

Asia Pacific

The perception of judicial corruption varies across the region

- According to TI's *Global Corruption Barometer 2006*, **Hong Kong, Malaysia, Singapore and Thailand** have relatively low levels of perceived judicial corruption. However, the judiciaries of **India** and **Pakistan** fare badly, with 77 percent and 55 percent of respondents, respectively, describing the judicial system as corrupt.
- **Cambodia:** Judicial officers are among the least trusted government officials, and provincial courts among the least trusted institutions, according to a recent opinion survey.
- **Bangladesh:** Two thirds of people who used a lower court in 2004 paid bribes, with the typical bribe amounting to 25 percent of average annual income.
- **Nepal:** The judiciary is perceived to be among the most corruption-afflicted sectors.
- **Pakistan:** According to a 2002 survey, 96 percent of respondents who had contact with the lower courts had encountered corrupt practices, mainly by court officials.

Persistent problems in the region

- Insufficient resources and backlogs are major causes and consequences of corruption.
 - In contrast to Asia's middle to high-income countries, governments of many low income countries (including **Bangladesh, Cambodia, Indonesia, Laos, Nepal, Pakistan, Philippines, Thailand** and **Vietnam**) have lowered their commitment to ensuring adequate support for courts and their personnel, inviting corruption and undermining the rule of law.
 - **Bangladesh:** 77 Supreme Court justices and 750 other judges cover a population of nearly 150 million. The salary structure for judges in the countryside is insufficient, and discourages capable people from joining the judiciary.
 - **Cambodia:** There are 225 judges in the country - 17 per million citizens - and fewer than 300 practicing lawyers.
 - **India:** In February 2006, 26 Supreme Court judges faced a backlog of more than 30,000 pending cases; over three million cases were pending in the high courts - 350 years of work for the country's 670 judges at the current rate of resolution.
 - **Nepal:** Judges often supplement their meagre salaries with 'incentives' from lawyers.
 - **Pakistan:** In Punjab, more than 770,000 civil and criminal cases are pending.
 - **Philippines:** In 2005, more than 800,000 cases were pending.

- The system is weighted against the people.
 - **Cambodia:** Even complicated trials routinely last less than 10 minutes, and an estimated 50 percent of cases go forward without an attorney.
 - **Pakistan:** English is the official language of the justice system even though 98 percent of the population do not understand it. The poor in villages turn instead to the local *panchayat*, an informal system of dispute resolution.
 - **Nepal:** The judicial system is viewed as too expensive and corruption-ridden; poor people often turn to Maoist courts for prompt justice in petty cases.

- Faulty selection and promotion systems add to the problem.
 - **Cambodia:** No official system exists for transferring, promoting or dismissing judges.
 - **Nepal:** A spirit of collegiality among judges hinders peer oversight and opens the door to corruption.
 - Across the region, political influence affects appointments, case selection and rulings, for example, in **Bangladesh, Cambodia, Pakistan** and **Sri Lanka**.

- Poor accountability mechanisms and a lack of transparency diminish the chances of corruption being properly detected and punished.
 - **Cambodia:** Judicial opinions are not documented transparently, and judges rarely explain their reasoning or note it in the court record, although this is required by law.
 - **Mongolia:** Court decisions are often made in secret, allowing judges to hide the lack of evidence to support their decisions. Mongolian laws can be ambiguous, allowing different, even conflicting, interpretations by judges and lawyers, often to their financial advantage.
 - **Pakistan:** While the Supreme Judicial Council, the judiciary's highest disciplinary body, is willing to accept 'information' about the corruption of judges from the police and media, it reserves the right to take 'direct action' against the originator of any complaint that it finds 'false, frivolous, concocted or untrue'. This paves the way for corrupt judges to escape scrutiny and disciplinary action.

Judicial reform is under way, but unfolding slowly and sometimes with limited effect.

- **Bangladesh:** More than 20 postponements have been granted on implementation of the Supreme Court directive for structural reform of the judiciary.

- **Pakistan:** The judicial reform programme fails to address the opaque appointment and promotion system for judges. The government's unwillingness to provide increased resources to improve salaries and infrastructure also reduces the impact of reforms.
- Electronic case handling systems have a mixed record of improving efficiency and accountability:
 - **Mongolia:** Full automation of Mongolia's 61 courts, automated random case assignment and public terminals to allow lawyers and the public to access case files have halved the number of people who perceived that the courts were corrupt.
 - **Papua New Guinea:** An improved case management database has helped to achieve a 30 percent reduction in delays caused by lost files.
 - **Philippines:** An Action Programme for Judicial Reform was introduced that includes an electronic case administration information system. However, the shortage of telephone lines has inhibited its impact.

Other forces of change

- **Political reform:** Nepal's 2006 interim constitution included a plan to appoint district judges according to merit.
- **Integration into the global economy:** In **Indonesia**, a commercial court was created to enable foreigners to avoid the corrupt regular court system. However, its judges made allegedly corrupt rulings that favoured well-connected local debtors.

TI's work

- **Monitoring civil and criminal proceedings in the courts:** The Court Watch Project run by the Centre for Social Development (CWP), TI's chapter in formation in **Cambodia**, has monitored thousands of cases since October 2003. As an independent watchdog, CWP helps to ensure fair trials and reduce opportunities for corruption.
- **Monitoring selection process and judicial council proceedings:** TI **Philippines**, along with other NGOs in the country, are active in improving the judiciary, forming watchdog groups to monitor selection of the chief justice and to observe proceedings in the judicial and bar council.