PROPOSED
TECHNICAL ASSISTANCE
TO THE
ISLAMIC REPUBLIC OF PAKISTAN
FOR
STRENGTHENING OF INSTITUTIONAL CAPACITY
FOR JUDICIAL AND LEGAL REFORM

September 1999
CURRENCY EQUIVALENTS
(as of 8 September 1999)

<table>
<thead>
<tr>
<th>Currency Unit</th>
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<td>PRe1.00</td>
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Pakistan maintains a managed floating exchange rate under which the rate for the Pakistan rupee is fixed on a daily basis in terms of US dollars. For the purpose of calculations in this report, the rate of $1.00 = PRs50 is used.

ABBREVIATIONS

ADR – alternative dispute resolution
FJA – Federal Judiciary Academy
FSC – Federal Steering Committee
JO – judicial ombudsman
MOL – Ministry of Law, Justice and Human Rights
PSC – provincial steering committee
TA – technical assistance

GLOSSARY

Alternative dispute resolution
Methods (such as arbitration, conciliation, or mediation) for resolving disputes other than through formal institutions such as the courts or tribunals

The bar
The legal profession

The bench
The judiciary

Benchbook
A manual on important legislation for guidance of judges

Cause list
List of actions and matters to be heard in the court

Civil suit
A case filed in court for money, land, injunction, direction, or declaration, etc., but that involves no determination of criminal liability

Criminal case
A case filed in court to determine criminal liability

Ombudsman
An institution or person who investigates complaints of administrative action

Pecuniary jurisdiction
Defines the value of suits that civil courts can try

Shariat
Islamic law

Try a suit/case
Trial (i.e., examination and decision) of a matter of law or fact by a court of law

NOTES

(i) The fiscal year of the Government ends on 30 June.

(ii) In this report, "$" refers to US dollars.
I. INTRODUCTION

1. Improving governance has emerged in recent years as one of the key development priorities in Pakistan. Judicial and legal reforms are a central item in the country's development agenda as confirmed by the Bank-funded technical assistance (TA), Pakistan 2010 Long-Term Perspective Study. The study noted that both foreign and domestic investment in Pakistan will continue to be of a short-term "quick-take" nature unless the federal and provincial governments commit financial and human resources to rebuilding judicial systems and enhancing the professional capability of judicial personnel, and then commit political capital to supporting adherence to the rule of law.

2. To address this critical issue, the Ministry of Law, Justice, and Human Rights (MOL) prepared a preliminary paper in 1997, Pakistan 2000: Reforming the Judicial System, and asked the Bank to help identify a reform agenda for the sector. The Bank responded by approving two TAs: Strengthening Government Legal Services and the Subordinate Judiciary in December 1997, and Legal and Judicial Reform in May 1998. Learning from the experience of earlier aid-assisted reform projects, the TAs were carried out with significant inputs from domestic consultants and extensive stakeholder participation. Stakeholder participation has involved the judiciary, the legal profession, and members of the public as represented by various nongovernment organizations including women's groups, journalists, civil servants, academics, and journalists.

3. On the basis of reports prepared under the TAs, the Government and the Bank entered into a dialogue to define a comprehensive judicial and legal reform program that is expected to be the subject of a policy-based operation by the Bank in 2000. As an important preparatory step, the Government asked the Bank to provide advisory TA to strengthen institutional capacity for judicial and legal reform. The TA is included in the 1999 country program and fact-finding was carried out in June 1999. The TA framework is presented in Appendix 1.

II. BACKGROUND AND RATIONALE

4. Prior to British rule, Pakistan had an indigenous legal system based on Islamic and traditional law. Imposed upon this was a common law system that generally accommodated personal laws (i.e., laws relating to marriage and inheritance) of different religious groups. However, the laws and legal institutions introduced during the British regime were generally those suited for rule by the colonial power. Since the creation of modern Pakistan, the legal and judicial system has been adapted on an ad hoc basis to suit the needs of martial law and, more recently, an evolving democratic system. During the 1980s there was a revival of Islamic law, and the Federal Shariat Court examined most laws for their compliance with Islamic law. Apart from laws relating to interest, the Court has judged almost all laws as being consistent with Islamic law.

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1 TA 2647-PAK: Pakistan 2010 Long-Term Perspective Study, for $1,140,000, approved on 24 September 1996.
2 TA 2979-PAK: Strengthening Government Legal Services and the Subordinate Judiciary, for $150,000, approved on 31 December 1997; and TA 3015-PAK: Legal and Judicial Reform Project, for $995,000, approved on 7 May 1998.
3 Primarily, the experience of the World Bank and the United States Agency for International Development, particularly in Latin America and Eastern Europe, where there has been more extensive judicial and legal reform than in Asia.
4 The TA first appeared in ADB Business Opportunities in July 1999 (Internet edition).
5 An appeal of the Federal Shariat Court's judgement banning interest is currently being considered by the Appellate Shariat Bench of the Supreme Court.
5. At the top of Pakistan's court system is the Supreme Court of Pakistan, the apex court, followed by a high court in each province, i.e., the apex provincial court. Together with the Federal Shariat Court (which hears appeals against Islamic criminal law matters and decides on whether any law is in conformity or nonconformity with Islamic law), these courts comprise the superior courts. Below each high court are the district courts; the civil courts are below each district court. Precedents of the Supreme Court are binding on all courts in Pakistan. Administratively, the Supreme Court falls under the federation in terms of direct budgetary support, whereas all other courts fall under the provincial governments. Procedures in courts and their organization are, however, generally uniform throughout Pakistan. In addition to these regular courts, there are a large number of tribunals and specialized courts. Most significant among these are the special courts to decide cases of terrorist acts and major crimes, and the banking tribunals. Labor courts and the National Industrial Relations Commission exercise exclusive jurisdiction over labor and industrial relations disputes with appeals being heard in the superior courts. Similarly the provincial and federal service tribunals deal with all disputes between civil servants and the government with appeals being heard by the Supreme Court. The court structure is set out in Appendix 2.

6. Appointment procedures for judges of the superior courts are contained in the Constitution of the Islamic Republic of Pakistan, 1973. The chief justice is appointed by the President, acting on the advice of the Prime Minister, while other judges of the Supreme Court are appointed by the President after consultation with the chief justice. In appointing the chief justice of a high court, the President is required to consult the chief justice of Pakistan and the governor of the province concerned who acts on the advice of the chief minister of the province. In the case of other judges of a high court, the President is also required to consult the chief justice of the high court concerned.

Until 1997, the appointment of judges for the superior courts was tainted by political favoritism as the President was not required to explain why the advice of the chief justice of Pakistan or of a chief justice of a high court had not been followed. However, in 1997 the Supreme Court decided that the views of the chief justice of Pakistan and the chief justice of a high court should be followed in the appointment process. The Supreme Court also laid down that the most senior judges should be appointed as chief justices. While the political nature of judicial appointments is still the subject of debate, the outgoing chief justice in 1999 assured the bar that all appointments during his tenure were made on merit, the views of the judiciary were fully taken into account, and that the seniority rule in appointment of chief justices was also observed. Appointment of subordinate judges is carried out by each of the provincial high courts. However, the system for selection is not institutionalized and varies from province to province.

7. Empirical research under the legal and judicial reform TA (footnote 2) confirmed that court delays are very serious and disruptive. Apart from delay, the high costs of litigation and lack of faith in the system are major barriers to accessing justice through the courts, especially in the subordinate courts. Significantly, survey results show that while the subordinate courts are not as highly regarded as some other public institutions (e.g., public hospitals or schools), they have a better public image than some other public entities (e.g., the police) and remain a shield for society against injustice. While the court system may have its severe shortcomings, it has the potential for reform, and it is in the public interest that these reforms be urgently undertaken. These TA projects analyzed the major issues confronting the sector, and proposed phased solutions incorporating extensive and multilayered stakeholder participation. The TAs also collected and analyzed, for the first time in Pakistan, empirical data relating to budgetary

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allocations of judicial administration, amounts collected in court fees and fines, delays in courts, and user perceptions.

