

**A Survey
of Private
Legal
Practitioners
to Monitor
Access
to Justice
by the
Disadvantaged**



Message

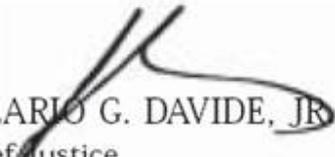
Over the last years, the Judiciary has taken concrete steps to establish a strong foundation for a long-term development of the Judicial Branch. One of these steps is the Action Program for Judicial Reform (APJR), which encompasses a wide-ranging yet comprehensive set of reform projects and activities aimed at improving the delivery of judicial services.

Among the components of the APJR is *Access to Justice by the Poor*, which cuts across all the other APJR components, as it is the inevitable byproduct of the successful implementation of each of the reform program components. It is also an overarching goal which all of the pillars of justice are striving to achieve. Several factors, however, frustrate the justice system, especially the courts, from ensuring that the poor and marginalized sectors have access to justice. Finite resources strain the Judiciary in finding ways to provide its services at no cost or at the very least, minimal cost.

To help achieve the purpose of the reform program to provide each and every Filipino — regardless of race, sex, creed or social status — the capability to access the court systems, the United Nations Development Programme (UNDP) has provided a grant for pioneering studies or surveys on areas where access to justice is most crucial. UNDP's invaluable support in funding these projects provided us with important data which will be useful in the thorough assessment of issues and problems in the present system of administration of justice.

The surveys — the National Survey of Inmates, Survey on Private Legal Practitioners, Study on the Public Attorney's Office — have generated national baseline data and recommendations from inmates, as well as legal practitioners from the Public Attorney's Office (PAO), Integrated Bar of the Philippines, and the Alternative Law Groups. These baseline data can be used by the Supreme Court in the formulation of policies and the identification of appropriate projects and activities designed to strengthen access to justice by the poor and disadvantaged sectors of Philippine society.

The Judiciary realizes that there are factors in the administration of justice that are beyond its jurisdiction or control. With these reform efforts, linkages with the other pillars of justice have been forged, and the seed for reforms have been planted. I am optimistic that such seed will take root, as each one of the pillars — the law enforcement, prosecution, correction and rehabilitation, and the community — have significant roles to play in ensuring that the collective voice of the poor and marginalized sectors of our society will not remain unheard.

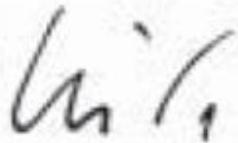


HILARIO G. DAVIDE, JR.
Chief Justice
Supreme Court of the Philippines

Message

Sustainable development and poverty reduction are the main tasks of the Swiss Government's Agency for Development and Cooperation (SDC). In working towards achieving these tasks, the SDC concentrates on five priorities: good governance, social justice, conflict prevention and management, income-generating projects and sustainable use of natural resources.

Good governance and social justice are key issues in any poverty reduction strategy. In their pursuit, equal access to justice is just as decisive an element as access to public services, information, the political system, and economic markets.



This is why the Swiss Government, through the United Nations Development Programme, has taken the opportunity to support the endeavor by the Philippine Department of Justice to improve the access to justice by the poor through its Action Program for Judicial Reform (APJR). It is hoped that Switzerland's contribution in the conduct and completion of the three baseline studies focusing on Private Legal Practitioners, Detainees and the Public Attorney's Office could help in the Supreme Court's efforts to improve the delivery of judicial services, especially to the disadvantaged.

LISE FAVRE

Ambassador of Switzerland
to the Republic of the Philippines

Message

The United Nations Declaration on Human Rights asserts that “all human beings are born free and equal in dignity and rights” and are “entitled to equality before the law and protection of the law.” Equal access to legal remedy should be ensured, regardless of ethnicity, religion, gender or socioeconomic class. At the core of the continuing efforts of the United Nations to create an enabling environment for human development is the promotion and protection of human rights around the world. The United Nations believes that human rights and human development are interdependent and mutually reinforcing. The United Nations believes that the existence of an efficient justice system is integral to human development and the promotion of human rights.

The United Nations Development Programme (UNDP) is pleased to support the efforts of the Supreme Court of the Philippines and its affiliated agencies to improve access to justice for the poor and disadvantaged in particular and we hope that they will continue to make their mark as one of the very active partner institutions in the common pursuit of human development.

As an institution, we also believe that the poor should be able to seek and obtain justice under laws in conformity with international human rights standards and national constitutional norms. Such standards and norms seek to safeguard the rule of law for all persons.



