



# UNLEASHING THE POTENTIAL OF FOREIGN INVESTMENT IN PAKISTAN: A CRITICAL ANALYSIS OF THE LEGAL FRAMEWORK, FLAWS, AND RECOMMENDATIONS FOR PROMOTING SUSTAINABLE ECONOMIC GROWTH

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## **Abstract:**

*Foreign direct investment (FDI) is critical to a country's economic development because it promotes economic growth, technological advancement, and job creation. Pakistan, like many other developing countries, has recognized the value of attracting foreign investment to stimulate its economy and achieve long-term development (Siddiqui, 2017). However, the success of attracting FDI is dependent on a robust legal framework that protects and provides incentives for foreign investors (Hayat, 2016). This paper will examine the trends, prospects, and challenges of foreign direct investment in Pakistan.*

**Key words:** Foreign Direct Investment (FDI), Legal Framework, Investment Protection, Board of Investment (BOI), Bilateral Investment Treaties (BITs), Special Economic Zones (SEZs), Investment Policy, Ease of Doing Business, Judicial Independence, Dispute Resolution

## **Introduction**

Pakistan has established a legal framework to attract and protect foreign investment, which includes domestic laws as well as bilateral investment treaties (BITs) with other countries. The regulatory framework comprises various acts and policies aimed at promoting a favorable investment climate and protecting foreign investors' rights and interests. The Foreign Exchange Regulation Act of 1947 serves as the primary regulatory framework for foreign investment in Pakistan (Foreign Exchange Regulation Act, 1947).

The Foreign Private Investment (Promotion and Protection) Act of 1976 was enacted to protect foreign investors by ensuring equal treatment and preventing higher income taxes on foreign investments (Foreign Private Investment (Promotion and Protection) Act, 1976).



Furthermore, the Economic Reform Protection Act of 1992 protect economic policies, laws, and programs, including public sector privatisation (Economic Reform Protection Act 1992).

In 1992, the Government of Pakistan established the Board of Investment (BOI) as a regulatory body to facilitate and attract foreign investment. The primary role of the BOI is to provide investment services to both domestic and foreign investors, to promote profitable sectors, and to distribute promotional materials (Hayat, 2016). Pakistan aims to protect foreign investors' rights and provide dispute-resolution mechanisms by actively participating in global initiatives and signing numerous BITs ((United Nations, 2021). In addition, under the Special Economic Zones Act of 2012, Pakistan established Special Economic Zones (SEZs) to encourage foreign direct investment (Special Economic Zones Act, 2012).

These zones provide a variety of benefits and incentives, creating an appealing investment environment. The 2013 Investment Policy promotes a liberal and pro-investor environment. Pakistan successfully removed its name from the FATF grey list in 2022 after years of dedicated efforts that began in 2018 (Investment Policy, 2013). The country has made significant progress, from 136th to 108th in the ease of doing business index (BOI, 2021). Pakistan's DTF score has increased significantly, from 55.31 to 60.91 (Investment Policy 2013). The DTF score reflects the country's progress toward global best practices in business regulations.

Despite these efforts, Pakistan has struggled to attract significant amounts of FDI (Ahmed, 2020). Economic, political, and legal challenges in Pakistan, such as a recession, economic crises, political instability, and rising terrorism, have all contributed to an uncertain investment climate. Pakistan lacks a centralized online portal for business registrations, which is critical for process efficiency and avoiding unnecessary bureaucratic hurdles (Abbas et al., 2022). The legal system in Pakistan poses significant challenges for foreign investors. There is no online access to initial complaints, e-billing of court fees, or case law materials in Pakistan's legal system ((Promotion and Protection) Act,1976). The essay examines important case laws to highlight existing inconsistencies in the law, the difficulty of enforcing foreign arbitral awards, a lack of fair and equitable treatment for foreign investors, and delays in dispute resolution.

