniques used before the competent court?	Yes	1.0
5. Are there any electronic case management tools in place within the competent court for use by judges?	No	0.0
6. Are there any electronic case management tools in place within the competent court for use by lawyers?	No	0.0
Total		3.0



Issue: Court Automation for New Zealand	Answer	Score
1. Can the initial complaint be filed electronically through a dedicated platform within the competent court?	No	0.0
2. Is it possible to carry out service of process electronically for claims filed before the competent court?	Yes	1.0
3. Can court fees be paid electronically within the competent court?	No	0.0
4. Publication of judgments		0.5
4a. Are judgments rendered in commercial cases at all levels made available to the general public through publication in official gazettes, in new papers or on the internet or court website?	No	
4b. Are judgments rendered in commercial cases at the appellate and supreme court level made available to the general public through publication in official gazettes, in new papers or on the internet or court website?	Yes	
Total		1.5

Issue: Alternative Dispute Resolution for New Zealand	Answer	Score
1. Arbitration		1.5
1a. Is domestic commercial arbitration governed by a consolidated law or consolidated chapter or section of the applicable code of civil procedure encompassing substantially all its aspects?	Yes	
1b. Are there any commercial disputes—aside from those that deal with public order or public policy—that cannot be submitted to arbitration?	No	
1c. Are valid arbitration clauses or agreements usually enforced by the courts?	Yes	
2. Mediation/ conciliation		0.5
2a. Is voluntary mediation or conciliation available?	Yes	
2b. Are mediation, conciliation or both governed by a consolidated law or consolidated chapter or section of the applicable code of civil procedure encompassing substantially all their aspects?	No	
2c. Are there financial incentives for parties to attempt mediation or conciliation (i.e., if mediation or conciliation is successful, a refund of court filing fees, income tax credit or the like)?	No	
Total		9.5



Appendix 7 Stakeholders Consulted

	Name	Position
1)	Mr. Ali Jalal and Team	Programme Director, Programme Implementation Unit, P & D Board, Government of Punjab
2)	Mr. Sher Abbas, Additional District & Sessions Judge	In charge Research Wing of the Lahore High Court
3)	Mr. Qaiser Abbass	Senior Research Officer, Lahore High Court Research Wing
4)	Mr. Itikhar Ali Sahoo	Secretary P & D, Government of Punjab
5)	Ms. Abher Gul	Additional District & Sessions Judge, Lahore dealing with Commercial Disputes
6)	Mr. Abid Reza	Trainee Additional District & Sessions Judge, Lahore
7)	Syed Ali Murtaza	Secretary Law (Additional Charge), Government of Punjab
8)	Mr. Javaid Ali	Senior Economic Adviser, Industries, Commerce & Investment Department
9)	Mr. Justice (Rtd) Jawad S. Khawaja	Former Chief Justice of Pakistan
10)	Mr. Almas Hyder and his team	President of the Lahore Chamber of Commerce & Industries
11)	Mr. Tariq Najeeb Najmee	Senior Member Board of Revenue, Government of the Punjab
12)	Dr. Mujtaba Paracha	Commissioner Lahore Division, and former Secretary Industries, Commerce & Investment Department
13)	Mr. Sajid Awan	District & Sessions Judge, Director Human Resources, Lahore High Court
14)	Mr. Nazir Gujiana and his team of 4 Directors	Director-General, Punjab Judicial Academy, Lahore
15)	Muhammad Awais-Partner Arslan Khan-Manager Advisory Services	Chartered Accountants, Ernst & Young, Lahore
16)	Mr. Sajid Lateef	Director-General E-Governance, Punjab Information Technology Board (PITB), Government of Punjab
17)	Dr. Syed Abul Hassan Najmee	Former Provincial Secretary Law, Government of Punjab
18)	Mr. Ijaz Chaddar – Senior Lawyer	Senior Lawyer and a former Additional & Sessions Judge
19)	Mr. Sh. Liaqat Ali – Senior Lawyer	Senior Lawyer and a retired District & Sessions Judge
20)	Mr. Sohail Shafique – Lawyer	Practising Lawyer
21)	Mr. Noman Kabir	Former Interim Provincial Minister, Businessman, former Senior Vice President, Lahore Chamber of Commerce and Industry, former President, Quaid-i-Azam Industrial Estate
22)	Mr. Irshad Ahmad	Head of Mediation, Lahore Chamber of Commerce and Industry

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