

LLM Thesis

**CONCEPT OF CONFIDENTIALITY IN COMMERCIAL ARBITRATION
IN PAKISTAN: A COMPARATIVE STUDY WITH UK**



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Dedication

I hereby dedicate this thesis to my family members especially to my father, mother and elder brothers who supported and prayed for me all the time to complete my work successfully.

Acknowledgement

First and foremost we must praise the One, worthy of all praise, Allah the Almighty, the source of all wisdom and creation, for His immense bounties and ever-ending mercy. We lack the words to thank Allah for His blessings that He has bestowed upon us. I offer my humble homage to the Prophet Muhammad Peace be upon Him, Who is a beacon to well-wishers of mankind.

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Abstract

International commercial arbitration is a procedure adopted by parties to contract to settle their difference out of court with the aim to reduce time wastage, enhance harmony and business ties between parties. International Commercial Arbitration caters the needs of business community. Initially traders were facing enforcement issues regarding their arbitration awards (especially when cross-border trade was involved).

Confidentiality was fully observed as inherent norm, embedded in the contract however after recent legal development many complications have arisen. Drafting Arbitration contract is the duty of legal experts because corporate sector generally doesn't go the knitty critty of contracts as their focus is on business and profits. Lack of confidentiality often creates problems for parties to contract due to many reasons e.g. bad publicity, trade secrets etc. however insertion of Confidentiality Clause can save their corporate ship from Tsunami.

Unfortunately there is not a single provision in Arbitration Act 1940 and ADR Act 2017 that deals with the confidentiality. It would be reasonable to state that arbitration proceedings conducted under the 1940 Act, recognition and enforcement (arbitration agreements and foreign arbitral awards) act 2011 and ADR Act 2017 are not confidential. It seems that our legislators have neglected this area of interest in their legislation.

In lieu of problems (issues) which have been mentioned and with the guidance from the laws of other countries it can be safely stated that if confidentiality clause is inserted in Contracts of International Commercial nature then it will cater the needs of business community and will

avoid uncertainty for which suggestions are given. Similarly it will help to ensure risk mitigation which is factor of vital importance in International Transactions.

List of Abbreviations

LCIA> London Court of International Arbitration

OLA O NISJA> Ola Ø. Nisja is a Partner at Wikborg Rein's Oslo office and is head of the firm's Contract Law and Construction practice.

ICA> International Commercial Arbitration

PRC> Professional Regulation Commission

SIAC> Singapore International Arbitration Centre

ICC> International Chamber of Commerce

UNCITRAL> United Nations Commission on International Trade Law

WIPO> World Intellectual Property Organization

AAA> American Arbitration Association

CISG> United Nations Convention on Contracts for the International Sale of Good

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