The challenges in the legal system raise concerns about the protection of foreign investors' rights, contract enforcement, judicial independence, and adherence to international obligations ((Promotion and Protection) Act, 1976). These challenges highlight the importance of an efficient and impartial judiciary, clear laws and regulations, and effective dispute-resolution mechanisms. To instil confidence in foreign investors and provide adequate protection, Pakistan's legal framework must be strengthened. Efforts to simplify procedures, increase transparency, and improve the ease of doing business are critical for attracting foreign direct investment and driving economic growth.



### **Pakistan's Legal Framework for Foreign Investment**

Foreign investment in Pakistan is governed by the Foreign Exchange Regulation Act of 1947. The Foreign Private Investment (Promotion and Protection) Act of 1976 protects foreign investors (Economic Reform Act 1992).

It is divided into 11 sections. The most important are Sections 5,6, and 7, which protect international agreements and ensure foreign investors are not subject to higher income taxes. The Act obligated the state to provide foreign investment with equal treatment to that of any other investment made in Pakistan. The Economic Reform Protection Act of 1992 safeguards economic policies, laws, and programs, including public-sector privatisation (Economic Reform Act 1992). Sections 4-7 ensure a stable investment climate in Pakistan by allowing the freedom to hold and sell foreign currency (section 4), exempting foreign currency from taxes and zakat (section 5), prohibiting restrictions on foreign investment account deposits and withdrawals (section 5(2)), and protecting fiscal incentives and prohibiting the government from taking over government-allocated enterprises (sections 6 and 7).

The Board of Investment (BOI) was established as a regulatory body by the Government of Pakistan in 1992 (BOI, 2001). Its primary goal is to assist and provide investment services to both foreign and domestic investors, as well as to distribute promotional materials to attract and facilitate foreign investment (Hayat, 2011). As an active member of the World Association of Investment Promotion Agencies (WAIPA), it aims to promote and increase foreign investment in Pakistan. The Arbitration (International Investment Dispute) Act of 2011 and the Recognition and Enforcement (Arbitration Agreement and Foreign Arbitral Awards) Act of 2011 govern the resolution of investment and commercial disputes, respectively. The presence of these laws gives foreign investors a sense of protection and confidence when considering investing in Pakistan (Ali & Khan, 2018).

Under the Special Economic Zones Act 2012, Pakistan established Special Economic Zones as incentive-oriented legislation to attract Foreign Direct Investment. Special Economic Zones offer a variety of benefits, including lower taxes, efficient procedures, and other incentives that promote investment. Investment Policy 2013 is an updated version of Investment Policy 1997. The Investment Policy, Chapter II, promotes a liberal investment regime based on global best practices. Chapter III prioritises investment protection, fair and equitable investor treatment, and due process of law. Chapter IV establishes Special Economic Zones in Pakistan to reduce business costs. Chapter V facilitates foreign investors with a comprehensive and friendly visa policy. Chapter VI outlines the policy's five-year investment strategy, which includes seven implementation and development points, including public-private dialogue.

Pakistan has taken several steps to modernize its legal framework and improve its investment climate, such as signing 53 bilateral investment treaties (BITs), 20 investment-related instruments



(IRIs), and 7 trade and investment framework agreements (TIPs). Furthermore, the Board of Investment (BOI) launched three online portals will be launched in June 2020 to make it easier for foreign investors to do business in Pakistan: the Electronic Joint Venture (EJV), Branch Liaison Management Information System (BLMIS), and Special Economic Zones (SEZs) Information Portal (UNCTAD, 2023). Furthermore, to encourage investment, Pakistan has offered foreign businessmen insurance coverage of up to US\$500,000 since 2013. In October 2020, the State Bank of Pakistan launched a new mechanism to make it easier for companies to remit disinvestment proceeds to their foreign shareholders. Moreover, to attract additional foreign investment, the government decided in December 2022 to outsource the management of three international airports to international operators (Siddiqui, 2023).

Despite efforts to modernize its legal framework and improve investment-related instruments, such as signing BITs, Pakistan has not been able to attract foreign direct investment (FDI). In FY23, FDI in Pakistan fell 44% to \$683 million, down from \$1.22 billion in FY22. To address these concerns, Pakistan raised its benchmark interest rate to 17%, the highest in 24 years. Pakistan ranks 108th out of 190 countries in terms of ease of doing business, according to the World Bank's Ease of Doing Business Index, 2021. This indicates that there considerable scope for improvement.

