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Unlocking the Cross-Border Potential of Mediation: Ratifying and Implementing the Singapore Convention in Pakistan

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Abstract

The Singapore Convention on Mediation (SCM) marks a significant global shift in the enforceability of international mediated settlement agreements, offering an alternative pathway to arbitration under the New York Convention. Despite its strategic significance, Pakistan remains outside this legal framework. This article examines the legal, institutional, and procedural aspects of ratifying and implementing the SCM in Pakistan. Drawing on existing treaty incorporation mechanisms, comparative insights from Malaysia and other jurisdictions, and a detailed analysis of Pakistan's ADR and treaty laws, the article illustrates both the readiness and urgency for accession. It argues that ratifying the Convention would enhance investor confidence, reduce litigation burdens, and align Pakistan with contemporary international standards for dispute resolution. The article also identifies key domestic challenges, such as legal fragmentation, capacity gaps, and procedural rigidity, and proposes original, actionable recommendations to address them. Ultimately, the Convention presents Pakistan with a unique opportunity to reinforce its commitment to commercial certainty, regional integration, and legal modernization.

Introduction

Over the past two decades, mediation has emerged as a credible and efficient alternative to adversarial litigation, especially in resolving commercial disputes across jurisdictions. As global commerce has evolved, so too has the demand for a dispute resolution framework that balances enforceability with flexibility, an area in which traditional mechanisms such as arbitration have long held dominance. The adoption of the United Nations Convention on International Settlement Agreements Resulting from Mediation, commonly referred to as the Singapore Convention on Mediation (SCM), in 2018 represented a transformative step forward. By ensuring the cross-border enforceability of mediated settlement agreements, the Convention fills a critical gap in international commercial dispute resolution.

For Pakistan, a country situated at the nexus of trade corridors and economic transition, the SCM holds untapped strategic value. Despite a growing corpus of



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Alternative Dispute Resolution (ADR) laws at both the federal and provincial levels, Pakistan's framework remains domestic mainly in orientation. Cross-border commercial mediation suffers from legal uncertainty, a fragmented institutional landscape, and the absence of internationally recognized enforcement pathways. As evidenced by ongoing legal reforms and judicial references to treaty limitations, Pakistan's dualist legal tradition complicates the direct incorporation of international instruments. Nevertheless, the legislative groundwork, especially the Ratification of International Treaties Act, 2013, and the increasing volume of global commercial activity present both a foundation and a necessity for legal evolution.

This article conducts a critical legal and institutional analysis of how Pakistan can ratify and implement the SCM. It draws exclusively from recent scholarly assessments of ADR and treaty law developments in Pakistan and Malaysia, demonstrating both the potential and complexity of aligning domestic law with the Convention. The research assumes that legal harmonization, when approached strategically, can yield long-term benefits not only for stakeholders involved in dispute resolution but also for the broader investment and business environment.

The paper is organized as follows: first, it outlines the structure and objectives of the Singapore Convention; second, it assesses the current state of Pakistan's legal framework for mediation and treaty implementation; third, it presents the strategic rationale for ratifying the SCM; fourth, it introduces original analysis of the key challenges; fifth, it offers actionable policy and legislative recommendations; and finally, it concludes by emphasizing the urgency of legal adaptation.

Understanding the Singapore Convention on Mediation

The Singapore Convention on Mediation (formally known as the United Nations Convention on International Settlement Agreements Resulting from Mediation) was adopted in 2018 and came into force in 2020 (Đurić et al., 2024). It provides a solid legal framework for the cross-border enforcement of mediated settlement agreements, addressing a key gap in international commercial dispute resolution. The Convention grants enforceability to mediation agreements across jurisdictions, similarly to how arbitration awards are treated under the New York Convention (DSouza, 2024).

Under Article 1, the Convention applies to international commercial settlement agreements resulting from mediation, excluding matters related to family, inheritance, or employment disputes, and those incorporated into court judgments or arbitral awards (Sheng, 2023; UNCIS, 2018). Article 2 defines mediation broadly, encompassing any consensual process in which a third party facilitates dispute resolution without decision-making authority (Tan, 2023; UNCIS, 2018).

