

# **Judicial Administration: Strategy to Institutionalize Independence of the Judiciary**



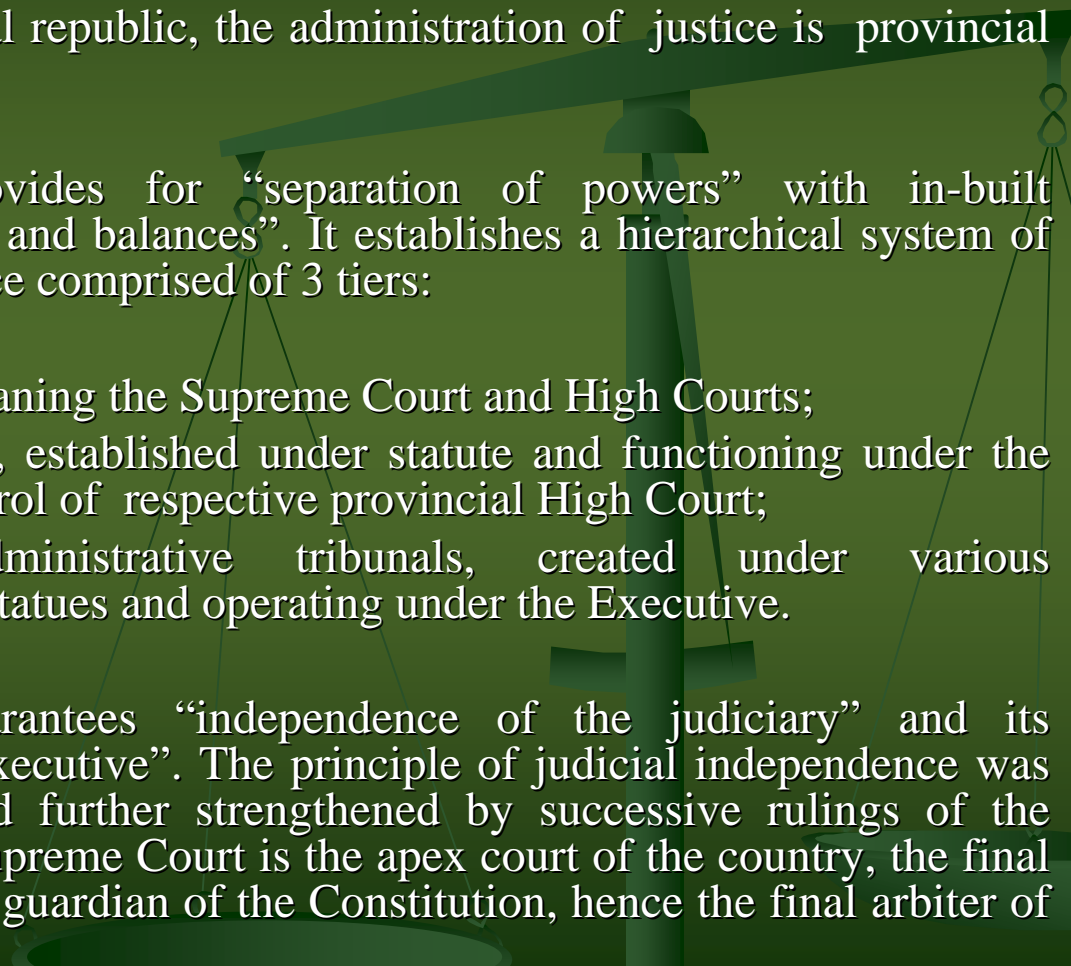
**by**

**Dr. Faqir Hussain, Secretary,  
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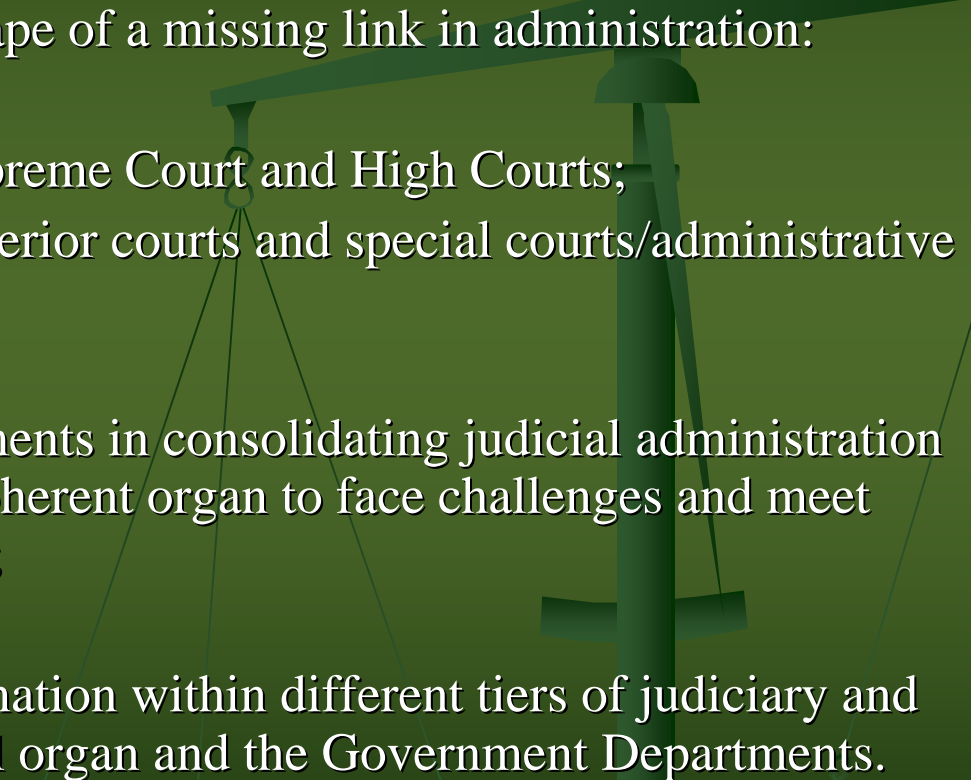
# Problem:

Having acquired institutional, administrative, functional independence and a degree of financial autonomy, the judicial system lacked the capacity to form and operate as a unified/cohesive organ, co-equal of the other State organs namely legislature and executive. Legal gaps and procedural impediments prevented the consolidation of judicial system to respond to challenges e.g. perennial backlogs, delays in trial, complaints of misconduct/corruption and the need for expeditious dispensation of justice, so very essential for public confidence in the administration of justice. The Constitution was unhelpful and the needed legal reforms were not forthcoming.

