



# Access to Justice

Ministry of Law, Justice & Human Rights  
Government of Pakistan

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N E W S L E T T E R

## President for access to justice for common man

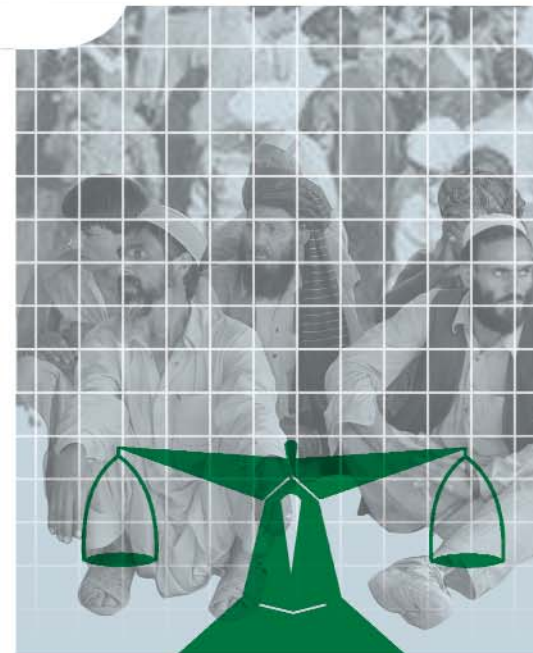


"The Government is fully committed to providing an enabling environment for dispensation of speedy justice for all, specially the marginalized segments of the society as it is their major demand", President General Pervez Musharraf said while speaking at a dinner, hosted at the Aiwan-e-Sadr on May 08 to mark

the Supreme Court Golden Jubilee celebrations. Chief Justice of the Supreme Court, Justice Iftikhar Muhammad Chaudhry, members of the superior judiciary and legal fraternity attended the dinner.

The President categorically stated that his government is committed to providing inexpensive and timely justice to people at grass roots level. He assured the judiciary and legal fraternity of full facilitation in the discharge of this fundamental responsibility. "Ultimately, improvement in governance and socio-economic development means people having access to justice, which is easy, quick and inexpensive", he said.

Referring to The Access to Justice Programme, the President said it is aimed at implementing legislative, judicial, police and administrative reforms. Underlining the importance of an efficient and effective justice system for continued economic development, he said timely disposal of cases could influence both the foreign and local entrepreneurs and investors, thus contributing to economic growth.



### CONTENTS

- AJP Workplan Rationalization  
page02
- Financial Planning  
page02
- Organizational Assessment of PMU  
page02
- M & E Planning & Automation  
page02
- Strengthening M & E Reporting  
page02
- Pakistan Justice Sector Reform Experience  
page03
- Alternative Dispute Resolution  
page03
- Achieving Access to Justice  
page04
- The AJP Challenge  
page06
- Access to Justice Development Fund (AJDF)  
page07
- Judicial Efficiencies  
page07
- The New Justice Sector  
page08

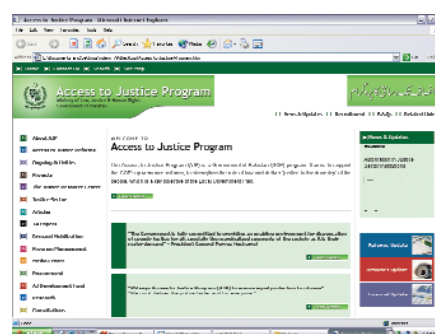
## New Management Arrangements

An MOU between the ADB and the Ministry of Law (MOL) signed on 15 May 2006 calls to strengthen provincial ownership and agrees to a faster pace for the ongoing reforms in the justice sector. The revised arrangements delegate and rationalize contract management and program monitoring responsibilities to the provincial governments ensuring increased engagement and ownership of the provincial justice sector agencies. The streamlined implementation arrangements will address the slow progress of justice sector reforms. The MOL will continue to provide strategic direction through integrated work planning at the federal level. The revised arrangements provide for more flexible program management and expect a positive impact on the pace of reform implementation and capacity building.