8. While successive Governments have changed some substantive laws, very little has been done to address systemic problems or to increase efficiency. At least eight law reform commissions have been constituted since 1958 to review the administration of justice in Pakistan and provide recommendations on legal and judicial reform. The last commission, the Commission on the Reform of Civil Law of 1993, blamed successive governments for their lack of concern and their failure to provide resources to improve the administration of justice. The following major problems exist.

9. **Weak Governance and Administration.** There is no centralized coordinating body for developing legal and judicial policy, and no system for collecting and analyzing empirical data to evaluate the performance of the system or to recommend reforms. Establishment of a national judicial policy-making body has, therefore, been identified as a key reform measure, together with a modern system for judicial statistics and institutionalizing the publication of annual high court reports.

10. **Long Delays.** Case management and delay, as a general matter, is a chronic problem. While the measurement of its consequences is difficult, the dysfunctionality of the courts is costly to Pakistan's economy. Inflation creates incentives to delay because there is no statutory adjustment for inflation when a final settlement is reached. The causes of delay are many. However, greater use of alternative dispute resolution (ADR) procedures combined with better case management have elsewhere proven to be effective means to reduce delays. Delay reduction initiatives incorporating ADR and the latest case management techniques, informed by local inputs, need to be pilot tested to find a solution to the problem of delay.

11. **Lack of Professional Management.** There are no professional managers in the courts to handle budgeting, personnel, technology, or case and court management. Record-keeping systems are inadequate and outdated. Introduction of modern management systems, including greater use of information technology in courts, and the establishment of oversight institutions such as the judicial ombudsman (JO) are vital to begin the process of reform.

12. **Lack of Client Focus.** The judicial system is insensitive to the needs of the public. Systems to promote greater access to information for litigants are therefore vital. Sensitivity to the public is also required in the design of new court buildings, e.g., public waiting areas, facilities for women, and information services. As first steps toward a greater customer focus, the establishment of the JO, publication of annual reports by the superior courts, and pilot testing of public information booths need to be carried out together with adoption of new standards for court buildings.

13. **Lack of Budget Resources.** International standards indicate at least 15-20 percent of the judicial budget is necessary to cover essential nonsalary inputs. Yet, at the civil court level, where there is the greatest need for nonsalary inputs, the nonsalary percentage of the budget

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9 Such as inadequate and/or incompetent judges, dilatory tactics by the bar and nonobservance of the civil procedure code. Experience from Sri Lanka has shown the benefits of effective ADR in reducing court congestion.
ranges from a mere 2 percent in Sindh, to 4 percent in Baluchistan, 7 percent in North-West Frontier Province, and 8 percent in Punjab. Nonsalary inputs have declined as a percentage of the budget over the past 10 years. Since 1993/94, the annual budget for the administration and delivery of justice has been reduced in real terms. Currently, the annual recurrent expenditure on justice administration is one of the lowest in the world, ranging from less than 0.5 percent of the total annual recurrent expenditure of the provincial governments (Baluchistan and North-West Frontier Province to approximately 0.75 percent (Punjab and Sindh)), and total less than 0.1 percent of the federal Government budget for recurrent expenditure. Gradually raising the allocation of annual recurrent expenditure for the administration of justice with an increased percentage for nonsalary expenditures will therefore be an important indication of the Government's commitment to reform. This is considered to be an essential part of any strategy to attract quality candidates from the bar, and is especially important at the subordinate court level where incentive packages are poor. As it may not be sustainable in the short term to raise the budgetary allocations to the required percentage, a dedicated judicial development fund is proposed to be established for development purposes; it could be augmented with resources that the judiciary can utilize, e.g., fines for frivolous adjournments and increased court fees.

14. **Shortage of Judges.** In addition to a lack of financial resources, the judiciary is also severely understaffed. The judge to population ratio is exceedingly low (Appendix 2). Human resource constraints are exacerbated by inadequate incentive packages, difficult working conditions, and inadequate performance standards. Filling of judicial vacancies and the creation of new positions need to be addressed. Most importantly, the quality of human resources needs to be improved through better legal education, institutionalized preservice and in-service training, improved incentive packages, and improved performance standards.

15. **Inadequate Infrastructure.** The court infrastructure is a serious impediment to the effective administration of justice. The physical infrastructure of the subordinate courts suffers from years of neglect, impairing the efficient functioning of the judicial system. Indeed, the subordinate court facilities convey a negative image of the judicial system, seriously undermining the status and dignity of judicial institutions. Comparative experience has shown that adequate physical infrastructure is, perhaps surprisingly, an important performance incentive. For example, in Singapore, the capital budget for the judiciary was increased significantly in 1991, and by 1993 there was a 39 percent decrease in pending cases. Panama increased its capital budget in 1992-1993, and by 1994, the number of pending cases had decreased by 70 percent and the number of cases disposed had increased by 39 percent.

16. **Access to Justice.** The lack of a tradition to disclose information relating to public institutions lies at the root of some of the fundamental barriers to accessing justice in the country. Even when policies are translated into law, the laws are published in English, thereby disenfranchising the majority of the population that has a basic literacy rate of about 45 percent in Urdu, the official language of the country. A large proportion of the population, especially women (women's literacy is only 33 percent) and the poor (34 percent of the population lives below the income poverty line), remain unaware of their legal rights. While some attempts have

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10 The provincial administrations spend as much on jails as they do on the administration of justice, while the expenditure on police is 11 times as much, and general administration is between 14 and 18 times as much as allocations for judicial administration.

11 Some members of the bar who oppose any increase in court fees under the present system have stated that they are in favor of raising court fees, provided that there is a mechanism to ensure that the extra revenues will be used for the courts alone.

12 One of the underlying reasons for the benchmark 15 percent of judicial budgets focused on capital investment in facilities and technology in TA 3015-PAK is that comparative experience shows that these nonoperational cost expenditures are an important part of the incentive mix to improve performance.
been made to promote legal literacy, particularly among women, basic information explaining
rights and procedures in courts is not available. Public information offices or information booths
in courts to meet the needs of the public are yet to be developed. This situation is particularly
serious in the context of insufficiently developed civil society institutions that can move to fill this
information gap.

17. The lack of an established redressal system for citizen’s complaints against public
institutions and also grievances within government departments has caused both the
ombudsman’s office and the courts to be overburdened with petty, avoidable, and fruitless
litigation. Grievance mechanisms within government departments need to be established
together with reforms to activate and strengthen aspects of the ombudsman’s law and practice.
This will serve two important goals simultaneously: to improve public sector practice, and to
decongest the courts of cases against the government that should not be there in the first
instance.

18. Exclusion of women from the judicial system as judges and lawyers is particularly
disturbing at a time when the number of women accessing the courts, especially in family
disputes, is increasing. Correcting this gender imbalance requires a long-term strategy to
improve women’s access to education, especially legal education, and sensitize policymakers,
judges, and lawyers to gender issues in the legal system. In the short term, the gender bias in
service rules for subordinate judges needs to be removed, e.g., the maximum age for
appointment as a subordinate judge needs to be raised and gender sensitization needs to be
mainstreamed in judicial training programs. There also needs to be an effort to increase the
number of women judges at all levels.