Article 3 requires signatory states to enforce settlement agreements using their own procedural rules if the agreement and evidence of mediation are presented. Article 4 updates the recognition of settlement agreements by allowing electronic documentation and signatures, which is a crucial provision for digital and cross-border commerce. (Alexander & Chern, 2023; UNCIS, 2018). The Convention further strengthens enforceability by specifying limited grounds for refusal in Article 5, including incapacity, breach of public policy, or



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misconduct on the part of the mediator. This mirrors but modernizes the familiar safeguards in the New York Convention on Arbitration (Rosli et al., 2024).

Practical Value of SCM considering Pakistan's Enforcement Gaps

The Singapore Convention's most significant value lies in its ability to create binding legal obligations from voluntary mediation processes, especially where existing legal systems, like Pakistan's, lack precise mechanisms for enforcement (Brooklyn & Tioluwani). Despite having enacted the ADR Act, 2017, Pakistan has no law recognizing the binding enforceability of mediated settlements, whether domestic or international (Baig, Mumtaz, et al., 2024). Parties often must initiate fresh litigation to enforce mediated outcomes, nullifying the time, cost, and goodwill benefits of mediation (Khan et al., 2024).

In practice, even when mediation occurs, particularly in family or civil matters, there is no statutory obligation for courts to honor the mediated outcome. This enforcement vacuum has led to judicial disregard of prior ADR outcomes, even when parties negotiated in good faith (Baig). In contrast, under the SCM, a court must recognize and enforce the mediated agreement unless particular grounds for refusal are proven.

Cultural Harmony but Legal Incoherence

Pakistan's social and religious traditions, such as *sulah* (reconciliation), *jirga*, and *panchayat*, demonstrate a deep-rooted cultural affinity for mediation (Raju & Srinivasan, 2023). These methods emphasize forgiveness, dialogue, and restoration over adversarial litigation (Jurgees et al., 2024). However, this cultural alignment has not translated into formal institutional coherence. Mediation centers lack uniform regulation, judicial confidence, and enforceability mechanisms.

By integrating the SCM into its legal system, Pakistan would bridge this gap, transforming informal cultural practices into legally recognized instruments for international commerce, backed by clear procedures and judicial enforcement.

Comparative Experiences and Implementation Models

Countries like Malaysia have proactively amended their domestic mediation laws to align with the Convention. Although Malaysia's Mediation Act 2012 predates the SCM, legal scholars advocate for revising it to include mechanisms for international enforcement, electronic communication, and model clauses for commercial contracts (Abraham, 2023; Rosli et al., 2024). These developments offer valuable insights for Pakistan, which lacks even a foundational Mediation Act.

The SCM also requires that each State Party appoint a competent authority to process and verify mediated settlements, a role currently lacking in Pakistan's judicial or ADR framework. Establishing such an authority could drive broader legal reform and strengthen institutional consolidation.

Pakistan's Current Legal and Institutional Framework for Mediation

Pakistan's legal infrastructure for mediation and Alternative Dispute Resolution (ADR) has evolved gradually but remains deeply fragmented, unevenly applied across provinces, and poorly aligned with international standards. While recent legislative initiatives have introduced Alternative Dispute Resolution (ADR) into both civil and commercial law domains, the absence of a coherent federal



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framework and robust enforcement mechanisms continues to limit the effectiveness of these reforms.

Federal and Provincial ADR Legislation

At the federal level, the Alternative Dispute Resolution Act, 2017, provides a legal basis for out-of-court settlements through mediation, arbitration, conciliation, and negotiation (Shoukat, 2025). However, its practical utility is undermined by a lack of implementation rules for several years post-enactment, and its passage without a proper parliamentary quorum raised procedural legitimacy concerns (Khan & Javed, 2023). Moreover, the Act's institutional mechanism remains weak, with inconsistent standards for the qualification and appointment of neutrals, particularly in mediation.

Provincial frameworks, such as the Punjab ADR Act, 2019, and the Sindh ADR Act, 2017, have introduced ADR centers and community dispute resolution processes; however, there is no national synchronization of these legislative models. ADR procedures in family matters are separately addressed through the Family Courts Act, 1964, which encourages mediation and conciliation under Sections 10 and 12. However, even these court-led ADR efforts suffer from structural and procedural weaknesses (Bhatti & Rizwan, 2023; Khan et al., 2024).