## New AJP Website

The AJP website has been revamped recently. Now it is a comprehensive resource on justice sector reforms in Pakistan. It provides background papers, project documents of related projects and details on various reform activities. The website facilitates easy retrieval of information and offers a convenient search engine. The new design and colour scheme encourages surfing in a more friendly way.

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## AJP Workplan Rationalization



Activities under AJP are driven by institutional demand at the federal and provincial level. The AJP work plan is the justice sector institutional demand comprising 183 reform proposals worth Rs. 1203 million. A detailed review of proposed activities was carried out recently to rationalize these proposals thematically and to benefit from economies of scale through centralized implementation. Initial rationalization to remove duplication, overlap and ensure timeliness helped short list 58 proposals in 17 categories, which will be implemented in the current year. Key intervention areas include training in finance and planning, strengthening monitoring and evaluation system, prison systems review and reform, and automation. Work is on for implementation and efforts are underway to establish external alliances with leading national and international institutions in the area of capacity building.

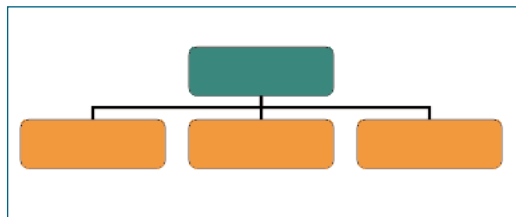
## Financial Planning



Financial planning has emerged as an effective tool for enhanced program implementation. PMU has finalized a financial plan to sensitize stakeholders to the linkages among AJP goals and objectives, related activities, and disbursement. The plan estimates amounts and timings of payments against activities and makes monthly and quarterly projections in respect of expected disbursement during 2006. The financial plan covers approved activities entailing consulting services and procurement of hardware and pipeline activities for which detailed proposals are under preparation for likely roll out in 2006. The financial plan targets 22.07 percent disbursement in 2006.

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## Organizational Assessment of PMU



Operational effectiveness critically hinges upon an organization's structure and the level and quality of its staffing. AJP reviewed adequacy and effectiveness of present capacity levels and organizational arrangements to identify factors that may hinder decision quality and implementation effectiveness. The assessment significantly helped in identifying structural bottlenecks and human resource capacity-deficits. Efforts are underway to fill the capacity-gaps by revising organization arrangements and provision of additional human resources to speed up program implementation.

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## M & E Planning & Automation

New work-planning formats have been introduced recently along with a financial planning system as monitoring and management instruments. Work-planning is reflected in the Weekly Information Report (WIR) used for managerial and operational decision-making. This system ensures that targets are achieved as planned. It highlights areas where the results are not being achieved, and the officer responsible. Work-planning is being extended to cover each individual justice sector institution. The Financial Plan projects monthly and quarterly targets. It allows improved planning for investment, resource availability and expenditure against needs. The work-plan and the financial plan are an integrated management system. This system will eventually be extended to the provinces for which the commensurate capacity building shall be done. Considerable progress has now been done in transferring this entire exercise to Microsoft Project for future automation.



## Strengthening M & E Reporting

The present monitoring and evaluation system in the justice sector requires depth, uniformity and consistency across provinces. Presently, each department has its own system of information collection and monitoring with inadequate emphasis on evaluation. Based on the experience gained through justice sector reforms, consultations are being planned between justice institutions and other specialized data collection departments to develop an effective justice M & E system. This will strengthen transparency and justice policy-making.

## Pakistan Justice Sector Reform Experience

The law and judicial sector is chronically under-funded impairing the quality of judicial services. This malaise is manifest in a monstrous backlog existing throughout the courts with chronic delays in disposal of cases of five, ten, even twenty plus years. Other problems include major shortages of judges and courthouses, grossly inadequate facilities, and a dismal system of compensation, giving rise to complaints of endemic corruption.