DEBORAH LANDEY
Resident Coordinator

United Nations Systems Operational Activities
for Development in the Philippines
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Resident Representative
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The Survey of Private Legal Practitioners to Monitor Access to Justice by the Disadvantaged is one of the three baseline studies funded by the United Nations Development Programme (UNDP) in support of the Supreme Court's Action Program for Judicial Reform (APJR). This baseline study affirms the partnership of kindred spirits who strive to enhance the present justice system's capacity in providing greater access to the poor and disadvantaged.

Chief Justice **Hilario G. Davide, Jr.**, is the moving force behind the Action Program for Judicial Reform (APJR) under which this project was undertaken. The Supreme Court Program Management Office Team — Program Director **Evelyn Toledo-Dumdum**, Deputy Program Director **Edilberto A. Davis**, Director **Nestor U. Venturillo**, Finance Officer **Marites O. Delfin** and Project Officer **Arnel F. de Guzman** — provided the general coordination, guidance and invaluable assistance in the completion of this study.

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The Arts and Sciences Interdisciplinary Network, Inc. (ASIN) conducted this study under its able team – Prof. **Cristina E. Torres**, Mr. **Rolando G. Talampas**, Atty. **Albert T. Muyot**, Ms. **Rachel Delino**, Ms. **Eliza DC. Longalong** and Ms. **Jenny Barasi**.

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During the presentation of the findings of the study, invaluable insights and suggestions were contributed by the participants, especially the invited reactors who graciously lent their expertise and experience to validate and enhance the findings. Special thanks are due to: Court Administrator, Justice **Presbitero J. Velasco**; Judge **Marino de la Cruz**; Chief Public Atty. **Persida V. Acosta**; IBP President Atty. **Teofilo Pilando, Jr.**; Director of UP Office of Legal Aid, Prof. **Rowena Morales**; Col. **Antonio Cruz** of BJMP; Atty. **Pura Angelica Y. Santiago** of IBP; Atty. **Jose Manuel I. Diokno**, Executive Director of the Free Legal Assistance Group (FLAG); and Atty. **June Ambrosio**.

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Acronyms

ALGs	Alternative Law Group
ALG, Inc.	Alternative Law Group, Inc.
ALTERLAW	Alternative Law Research and Development Center
APJR	Action Program for Judicial Reform
ASIN	Arts and Sciences Interdisciplinary Network, Inc.
CLB	Children's Legal Bureau
DAR	Department of Agrarian Reform
DARAB	Department of Agrarian Reform Adjudication Board
DSWD	Department of Social Welfare and Development
ELAC	Environmental Legal Assistance Center
FGD	Focus Group Discussion
FIDA	Federacion Internationale de Abogados
FLAG	Free Legal Assistance Group
<u>FREELAVA</u>	Free Rehabilitation, Economic, Education and Legal Volunteers Association, Inc.
IBP	Integrated Bar of the Philippines
JBC	Judicial and Bar Council
JRA	Judicial Reform Agenda
MABINI	Movement of Attorneys for Brotherhood, Integrity, a Nationalism, Inc.
<u>MCEP</u>	Mandatory Continuing Education Program
<u>MCLE</u>	Mandatory Continuing Legal Education
NCLA	National Committee on Legal Aid
NCR	National Capital Region
NGOs	Non-government Organization
PAO	Public Attorney's Office
PILO	Public Interest Law Office
PMO	Program Management Office
PNP	Philippine National Police
POEA	Philippine Overseas Employment Administration
PVO	Paralegal Volunteers Organization

SALIGAN	Sentro ng Alternatibong Lingap Panligal
SWS	Social Weather Station
UNDP	United Nations Development Programme
UP	University of the Philippines
WILOCI	Women Lawyers' Circle
WLB	Women's Legal Bureau

Executive Summary

Conditions of poverty define the circumstances that result in lack of access to justice. A structural analysis of “access to justice” issues reveals two groups of stakeholders who complement one another: the poor and the disadvantaged as the “claim holders”; and judicial institutions, bar associations and individuals (lawyers) as the “duty bearers.”

The present study, as part of baseline data for judicial reform, attempts to dissect the structures and processes related to access to justice by the disadvantaged. The lawyers’ perception as duty bearers are used to examine “normative protection (existence of remedy), capacity to seek a remedy (legal empowerment), and the capacity to provide an effective remedy (adjudication, enforcement and oversight)” for disadvantaged groups with grievances related to human rights principles and standards.¹

As lawyers have an important role to play towards improving access to justice by the disadvantaged, this study aims to determine the knowledge, attitudes and practices of private legal practitioners towards improving access to justice by the poor and marginalized groups.