The Code of Civil Procedure (CPC) 1908, through Section 89A and Order X Rule 1A, empowers courts to refer parties to ADR before the trial begins. But judges are often unfamiliar with these provisions or reluctant to apply them meaningfully, further undermining the process (Pirzada et al.).

In addition to these formal legislative efforts, Pakistan's legal history also includes older, community-based mechanisms like the Conciliation Courts Ordinance, 1961 (Soomro et al., 2024). This law established conciliation courts at the Union Council level to resolve minor civil and criminal disputes through mediation-like processes. Although reflective of Pakistan's longstanding cultural receptiveness to reconciliation, these courts are procedurally limited in scope, apply only to defined categories of disputes, and are restricted to written agreements. More importantly, they lack any authority or framework to handle commercial or cross-border disputes, making them incompatible with international enforcement instruments like the Singapore Convention. Their informal and localized nature further restricts their adaptability to modern ADR standards, especially those involving electronic documentation, private commercial matters, and international enforcement protocols.

The Local Government Ordinance in Punjab and Sindh establishes Musalihat Anjumans, panels of conciliators promoting mediation and arbitration in local communities. Sections 102–106 detail the informal selection by Insaf Committees and their authority to resolve civil and criminal disputes with or without court involvement. Section 103 encourages amicable settlements “whether or not any proceedings have been instituted in a court of law,” and Section 104 allows courts to refer cases to these panels, making settlements rules of court. However, Musalihat Anjumans have limited jurisdiction, are unenforceable internationally, and are disconnected from modern commercial needs. This highlights the need for a formal framework like the Singapore Convention on Mediation for international disputes resolution (Ahmad & Haq, 2021; Punjab Local Government Ordinance, 2001).

Institutional and Judicial Limitations



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Pakistan lacks a centralized authority to oversee mediation standards, regulate training institutions, or coordinate judicial-ADR engagement. Although the ADR Mediation Accreditation (Eligibility) Rules, 2023, were introduced to standardize mediator qualifications, these rules have been criticized for arbitrarily limiting recognition to select institutions without clear criteria (Khan & Abbasi, 2023).

Moreover, judicial officers often treat mediation as a box-checking exercise rather than an integral part of the dispute resolution process. There is no dedicated cadre of ADR-specialized judges, and most civil judges assigned to ADR cases are neither trained in mediation nor equipped to supervise its enforcement. Courts frequently restart litigation even after mediated agreements, ignoring the time and effort already invested in resolving disputes (Awan et al., 2019).

In some cases, judges question the credibility of mediated outcomes, especially when the mediator is not a retired judge or a senior lawyer, leading to renewed adversarial proceedings and nullifying the ADR effort (Qalandarovich, 2024).

Enforcement and Compatibility Gaps

Unlike the New York Convention on Arbitration, to which Pakistan is a signatory, there is no legislation that provides enforceability for international mediated settlement agreements. This is a significant gap that the Singapore Convention on Mediation (SCM) aims to address (Tahir, 2023). Although domestic ADR settlement agreements may be enforced under specific statutory provisions, there is currently no legal pathway for enforcing cross-border mediated agreements in Pakistan (Faizan et al., 2024; Khalid, 2024).

In practice, even domestic mediated outcomes are vulnerable. If one party withdraws from a mediated agreement, the other must often file a fresh civil suit to seek enforcement, effectively erasing the benefits of mediation (Arshad & Saleem, 2025). Pakistan's legal system currently provides no binding recognition of mediation outcomes comparable to arbitral awards, which can be made a rule of court under the Arbitration Act, 1940.

Cultural Compatibility vs. Legal Resistance

Ironically, mediation aligns closely with Pakistan's Islamic and communal traditions, which emphasize conciliation, forgiveness, and the preservation of relationships (Chaudhary et al., 2024). Historically, panchayats and community elders played a central role in resolving disputes amicably (Ashraf et al., 2023). Yet, modern legal actors often treat ADR with suspicion, viewing it as "informal," "foreign," or less authoritative than litigation.

This tension between cultural acceptance and legal resistance underscores the necessity for a strategic and multi-layered implementation of international norms, such as the Singapore framework Convention.