The Access to Justice Program (AJP) was launched to redress these institutional problems, and to improve access to justice, as an element of the government's broader poverty reduction strategy. Phase-I one involved a vast amount of foundational work, much of which was complex and inter-dependent on other reforms in other sectors such as police, ombudsman. A great deal of work was undertaken to improve the management of the courts. It included reviewing the courts' information management system, measuring judicial performance, refining performance standards and improving compensation systems.

Initiatives have been made to introduce continuing on-the-job training for judges to improve judicial competence. An extensive training-of-trainers programme on curriculum development and presentation skills was conducted for the teaching faculty of Federal Judicial Academy. Four study tours were conducted for more than 30 judges and court administrators to other common law jurisdictions including Britain, Canada, the United States, Australia

and Singapore. This study tour provided the judges with 'do-able' role-models of how courts could re-assume control of their day-to-day proceedings, and encouraged participants to reinvigorate their work practices with a view to reducing backlog.

In order to improve the quality of judicial policy-making, an important initiative focused on expanding the role and mandate of the Law and Justice Commission to include responsibility for coordinating the administration of justice. Another major component was the pilot project in delay reduction, which is arguably the earliest visible success of the programme. The project has resulted in substantial improvements in backlog reduction, which are measurable favourably in international terms. These included a reduction of more than 30 percent in backlog in one major judicial district in Karachi, capital of Sindh, and an imposing increase in productivity in case disposals of 246 percent in Peshawar, capital of North-West Frontier Province (NWFP). Chief justices endorsed the extension of the pilot project to all courts throughout the country. Proposals were also developed to revamp the process serving establishment agency, and to improve court relations by introducing bench-bar and citizen-court liaison committees in every district. The remaining components provided important but smaller outputs in terms of resources provided.

On the 'win' side of the balance sheet, it is appropriate to categorise the following initiatives: the

delay reduction project which has generated impressive measurable improvements in performance; the design of an overarching courts' automation plan which can provide a blueprint for major improvements in information management capacity across the justice sector; the training-of-trainers program at the Federal Judicial Academy which has consolidated a foundation of training capacity within the judiciary itself; publication of the bench book which provides a quality-assured practical tool for judges with extended shelf-life; revamping of the courts statistical reporting system and the first publication of annual performance reports for the courts in the past thirty years which will build on these improved reports, in due course.

On the other side of the ledger are the ongoing challenges of improving the system of judicial compensation and incentives; the chronic under resourcing of the judicial budget and, arguably most important, the lack of visible linkage of the reform agenda to poverty alleviation and benefits for the public. There has been relatively little work committed to legal education, the legal profession, and bench-bar relations.

This is a brief summary of Dr. Armitage's article that appeared in the LGD.

### **Livingston Armitage**

This is a brief summary of an article that appeared in the 2003 (2) Law, Social Justice & Global Development Journal (LGD).

## Alternate Dispute Resolution

With a view to help reduce delays in courts and expedite dispute resolution, AJP is technically supporting initiatives to strengthen alternate dispute resolution (ADR) forums created under the Local Government Ordinance 2001, particularly *Masalihat Anjuman* or Conciliation Committees that build on traditional dispute resolution institutions such as the *Panchayat*. AJP also aims at providing technical support to the government to bring Pakistani arbitration law up to international standards to expedite resolution of commercial disputes; and to introduce court-annexed ADR, which has the potential to reduce delays in courts and to expedite dispute resolution.

Courts add transaction costs and discourage commercial activity with complex procedures. Legal

representation is expensive and delays are common. Time is money, little wonder that different forms of alternative dispute resolution are preferred by people.

It is recognised that litigation is not necessarily the best means for resolving disputes. Alternative dispute resolution has thus become an essential part of modern courts and the administration of justice. Studies prove that alternative dispute resolution improves the pace of litigation, produces high settlement rates, and engenders more durable agreements. Also, it allows a greater participation and control to all parties and is less adversarial. It has been held to provide an increased access to justice for disadvantaged groups.