It made use of quantitative and qualitative methods to be able to describe lawyers’ perception and experiences related to the justice system. An eight-page questionnaire was mailed to lawyer respondents whose names were randomly and systematically generated from the IBP membership roster. Focus group discussions (FGDs) were conducted in Metro Manila, Baguio, Cebu and Davao. To validate lawyer responses generated from the survey instrument, the literature was reviewed.

A. Data About Lawyers

The lawyer-respondents were aged 25-72, and their demographic profile may well represent that of litigation lawyers. Majority were male (70%), Catholic (91%), married (61%). From the systematic random sample drawn from the roster of the Integrated Bar of the Philippines (IBP), 72.8% were male and only 27.2% were female. Most of the respondents (39%) reported a monthly income range of P20,001 to P40,000. Nineteen percent (19%) reported a P40,001 to P60,000 range, and 13% reported income above P100,000.

About one-fourth of the respondents (24%) said they were members of an Alternative Law Group (ALG), a term commonly understood in its generic context. ALGs, as broadly defined, are perceived to be involved in rendering free legal aid, developmental legal assistance, or similar public interest lawyering. The Free Legal Assistance Group (FLAG) was the most common

ALG mentioned as it represents the tradition of rendering legal services without payment.

Lawyers charge different types of fees. In cases that are not *pro bono*, the usual modes of payment required are lump sum (13%), appearance fee plus progress billing in accordance with various stages of the case (54%), contingent (16%), and time charges (16%). More than three-fourths of acceptance fees charged are P10,000 and over, while nearly half of appearance, time charges, and termination fees are priced at P1,000 and below. While contingent fees are prohibited by the code of ethics, they have become common practice, particularly in cases associated with property or labor cases involving back-wages and other forms of settlement. Charging fees based on time spent on a case is a common practice among law firms.

Providing legal services for the disadvantaged results in loss of income for the lawyers (30%), who are compensated by personal fulfillment (36%), psychological reward (18%), spiritual growth (18%), and development of professional expertise (18%). This shows the high value that the respondents put on rendering legal services to the disadvantaged.

All lawyers in the Philippines are members of the Integrated Bar of the Philippines (IBP), an organization involved both in traditional legal aid and developmental legal aid. The IBP has set up the National Center for Legal Aid that assists in the legal requirements of indigents. Its local chapters are also actively involved in providing legal assistance to the poor and marginalized sectors of society.

B. Data About the Disadvantaged

The term “disadvantaged” captures the plight of poor clients, since many aspects of the legal system, as well as the other pillars of justice, work to their disadvantage. Most poor clients have no regular income and only earn enough money to provide for their basic needs. The biggest sectors of the disadvantaged that are provided legal representation by the lawyer-respondents are the urban poor and labor (formal and informal).

This may be due to the large number of the respondents based in urban areas, and reflects an urban bias for the practice of law in general. However, it is noteworthy that members of ALG Inc., identified farmer groups and indigenous peoples as their top basic sector clients, an indication that some lawyers’ groups are giving priority to rural concerns.

Most of the private lawyers provided more than one of the following legal services: representation of one of the parties in trials (29%), legal counseling (29%), documentation (27%), mediation (11%), corporate law (3%), and research/education (1%). This shows the range of services that lawyers provide their clients. The lawyers who were interviewed claimed that they exerted the same effort and enthusiasm to work on cases of *pro bono* and paying clients. Some lawyers said they welcome the opportunity to be assigned as *counsel de officio* by the courts, as they see it as an opportunity to improve professionally, and to develop good relations with the judge.

How do poor clients gain access to lawyers? The local IBP chapter may supply the court with a list of available lawyers who become the *counsel de officio* for indigent clients. There are also walk-in clients. Since many IBP offices, together with the Public Attorney's Office, are located within the Halls of Justice premises, poor clients may approach the Public Attorney's Office or the local IBP chapter for legal assistance. Sometimes, they also approach lawyers with radio programs or lawyers referred by their relatives and friends. Survey data showed that it was the client himself/herself (28%) or his/her family (23%) who asked for legal representation. In a good number of pro bono cases (17%), the court appointed a *counsel de officio*.

Most ALGs work with specific communities or organized sectors, an arrangement that facilitates legal assistance. Among affiliated organizations of the ALG Inc., the basic sectors (farmers, laborers, women, children, indigenous peoples, etc.) address their sectoral concerns with lawyers identified with their organizations. Lawyers are not only involved in litigation. Through legal education and paralegal training, they also help empower communities and organized groups to work for their rights.