Why Pakistan Should Ratify the Singapore Convention

Ratifying the Singapore Convention on Mediation (SCM) presents Pakistan with a timely opportunity to enhance its status in international commercial dispute resolution, align its domestic laws with global standards, and increase investor confidence in its legal system. While Pakistan has made incremental progress in developing its domestic ADR framework, the absence of a treaty-based system



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for cross-border mediation remains a significant gap in its legal infrastructure.

Enhancing Legal Certainty and Enforceability

International trade and investment increasingly necessitate legal predictability and enforceable outcomes. The SCM provides a transparent and efficient mechanism for the recognition and enforcement of international mediated settlement agreements, thus addressing a long-standing gap between domestic mediation frameworks and international commercial realities. (Tan, 2022). By adopting the SCM, Pakistan can assure foreign investors, trading partners, and multinational corporations that mediated agreements will receive the same level of respect and enforcement as arbitral awards under the New York Convention (Adil et al., 2024).

This level of legal certainty is particularly relevant for commercial actors involved in cross-border contracts, where ambiguity regarding dispute enforcement leads to forum shopping, contract avoidance, or unnecessary litigation. As emphasized by UNCITRAL reports cited in comparative literature, the SCM provides not only enforceability but also consistency across jurisdictions (Awada, 2023).

Reducing Judicial Backlog and Improving Access to Justice

Pakistan's judiciary continues to grapple with a chronic backlog of civil and commercial cases, worsened by procedural delays and limited judicial resources (Imran et al., 2024). Mediation provides a less expensive, quicker, and more amicable way to resolve disputes, especially in commercial matters where ongoing relationships are important (Zeeshan et al., 2025). Ratifying the SCM can complement domestic efforts to decongest courts by offering a credible enforcement mechanism for mediated agreements that bypass lengthy litigation.

Additionally, the adaptability and informality of mediation make it an appealing option for SMEs and foreign investors looking for dispute resolution without the expenses and complexities of arbitration or litigation. (Gómez & Titi, 2023).

Aligning with Regional and International Trade Initiatives

Pakistan participates in several regional and multilateral trade frameworks, including the China-Pakistan Economic Corridor (CPEC), the Belt and Road Initiative (BRI), and the World Trade Organization (WTO) regime. Cross-border commercial disputes are inevitable in these engagements. Without an internationally recognized enforcement mechanism for mediation, Pakistan risks exclusion from the evolving norms of transnational commercial governance (Hussain et al., 2023; Memon et al., 2024).

For instance, Malaysia's legal scholarship highlights how the SCM can strengthen trade cooperation in ASEAN and beyond. Malaysia should revise its Mediation Act 2012 to align with the Convention, including provisions on international enforceability, mediator conduct, and electronic communications. (Rosli et al., 2024). These insights can be directly applied to Pakistan, where such alignment has not yet been established.



Strengthening Treaty Practice and Institutional Maturity

Ratifying the SCM would also positively reflect on Pakistan's treaty performance record. Legal scholarship on Pakistan's treaty practice highlights hesitance in adopting commercial treaties due to institutional capacity constraints and ambiguous implementation strategies (Afzal & Mushtaq, 2024). By adopting the SCM and implementing it through targeted legislation, Pakistan can set a new precedent for efficient treaty incorporation under its 2013 Act.

The need for such domestic legislation is not merely theoretical it has been affirmed by the Supreme Court of Pakistan in the landmark case of *Société Générale de Surveillance S.A. v. Pakistan* (2002 SCMR 1694) (Khan et al., 2021). In this case, the Court held unequivocally that treaties do not have direct legal effect in Pakistan unless incorporated into domestic law through an act of Parliament. Even if a treaty is signed and ratified by the executive, it cannot be invoked in Pakistani courts unless there is enabling legislation. This precedent underscores that ratification of the Singapore Convention, while symbolically important, will not be sufficient unless accompanied by a legislative framework explicitly domesticating its provisions.

The stipulations of the Convention, which include the appointment of a competent authority, a streamlined application process, and restricted grounds for refusal, are both legally attainable and administratively viable within the current judicial framework of Pakistan. Furthermore, this initiative would foster opportunities for institutional development, encompassing the training of mediators, legal practitioners, and judges regarding the provisions of the Convention.