The benefits of alternative dispute resolution have seen it moving beyond commercial arbitration. To strengthen alternative dispute resolution, in particular commercial arbitration, the Pakistan Legal and Judicial Reform Project has recommended the establishment of commercial divisions that specialise in commercial cases in High Courts, the enactment of a model arbitration law and the creation of an alternative dispute resolution centre.

The Arbitration Act of 1940 has been ineffective in providing litigants with the means for resolving claims outside of the courtroom. Under AJP, the law will be reviewed, and amendments made to meet the original legislative intent.



## Achieving Access to Justice

How can the quality of laws and institutions administering justice be improved ensuring enhanced accountability and performance? It is indeed a difficult question to answer in view of the unending political and economic instability in Pakistan over the last two decades. Continued political and economic instability in Pakistan has been a major stumbling block to reform.

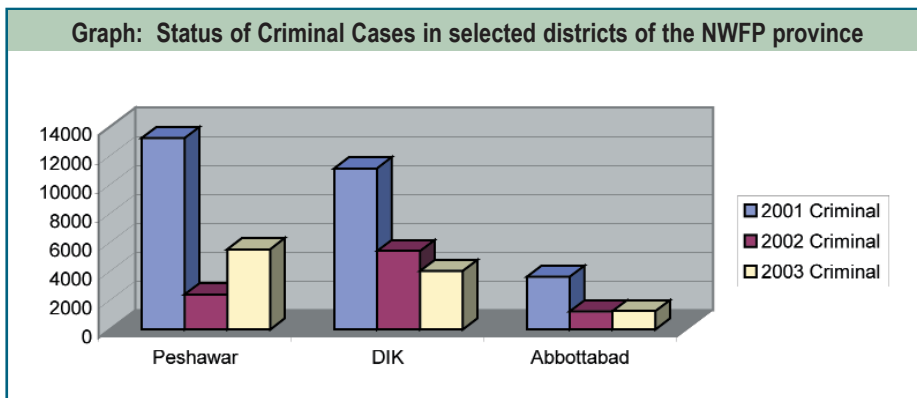
The Asian Development Bank spearheaded the initiative with a \$350 million loan that included a \$20 million technical assistance and \$25 million endowment to finance the Access to Justice Development Fund. The AJP has demonstrated the operational validity of poverty reduction strategies earlier considered irrelevant by major donors and lenders to Pakistan

the dispensation of justice are working together to implement the program. Courts, Ombudsman and the police institutions are all part of the AJP in Pakistan. Provinces can access upto 60% of the \$305 million for justice sector investment and reforms.

The AJP mobilizes and strengthens reform constituencies within the justice sector with citizen engagement to sustain the process. The reforms promote general legal empowerment, public access to courts with an efficient case management system and provision of enabling conditions for litigants and under-trial prisoners. It also works to improve the working conditions for the district judiciary and lawyers.

The AJP is supported by a complementary \$300 million Decentralization Support Program (DSP) and other ADB technical assistance projects focusing on government-nongovernmental relations, devolution, gender and governance mainstreaming and police reforms pilot project. These initiatives have significantly transformed the institutional landscape of the justice sector.

**Graph: Status of Criminal Cases in selected districts of the NWFP province**



A valid response has to provide security and ensure equal protection under the law to citizens especially those too poor to pay for justice services. The vulnerability of the poor also has to be reduced through securing and sustaining entitlements and by strengthening the legitimacy of state institutions for conditions favorable to pro-poor growth leading to a boost in investor confidence.

The solution has been provided by the government's Access to Justice Programme (AJP) spearheading justice sector reforms across the country to ensure that Pakistan's governance challenges are adequately met.

through the successful financing of justice sector reforms in Pakistan.

Operationally successful development and access to justice are closely linked as is security for the people fighting a battle of survival with poverty. Reform of the justice system in Pakistan is, in many ways, a pre-condition to development and to fight poverty. Extensive literature points out the direct relationship between good governance and economic and social development.