C. Data About the Judicial System

The lawyers were asked to specify at which stage in criminal litigation they are usually summoned for legal representation, and to identify the party who requests it. Representation of clients occurred at different stages of the case, with 39% represented before trial, 42% during trial, and 19% during appeal. The data showed that lawyers stood for their clients during inquest, but majority of *pro bono* clients were represented only during arraignment. This shows that lawyers are usually called on only after the case has been filed in court. Ideally, access to legal representation should be before the case goes to court — during custodial investigation, inquest, or preliminary investigation in criminal cases.

It was noted that, in *pro bono* cases, the lawyer often talks to the client only during the hearing itself: 14% if the client is not detained and 30% if the client is detained. This, despite the fact that lawyers can talk freely with detained clients (95%) and there is a private place in jail where they can talk (73%). Ideally, the lawyers should have talked with the client before the hearing of the case. This affects the quality of the legal services provided. It is also a cause for delay, as one reason for a postponement is that the lawyer needs more time to "study the case." It was also noted that, in *pro bono* cases, it is the lawyer who often pays for copies of the documents (45%).

The cost of litigation varied for different items. Bail, transcripts, and filing fees were the highest cost items, while serving notices and pleadings were lowest. Transcripts had become very expensive, varying from P100 to

P150,000, according to the lawyer-respondents. The median cost cited is P500, which is still expensive for indigent clients. During the interviews, the lawyers observed that the reproduction of transcripts has become overpriced and the sale of stenographic notes has become a business for court stenographers.

Detention due to the inability to post bail has become quite common, and poor defendants languish in jail. The amount of bail is left to the discretion of the court upon the recommendation of the prosecutor. Lawyers of poor clients have difficulty negotiating a reduction of bail. Lawyers also observed that the provision of surety for bail has become a profitable industry, and, in some places, the arresting officer is given a commission for referral.

Lawyers were made to identify the average period of time spent for case events. No significant differences were found in the duration of events between paying and *pro bono* cases. The duration of court proceedings is very long. The average duration from filing of information to judgment is around two years. Note, also, that the other stages have an unduly long duration. As the adage goes, justice delayed is justice denied, and there is a long way to go towards the faithful implementation of the Speedy Trial Act. While the law provides for a time frame within which a case may be resolved, the delay takes place in calendaring a case. The rules of court that liberally allow postponement is another cause of delay.

From the perception of lawyers, the impediments to access to justice by the disadvantaged are the costs of litigation, corruption in the justice system, particularly in quasi-judicial agencies and at the prosecutor's office. Other contributory factors include the lack of court facilities for speedy decision-making, lack of access to judicial information, and the slow pace of judicial processes.

There are enough laws to protect the poor, like the Civil Code, which provides that the courts should decide in favor of labor in cases where all things are equal. The Constitution contains social justice provisions; and there is a speedy trial law. But in terms of implementation, the poor become disadvantaged when the law, as well as the rules of court, are used against them. In many cases, it takes time for cases of the poor to be calendared while they languish in jail. At other times, there is "speedy calendaring," particularly in drug cases involving the poor. The amount of bail is subject to the discretion of the court. The rich can readily produce while the poor need guarantors to be able to get a surety bond. It is suggested that the rates be socialized.

D. Social Influences

Lawyers perceive the justice system as affected by political, geographic,

and economic factors. Because rich people have the political and economic clout to help their cases, the court system may be manipulated to the advantage of the wealthy. The justice system is also vulnerable to political influences, particularly in the matter of appointment to various positions.

While the Constitution recognizes the separation of powers, the executive branch makes appointments to the judiciary and political connections often become the primary consideration. The executive branch may also choose to highlight its own judicial agenda in terms of increased budget allocation to its priority programs. The legislative branch, which passes laws affecting the judiciary based on its members' appreciation of what is important, may also set a different agenda and push for its own priority programs.

Various lawyers perceive media influence differently. Media exposure is sometimes helpful but at other times can be an obstacle to justice. It depends which side is able to use media to its advantage. Sensationalism can affect cases in such a way that some defendants have been perceived to be guilty even before court trial. Furthermore, it was observed that the media are not careful about the rules of confidentiality in child cases. The media also need training in child sensitivity.