19. Human Resources in the Courts and the Legal Profession. Pakistan has
experienced a decline in both professional standards and in the quality of legal education over
many decades, which has also had an adverse effect on the quality of the judiciary. Each of the
eight major Law Commission reports since 1958 has strongly recommended strengthening the
quality of faculty, students, standards, curriculum, and facilities in law schools. However,
virtually none of those recommendations were implemented due to lack of political commitment
and lack of incremental budget allocation. A national council of legal education that can set,
monitor, and enforce standards in legal education is urgently required, as well as the creation of
several centers of legal education that can have a demonstration effect. Dialogue for reform
within the profession and civil society needs to be initiated about the role, responsibilities, and
regulation of the legal profession. Strengthened governance and management must be
promoted under the supervision of high-quality faculty committed to professionalization and
quality.

20. To institutionalize legal training, the Federal Judicial Academy (FJA), well-equipped with
excellent infrastructure and hostel facilities for trainees, was set up in 1988. However, FJA is not
fully operational as most of the positions lie vacant or are filled on an acting basis only, and it
has inadequate budget. Strengthening of the judicial system will require substantial investments
in (i) preservice and in-service training for judges and nonjudicial staff, (ii) development of
judicial research and reference materials (e.g., benchbooks), (iii) establishment of a judicial
mentoring system to provide subordinate court judges with the skills needed to reduce delay,
and (iv) fellowships in judicial administration.

13 The sociolegal study under TA 3015-PAK shows that an increasing number of women are parties to suits filed in
the courts. The difficulties of accessing of courts by women underlines the need to improve the capacity of the
formal court system to deliver justice. Without such improved capacity women are effectively disempowered.
21. **Economic Law Reform.** A major problem in the administration of economic laws relates to slow dispute resolution in courts. Commercial disputes in Karachi, the largest commercial and financial center in the country, can take 10 years to decide, not taking into account appeals. This is particularly so for corporate reorganization and insolvency. Pakistan needs a system for expedited dispute resolution. Apart from creating specialized commercial courts or benches in the high courts, the arbitration law and the law relating to corporate reorganization and insolvency needs urgent reform. Reform of the latter is also consistent with the capital market reforms adopted by the Government and supported by the Bank. The present procedures add to the cost and risk of economic transactions, and form a disincentive to investors and to economic growth. The Securities and Exchange Commission of Pakistan has also asked the Bank for assistance in examining alternatives to the present cumbersome corporate reorganization and insolvency procedures, and developing appropriate solutions.

22. The proposed TA will be a third, careful step toward the reconstruction and reinvigoration of public institutions with special, though not exclusive, emphasis on the judiciary. The TA will play a bridging role between the earlier diagnostic analysis of the problems and solutions, and the implementation of full-fledged reforms under a comprehensive reform program for which the Government is seeking external financing. Past law reform efforts have generally failed due mainly to lack of political support. However, strong political leadership has significantly contributed to the success of previous Bank-financed TA, which has followed a participatory and policy-based approach. Building on this experience, the proposed TA will refine the design of policy measures and initiate activities to build capacity and test the will of the executive and the judiciary to implement strategic judicial and governance reform measures in their respective spheres.

23. The Government and the superior courts have expressed keen interest in addressing the critical issues. Extensive discussions have been held with the superior courts, the Government, and parts of civil society so as to shape and evolve the legal and judicial reform process. The Government has already taken initial steps toward such reform by establishing the Federal Steering Committee (FSC) under MOL. At the provincial level, the high courts have also formed provincial steering committees (PSCs). To support these initiatives and continue the process that the earlier TAs have set in motion, institutional capacity for judicial and legal reform needs to be enhanced. Further, as the next stage in a long-term reform program, key governance and institutional reforms that have been carefully prioritized will be initiated and pilot tested to set the scene for subsequent reforms. The subsequent reform package (see para. 3) is under preparation and strong financing interest has been indicated by the governments of Canada, Switzerland, and the United Kingdom, and by the European Union.

### III. THE PROPOSED TECHNICAL ASSISTANCE

#### A. Objective

24. The TA has the twin aims of assisting the Government to strengthen institutional capacity for judicial and legal reform and to initiate key priority reforms. The TA will pursue these objectives by (i) assisting in training a core team mainly comprising members of the steering committees, the judiciary, and selected institutions such as FJA to carry out judicial and legal reform; and (ii) initiating key governance and institutional reforms (such as a judicial policy-
making body at the national level, the JO at the provincial level, and a judicial development fund). The TA framework is presented in Appendix 1.

B. Scope

25. Building upon the work under the two earlier TA projects, the proposed TA will comprise the following seven components.

1. Judicial Policy and Administration

26. Enhance Institutional Capacity for Judicial and Legal Reform. In-country training will be provided to members of the superior and subordinate courts, the federal and provincial steering committees, and other personnel associated with judicial and legal reform. The in-country training will focus on judicial reform processes, court administration and case flow management, and budgetary and financial management for the courts. International study tours will be provided to about 30 personnel, selected in accordance with criteria to be agreed to by the Government and the Bank, to introduce them to reforms in other judicial systems. Fellowships in court administration and case management will be provided to five personnel selected by the Government, in consultation with the Bank.

27. Modernizing Judicial Statistics and Annual Reports. A modern judicial statistical system will be designed to support informed policy-making. Specific judicial performance standards, based on best international practices, will be adopted to evaluate the working of the judicial system, and a format for annual reports for each of the five superior will also be designed. This will assist the courts in establishing effective systems for collecting, analyzing, and reporting to the public. Equipment (photocopier, computer and printer, and facsimile machine) will be provided to each steering committee to carry out this component and other activities under the TA.

28. Operationalizing Key Institutions for Judicial and Legal Reform. In conjunction with drafting of relevant legislation for key institutional changes, detailed organizational recommendations and information, including financial analysis and budget, for operationalizing a judicial policy-making body, the JO, and a judicial development fund will be prepared.

29. Budgetary Allocations. In consultation with the high courts, the provincial governments, and the Ministry of Finance, a plan for increasing budgetary allocations to the judiciary to 1 percent of provincial budgets will be developed. Financial governance criteria for judicial administration, including a formula for allocating budgetary resources to the high courts and the subordinate courts, will also be developed.

30. Pilot Projects on Management Information Systems Initiatives. The following management information system initiatives will be developed on a pilot basis: (i) introduction of computers in the judges' chambers of the Supreme Court; (ii) publication of the cause list using appropriate software; (iii) developing case filing and indexing system in the high courts; and (iv) developing a case tracking system in the Supreme Court, Sindh High Court, and Lahore High Court. Computing equipment will be provided to these courts.

2. Delay Reduction Pilot Projects

31. Based on the recommendations of the legal and judicial reform TA (footnote 2), pilot delay-reduction projects will be developed and implemented; two in Karachi, and one each in
the other provincial capitals and in Islamabad. The projects will include the creation of an ADR center annexed to each pilot court. Noncomputing equipment will be provided to each pilot court. Regular stakeholder consultations will be held, and on the basis of the experience gained, a document for use with the training of new judges will be prepared, and areas for future delay reduction initiatives and research will be identified.

3. Improving Access to Justice

32. **Laws in Local Language.** Capacity for translation of bills and laws and their initial publication in Urdu will be enhanced. In particular, assistance will be provided to translate legal terms in English into Urdu. Coordination will be undertaken with suitable agencies on the translation and publication of legal materials, including the Urdu Language Authority. Training will also be provided to persons responsible for the translation.

33. **Women and Law.** Barriers to women's entry to the judiciary will be further examined using the report from the TA to strengthen Government's legal services and the subordinate judiciary (footnote 2). In particular, service rules will be revised to actively encourage women applicants to the judiciary. Gender sensitization will also be mainstreamed in judicial training programs.

34. **Administrative Grievances.** Upgrading the capacity of the Ombudsman Office to resolve administrative grievances through informal procedures as envisaged under the Ombudsman Order.

35. **Freedom of Information.** A committee on freedom of information will be established to develop new freedom of information policies and laws, including a document classification system. The committee will be assisted by the consultants to build its capacity, taking into account the experience of international best practices.