The Ministry of Law, Justice and Human Rights (MOL) and 29 federal and provincial agencies concerned with

### ■ Citizen-state relationships

The AJP has contributed to fundamental shifts in the post-colonial attitudes through the promulgation of Local Government Ordinances in 2001 and the replacement of the 1861 Police Order with new legislation in 2002. The Police Order aims to depoliticize law enforcement and transform the police force into a public service. Consequently, Pakistan is ahead of its regional peers in targeting local separation of powers between the judiciary and the executive. The establishment of a National Judicial Policy Making Committee (NJPMC) in 2002 provided a statutory basis for a national judicial policy focusing on delay reduction





in courts. The Law and Justice Commission (LJC) has been reorganized with an expanded mandate to encourage use of law by the poor to gain control over their lives. The Family Laws were amended in 2002 for increased gender sensitivity. A Freedom of Information Ordinance promulgated recognized access to information as a basic citizen entitlement. Legislation provided for small causes courts in each district and the amended civil procedure now empowers courts to call for alternate dispute resolution at any time during a trial.

## ■ Courts, Judiciary and the Police

Delay reduction initiatives are helping to clear the backlog in the courts. Pendency on Criminal cases in the NWFP declined from over 130,000 in 2001 to less than 108,000 by 2003. In Peshawar, Dera Ismail Khan and Abbotabad AJP focal districts these pendency rates went down by 58%, 63.7% and 65.2% respectively.

The functioning of the Inspection Teams in the High Courts has greatly improved. The NJPMC increased monthly judicial emoluments by 40% from September



police and judicial services in the wake of falling budgetary allocations. Provinces used over \$25 million during 2002-04 for 432 schemes from counterpart loan proceeds to improve facilities for the lower judiciary, police and prisons, and associated human resource development.

Police are the first interface with the country's justice system for most of the people. Police reforms are, therefore, the entry point to any change. Key citizen oversight and accountability bodies such as District Public Safety Commissions and District Criminal Justice Coordination Committees are now established. Citizen Police Liaison Committees have been created in all the provinces. Provinces are moving ahead to establish independent prosecution service. These reforms move Pakistan police from a concept of "rule" to one of "service." They establish a code of conduct for law enforcement agency personnel and make police an instrument of the rule of law.

## ■ Administrative Justice and Empowerment

The enactment of consumer protection laws by three provinces moves reforms under the AJP closer to administrative justice for the citizens. The provincial governments have reviewed the ombudsman laws and have announced the establishment of district ombudsman services. The high courts have designated existing courts a forums to entertain torts suits against public servants. At the local level, the legal framework provides for access to information and involvement of citizens in monitoring committees to check executive decisions and practices. Freedom of Information Ordinance has laid down clear rules for transparency and good governance.

The government is examining the possibility of establishing Centers of Excellence in Legal Education (CELE) with the Higher Education Commission (HEC) as part of the AJP to drive these reforms. The Ministry

of Law is also consulting stakeholders in the formulation of a National Legal Education Policy. The first law clinic has been established in the University of Peshawar with the collaboration of leading NGO Aurat Foundation under ADB regional technical assistance. The government is also helping publication of laws in local languages in two provinces. This area will see more action in the future phases of AJP.

## ■ Reform Management Challenges

The absence of provincial management support is a key challenge to the AJP as is the lack of capacity for reform leadership and support to implementing agencies. The engagement with bars and the civil society needs to be further enhanced. Higher public awareness of the reforms will boost public support to the reform process. The next phase of AJP will need to mobilize demand for reforms at a large scale to make them sustainable in the long term.



2004 as incentive for improved performance. It also decided to recruit all district judiciary through the provincial public service commissions. Environmental Tribunals have been established in all the provinces as envisioned in the AJP. The MOL's affirmative policy of August 2004 is a major step ensuring increased participation by women in the legal and judicial professions.

Provinces have increased allocations to the justice sector covered under AJP by 45% in fiscal year 2003-04 with Punjab leading the increase. This addresses justice sector resource constraints responsible for poor



AJP has good ownership among all high courts. The President, Prime Minister and public representatives have expressed strong support for AJP boosting morales of key reform partners. The international community has expressed confidence in the government's willingness to reform by committing resources to co-finance AJP operations.

