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SECTION A
LEGAL DRAFTING
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ARBITRATION

*1. Introduction*
Arbitration is an alternative dispute resolution (ADR) mechanism where parties, by mutual agreement, refer their existing or future disputes to a neutral

third party called an _arbitrator_ instead of going to ordinary courts. The arbitrator hears both sides and gives a binding decision known as an _award_. It is rooted in party autonomy, speed, privacy, and expertise. In Pakistan, arbitration is mainly governed by the _Arbitration Act, 1940_, while international commercial arbitration also draws on the _Recognition and Enforcement (Arbitration Agreements and Foreign Arbitral Awards) Act, 2011_ which implements the New York Convention.

*2. Meaning and Definition*
Arbitration is a consensual, quasi-judicial process. _Russell on Arbitration_ defines it as “the reference of a dispute to the decision of one or more persons, either with or without an umpire, for the purpose of obtaining a binding decision.” The key idea: parties choose their judge, choose

the procedure, and agree to be bound. It is neither mediation nor litigation. The mediator facilitates settlement; the court adjudicates with state authority; the arbitrator adjudicates with authority derived from the parties' contract.

*3. Essential Elements*
- *Arbitration Agreement*: Must be in writing, showing intention to submit disputes to arbitration. It can be a clause in a contract or a separate submission agreement.
- *Dispute*: Must be present or future, civil in nature, and arbitrable. Criminal matters, matrimonial status, insolvency, and public policy issues are generally non-arbitrable.
- *Tribunal*: One or more arbitrators appointed by parties or by court under Section 8 or 20 of the 1940 Act. They must be impartial and independent.

- *Procedure*: Parties can tailor rules—venue, language, evidence. In absence of agreement, the arbitrator follows principles of natural justice.
- *Award*: Final, written, reasoned, and signed. It is enforceable like a decree of a civil court after expiry of the limitation period for setting aside.

*4. Types of Arbitration*
- *Ad hoc Arbitration*: Parties set their own rules without institutional support. Cheaper but needs cooperation.
- *Institutional Arbitration*: Conducted under rules of bodies like ICC, LCIA, or Pakistan's Centre for International Investment & Commercial Arbitration. Provides administrative support and standard rules.
- *Domestic vs International*: Based on nationality of parties, place of arbitration,

or subject matter.
- *Statutory Arbitration*: Compulsory under special statutes, e.g., Cooperative Societies Act.
- *Fast Track Arbitration*: Time-bound, documents-only, no oral hearings, for quick disposal.

*5. Advantages*
Speed compared to congested courts; confidentiality of trade secrets; choice of expert arbitrators; flexibility of procedure; finality with limited appeal grounds; and enforceability abroad under the New York Convention. For business, it reduces risk and preserves commercial relationships.

*6. Limitations*
Limited appeal increases risk of wrong decisions; arbitrator’s fees can be high; absence of coercive powers means courts

must assist for interim measures; and if one party is uncooperative, delays occur. Also, lack of precedent means less legal development.

*7. Enforcement and Court Intervention*
Under Sections 14–17 of the 1940 Act, an award is filed in court and made a “rule of court,” becoming executable as a decree. Under Section 30, it can be set aside only for arbitrator misconduct, award beyond reference, or corruption. Courts may grant interim relief under Section 9 and appoint arbitrators under Section 20. The modern trend is “minimal intervention.”

*8. Conclusion on Arbitration*
Arbitration balances party autonomy with state supervision. It is the backbone of commercial dispute resolution, especially in construction, shipping, and cross-border

trade. Law reforms now push for time limits and institutional arbitration to cure delays.

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*PART II: DEDICATION*

*1. Introduction*
Dedication in law means the voluntary giving of private property, or a right in it, for public or religious use. It is a concept of property and trust law, distinct from sale or gift because there is no consideration and the beneficiary is the public or a section of it. In Islamic law, the parallel is _waqf_; in common law, it appears as dedication of highways, parks, or temples.

*2. Meaning and Definition*
Dedication is “an intentional appropriation

of land by the owner to some public use, coupled with acceptance by the public." _Halsbury's Laws_ state it is a unilateral act needing no deed, but intention must be clear. Once complete, the owner is estopped from reclaiming; the property becomes impressed with a public trust.

*3. Essential Elements*
- *Intention to Dedicate*: Can be express—by deed, board, or declaration—or implied from long user and acquiescence. E.g., leaving land open for 20 years as passage.

- *Subject Matter*: Usually immovable property, but easements like right of way can be dedicated.
- *Acceptance by Public*: User by public or by a competent authority like municipal committee.
- *Competent Dedicator*: Owner must

have capacity and title. A tenant cannot dedicate the landlord's land.
- *Object*: Must be for public benefit—road, park, graveyard, mosque, school.

*4. Types of Dedication*
- *Express Dedication*: Written instrument or public declaration: "This land is dedicated as a public park."
- *Implied Dedication*: Inferred from conduct—owner fences off land leaving a strip for passers-by, and public uses it without objection for years.
- *Statutory Dedication*: Under laws like Highways Act or Cantonments Act, certain acts automatically create public rights.
- *Waqf*: Islamic dedication of property for religious/charitable purposes; ownership vests in God, usufruct for beneficiaries. It is irrevocable and inalienable.

*5. Dedication vs Gift, Trust, and Easement*
A _gift_ is to a definite donee with acceptance; dedication is to indefinite public. A _trust_ vests property in trustees; dedication may vest control in public authority without formal trustees. An _easement_ is a private right over another's land; dedication creates public right, not private.

*6. Legal Effect*
Once dedication is complete, the owner loses exclusive rights. He cannot revoke, sell free of public right, or obstruct user. The public acquires an irrevocable license. If the purpose fails, courts apply _cy-près_—apply property to nearest similar public purpose rather than revert to heirs. Encroachment can be restrained by suit for injunction by any member of public or by

Advocate General.

*7. Termination*
Dedication rarely ends. It terminates only by statute, by lawful diversion to another public purpose, or when the object becomes impossible and no cy-près is possible. Non-user alone does not extinguish it; there must be formal abandonment by public authority.

*8. Importance*
Dedication builds public infrastructure without state purchase. Cities grow through private land dedicated as streets. Waqfs sustain mosques, schools, and hospitals across the Muslim world. It reflects social responsibility of ownership and limits absolute dominion of private property.

*9. Conclusion on Dedication*
Dedication converts private right into public utility. It rests on intention + acceptance and is guarded by law because the public interest, once vested, outweighs the owner's change of mind. Courts presume against loss of public rights, making dedication a powerful tool of urban and charitable development.

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*GENERAL CONCLUSION*
Arbitration and dedication, though different, both show how law respects private will to achieve public goals. Arbitration lets parties privately resolve disputes, easing court burden. Dedication lets owners privately create public assets, easing state burden. For an LLB student, arbitration illustrates procedural law and

contract autonomy; dedication illustrates property law and social function of ownership. Mastery of both is essential for practice in commercial and civil fields.