4. Judicial Training

36. **Enhancing the Institutional Capacity of FJA.** Institutional capacity of FJA will be enhanced by providing assistance to train staff, develop curricula and training manuals, and train trainers in adult education techniques, judicial education pedagogy, and international judicial education standards. The Government will fill vacant positions and augment FJA's budget as part of its contribution to the Project. Preservice and in-service training will also be provided to upgrade the skills of the judicial cadre, based on the curricula developed under the earlier TA and the training provided to trainers.

37. **Development of Benchbooks.** To promote judicial education as part of the larger reform effort under judicial and legal reform, benchbooks will be developed for use by civil judges and judicial magistrates.

5. Legal Education and Legal Profession

38. **Centers of Excellence in Legal Education.** A study will be carried out to examine the viability of setting up two centers of excellence in legal education. Careful consideration of the problems facing existing law schools (e.g., politicization of students and faculty, and weak governance) suggests that these centers of excellence should be based in institutions untainted with these problems. As a result, establishment of these centers at the Lahore University of Management Sciences and the Institute of Business Administration in Karachi is considered
appropriate. Lahore University of Management Sciences is in the private sector, while the Institute of Business Administration is in the public sector and was one of the first business schools established in Asia. Both institutions enjoy good academic reputations and are free from the major problems facing higher education institutions. A law faculty in addition to business and management studies has proved to be a successful combination in many universities in other countries.

39. **Strengthening the Legal Profession.** Assistance will be provided to the FSC to publish an issues paper, in English and Urdu, on strengthening the legal profession and carrying out stakeholder consultation. Key stakeholders will be invited to present discussion papers on specific areas relating to the legal profession. The Government will use the discussion papers as the starting point to initiate a public debate on the legal profession.

6. **Economic Law Reform**

40. This component will focus on developing a scheme to establish commercial courts or commercial divisions within the high courts. Organizational and financial aspects will be examined in detail. Development of a corporate rescue regime prior to winding up bankrupt companies will also be studied.

7. **Drafting and Amending Existing Legislation and Rules**

41. Based on the recommendations under the legal and judicial reform TA (footnote 2), the following legislation will be drafted: (i) amendments to the Civil Procedure Code and High Court Rules on measures to reduce the level of court delay; (ii) bills for the National Council for Legal Education and National Fund for Innovations in Legal Education, including preparing organizational details and budget requirements; (iii) law for the establishment of an effective mechanism to expand access to alternative methods for dispute resolution; and (iv) legislation to replace the existing Arbitration Act, 1940. Coordination with concerned stakeholders will be undertaken in the drafting of recommended proposals. To enhance MOL's capacity in legal drafting, long term training will be provided to one person on the condition that such a person will serve as a legal draftsman for at least 5 years in MOL and organize short term training courses on legal drafting for government lawyers.

C. **Cost Estimates and Financing Plan**

42. The total cost of the TA is estimated at $3,630,000 equivalent, comprising a foreign exchange cost of $1,800,000 and local currency cost of $1,830,000 equivalent. The Bank will finance $2,900,000, including the entire foreign exchange cost and $1,100,000 equivalent of the local currency cost, on a grant basis from the Bank-funded TA Program. The Government will finance the balance of the local currency cost of $730,000 equivalent in the form of office accommodation, administrative support, transport, remuneration of counterpart and support staff, training facilities, and miscellaneous TA administration costs. Detailed cost estimates and the financing plan are in Appendix 3.

D. **Implementation Arrangements**

43. The Executing Agency for the TA will be MOL. MOL will coordinate all activities with the steering committees at the federal and provincial levels and the provincial departments of law. MOL will appoint a full-time TA manager at a joint secretary level or above, reporting to the FSC and the minister of law, it will liaise with the Bank on the conduct of TA activities. MOL, through
the departments of law, FJA, and the courts, will provide appropriate counterpart staff at the federal and provincial levels, and all information and data required by the consultants for carrying out the TA.

44. The Government has established the FSC under MOL, and each high court has established a PSC to carry out judicial and legal reform. The FSC is headed by the secretary, parliamentary affairs and the other members include the joint secretary, MOL. Each PSC comprises three high court judges and is headed by the most senior judge. The composition of the steering committees will be expanded, as necessary, and the Government will inform the Bank of any additional members. The consultant team leader will be represented on the FSC. The Government will ensure that each member of any steering committee continues to serve in that capacity for a minimum of three years and is not removed except for compelling reasons. Each PSC will include a JO when the JO is appointed. The Government will provide training facilities, including the facilities and staff resources in FJA, for the training activities provided under the TA. The Government will ensure that the candidates selected for the international study tours and fellowships return upon completion of studies to work in related positions on the Government's judicial and legal reform program.

45. The TA will be implemented over a period of 18 months and will require 63 person-months of international and 136 person-months of domestic consulting services. The consultants will be fielded by January 2000 and their services completed by July 2001. An international consulting firm will be recruited in accordance with the Bank’s Guidelines on the Use of Consultants and other arrangements satisfactory to the Bank for engagement of domestic consultants. Within the consulting team there will be a core group of two international experts and one domestic expert. The two international experts will be responsible for overall coordination and quality control, and the domestic consultant will act as a senior adviser on judicial and legal reform. It is envisaged that the consulting team will include 16 international and 28 domestic experts providing expertise in fields of judicial reform, judicial statistical systems, judicial and legal training, preparation of legal operational manuals, case and record management, legal drafting of judicial institutions, management information systems, translation and publication of laws, and legal education and legal profession. Reporting by the consultants on the components, including inception, quarterly, and final reports to the Bank will be the responsibility of the Team Leader who will be appointed by the firm. The outline terms of reference for the consultants are given in Appendix 4.

46. In-country training, international study tours, and fellowships will be carried out by the consultant under arrangements satisfactory to the Bank. Equipment will be provided in accordance with the Bank’s Guidelines for Procurement.

IV. THE PRESIDENT'S RECOMMENDATION

47. The President recommends that the Board approve the provision of technical assistance, on a grant basis, to the Government of the Islamic Republic of Pakistan in an amount not exceeding the equivalent of $2,900,000 for the purpose of Strengthening of Institutional Capacity for Judicial and Legal Reform.

\[\text{footnote 16}\text{It was agreed with the Government that the minimum counterpart staff for the TA will comprise a full-time TA manager assisted by two full-time technical staff and full-time support staff at the federal level, and support arrangements in each province.}\]
## TECHNICAL ASSISTANCE FRAMEWORK