## The AJP Challenge

The Access to Justice Program (AJP) is the largest justice sector initiative in the world covering the judicial, police, legal and administrative justice sectors. The core focus of AJP is vulnerability -to provide quality justice to the vulnerable. The success of the AJP is the degree to which the reforms ultimately empower the vulnerable.



the police and prisons. It illustrates the viciousness of the poverty and insecurity trap.

### ■ AJP

The AJP broadly covers the judicial, police, administrative justice and legal institutions and services. To ensure improved service delivery and responsiveness to the ordinary consumer, the AJP increases and strengthens public participation and regulation in the justice sector, thereby creating new opportunities for civil society to engage with the justice sector. New institutions have been created and others have been reformed to create space for citizen participation and regulation.

For the courts, Citizen-Court Liaison Committees have been established. Keeping the pro-poor, vulnerable persons as priority, public grievance mechanisms are being strengthened. Designated 'principal officers' in federal and provincial ministries and departments will hear public complaints; this focus on public grievance redress mechanisms will help to foster more responsive institutions. Similarly, for oversight of police services, Public Safety Commissions and Citizen-Police Liaison Committees

have been provided under the Police Order 2002. These represent a radical shift in the traditional model of governance, wherein, government has been opened up for public regulation.

### ■ Civil Society Participation

AJP has also supported the establishment of a 'justice sector' monitor, regulator and reform driver that can ensure integrated justice sector planning and policy-making for justice services. This has been done by strengthening and enlarging the former Law Commission's mandate and capacity so that it is now a Law & Justice Commission (LJC). Program management and design also provide opportunities for civil society participation. The National Program Review and Co-ordination Committee provides for, inter alia, one representative of the Pakistan Bar Council and one civil society representative. Similarly, at the Provincial level, the Provincial Program Review and Co-ordination Committee provides for one civil society representative. Besides citizen regulation, participation and management, civil society can also participate in the reform process through policy dialogue, and monitoring and evaluating the reform process and initiatives.

### ■ The Justice Clientele

The Constitution of Pakistan guarantees fundamental rights for all, including equality of status, of opportunity before the law, social, economic and political justice, and freedom of thought, expression and belief. Income distribution has varied over the last 20 year period with the rich getting richer and the poor poorer, evidencing an increasing variance between the Constitutional promise and the practice.

These development statistics impact the nature and quantum of justice needs, the consumption of justice services and the legal-judicial services market. Hence, in order to deliver justice to the vulnerable, it is essential that justice sector policy-makers and planners keep in mind the 'clientele's' real justice needs. It is in this context that AJP is challenged to bridge the gap between principle and practice by ensuring that law and rights are real -assets for the poor which empower them to expand their life choices, control and reduce poverty.

### ■ Law & Development

International development circles agree that properly 'designed' and 'implemented' law serves as a force for progressive social change. The Human Rights Commission of Pakistan's (HRCP) report is replete with appalling human rights abuse cases where persons have suffered due to the treatment meted out by the