Pakistan's economic, political, and legal challenges have placed the country in one of the most difficult situations it has faced in the last two decades. According to the According to South Asia Press, the country is dealing with an economic crisis, political chaos, and an increase in terror attacks in the Northwestern areas. Pakistan's inflation rate was reported to be 24.5% in December 2022, nearly double the rate of 12.3% recorded the previous year. In April 2023, inflation reached almost 36.4% (Dawn, 2023). The country's economic crises have created an uncertain investment environment. This uncertainty may cause foreign investors to be hesitant to invest in Pakistan until these issues are resolved.

## **FDI in Pakistan: Trends, Prospects, and Challenges**

### **Efforts and Trends:**

Pakistan's economy was initially highly regulated, with strict restrictions on foreign investment. A significant part of the economy was owned and controlled by the government (Khan & Rehman, 2020). In the late 1980s, as part of the Structural Adjustment Program, Pakistan adopted more liberal foreign investment policies, including deregulation, privatisation, and liberalisation. As a result, foreign investment increased at a 25.7 per cent annual rate, from \$10.7 million in 1976-1977 to \$1,296 million in 1996-1997 (Ahmed, 2022). Foreign direct investment in the power sector increased by 146.5 percent in 1995-1996. In fiscal year 2007-2008, Pakistan received \$5 billion in FDI, accounting for 3% of GDP. However, due to financial difficulties, terrorism, and an energy crisis, FDI contributed 1% of GDP in 2014-2015. In comparison, foreign direct investment rose from \$988 million in 2014-2015 to \$3,471 million in 2017-2018 (Ahmed, 2022).



This increase in FDI was enabled by growth-oriented policies such as higher development expenditures, low inflation, and the success of the China-Pakistan Economic Corridor (CPEC) (Ahmed et al., 2019). China, the United Kingdom, the United States, and Hong Kong were major partners in Pakistan's efforts to increase FDI. According to a State Bank of Pakistan report, FDI fell by nearly 30% during the first eight months of FY 2020-21, from \$1.85 billion to \$1.3 billion (Khan & Rehman, 2020).

Pakistan has actively participated in global initiatives to promote and protect the interests of foreign investors. The country has signed numerous multilateral investment treaties, including the South Asian Free Trade Agreement in 2009, the China-Pakistan Free Trade Agreement in 2006, the Pakistan-Malaysia Free Trade Agreement in 2007, and regional agreements, with organizations such as the OIC in 1986 and the ECO in 2005 (Arbitration (International Investment Disputes) Act 2011). These agreements include provisions that protect foreign investors' rights and provide dispute-resolution mechanisms. Pakistan has recognised the ICSID's jurisdiction in the majority of these investor-state dispute settlement (ISDS) agreements. To meet its obligations under the ICSID Convention, Pakistan enacted the Arbitration (International Investment Disputes) Act 2011 to incorporate it into its national legal framework (Bureau of Economic and Business Affairs, 2022). Concerns have been raised, however, about the execution of foreign arbitral awards in Pakistan, as well as the lengthy legal procedures involved (PLD, 2013).

### **Challenges in Legal System**

Tethyan Copper Company (TCC) v. Islamic Republic of Pakistan ICSID Case No. ARB/12/1

The case began with Maulana Abdul Haque v. Government of Pakistan, in which the Supreme Court declared a foreign investment contract known as the Chigai Hill Exploration Joint Venture (CHEJVA) signed in 1993 void ab initio and denied TCC a mining license. TCC filed a claim against Pakistan and was awarded damages of \$5.8 billion. This case is commonly referred to as the "Riko Diq Case (ICSID).

SC should have considered alternative steps before declaring the contract void ab initio, given the foreign company's \$500,000 investment in Pakistan and the potential financial loss from the mining licence denial. Pakistan is legally obligated to follow the rules and procedures for enforcing foreign awards as a signatory to the ICSID Convention. The mining contract's abrupt termination raised concerns about Pakistan's compliance with international obligations. The case highlighted inconsistencies in the application of laws as well as the difficulties that foreign investors face in holding their contractual rights (Abbas et al., 2020).