# Judicial Framework:

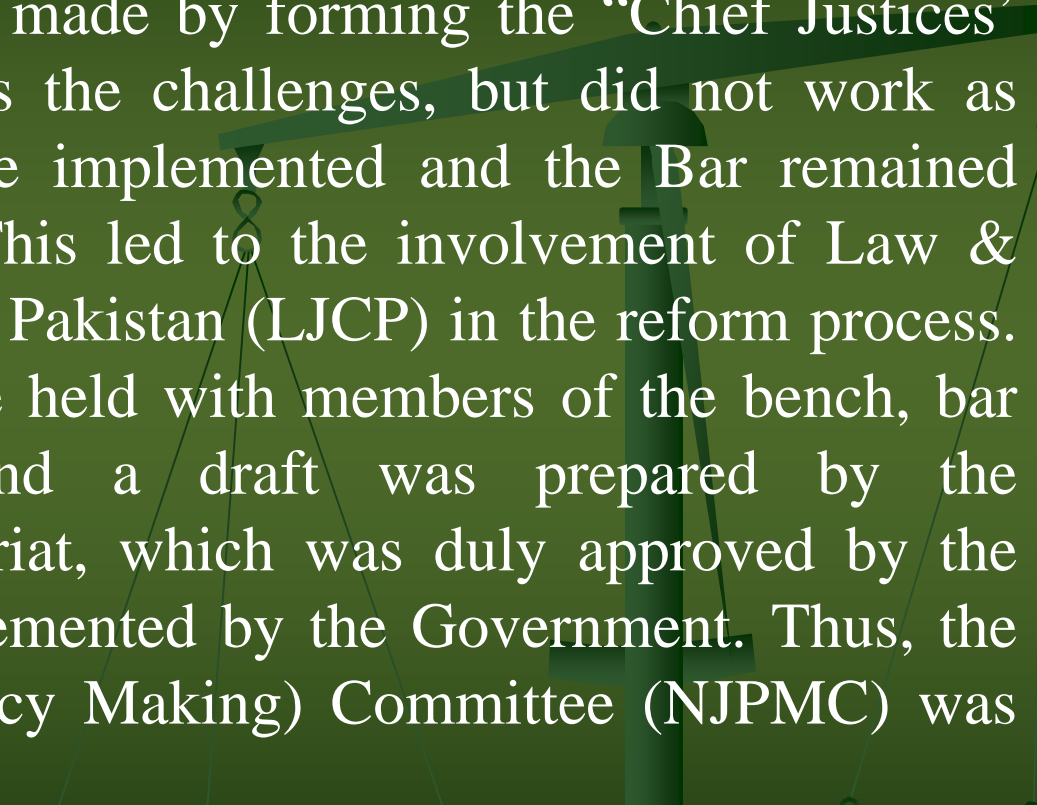
1. Pakistan being a federal republic, the administration of justice is provincial subject;
  2. The Constitution provides for “separation of powers” with in-built mechanism of “checks and balances”. It establishes a hierarchical system of administration of justice comprised of 3 tiers:
    - i. Superior courts meaning the Supreme Court and High Courts;
    - ii. Subordinate courts, established under statute and functioning under the administrative control of respective provincial High Court;
    - iii. Special courts/administrative tribunals, created under various federal/provincial statutes and operating under the Executive.
  3. The Constitution guarantees “independence of the judiciary” and its “separation from the executive”. The principle of judicial independence was gradually obtained and further strengthened by successive rulings of the Supreme Court. The Supreme Court is the apex court of the country, the final appellate authority and guardian of the Constitution, hence the final arbiter of law/Constitution.
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# Issues:

1. Legal gap in the shape of a missing link in administration:
    - i) between Supreme Court and High Courts;
    - ii) between superior courts and special courts/administrative tribunals.
  2. Procedural impediments in consolidating judicial administration to form a unified/coherent organ to face challenges and meet public expectations;
  3. Absence of co-ordination within different tiers of judiciary and between the judicial organ and the Government Departments.
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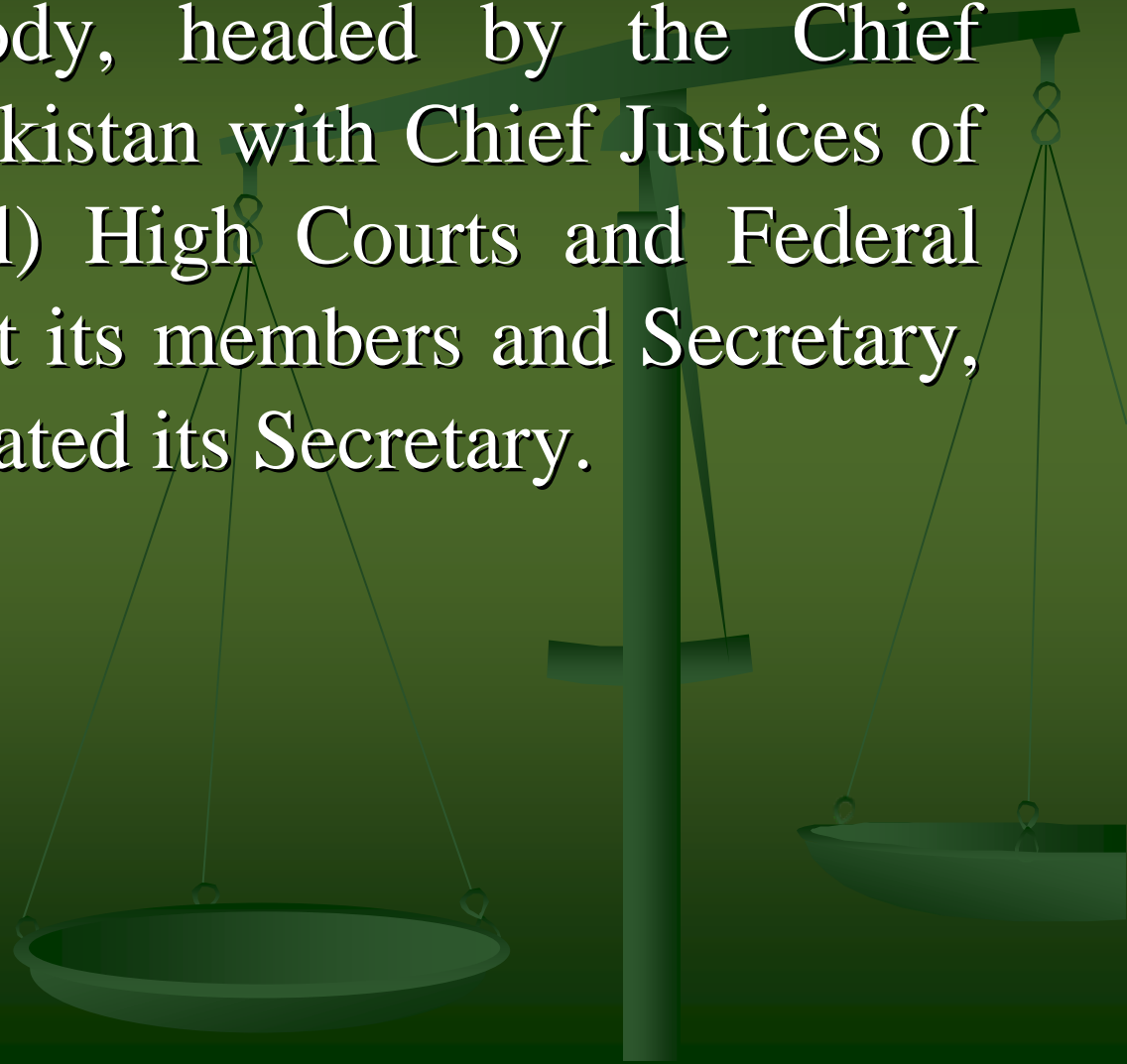
# The Way-out:

Informal arrangements made by forming the “Chief Justices’ Committee” to address the challenges, but did not work as decisions could not be implemented and the Bar remained critical of the body. This led to the involvement of Law & Justice Commission of Pakistan (LJCP) in the reform process. Wide discussions were held with members of the bench, bar and civil society and a draft was prepared by the Commission’s Secretariat, which was duly approved by the Commission and implemented by the Government. Thus, the National Judicial (Policy Making) Committee (NJPMC) was established in 2002.