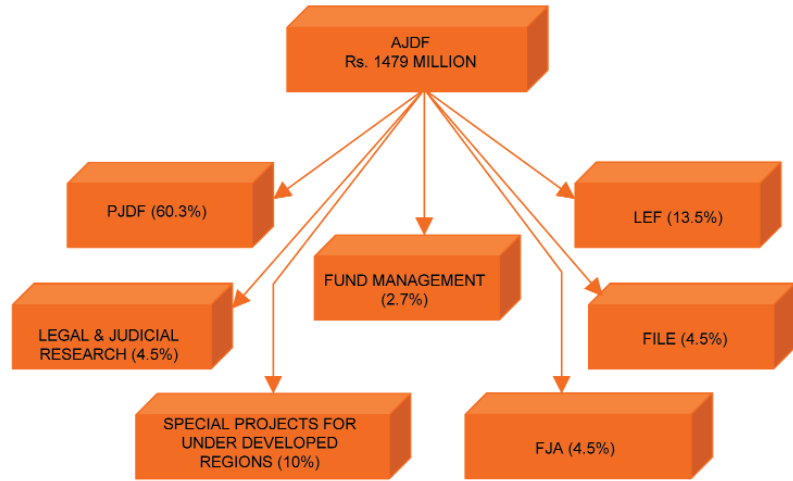


## ACCESS TO JUSTICE DEVELOPMENT FUND (AJDF)

The Access to Justice Development Fund (AJDF) is a Rs 1479 million statutory endowment created by the Government of Pakistan (GOP) to provide supplementary resources to the justice sector. AJDF represents an important feature of GOP's ongoing Access to Justice Program (AJP) supported by the Asian Development Bank (ADB).

The AJDF is a demand driven expenditure characterized by a unique funding mechanism to help sustain and deepen reforms in the justice sector. The fund provides an innovative, independent and flexible extra-budgetary support to improve performance of subordinate courts, promote legal empowerment of the vulnerable, improve legal education, judicial training and support cutting edge law and policy research. Lawyers, academicians, researchers and civil society organizations interested in the justice sector reforms can access funds by submitting project proposals to the LJCP.

The Law and Justice Commission of Pakistan (LJCP) is responsible for management and administration of AJDF. The Governing Body (GB) of the AJDF approves projects for funding and provides policy guidance to the AJDF and is headed by the Chief Justice of Pakistan.



Chief Justices of the four Provincial High Courts, Secretary, Ministry of Finance, the Secretary, Ministry of Law and Justice and the Secretary LJCP are the members of GB.

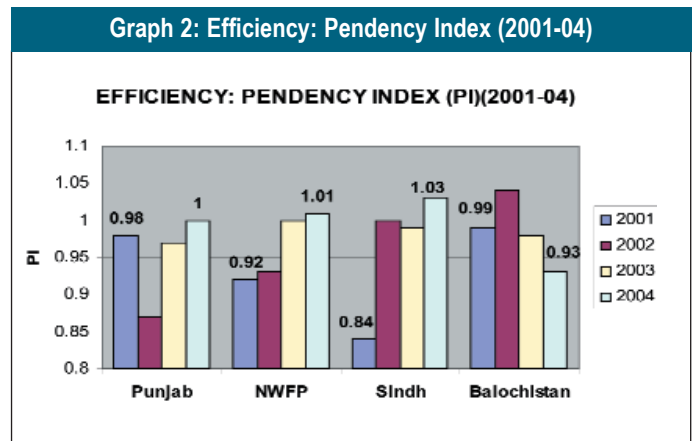
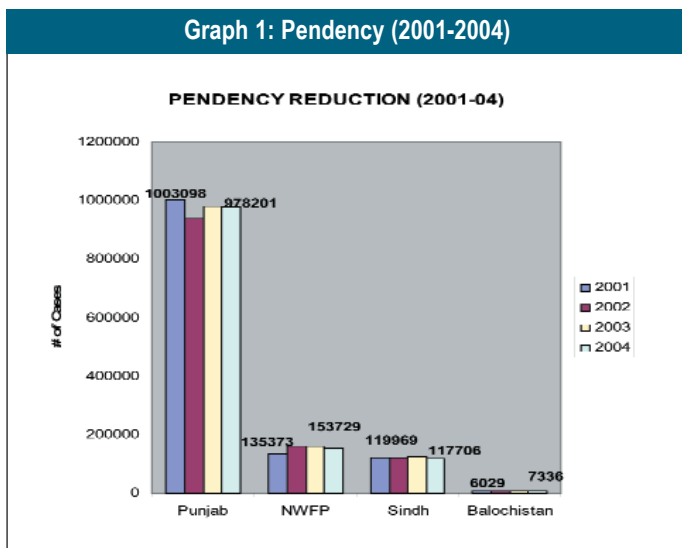
LJCP has generated over \$ 2 million by investing endowment in government approved securities. During the last financial year, LJCP disbursed the

share of High Courts to improve infrastructure development of their subordinate courts. To fund projects under different windows, LJCP received 79 proposals from stakeholders of the justice sector of which nine NGOs are being contracted to implement legal empowerment projects. These approved projects aim to expand ongoing legal aid and legal literacy work in select remote districts of Pakistan.