The initial approval of the mining project, followed by its cancellation, created uncertainty and undermined investor confidence. The TCC claimed that Pakistan's courts were biased and unfair in their decisions (Siddiqui, 2017). It was also stated that the judiciary's susceptibility to external influences raises concerns about its competence and impartiality in Pakistan. According to the US



State Department's report on the investment climate in Pakistan in 2022, Pakistan does not automatically enforce foreign awards and prefers state-owned enterprises (Abbas et al., 2020). The Supreme Court's decision in the Riqo Diq case set an unfavorable precedent for foreign investors. This decision has created uncertainty among potential investors, who are hesitant to invest in a country that is struggling to resolve its domestic issues and appears unwilling to meet its international obligations.

**Case No. 2 is Karkey Karadeniz Elektrik Uretim (KKEU) A.S. v. Islamic Republic of Pakistan (ICSID Case No. ARB/13/1).**

The inefficiency within the Pakistani judiciary was also evident in the Karkey Case. In this case, the Supreme Court of Pakistan declared the contract between Lakhra Company and KKEU for rental power generation *void ab initio*. This was decided on the basis of corruption charges against KKEU. Pakistan seized all of KKEU's machinery and froze its bank accounts (ICSID). KKEU filed the claim before the ICSID tribunal. Pakistan was unable to provide sufficient evidence of KKEU's corruption before the tribunal, and as a result, ICSID ordered Pakistan to pay \$800 million as damages to KKEU. The cancellation of the rental power project and subsequent legal disputes revealed challenges in contract enforcement and the protection of the rights and property of foreign investors in Pakistan. The case exposed flaws in the accessibility and efficacy of dispute resolution mechanisms (ICSID). The delay and difficulty faced by KKEU in enforcing the foreign arbitral award raised many concerns about the enforcement of laws in Pakistan and its non-compliance with international obligations.

**Case law No. 3: Bayindir Insaat Turzim Ticaret vs Sanayi A.S. vs. Islamic Republic of Pakistan ICSID Case No. ARB/03/29**

This case involved a contract between the National Highway Authority of Pakistan (NHA) and Bayindir, a Turkish company. The dispute started when the NHA terminated this 8-year-long project of a six-lane motorway with Bayindir. Bayindir filed this case with the ICSID. ICSID stated that Bayindir failed to provide enough evidence to claim damages. However, the tribunal also examined data from various Pakistani development projects and discovered a recurring pattern of delays. What stood out was that, despite the delays, the contracts with local contractors were not terminated. This raised concerns about possible discrimination, as it appeared that foreign contractors, such as Bayindir, were treated differently than their local counterparts. Furthermore, the project's delay due to a lack of land and resources demonstrates a lack of planning on NHA's part as well as a lack of coordination between the state and its regulatory authorities. The ability of the government to coordinate, strategize, and fulfil its commitments is critical to attracting foreign investors. Delays, discrimination, and violations of bilateral investment treaties (BITs) can, however, have a negative impact on foreign investment.



### **Analysis of the Challenges in the Legal System**

Despite a number of reforms, Pakistan still faces significant challenges in attracting foreign direct investment. To gain insight into these challenges, it is critical to investigate the root causes of FDI-related disputes. It is evident from the aforementioned cases that Pakistan lacks an efficient and impartial judiciary (Riqo Diq Case).

Its decisions demonstrate that foreign investors' rights and properties are not protected. In the case of *Impreglio S.p.A v. the Islamic Republic of Pakistan*, the ICSID Tribunal determined that Pakistan violated its international obligations under the BIT by failing to provide security and protection to the foreign investor (Karkey case).

It is also observed that, despite having incorporated the ICSID convention into its national law, Pakistan still faces significant difficulties in enforcing foreign arbitral awards. The legal process is lengthy and costly. The laws in Pakistan's legal system are ambiguous and unclear, which causes problems with interpretation and inconsistent decision-making. This suggests that Pakistan's domestic legal system is insufficient to resolve conflicts involving foreign investments (Bureau of Economic and Business Affairs, 2022).