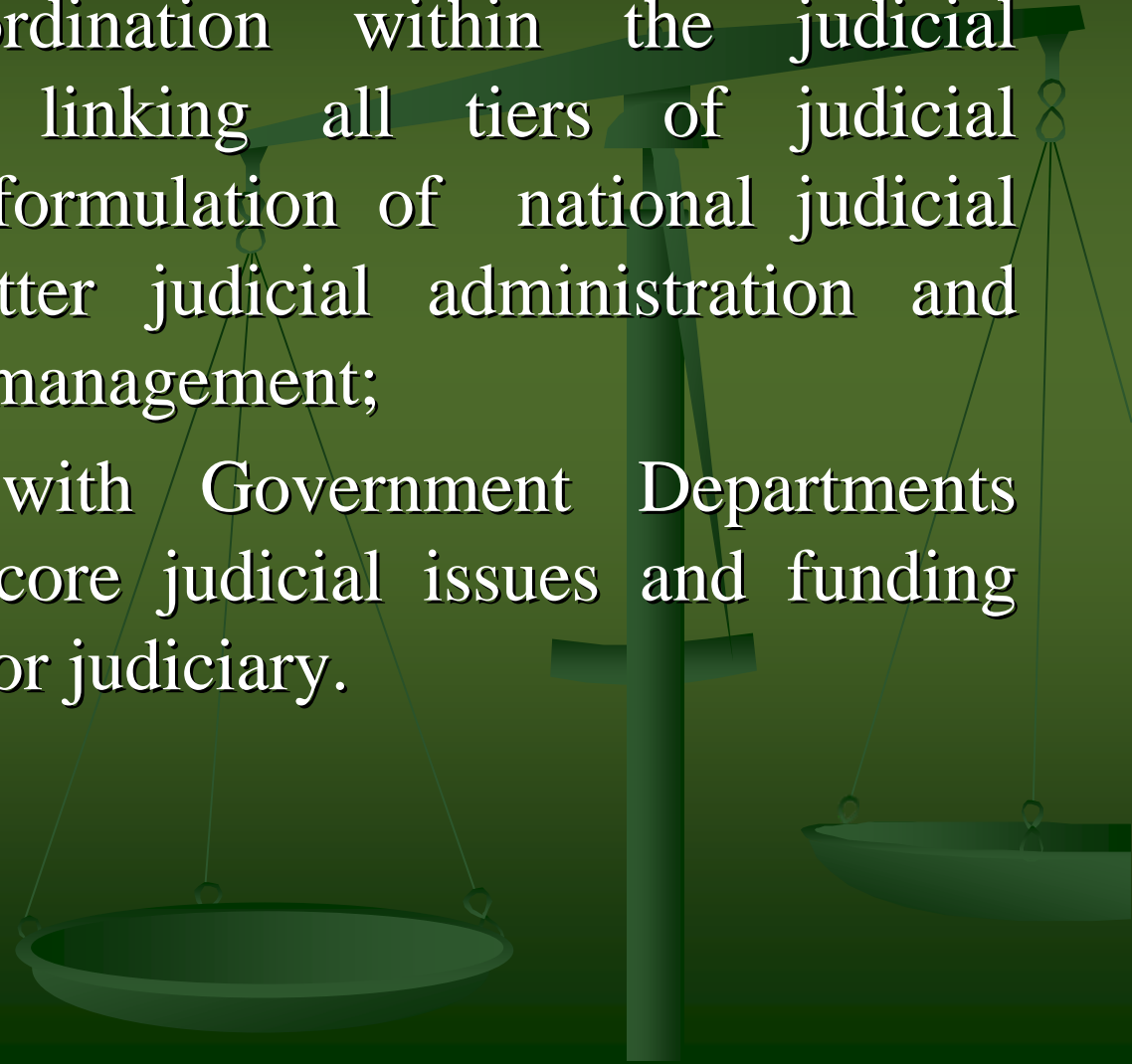
# NJPMC:

Statutory body, headed by the Chief Justice of Pakistan with Chief Justices of 4 (provincial) High Courts and Federal Shariat Court its members and Secretary, LJCP designated its Secretary.