Challenges to Ratification and Implementation in Pakistan

Despite the clear legal and strategic benefits of adopting the Singapore Convention on Mediation, Pakistan encounters a complex array of domestic challenges that obstruct both its ratification and effective implementation. These challenges stem from the country's fragmented legal architecture, institutional inertia, the political economy of legal reform, and a deeply conservative legal culture that often resists international legal harmonization.

Fragmentation of Legal Authority and Federal-Provincial Tensions

One of the most significant obstacles is Pakistan's federal structure, where legal authority over ADR mechanisms is dispersed across federal and provincial jurisdictions. While the federal government has ratification power under international law, the implementation of treaties that intersect with civil justice and contract law, such as the Singapore Convention, requires coordination with provincial governments. However, provinces have enacted varying and often inconsistent ADR laws, with no shared standards or centralized authority. This creates a jurisdictional vacuum that neither the judiciary nor the executive has adequately addressed.

Legislative Inertia and Absence of Political Priority

International commercial mediation and treaty implementation rarely appear on Pakistan's legislative agenda. Ratifying instruments like the SCM requires political will, technical preparation, and follow-up legislation, none of which are priorities for Parliament, which is usually focused on domestic political survival,



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economic crises, and electoral dynamics. Even when ratification is technically feasible, the process is often hindered by bureaucratic inertia, a lack of treaty expertise within ministries, and procedural bottlenecks. The Ratification of International Treaties Act, 2013, while well-intentioned, has not resulted in a functional legislative pipeline for commercial treaties.

Institutional Weakness and Capacity Gaps

Pakistan's ADR institutions remain underfunded, understaffed, and disconnected from international best practices. There is no central authority or council overseeing mediation standards, training mediators, accrediting centers, or facilitating international cooperation. Judges lack the specialized knowledge to handle requests for enforcing foreign-mediated agreements, and mediators rarely receive formal training in cross-border dispute dynamics. The absence of a designated "competent authority" under SCM standards further highlights institutional underdevelopment.

Conservative Legal Culture and Resistance from the Legal Community

Perhaps the most deeply rooted challenge is the resistance of Pakistan's legal community to non-adversarial, internationalized forms of dispute resolution. Lawyers and judges trained in common law litigation often perceive mediation as informal, unreliable, and lacking in legal rigor. There is a perceived loss of control, influence, and billable hours when mediation becomes more prominent. International treaties that alter domestic legal practices are sometimes viewed as foreign encroachments, particularly when introduced without widespread consultation. This entrenched skepticism not only obstructs SCM ratification but also hampers broader efforts at legal modernization.

Lack of Public and Commercial Awareness

There is also limited awareness among businesses, chambers of commerce, and civil society regarding the benefits of the Singapore Convention. For a country deeply engaged in trade and foreign investment, particularly in corridors like CPEC, this knowledge gap is striking. Without stakeholder demand for reform, political leaders and bureaucrats have little incentive to act. Consequently, the absence of ratification reinforces this lack of awareness, creating a cycle of legal stagnation.

Recommendations for an Effective Ratification and Implementation Strategy

In order to address the structural, legislative, and institutional challenges identified above, it is imperative for Pakistan to adopt a deliberate, phased, and coordinated approach towards the ratification and implementation of the Singapore Convention on Mediation. This process should be spearheaded at the federal level, while being executed in collaboration with provincial authorities, the judiciary, and commercial stakeholders. The subsequent strategic recommendations provide a comprehensive roadmap to achieving this objective.

Immediate Ratification via Federal Executive Authority

The federal cabinet should promptly initiate and complete the ratification



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process under the Ratification of International Treaties Act, 2013. The Convention is already open for accession, and Pakistan's participation does not require reservations or complex negotiation. The Ministry of Law and Justice, in consultation with the Ministry of Commerce, should prepare and approve the necessary instruments of ratification, including the legal impact memorandum, and deposit them with the United Nations. Executive leadership is essential to demonstrate Pakistan's commitment to modern dispute resolution mechanisms.