<table>
<thead>
<tr>
<th>Design Summary</th>
<th>Performance Targets</th>
<th>Monitoring Mechanisms</th>
<th>Assumptions and Risks</th>
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<tr>
<td><strong>1. Goal</strong></td>
<td>• Core team trained and in place to support federal and provincial judicial and legal reforms</td>
<td>• Trained team for judicial and legal reform and strengthened institutional capacity</td>
<td>• Commitment by the Government, the politicians, the judiciary, and the legal profession to create an enabling environment conducive to the carrying out of the reform</td>
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<td>• Government initiates and pilot tests key institutional reforms</td>
<td>• Feedback from stakeholders</td>
<td>• Full participation of civil society (e.g., nongovernment organizations (NGOs), legal profession, journalists, and academics) in the reform process</td>
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<td>• Increased demand and momentum for reforms as change agents identified and trained</td>
<td>• Reforms in place and functioning</td>
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<tr>
<td></td>
<td>• Key reforms successfully tested</td>
<td>• Government’s will to implement wider program of comprehensive judicial and legal reform is tested, including through relevant laws enacted, increased judicial budget allocations, and annual judicial reporting</td>
<td></td>
</tr>
<tr>
<td><strong>2. Purpose/Objective</strong></td>
<td>• Core team identified and trained to implement reforms</td>
<td><strong>Outputs</strong></td>
<td><strong>Commitment by the Government, the politicians, the judiciary, and the legal profession is forthcoming</strong></td>
</tr>
<tr>
<td><strong>2.1 Train a core team to carry out judicial and legal reform.</strong></td>
<td>• Key institutional reforms prepared and initiated (e.g., setting up of the national judicial policymaking body (NJPB), judicial ombudsman (JO), judicial development fund (JDF), etc.)</td>
<td>• Progress reports</td>
<td></td>
</tr>
<tr>
<td><strong>2.2 Assist the Government to initiate key governance and institutional reforms.</strong></td>
<td>• Pilot testing of some reforms (e.g., alternative dispute resolution (ADR), management information system (MIS) in courts, improving court administration, etc.)</td>
<td>• TA supervision through ongoing communications with consultants and stakeholders</td>
<td>• Reform process is not politicized</td>
</tr>
<tr>
<td></td>
<td>• Achievement of key intermediate targets (e.g., key institutional reforms and pilot testing) before moving to subsequent phase of reform</td>
<td>• TA review missions</td>
<td>• Government seeks full participation of civil society</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• Seminars to allow further feedback from stakeholders</td>
<td>• Effective functioning of steering committees on a functional and professional basis</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• Monitoring the introduction of reforms by the Government</td>
<td>• Ability of the consultants and steering committees to accurately and realistically analyze the existing problems and agree upon recommendations suited to indigenous conditions</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• TA completion report</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td><strong>Impacts</strong></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>• Government’s commitment to institutionalize key reforms tested, including additional judges, financial resources, and policy changes</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>• Improved court administration and case management in pilot projects</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>• Greater civil society awareness and involvement in judicial policymaking</td>
<td></td>
</tr>
</tbody>
</table>

(Reference in text: pages 1, 6; paras. 3, 24)
<table>
<thead>
<tr>
<th>Design Summary</th>
<th>Performance Targets</th>
<th>Monitoring Mechanisms</th>
<th>Assumptions and Risks</th>
</tr>
</thead>
<tbody>
<tr>
<td>3. Components/Outputs</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>3.1 Judicial policymaking and administration</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>3.1.1 Enhance institutional capacity for judicial and legal reform by</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>• selecting personnel for in-country training courses, international study tours, and fellowships</td>
<td>• In-country training courses</td>
<td>• TA progress reports</td>
<td>• Effective functioning of steering committees on a functional and professional basis</td>
</tr>
<tr>
<td>• providing training on judicial reform process, court administration and case flow management, and budgetary and financial management for the courts</td>
<td>• International study tours in judicial administration for 30 persons completed</td>
<td>• TA supervision</td>
<td>• Trainees and fellowship holders return and stay employed in judicial reform program as planned</td>
</tr>
<tr>
<td></td>
<td>• 5 fellowships (i.e., each about 12 months) completed</td>
<td>• TA review missions</td>
<td></td>
</tr>
<tr>
<td></td>
<td>• Provide exposure to reforms in other judicial systems, including ADR</td>
<td>• Participant feedback through evaluation mechanism established during the in-country training, international study tours, and fellowships</td>
<td></td>
</tr>
<tr>
<td></td>
<td>• Trainees become change agents involved in formulation/modification and implementation of reforms that are suited to indigenous conditions</td>
<td>• TA completion report</td>
<td></td>
</tr>
<tr>
<td>3.1.2 Designing a modern system of judicial statistics and annual reports</td>
<td>• Adoption of judicial performance standards to evaluate the working of the judicial system</td>
<td>• TA progress reports</td>
<td></td>
</tr>
<tr>
<td></td>
<td>• Publication of annual report</td>
<td>• TA supervision</td>
<td></td>
</tr>
<tr>
<td></td>
<td>• Informed policymaking</td>
<td>• TA review missions</td>
<td></td>
</tr>
<tr>
<td></td>
<td>• Civil society involvement in judicial policymaking</td>
<td>• TA completion report</td>
<td></td>
</tr>
<tr>
<td>3.1.3 Operationalizing key institutions for sustaining judicial and legal reform, e.g., the NJPB, the JO at the provincial level, and the JDF</td>
<td>• Organizational details, including financial analysis and budget</td>
<td>• TA progress reports</td>
<td></td>
</tr>
<tr>
<td></td>
<td>• Government’s will to institutionalize reforms tested</td>
<td>• TA supervision</td>
<td></td>
</tr>
<tr>
<td></td>
<td>• Government’s will to institutionalize reforms tested</td>
<td>• TA review missions</td>
<td></td>
</tr>
<tr>
<td></td>
<td>• Budget documents and TA progress reports</td>
<td>• TA completion report</td>
<td></td>
</tr>
<tr>
<td>3.1.4 Budgetary allocations</td>
<td>• Plan for increasing budgetary allocations to the judiciary to 1 percent of Government budget</td>
<td>• Full support from the Government</td>
<td></td>
</tr>
<tr>
<td></td>
<td>• Government’s will to increase budgetary allocations tested</td>
<td>• TA supervision</td>
<td></td>
</tr>
<tr>
<td></td>
<td>• Government’s will to institutionalize reforms tested</td>
<td>• TA review missions</td>
<td></td>
</tr>
<tr>
<td></td>
<td>• Budget documents and TA progress reports</td>
<td>• TA completion report</td>
<td></td>
</tr>
<tr>
<td>Design Summary</td>
<td>Performance Targets</td>
<td>Monitoring Mechanisms</td>
<td>Assumptions and Risks</td>
</tr>
<tr>
<td>----------------</td>
<td>---------------------</td>
<td>-----------------------</td>
<td>-----------------------</td>
</tr>
</tbody>
</table>
| 3.1.5 Pilot projects on MIS initiatives | • Publication of cause list  
• Development of case filing and indexing system  
• Development of case tracking system  
• Users more informed  
• Improved efficiency in administration of case files | • TA progress reports  
• TA supervision  
• TA review missions  
• TA completion report  
• User surveys  
• Surveys of administrative efficiency in courts | • Full support from the Government and the judiciary |
| 3.2 Delay reduction pilot projects | • Pilot project design in consultation with key stakeholders  
• Training of judges in delay reduction techniques  
• Creation of an ADR center annexed to each pilot court  
• Procedures and policies for the court-annexed ADR centers  
• Assist FJA to prepare documents for training of judges, on the basis of experienced gained in the pilot projects  
• Quicker disposal of cases in pilot projects as measured by surveys | • TA progress reports  
• TA supervision  
• Stakeholder participation is involved through seminars, etc.  
• TA review missions  
• TA completion report  
• Surveys of pilot projects | • Full support from the Government, the judiciary, FJA, and the legal profession  
• Relevant information is provided |
| 3.3 Improving access to justice  
3.3.1 Laws in local language | • Enhancement of capacity for translation of bills and laws in Urdu  
• Enhancement of capacity for initial publication of bills and laws in Urdu  
• Training to persons responsible for translation  
• Increased awareness of laws as measured by Urdu media surveys and public surveys | • TA progress reports  
• TA supervision  
• TA review missions  
• TA completion report  
• Surveys of ADR centers  
• Surveys of Urdu media and public to measure legal awareness and access to justice, including by the poor | • Full support from the Government  
• Availability of suitable translation and publishing services  
• The general public, including the poor, gain wider knowledge of Pakistan's laws and their legal rights |
<table>
<thead>
<tr>
<th>Design Summary</th>
<th>Performance Targets</th>
<th>Monitoring Mechanisms</th>
<th>Assumptions and Risks</th>
</tr>
</thead>
</table>
| **3.3.2 Women and law** | • Elimination of barriers to women’s entry to the judiciary  
• Revision of service rules to facilitate women applicants to the judiciary  
• More women applicants for judicial posts and increase in number of women judges | • TA progress reports  
• TA supervision  
• TA review missions  
• TA completion report  
• Survey of women applicants | • Full support from the Government, the judiciary, and the legal profession |
| **3.3.3 Administrative grievances** | • Institution of procedures for resolution of administrative grievances through informal procedures  
• Quicker resolution of disputes with the ombudsman | • TA progress reports  
• TA supervision  
• TA review missions  
• TA completion report  
• Surveys of dispute resolution in the Ombudsman Office | • Full support from the Government, the judiciary, and the legal profession |
| **3.3.4 Freedom of information** | • Development of new freedom of information policies and laws  
• Political will for introduction of improved freedom of information laws tested | • TA progress reports  
• TA supervision  
• Stakeholder participation is involved through seminars, etc.  
• TA review missions  
• TA completion report | • Full support from the Government and the Committee on Freedom of Information  
• Relevant information is provided to the public |
| **3.4 Judicial training** | **3.4.1 Enhancing the institutional capacity of the FJA**  
• Detailed curricula design and training manuals  
• Training of trainers  
• Preservice and in-service training  
• Improvement in performance of trainees | • TA progress reports  
• TA supervision  
• TA review missions  
• TA completion report  
• Before and after surveys of trainees | • Full support of the Government, the judiciary, and FJA |
| **3.4.2 Development of benchbooks** | • Two benchbooks  
• Increased efficiency of judges | • TA progress reports  
• TA supervision  
• TA review missions  
• TA completion report  
• Surveys | • Full support from the Government and the judiciary |
<table>
<thead>
<tr>
<th>Design Summary</th>
<th>Performance Targets</th>
<th>Monitoring Mechanisms</th>
<th>Assumptions and Risks</th>
</tr>
</thead>
<tbody>
<tr>
<td>3.5 Legal education and legal profession</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>3.5.1 Centers of excellence in legal education</td>
<td>• Feasibility study with organizational details, setup, and budget • Test willingness of all concerned to set up centers of excellence</td>
<td>• TA progress reports • TA supervision • TA review missions • TA completion report</td>
<td>• Full support from the Government, the judiciary, the legal profession, and educational institutions</td>
</tr>
<tr>
<td>3.5.2 Strengthening the legal profession</td>
<td>• Publication of an issues paper • Discussion papers • Greater civil society awareness of issues in the legal profession creates momentum for reform</td>
<td>• TA progress reports • TA supervision • Seminars, etc. with key stakeholders • TA review missions • TA completion report</td>
<td>• Full support from the Government, the judiciary, the legal profession, and the educational institutions • Participation by NGOs</td>
</tr>
<tr>
<td>3.6 Economic law reform</td>
<td>• Development of scheme on establishment of commercial courts or commercial divisions within the high courts • Test will of Government to introduce improved economic laws and procedures</td>
<td>• TA progress reports • TA supervision • TA review missions • TA completion report</td>
<td>• Full support from the Government, the judiciary, and the business community</td>
</tr>
<tr>
<td>3.7 Drafting or amending existing legislation and rules</td>
<td>• Draft legislation or draft amendments to existing legislation and rules • Test will to enact laws drafted • 1 fellowship in legal drafting</td>
<td>• TA progress reports • TA supervision • TA review missions • TA completion report</td>
<td>• Full support from the Government and the judiciary • Involvement of NGOs and legal profession, as appropriate</td>
</tr>
<tr>
<td>4. Activities</td>
<td>Cost ($ equivalent)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>4.1 Consultants</td>
<td>2,040,000</td>
<td></td>
<td></td>
</tr>
<tr>
<td>4.2 Internal Training</td>
<td>155,000</td>
<td></td>
<td></td>
</tr>
<tr>
<td>4.3 External Training</td>
<td>225,000</td>
<td></td>
<td></td>
</tr>
<tr>
<td>4.4 Administration Costs</td>
<td>30,000</td>
<td></td>
<td></td>
</tr>
<tr>
<td>4.5 Equipment</td>
<td>75,000</td>
<td></td>
<td></td>
</tr>
<tr>
<td>4.6 Contract Negotiations – Cost of Two Government Representatives</td>
<td>10,000</td>
<td></td>
<td></td>
</tr>
<tr>
<td>4.7 Government Contribution</td>
<td>730,000</td>
<td></td>
<td></td>
</tr>
<tr>
<td>4.8 Bank Contingency</td>
<td>365,000</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Total</td>
<td>3,630,000</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
THE JUDICIAL SYSTEM IN PAKISTAN