According to the Doing Business Report 2020, the following table illustrates the ease of contract enforcement in Pakistan. Most of the values in the table are lower than the average in South Asia. The quality of the judicial process index results for Pakistan is below the regional average, indicating room for improvement. Although Pakistan performed slightly better in ADR, the nation still lags behind in court automation. This emphasizes the need for the legal system to be more accessible and transparent (Doing Business Reform Strategy Pakistan 2019-2021).



Doing Business Indicator	Lahore	Karachi	South Asia Average	Regional Best Performer	Globally best Performer/ OED High Income
Quality of Judicial Process Index (0-18)	5	6	7.1	10.5 (India)	16 (China)
Cost (% of Claim Value)	25%	18.1%	29.9%	18.5% (Maldives)	9% (Iceland)
Time (Days)	1025	1096	1101.6	225 (Bhutan)	120 (Singapore)
Alternate Dispute Resolution (ADR) (0-3)	2	2	2.4	3 (Bangladesh)	2.5
Case Management (0-6)	0.5	1.5	1.2	3 (Bhutan)	3.2
Court Automation (0-4)	0.5	0.5	0.8	2 (India)	2.4
Court Structure and Proceeding (1-5)	2	2	3.1	4.5 (India)	3.6

**Political Instability:**

Since its independence, Pakistan has experienced political instability as a result of frequent military intervention. Pakistan gained independence in 1947, and the country's first general elections were held in 1971, demonstrating the importance of democracy in the country. No Prime Minister has ever served a full democratic term. Political unrest in any country can have a negative impact on law enforcement (Tjandrasa, 2021). Policy and law implementation can be disrupted by changes in the political regime, causing uncertainty in the legal system. Politics has a significant impact on how laws and policies are executed and implemented.

In Pakistan, the years 2022-2023 saw unprecedented political instability, marked by a series of events that had a significant impact on the country's economy. Following the removal of former



Prime Minister Imran Khan via a no-confidence motion, protests and arrests of his supporters have continued (Loans, 2023). These arrests were made without proper legal charges, raising concerns about due process and the rule of law. Furthermore, freedom of expression has been curtailed, particularly on social media and television platforms. As a result, the economic environment has become extremely vulnerable, as political instability and civil liberties restrictions can undermine investor confidence and economic growth.

The events of May 9, 2023, including the illegal arrest of Imran Khan and massive anti-military protests, exacerbated the economic downturn (Human Rights Watch, 2023). This resulted in civil unrest and a significant depreciation of the Pakistani rupee, with the exchange rate reaching as high as 300 rupees per dollar. The continued illegal detention of approximately 4000 political members and supporters, despite court orders for their release, raises concerns about the country's commitment to the rule of law and court rulings. Consequently, foreign investors may be hesitant to invest in a country with such political instability, and a lack of adherence to the rule of law contributes to the perception of a risky investment climate. This undermines the legal system's credibility and makes the country less appealing to investors (Akadiri et al., 2022).

In addition, Pakistan's reliance on IMF loans creates economic challenges and uncertainty. While IMF loans can provide short-term financial assistance and assistance with balance-of-payment issues, they frequently include conditions and austerity measures that can have an impact on the overall economic climate. The country's reliance on IMF loans highlights fiscal management flaws as well as the need for long-term economic policies to reduce dependency and advance long-term stability. Furthermore, Pakistan has been on the FATF's grey list for nearly four years. This might have negatively affected Pakistan's reputation among foreign investors. However, Pakistan was removed from the grey list in October 2022 (Sherani, 2022).

### **Terrorism**

Terrorist attacks in Pakistan between 2000 and 2012 posed significant challenges and had a detrimental effect on foreign investment. Numerous countries around the world issued advisories advising against travel or investment in Pakistan due to safety concerns. Pakistan's efforts to combat terrorism were initially successful. Terrorism has resurfaced in Pakistan, particularly in federally tribal areas, raising security concerns among foreign investors (Khan et al., 2023).