Enactment of a Mediation (International Enforcement) Act

After ratification, Parliament must enact a dedicated Mediation (International Enforcement) Act, modeled closely on the structure and logic of Pakistan's Recognition and Enforcement (Arbitration Agreements and Foreign Arbitral Awards) Act, 2011 (Baig, Mushtaq, et al., 2024). That Act gave effect to the New York Convention by creating a clear and enforceable pathway for foreign arbitral awards within Pakistan's legal system. Similarly, the new Mediation Act should ensure that mediated settlement agreements resulting from international commercial disputes are treated with the same legal authority as a domestic court judgment.

The 2011 Act provides a practical precedent for integrating UNCITRAL-based international obligations into domestic law. It defines enforcement criteria, procedural rules, jurisdiction, and limited grounds for refusal features that are directly adaptable to mediation enforcement under the Singapore Convention. Emulating this model would also increase legal certainty and administrative familiarity within the courts.

The new Mediation Act should:

- Define "international settlement agreements" in line with the Singapore Convention.
- Outline procedures for application, enforcement, and refusal, referencing Article 5 standards.
- Allow for digital documentation and electronic signatures.
- Designate a competent authority (such as a Commercial Mediation Council) to oversee verification and enforcement.

Incorporate procedural safeguards to ensure fairness, neutrality, and due process. The legislation should remain concise, focused, and interoperable with the existing provincial ADR frameworks. Its core objective must be to create a binding, predictable, and enforceable regime for international mediated agreements within Pakistan's judicial and commercial systems.

Provincial Legal Harmonization and Model Rules

To ensure coherence across the federation, the Council of Common Interests (CCI) or Law and Justice Commission of Pakistan should initiate consultations with provincial governments. Draft model rules and regulations should be prepared and circulated to provincial assemblies, encouraging them to align their ADR laws with the Convention. Such harmonization can prevent jurisdictional confusion and strengthen the enforceability of mediated agreements throughout Pakistan.

Institutional Capacity Building

Pakistan must invest in building its institutional capacity to implement the



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Convention effectively. This includes:

- Establishing a National Mediation Authority or strengthening existing ADR centers.
- Accrediting mediators and mediation centers for international cases.
- Training judges, lawyers, and court staff on SCM procedures and international standards.
- Developing an online portal for submission and verification of mediated agreements.

Capacity building should also involve partnerships with international mediation organizations and donor agencies that focus on justice reform.

Strategic Public Engagement and Commercial Outreach

A successful implementation strategy relies on demand generation and stakeholder awareness. The government, in partnership with business chambers, bar councils, and arbitration institutions, should initiate targeted outreach campaigns to:

- Educate the commercial sector on the benefits of mediation and the Convention.
- Encourage multinational corporations and investors to incorporate mediation clauses into their contracts.
- Promote mediation as a cost-effective and enforceable alternative to litigation.
- Awareness-building must be sustained through public forums, legal symposia, and curriculum integration in legal education.

Judicial Ownership and Policy Integration

Ultimately, for the Convention to function effectively, judicial ownership is essential. The superior judiciary should issue guidelines or practice directions for courts handling mediated settlement agreements. Commercial benches must be empowered to process enforcement applications promptly and consistently. Integrating SCM enforcement protocols into judicial policy and performance metrics can enhance compliance and institutional credibility.

Conclusion

The Singapore Convention on Mediation presents Pakistan with a unique opportunity to modernize its legal framework, enhance commercial certainty, and demonstrate its readiness to engage in the global dispute resolution ecosystem. As cross-border trade and investment become increasingly complex, the necessity for a reliable, enforceable, and internationally recognized mediation mechanism shifts from being merely desirable to essential. The Convention addresses a longstanding gap in international commercial law that Pakistan can no longer afford to overlook.

Pakistan already has the legal framework and institutional bases to make accession feasible. However, ratification alone is insufficient. Effective implementation requires intentional legislative action, provincial coordination, judicial support, and capacity building within the legal profession. By taking these steps, Pakistan can turn mediation from a symbolic concept into a practical and credible alternative for resolving transnational disputes.



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Failure to act would leave Pakistan isolated from an emerging global norm that limits its attractiveness to investors, marginalizes its legal institutions, and perpetuates a system that is ill-equipped for the demands of cross-border commerce. By ratifying the Singapore Convention and aligning its domestic laws with its provisions, Pakistan has the opportunity to reinforce its commitment to justice, economic integration, and legal modernization in a manner that is both principled and pragmatic.

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