E. Awareness of Judicial Reform

Slightly less than half of the lawyers (47%) were aware of the Supreme Court's Judicial Reform Agenda (JRA). Of those who knew about the JRA, 38% were of the opinion that the reforms are inadequate. The lawyers who were knowledgeable about the JRA cited the Integrated Bar of the Philippines (37%), media (32%), and professional lawyer groups (20%) as main sources of information.

F. Good Practices Among Lawyer Organizations

The Integrated Bar of the Philippines

The IBP is involved in both traditional and developmental legal aid. As the IBP has the distinction of being the only organization of all lawyers in the Philippines, it is capable of wielding sufficient influence to improve access to justice by the disadvantaged. It has institutionalized the practice of officially providing assistance to poor litigants through the practice of making its vice-president officially in charge of the legal assistance program. The IBP chapters that have put offices near or within the court premises have physically complied with the principle of improving access to justice by poor clients who need legal assistance.

To the extent that IBP chapters are able to provide legal assistance to

poor individuals, they are able to fulfill the traditional role of lawyers towards achieving justice in society. As IBP officers are also perceived to be respectable members of their respective communities, they are able to wield considerable influence to help the disadvantaged groups. Some IBP chapters have taken a proactive stance, by giving suggestions to the police, and the other pillars of justice, to improve the justice system. Those that have access to media have used it to educate the general public about their legal rights. The IBP's national presence through its local chapters in various parts of the country should facilitate its position as vanguard of judicial reform and protector of the legal rights of the disadvantaged.

Alternative Law Groups, Inc.

ALGs identified with the basic sectors and affiliated with ALG Inc. have adopted legal mechanisms advantageous to poor clients. They use an integrated approach that includes research and education, and exhausts alternative means to win a case, like writing letters to the editor, holding rallies and trying to win public opinion. This makes it easier for an ALG lawyer since the work is not done alone. In traditional lawyer-client relationships, the lawyer does all the work. Among ALGs, the work usually involves communities, thus providing greater opportunity for client involvement.

The reputation of ALGs as cause-oriented, or working for public causes, can improve the chances of a fair trial for the disadvantaged. In terms of final outcome, getting a favorable court decision is not the only measure of victory. Sometimes, even if the poor lose their case, it may be good enough that they are paid compensation. Working through ALGs makes the work of achieving justice for the poor more sustainable.

G. Lawyers' Recommendations for Reforms

The respondents made these major recommendations to improve access to justice by the disadvantaged:

A. On lawyering for the disadvantaged

1. Require new lawyers to render legal services for the disadvantaged, and the time spent could be credited to the Mandatory Continuing Legal Education.
2. Encourage lawyers to accept cases for the disadvantaged by providing them with some compensation or an allowance to cover costs.
3. Require law students to serve the disadvantaged sectors.

B. On the judicial system

1. Eliminate corruption in the judiciary.

2. Strictly implement the Speedy Trial Act.
3. Strengthen the *Katarungang Pambarangay* so that minor cases will not be brought to court.
4. Provide for regional access to the appeal courts.
5. Create special courts for disadvantaged groups.
6. Initiate moral reform among the court officers.

C. On court procedures and administration

1. Recruit more judges, prosecutors and PAO lawyers, and increase their salaries to attract the best and the brightest.
2. Lower the cost of litigation, especially the cost of transcripts. Exempt the disadvantaged from payment of fees for transcripts.
3. Enforce punctuality in courts.
4. Improve the rules of court to speed up the proceedings.
5. Give priority to cases of the disadvantaged in the court calendar, or designate special courts for them. Improve management of court calendars.
6. Improve the information campaign on newly issued rules of procedure, court circulars, etc.

H. Conclusion

Lawyers, generally, are able to maintain their idealism while practicing the profession. They sympathize with the disadvantaged. The lawyer organizations, as duty-bearers in improving access to justice, have vital roles to play in a democratic society. They should continue to work with disadvantaged groups and make use of empowering strategies in lawyering for the disadvantaged.

I. Study Recommendations

1. The strengths and weaknesses of lawyers and their organizations should be further analyzed. This will better define their institutional role as duty-bearers in improving access to justice for the disadvantaged. Further studies should be conducted on the impact of the IBP, ALGs, and other legal aid centers in improving access to justice and related issues. These will assess mechanisms adopted by lawyer groups to help the disadvantaged.
2. Lawyers' organizations should take a pro-active role in analyzing the strengths and weaknesses of the basic sectors with which they work. This will serve as a starting point to improve access to justice. They should use a community/peoples' empowerment framework as basic tool in legal aid and developmental legal assistance work. The ultimate objective is to enable communities to help themselves. The reflexivity

approach should be used. Here, study respondents and victims may use the developmental legal aid initiative to reflect on, and better understand, their conditions to be able to address them beyond the judicial parameters.