### **Lack of a Centralised Authority**

Pakistan adopted a dual regulatory system following the 18th Amendment. Provincial governments were given significant power, and foreign companies operating in the country were required to comply with both federal and provincial laws ((Bureau of Economic and Business Affairs, 2022). This made the compliance process for foreign investors complex and time-consuming. As a result, foreign companies have to deal with multiple regulatory authorities, both federal and provincial, each with its own interpretation of the law. This multiplicity of regulatory



authorities and their varied interpretations and operational procedures cause inconsistencies in the application of the law, further complicating the process for foreign investors.

### **Absence of a Virtual One-Stop Shop**

Pakistan currently lacks a centralized virtual platform through which investors can access information and register with regulatory bodies such as the Securities and Exchange Commission of Pakistan (SECP), the State Bank of Pakistan (SBP), the Federal Board of Revenue (FBR), and others. There is no electronic payment system for ongoing cases in competent courts, and no electronic case management tools for judges and lawyers. It is not possible to file initial complaints or serve processes electronically, and it is also not possible to pay court fees electronically. These impediments make navigating Pakistan's legal systems difficult for foreign investors.

### **The BIT Dilemma**

Bilateral investment treaties (BITs) are often seen as a means to boost FDI in a country. These agreements address issues such as dispute resolution, expropriation, and jurisdiction. Pakistan signed its first bilateral investment treaty (BIT) with Germany in 1959 and has since signed up to 53 BITs in an effort to attract more FDI. However, these treaties have not been effective in increasing FDI because they only work when a country's democratic, legal, and political environments are conducive to investment (Hassan et al., 2022). Investors may leave a country if the infrastructure is poor, institutions are weak, there is a lack of energy, and the rule of law is not upheld. While the signing of BITs is commonly perceived as a means of maximizing FDI, it does not necessarily guarantee an increase in FDI. Attracting FDI, on the other hand, is contingent on the development of strong institutions that ensure exchange rate stability and a strong rule of law.

### **Recommendations**

#### **Reforms in the Court System**

According to the *Riqo Diq*, *Karkey*, and *Bayinder* case law, Pakistan lacks enforcement of foreign investors' contractual rights, decision-making is inefficient and partial, foreign investors and their property are not protected, and fair and equitable treatment of foreign investors is difficult and costly. In these three cases, Pakistan lost approximately \$7 billion, a sizable sum for a country with a fragile economy like Pakistan. The following are the steps Pakistan can take to address these issues.

1. Establishment of a Specialised Commercial Court

In Pakistan, the average time it takes to resolve a commercial dispute, from trial to judgment, exceeds 1000 days, which is considerably lengthy (World Bank, 2022). Furthermore, enforcing a judgment can take up to 12 months, creating significant time constraints for executing judgments. These lengthy legal proceedings frequently result in higher costs. This can amplify the financial burden associated with the cumbersome procedure for the foreign investor. A specialized commercial court could offer a promising



solution to the long-standing problem of delays in resolving disputes involving foreign investment.

The establishment of a specialised commercial court in Pakistan has the potential to transform the country's legal system. This will improve judicial efficiency, save time, and reduce the backlog of pending cases, allowing for faster dispute resolution. One significant advantage of a specialised commercial court is the consistency with which it applies commercial law. Judges working in these courts would gain expertise in handling complex commercial cases, resulting in more informed and reliable decision-making processes, particularly in alternative dispute resolution (ADR), which is frequently used in commercial disputes.

Notable examples from other countries provide useful insights. Centralised commercial courts have been established in Austria and Belgium. Countries such as the United Kingdom and the United States, on the other hand, have opted for commercial divisions within their existing court systems. Implementing a specialised commercial court in Pakistan would not only speed up dispute resolution and reduce the cost of the legal process, but it would also contribute to the overall development of the country's legal system, promoting investor confidence and attracting foreign investment.

## 2. Effective Case Management Tools

### i) Enforcing time standards

Implementing international case management practices can effectively address delays in the trial process. This can be accomplished by instituting measures such as enforcing time standards and limiting excessive adjournments (Doing Business Reform Strategy Pakistan 2019-2021). Although the Code of Civil Procedure (CPC) establishes time standards for key court events in Pakistan, it has been reported that these standards are not consistently followed. Adjournments are often granted liberally as a delaying tactic, which contributes to delays and strains court resources. Strict adherence to time standards and adjournment limitations would aid in keeping cases on track and ensuring timely case flow.