Figure A2.1: Courts and Tribunals in Pakistan

* There is a district and session judge for each district (84 in all). However, there are also a number of additional district and session judges who exercise the power of the district and session courts. In addition to their judicial functions, the district and session judges are the administrative heads of the district and session courts and also exercise administrative supervision over civil courts in their districts.

** In each sub-district, there are civil courts (first, second and third grade in order of descending pecuniary jurisdiction). The civil courts are headed by chief civil judge who, in addition to his judicial functions, is also responsible for administrative matters in civil courts. In all provinces, except Sindh where pecuniary jurisdiction of a first-class civil judge is limited, first-class civil judges exercise unlimited pecuniary jurisdiction (i.e., they can try civil suits of any value). In each district, a senior civil judge exercises delegated powers of the district judge relating to institution and distribution of civil cases among civil judges in the district. He also exercises administrative functions.

*** Since the Supreme Court judgment in 1997 on the separation of the judiciary and any executive, almost all civil judges also act as magistrates (first, second or third class with descending jurisdiction over crimes). Few of the former executive magistrates continue to exercise jurisdiction over specified matters; most have not been absorbed into the judiciary. In practice, this has meant that in most provinces, the work load of the civil judges has almost doubled, thus exacerbating the problem of delay in courts.

**** FSC is also an appellate court from the session and magistrate courts for categorized cases.

Source: Mission.

(Reference in text: page 2, para. 5)
Figure A2.2: Number of Citizens per Judge, Selected Countries, 1998


(Reference in text: page 4, para. 14)
Table A2.1: Gender Balance at the Bar in Pakistan

<table>
<thead>
<tr>
<th>Year</th>
<th>Bar Associations</th>
<th>Total</th>
<th>Female</th>
<th>%</th>
</tr>
</thead>
<tbody>
<tr>
<td>1997</td>
<td>Supreme Court</td>
<td>456</td>
<td>7</td>
<td>1</td>
</tr>
<tr>
<td>1995</td>
<td>NWFP Bar Council</td>
<td>6,750</td>
<td>112</td>
<td>2</td>
</tr>
<tr>
<td>1995</td>
<td>Baluchistan Bar Council</td>
<td>350</td>
<td>6</td>
<td>2</td>
</tr>
<tr>
<td>1995</td>
<td>Punjab Bar Council</td>
<td>27,000</td>
<td>271</td>
<td>1</td>
</tr>
<tr>
<td>1995</td>
<td>Sukkur Division</td>
<td>663</td>
<td>11</td>
<td>2</td>
</tr>
<tr>
<td>1995</td>
<td>Larkana Division</td>
<td>477</td>
<td>4</td>
<td>1</td>
</tr>
<tr>
<td>1995</td>
<td>Hyderabad Division</td>
<td>1,111</td>
<td>59</td>
<td>5</td>
</tr>
<tr>
<td>1995</td>
<td>Mirpur Khas Division</td>
<td>265</td>
<td>1</td>
<td>0.4</td>
</tr>
<tr>
<td>1995</td>
<td>Karachi Bar Association</td>
<td>2,080</td>
<td>262</td>
<td>13.6</td>
</tr>
</tbody>
</table>

NWFP = North-West Frontier Province.