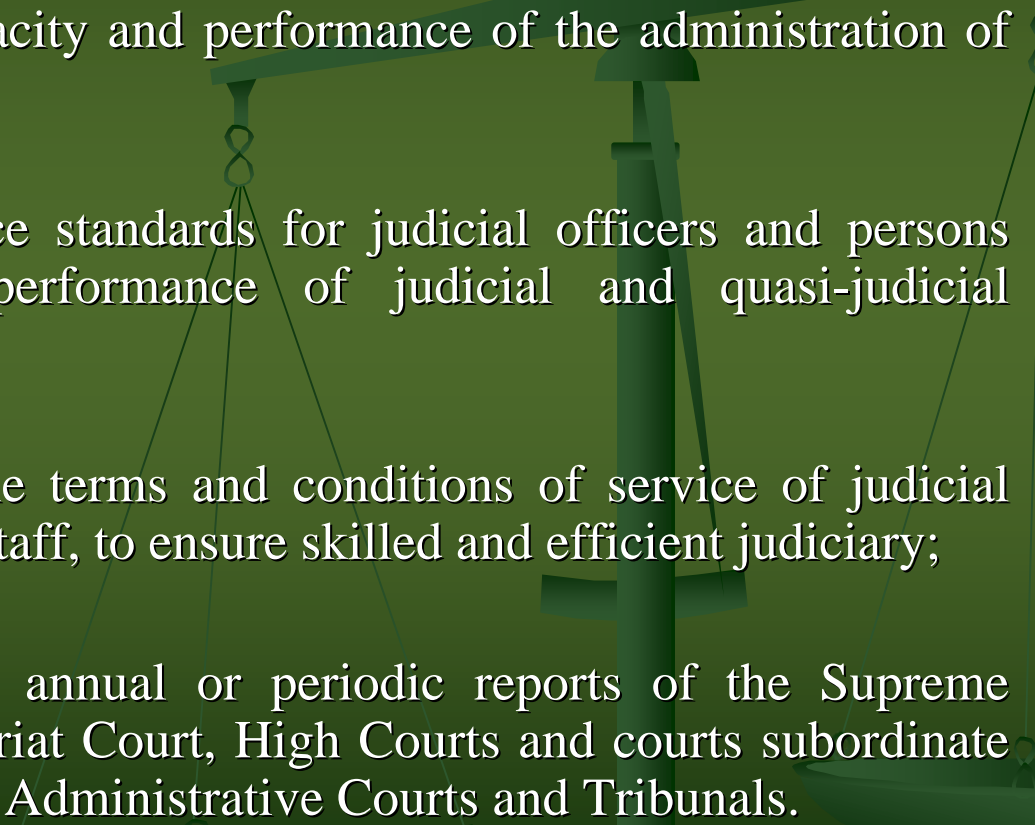


# Mandate:

1. Effective coordination within the judicial establishment, linking all tiers of judicial hierarchy for formulation of national judicial policy for better judicial administration and efficient court management;
2. Coordination with Government Departments /Agencies on core judicial issues and funding arrangements for judiciary.