### ii) Pre Trial conference

Pretrial conferences have proven to be an effective component of case management in many jurisdictions. Following the filing of a claim, these conferences involve a meeting between the judge and the parties before the trial to discuss the details of the case and the subsequent steps and procedures. It also entails narrowing issues, clarifying evidentiary issues, and working toward resolution. It ensures that the case moves quickly and smoothly, reducing the possibility of unnecessary delays and facilitating a timely resolution. Pretrial conferences can help Pakistan improve its



judicial system and ensure efficient case management by following the cooperative approach that has been adopted globally.

iii) Court Automation

Court Automation is a powerful case management tool that improves access to legislation and case law. This promotes transparency, legal literacy, and a better understanding of the legal framework, resulting in a more fair and equitable justice system (Kalanauri, 2021). It is a technology that reduces the amount of human work in a legal proceeding. Electronic filing of initial complaints (e-filing), electronic payment of court fees (e-payment), online court notices (e-service), availability of trail documents, and electronic case management system (ECMS) for both judges and lawyers are some of the features of court automation (Qazi, 2023). This technology significantly reduces the time and cost of legal proceedings, resulting in more efficient enforcement of contractual rights for foreign investors.

**Political Reforms:**

It has been observed that the presence of a stable political environment within a country is the most important determinant of progress, regardless of how many BITs, agreements, conventions, and treaties are signed or the adherence to international practices within a legal system (Hassan et al., 2022). The effectiveness of law enforcement is heavily dependent on political stability. Only when the political landscape is managed well can the implementation of appropriate laws and policies yield positive results, creating a favorable climate for attracting foreign investments. A strong democracy, the rule of law, and an efficient enforcement mechanism are three important aspects of a politically stable state.

i) Strengthening democracy

To address political instability and attract foreign investment, democracy must be strengthened. Certain steps can be taken to accomplish this. First and foremost, it is critical to strengthen the rule of law by ensuring accountability and that violations of free expression and media freedom are investigated, and those responsible are held accountable. Furthermore, democratic institutions such as the judiciary, legislature, and executive branches must be strengthened in order to maintain their independence and uphold democratic principles. Transparency and accountability can be improved within a democratic framework by promoting media freedom and ensuring access to information. Engaging in diplomatic efforts and applying international pressure to Pakistan can encourage it to keep its commitments to human rights and democratic values. Diplomatic dialogue, international monitoring, and collaboration with relevant international organizations and human rights mechanisms can all be part of this. Pakistan can strengthen its democracy and create an environment conducive to foreign investment by implementing these measures.



## ii) Strengthening the Rule of Law and Enforcement Mechanisms

While it is important to recognize that Pakistan has laws in place to protect freedom of expression, media freedom, and judicial independence, foreign investment, as well as the effective implementation and enforcement of these laws, is critical. Regardless of the legal framework, concerns have been raised in Pakistan about the practical application of these principles and noncompliance. To address the issue of insufficient law enforcement in Pakistan, the government should implement well-planned strategies for enforcing regulations. This can be accomplished by putting in place comprehensive enforcement mechanisms, which include broad compliance promotion initiatives, targeted controls, and deterrent sanctions for serious violations. It is critical for the government to form committees that conduct extensive research to identify areas where laws are not being enforced properly. Based on the findings, appropriate actions should be taken to correct the situation and ensure effective enforcement. The government can improve compliance, strengthen the rule of law, and create a more conducive environment for economic growth and development by implementing these measures.

### **Centralisation of a regulatory Authority**

It is highly recommended government should establish centralised regulatory authority. This authority should have the authority to streamline and simplify the compliance process through collaboration with federal and provincial regulatory bodies. This would contribute to the development of a unified compliance framework that aligns federal and provincial regulations in order to reduce inconsistencies and improve coordination.