Table A2.2: Composition and Gender in the Pakistan Subordinate Judiciary, 1998

<table>
<thead>
<tr>
<th>Item</th>
<th>Punjab</th>
<th>Sindh</th>
<th>North-West Frontier Province</th>
<th>Balochistan</th>
<th>Total Pakistan</th>
</tr>
</thead>
<tbody>
<tr>
<td>Sanctioned Positions</td>
<td>626</td>
<td>510</td>
<td>168</td>
<td>85</td>
<td>1,388</td>
</tr>
<tr>
<td>Working Judges, subordinate courts</td>
<td>599</td>
<td>370</td>
<td>150</td>
<td>63</td>
<td>1,182</td>
</tr>
<tr>
<td>Women Judges</td>
<td>8</td>
<td>51</td>
<td>12</td>
<td>5</td>
<td>76</td>
</tr>
</tbody>
</table>

## COST ESTIMATES AND FINANCING PLAN
($'000)

<table>
<thead>
<tr>
<th>Source</th>
<th>Foreign Exchange</th>
<th>Local Currency</th>
<th>Total Cost</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>A. Financed by the Bank</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>1. Consultants</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>a. Remuneration and Per Diem</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>(i) International Consultants</td>
<td>1,110</td>
<td>0</td>
<td>1,110</td>
</tr>
<tr>
<td>(ii) Domestic Consultants</td>
<td>0</td>
<td>750</td>
<td>750</td>
</tr>
<tr>
<td>b. International and Domestic Travel</td>
<td>100</td>
<td>50</td>
<td>150</td>
</tr>
<tr>
<td>c. Communications/Reports</td>
<td>15</td>
<td>15</td>
<td>30</td>
</tr>
<tr>
<td>2. Internal Training (In-country Seminars, and Workshops)</td>
<td>0</td>
<td>155</td>
<td>155</td>
</tr>
<tr>
<td>3. External Training (International Study Tours and Fellowships)</td>
<td>225</td>
<td>0</td>
<td>225</td>
</tr>
<tr>
<td>4. Administration Costs</td>
<td>30</td>
<td>0</td>
<td>30</td>
</tr>
<tr>
<td>5. Equipment</td>
<td>75</td>
<td>0</td>
<td>75</td>
</tr>
<tr>
<td>6. Cost of Two Government Representatives at Negotiations</td>
<td>10</td>
<td>0</td>
<td>10</td>
</tr>
<tr>
<td>7. Contingency</td>
<td>235</td>
<td>130</td>
<td>365</td>
</tr>
<tr>
<td><strong>Subtotal (A)</strong></td>
<td><strong>1,800</strong></td>
<td><strong>1,100</strong></td>
<td><strong>2,900</strong></td>
</tr>
<tr>
<td><strong>B. Government Financing</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>1. Office Accommodation, Administration Support and Transport</td>
<td>0</td>
<td>100</td>
<td>100</td>
</tr>
<tr>
<td>2. Remuneration of Counterpart and Support Staff</td>
<td>0</td>
<td>200</td>
<td>200</td>
</tr>
<tr>
<td>3. Training facilities</td>
<td>0</td>
<td>250</td>
<td>250</td>
</tr>
<tr>
<td>4. Miscellaneous TA Administration Costs (translation, etc.)</td>
<td>0</td>
<td>90</td>
<td>90</td>
</tr>
<tr>
<td>5. Contingency</td>
<td>0</td>
<td>90</td>
<td>90</td>
</tr>
<tr>
<td><strong>Subtotal (B)</strong></td>
<td><strong>0</strong></td>
<td><strong>730</strong></td>
<td><strong>730</strong></td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>1,800</strong></td>
<td><strong>1,830</strong></td>
<td><strong>3,630</strong></td>
</tr>
</tbody>
</table>

(Reference in text: page 9, para. 42)
OUTLINE TERMS OF REFERENCE

A. Outputs

Consultant activities for the seven components will include the following.

1. Judicial Policy and Administration:

   a. Enhance Institutional Capacity for Judicial and Legal Reform: 
      two international consultants (2 person-months and 3 person-months) and one domestic
      consultant (3 person-months)

      1. The consultants will design and deliver an in-country training program focusing
         on judicial reform processes, court administration and case-flow management,
         alternative dispute resolution (ADR), and budgetary and financial management for
         the courts. The consultants will work with the Federal Judiciary Academy (FJA)
         to define a strategy for FJA in the reform process.

      2. The consultants will arrange international study tours for about 30 selected
         personnel who have participated in the in-country training course in accordance
         with criteria to be agreed by the Government and the Bank.

   b. Designing a Modern System of Judicial Statistics and Annual Reports: 
      one international consultant (2 person-months) and one domestic consultant (3
      person-months).

   3. The existing data collection by the high courts will be reviewed to design a
      modern judicial statistical system that can support informed judicial policy-making.
      Specific judicial performance standards, based on best international practices, will
      be formulated to evaluate the working of the judicial system, including court
      procedures, efficiency of the courts, criteria for creation of judicial and nonjudicial
      posts, and appropriateness of the incentive systems relating to filing of cases and
      performance of judges. The consultants will further refine the design of the
      "taxonomy of delay" and 
      "litigant/would be litigant" surveys under Technical Assistance (TA) 3015-PAK\(^1\)
      and carry them out. In particular, the surveys will focus on who uses the courts and
      for what purpose. Use patterns and their implication for court fees will also be
      analyzed. Public perceptions of courts will be gauged. The survey design and analysis
      will reviewed by a peer group, and the results published in Urdu and English. A format
      for annual reports to be published by each superior court and to be available to the
      public will also be designed to provide greater transparency to the working of the
      judicial system and management of resources. This component will assist the courts in
      establishing effective systems for collecting data, analyzing the data, and reporting
      judicial statistics in a suitable format for annual reports.

   c. Operationalizing Key Institutions for Reform: one international
      consultant (6.5 person-months) and two domestic consultants (6 person-months each).

\(^1\) TA 3015-PAK: Legal and Judicial Reform Project, for $995,000, approved on 7 May 1998.
4. Following preparation of draft legislation on the national judicial policymaking body (NJPB), the judicial ombudsman (JO) at the provincial level, and the judicial development fund (JDF), the consultants will also prepare comprehensive organizational details, including complete organizational structure, human and financial resources required, sources of finances, and a recruitment strategy.

d. **Budgetary Allocations for the Judiciary:** two domestic consultants consultants (1.5 person-months each).

5. The consultants will work with the high courts, the provincial governments, and the Ministry of Finance to develop a plan for increasing budgetary allocations to the judiciary to 1 percent of the provincial budgets. The consultants will also develop financial governance criteria for judicial administration, including a formula for allocating budgetary resources to the high courts and the subordinate courts.

e. **Pilot Projects on Management Information Systems Initiatives:** one international consultant (4.5 person-months) and two domestic consultants (8 person-months each).

6. Based on the recommendations of TA 3015-PAK, the consultants will design and implement the following management information system initiatives on a pilot basis: (i) install computers in the judges’ chambers of the Supreme Court; (ii) install cause list software and publication methods; (iii) develop a case filing and indexing system in the Sindh and Lahore high courts; and (iv) develop a case tracking system in the Supreme Court and Lahore High Court. On the first initiative, the consultants will, in the first phase, devise a comprehensive automation plan for the Supreme Court based on the work carried out under recent British Council TA. As part of plan implementation, the consultants will install computers in the judges’ chambers, including provision of training to judges and their secretaries. On the second initiative, the consultants will recommend procurement of cause list software or the development of such software, as necessary, taking into account the electronic version of the cause list published in the Lahore High Court and international/regional best practice. For all components, the consultants will take into account best international and regional practices, and ensure that adequate training in the use of computers is provided and the initiatives are designed to be sustainable.