# Functions:

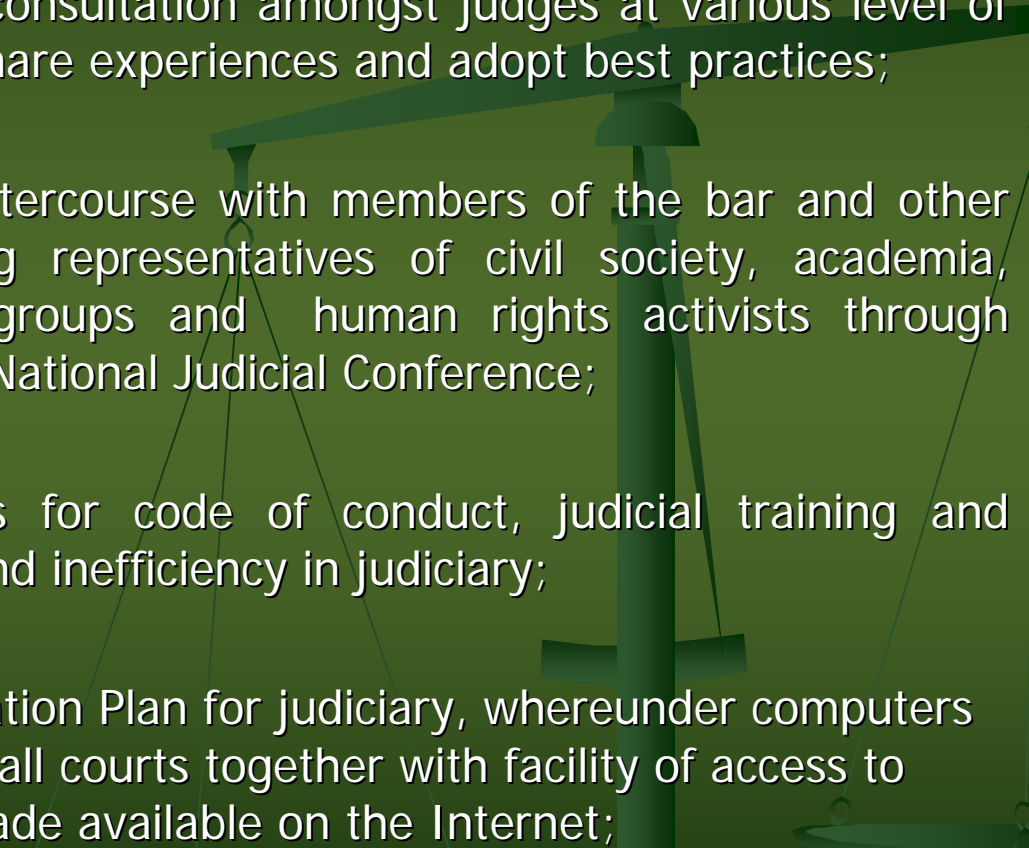
1. Improving the capacity and performance of the administration of justice;
  2. Setting performance standards for judicial officers and persons associated with performance of judicial and quasi-judicial functions;
  3. Improvement in the terms and conditions of service of judicial officers and court staff, to ensure skilled and efficient judiciary;
  4. Publication of the annual or periodic reports of the Supreme Court, Federal Shariat Court, High Courts and courts subordinate to High Courts and Administrative Courts and Tribunals.
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# Achievements:

1. Regularly publishes the courts' annual reports showing institution and disposal of cases in each court, each province and at the national level. Performance is shown court-wise, bench-wise and judge-wise. Court finances/expenditure is also given. The data is useful for future planning and expansion of the judiciary. It is a step towards judicial accountability/transparency;
2. Directions issued to trial courts/appellate fora for strict compliance with substantive/procedural law, expeditious disposal of cases of emergent nature like family matters, anti-terrorism and drugs offences. Facilitated in the creation of courts to deal exclusively with specified issues e.g. family courts, juvenile courts, small claims and minor offences courts, anti-terrorism and drugs courts, etc;
3. Interacts with the Government on core judicial issues like reform of the contempt-of-court law, change in judicial procedure, transfer of jurisdiction from one court to another, etc. Obtains requisite funding for the judiciary, installation of essential equipment in courts, construction of new courtrooms, residences for judges and giving additional funds out of Access to Justice Development Fund, managed by the LJCP for strengthening the capacity of subordinate courts and providing legal aid/assistance to poor, disadvantaged/vulnerable sections of society;

# Achievements (continued) :

4. Carries out in-house consultation amongst judges at various level of judicial hierarchy to share experiences and adopt best practices;
  5. Carries out regular intercourse with members of the bar and other stakeholders including representatives of civil society, academia, media, professional groups and human rights activists through organizing an annual National Judicial Conference;
  6. Formulates guidelines for code of conduct, judicial training and checking corruption and inefficiency in judiciary;
  7. Supervises the Automation Plan for judiciary, whereunder computers are being provided to all courts together with facility of access to case/statutory law, made available on the Internet;
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# Achievements (continued):

8. Makes recommendations for improved terms and conditions of service of judicial officers and court staff together with special incentives for women to join the legal/judiciary profession and special compensation package to attract qualified, experienced and capable professionals in the judicial service. The compensation package was approved by the Government and led to 2-3 times increase in the salary package of judicial officers as compared to their counterparts in the civil service;

In short, the body helps in operationalising the constitutional safeguards of judicial independence, impartiality and ensuring its accountability. The purpose, of course, is to improve the administration of justice and strengthen public confidence in judiciary to decide cases fairly, freely, impartially and expeditiously.

**Thank You**