### **Establishment of Virtual One-stop shop**

It is recommended that Pakistan establish a virtual one-stop shop for foreign investment. This virtual platform would function as a centralized hub from which investors could access all relevant information, services, and resources regarding foreign investment in the country. The platform should have a user friendly interface and comprehensive information on investment procedures, regulatory requirements, incentives, and available opportunities. It should also contain crucial information about registering with the Securities and Exchange Commission of Pakistan (SECP) and opening an account with the State Bank of Pakistan (SBP). The virtual platform should provide clear guidelines and step-by-step instructions on how to register with SECP, including the necessary documents, forms, and fees. Similarly, it should provide comprehensive guidance to foreign investors on opening an account with the SBP, outlining the necessary procedures and documentation.

Furthermore, the virtual one-stop shop should provide up-to-date information and trends in foreign investment. This can include information on sectors attracting significant foreign investment, emerging industries, policy changes, and government investment incentives. It should also allow investors to submit investment applications online, streamline processing, and ensure timely communication between investors and relevant government agencies. In addition, the virtual one-



stop shop should include features like a knowledge base, FAQs, and interactive tools to answer investor questions and provide real-time support. Pakistan can significantly improve its foreign investment environment, attract more investors, and foster economic growth by implementing this virtual platform.

**Conclusion:**

In conclusion, the analysis of foreign direct investment (FDI) trends, prospects, and challenges in Pakistan sheds light on the critical role FDI plays in the country's economic development. While Pakistan has taken steps to establish a legal framework and attract foreign investment, significant challenges remain that hinder the inflow of FDI into the country. The analysis of Pakistan's legal framework for foreign investment revealed complexities and difficulties in navigating the system. The Foreign Private Investment (Promotion and Protection) Act of 1976, which served as the foundation for navigating foreign investment, is out of date and in need of modernization.

The World Bank's Ease of Doing Business Index ranking indicates the need for additional simplification and clarity in the legal regulations governing foreign investment. According to the US Department of State's Investment Climate Statement 2022, in order to increase FDI inflows, Pakistan must clarify its laws and strengthen its enforcement mechanisms. Furthermore, the economic crisis, political instability, and rising terrorism all contribute to an uncertain investment environment, undermining the confidence of potential foreign investors. Inconsistencies in the application of laws, a lack of enforcement of foreign arbitral awards, and delays in dispute resolution were highlighted in the case laws discussed in the essay. These challenges raise concerns about the protection of foreign investors' rights, contract enforcement, and adherence to international obligations. Addressing these issues is critical to improving the investment climate and attracting significant FDI inflows.

In the midst of an economic crisis, Pakistan desperately needs to improve and its FDI to stimulate its economy. It is critical to overcome Pakistan's foreign investment challenges. The government should prioritize streamlining, modernizing, and simplifying the legal framework for foreign investment in order to make it more transparent, predictable, and investor-friendly. This includes ensuring that laws and regulations are up to date and consistently applied, as well as establishing effective dispute resolution mechanisms. Efforts to improve the ease of doing business should be intensified. This involves reducing bureaucratic hurdles, enhancing administrative efficiency, and implementing business-friendly policies and procedures. Improving infrastructure, education, and research and development capabilities will also help Pakistan become more competitive and appealing to foreign investors.

It is critical to address political instability, terrorism, and corruption in order to create a stable and secure environment for foreign investors. Strengthening governance, promoting transparency and accountability, and combating corruption will help potential investors gain trust and confidence.



Furthermore, Pakistan should actively participate in international cooperation and seek partnerships with countries with significant FDI outflows. Learning from best practices, obtaining technical assistance, and exchanging knowledge and experiences can all help Pakistan attract and protect foreign investment.

In conclusion, while Pakistan has made efforts to attract foreign direct investment, challenges remain that must be addressed. Pakistan can improve its investment climate by modernizing its legal framework, establishing centralized commercial courts and case management tools, strengthening enforcement mechanisms, addressing political instability, and participating in international cooperation. These steps will help the country attract significant FDI inflows, foster economic growth, technological advancement, and job creation, and ultimately achieve long-term development.



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