2. **Delay Reduction Pilot Projects:** three international consultants (4 person-months each) and four domestic consultants (6 person-months each).

7. The consultants will conduct delay reduction projects on a pilot basis (two in Karachi, and one each in the other provincial capitals and in Islamabad). The projects will take into account the relevant recommendations from TA 3015-PAK, including those on ADR and changes to the Civil Procedure Code. The projects will include a survey of completed cases, an analysis of survey results, formulation of case processing standards, manual record management, and case-flow management to achieve the standards set. The delay reduction projects will include the creation of an ADR center annexed to each pilot court. Noncomputing equipment (such as photocopiers, tape recorders, and facsimile machines) will be provided to each pilot court. The consultants will prepare detailed procedures and policies for the court-annexed ADR centers, including code of ethics and policies on confidentiality and role of lawyers. As part of this
exercise, a bench/bar coordination committee will be established in each pilot project area, and the judges selected for the pilot projects will be trained in delay reduction techniques. The consultants will organize regular meetings and workshops for the pilot court judges so that the judges can share their experiences. The consultants will also arrange quarterly meetings between the pilot judges and the bench/bar coordination committee. After 10 months, the consultants will organize a seminar on delay reduction at which the progress of and experience in each pilot project will be discussed and shared. This seminar will be organized in coordination with FJA and the high courts concerned. On the basis of the experience gained, the consultants will assist FJA to prepare a document for use with the training of new judges, and the consultants will identify areas for future delay reduction initiatives and research.

3. Improving Access to Justice

a. Laws in Local Language: two domestic consultants (4 person-months each).

This component will promote legal literacy on a pilot basis by providing accessibility to laws in the local language to the public. Capacity for translation of bills and laws in the national language, Urdu, and for initial publication of bills and laws in Urdu will be enhanced. In particular, assistance will be provided for translating the legal terms in English into Urdu. Coordination will be undertaken with suitable agencies on the translation and publication of legal materials, including the Urdu Language Authority. Training will also be provided to persons responsible for the translation.

b. Women and Law: one domestic consultant (3 person-months).

Barriers to women’s entry to the judiciary will be further examined taking into account the work done under TA 2979-PAK and TA 3015-PAK. In particular, service rules will be revised to actively encourage women applicants to the judiciary.

c. Administrative Grievances: international consultants recruited as ADR experts under the delay reduction pilot projects component and two domestic consultants (4 person-months each).

The consultants will provide assistance to the Ombudsman Office for resolution of administrative grievances through informal procedures as envisaged under the Ombudsman Order. The consultants will further refine recommendations made under TA 3015-PAK for introducing administrative grievance procedures and improvement in ombudsman procedures.

d. Freedom of Information: two domestic consultants (3 person-months each).

The consultants will provide assistance to the new Committee on Freedom of Information to develop new freedom of information policies and laws, including a document classification system for the Government. They will organize consultative stakeholder workshops.
4. Judicial Training

   a. Enhancing the Institutional Capacity of FJA: two international consultants (2.5 person-months each) and one domestic consultant (6 person-months).

12. The consultants will provide training to strengthen the institutional capacity FJA and assistance to FJA to develop curricula, training materials for core areas of judicial training, and train trainers. The core areas will include court administration, case processing, delay reduction, ADR techniques, case management, gender sensitization, writing of judgments, and developing and testing the use of support materials such as benchbooks and trial practice manuals. Consideration should also be given to developing a core group of trainers trained in adult education techniques, judicial education pedagogy, and international judicial education standards. Preservice training will be provided to new judges, and in-service training will be provided to existing judges to upgrade the skills of the judicial cadre.

   b. Development of Benchbooks: one international consultant (3 person-months) and two domestic consultants (3 person-months each).

13. The consultants will develop benchbooks for use by civil judges and judicial magistrates, in order to promote judicial education as part of the larger reform effort under the judicial and legal reform.

5. Legal Education and Legal Profession

   a. Two Centers of Excellence in Legal Education: one international consultant (3 person-months) and one domestic consultant (4 person-months).

14. The consultants will conduct a feasibility study to consider the viability of setting up two centers of excellence in legal education at Lahore University of Management Sciences and the Institute of Business Administration in Karachi. The study will cover assessment of market demand, site location, the organizational setup, the enabling constituent document, and the budget for each center and its financial viability, and the possibility of collaboration or making other suitable arrangements with existing institutions.

   b. Strengthening the Legal Profession: domestic consultant (4 person-months).

15. The consultant will assist the Federal Steering Committee to publish an issues paper, in English and Urdu, on strengthening the legal profession. The paper will be based on recommendations in the legal profession and cluster report under TA 3015-PAK. There will be extensive consultations with members of the legal profession, the high court bar associations, the judiciary, academia, and nongovernment organizations on proposals to strengthen the role, quality, and functioning of the legal profession. The proposals will also include recommendations on admission requirements, disciplinary processes, improved legal education and legal information, and the development and reform of law conducive to the development of a sustainable profession. The activities to be carried out will include stakeholder meetings and seminars. Key stakeholders will be
invited to present discussion papers on specific areas. The discussion papers will be used by the Government as the starting point to initiate a public debate on the legal profession.

33. The consultant will contact philanthropic institutions such as the International Bar Association or the Center for Nonprofit Law for any assistance that they can provide on this component.

6. **Economic Law Reform**: one international consultant (2 person-months) and one domestic consultant (4 person-months).

16. The consultants will develop a scheme for the establishment of commercial courts or commercial divisions within the high courts. They will examine organizational and financial aspects in detail and study the development of a corporate rescue regime.

7. **Drafting of Legislation or Amending Existing Legislation and Rules**: one international consultant (2 person-months) and two domestic consultants (4 person-months each).

17. The consultants will prepare draft legislation or amend existing legislation and rules, as appropriate, using the recommendations under TA 3015-PAK as a starting point for the following: (i) amendments to Civil Procedure Code and High Court Rules on measures to reduce the level of court delay; (ii) setting up of a national council for legal education and national fund for innovations in legal education, including preparing organizational details and budget requirements; (iii) establishment of an effective mechanism to expand access to alternative methods for dispute resolution; and (iv) draft appropriate legislation to replace the existing Arbitration Act, 1940. The consultants will coordinate with interested stakeholders (for example, the legal profession and nongovernment organizations) in the drafting of recommended proposals. The consultants will also provide support to the Committee on Freedom of Information to develop a new information policy and freedom of information law. The international consultant recruited for the feasibility on centers of excellence in legal education will assist with drafting of legislation on the national council and national fund.

B. **Outline Terms of Reference for the Core Consultant Team Members**

18. The core consultant team will comprise a domestic consultant (18 person-months) and two international consultants (9 person-months each). The international consultants will coordinate the activities of the consultants working on the various components and will monitor all reports prepared by these consultants to ensure quality before these reports are submitted to the Government and the Bank. The core consultant team will ensure that appropriate monitoring mechanisms (e.g., user surveys, before and after surveys, etc.) are designed and in place for each component to assess achievement of performance targets as indicated in the TA framework.

19. The international team members will act as technical advisers and will coordinate with the consultants working on the components. The core consultant team will prepare the following:
(i) an inception report within one month of start of work;  
(ii) quarterly progress reports during the assignment; and  
(iii) a final report at the end of the assignment.

20. The domestic consultant will act as a senior adviser to the Government on judicial and legal reform. Before submission of any of the reports prepared by the consultants, the Government, the Bank, and the core consultant team will monitor all such reports to ensure that the proposals contained in the reports are relevant in the local institutional framework and consistent with the overall implementation of the Government's judicial and legal reform agenda. The team will monitor all reports prepared by the consultants to ensure their quality before they are submitted to the Government and the Bank.