## Judicial Efficiencies

The AJP M&E system reports considerable progress in reduction of case load pendency across the district judiciary in 3 of the 4 provinces. Based on the analysis of the data for the years 2001 to 2004 (source: Annual Reports of High Courts), this success of the district judiciary can be attributed principally to enhanced efficiency of judges in disposing off cases.

Pendency for the district judiciary declined from 1,003,098 cases in 2001 to 978,201



cases in 2004 in Punjab. Sindh also reported the same trends with pendency decreasing from 119,969 cases to 117,706 cases in the said period. Success in NWFP is indicated by 159,074 cases in 2002 reduced to 153,729 by 2004. Balochistan, however, could not achieve reduction in pendency due to staff shortages.

Success in pendency can be attributed to greater efficiency in the district judiciary. The Pendency Index (PI) have risen in three provinces. In Sindh, the PI rose from 0.84 to 1.03 during the 2001-2004 period. This is significant as the judges are now disposing off 103 cases for every 100 instituted in 2004, thus resulting in a reduction in pendency. This is an improvement from the situation in 2001, where the judges were disposing off 84 cases for every 100 instituted, causing pendency to rise by 16 cases per 100 instituted every year.

## The New Justice Sector

Recent justice reforms introduced through the Local Government Ordinance 2001 (LGO) and Police Order 2002 (PO) have created a quasi-formal justice sector and introduced citizen participation and civic governance systems. The PO has created the Public Safety Commissions (PSC) and Citizens Police Liaison Committees to provide citizen oversight and public grievance redress. District PSC also approve the district annual policing plan. The District Criminal Justice Co-ordination Committee, chaired by the District Sessions Judge, co-ordinates between the different criminal justice institutions to improve inter-

institutional working. An independent prosecution service has been created.

The LGO creates a new community-based statutory justice sector. For instance, *Insaf Committee*, operating at the Union Council level, helps improve the quality of formal justice by engaging with the High Court Monitoring and Inspection Teams (MIT) and 'quasi-formal' justice alternative dispute resolution provision through operationalising the *Musalihat-i-Anjuman*. At the Union Council and *thana* levels, there will be Public Safety Committees to support the Public Safety Commissions. To strengthen local accountability, the LGO provides for the establishment of a District Ombudsman, mandates transparency and Complaint Cells.

In NWFP, the judiciary, by an executive order, have

created Citizen-Court Liaison Committees (CCLC) and Bench-Bar Liaison Committees (BBLC), which help to improve judicial working and image. Other judiciaries have created Information Kiosks in court complexes to facilitate citizens in court working.

The challenge is to ensure functional integration within these justice sectors. For example, the MIT needs to be able to engage with the *Insaf Committee*, the CCLCs and BBLCs; public grievance redress systems need to be uniform and standardised for user-friendliness; and transparency standards to be formulated. Effective integration between the formal and quasi-formal justice institutions, extend the benefits of citizens participation and oversight to a non-devolved formal justice sector, promising overall a more integrated, transparent and responsive justice sector.

### Access to Justice Program

Access to Justice Program (AJP), seeks to enhancing citizens' access to justice by ensuring the provision of security and equal protection of the law to the citizens, in particular the poor; securing and sustaining entitlements for reducing the vulnerability of the poor; strengthening the legitimacy of state institutions and ; Creating conditions conducive to pro-poor growth, especially by fostering investor confidence. The achievement of these objectives necessitates specific intervention by the AJP IAs at federal and provincial levels in the form of targeted development projects.

The total funding for AJP is \$ 350 million of which \$ 20 million is specified for a technical assistance project or TA loan, \$ 25 million for Access to Justice Development Fund and \$ 305 million for program loan.