3. Lawyers' organizations should extend their reach to basic sectors in rural and geographically isolated areas. Outreach activities in these areas should be able to address the imbalance in the availability of lawyers whose practice is mostly concentrated in urban areas.
4. Lawyers involved with the basic communities should intensify their advocacy to minimize discriminatory behavior and biases against various groups in the basic sectors. Advocacy initiatives may take the form of training, organizing, and media activities.
5. Lawyers should be able to make use of modern technology to be able to develop databases about disadvantaged groups, and to be able to communicate with strategic partners on urgent issues related to access to justice.

1 Introduction

BACKGROUND OF THE STUDY

Access to justice, along with the rule of law, is an element of democracy enshrined in the Constitution. Thus, the consensus is that the means, requirements and ends of such success should go beyond the exclusive confines of the judicial system:

To obtain access to justice one must have access to resources and access to skills. This implies that even if there are NGOs or statefunded mechanisms to facilitate access to justice, these are meaningless without knowledge. This assumes also that the justice system as well as the legal system is fully operational even if inaccessible to the poor and marginalized.¹

Within the judicial system, especially one that has consistently sought to reform itself, the crucial participation of lawyers should be understood. In the Philippines, long-standing problems of court congestion and delay have almost always been blamed on lawyers. Additionally, what lawyers do or fail to do in the process of litigation, and appeal for and in behalf of their underprivileged clients, are usually considered the manifestation of injustice, one associated with poverty. This has caused continuing social tension, conflict, and instability.² As Chief Justice Hilario Davide, Jr. has pointed out:

When persons in the fringes of national life have access to judicial process, and when their attempts to seek redress from the courts are not peremptorily barred by archaic concepts of standing, the very hospitability and accessibility of our judicial system would be the strongest condemnation of any recourse to violence and anarchy.³

The linkage between lawyers, access to justice by the disadvantaged, democracy and development, is the overarching theme of this research undertaking by the Philippine Supreme Court, the IBP, ALGs, and the Arts and Sciences Interdisciplinary Network, Inc. with the support of the United Nations Development Programme (UNDP) and the Swiss Agency for Development and Cooperation (SDC).

UNDP AND THE SUPREME COURT

UNDP Administrator Mark Mallock Brown has remarked that the Philippines, being among the “more than 60 countries (that) are poorer than they were a decade ago” and also among the Southeast Asian countries whose population had grown tremendously at the close of the last century, continues to be beset by problems of jobless youths and “frustration at the lack of opportunities and political freedoms.” He warned that unless governments are able to demonstrate to their citizens that they are taking successful action on bread-and-butter (or rice-and-fish) issues, from jobs to crime to schools — and by doing so make serious inroads into poverty — the dramatic expansion of democracy might be reversed.

Already there have been serious setbacks in some countries. And nearly half of the new wave of nominally elected governments cannot yet be described as full democracies.⁴

He concluded that giving the poor access to justice, among others, could be the key to solving the real predicament of similarly-situated peoples in the developing world:

To promote human development successfully we need to put politics back into poverty eradication.

That means ensuring that the poor have a real political voice and access to strong, transparent institutions capable of providing them with the kind of personal security, access to justice, and services from health to education they so desperately need.

The UNDP access-to-justice initiative unequivocally proclaims:

We should all be equal before the law. This is an essential part of democratic governance and a part of the core foundation of any accountable and democratic society. But in far too many countries, this is not yet the case. The law is not equal to all - and all are not equal before the law.

UNDP has a two-fold mission in this area: To ensure that the law treats all men and women equally irrespective of wealth, race or creed; and to ensure that all, including the poorest and those without skills, knowledge or resources of their own, have access to, and trust, in the law and the legal system.

UNDP should take a leading role to investigate, monitor and advocate a legal system accessible to all, especially to poor people.⁵

The United Nations Development Programme, in seeking to help realize genuine human development for countries like the Philippines has seen that

the judicial system can be an effective instrumentality for popular welfare that ensures social and political stability. As the court is said to be the remedial forum for legislative and executive weaknesses and wrongs, the Supreme Court is the ultimate inspirational institution for this study, in line with its objective of strengthening the foundations for a just society.

From March until writing time (early June 2003), the Supreme Court Program Management Office, overseeing the overall foreign-assisted judicial reform efforts, has given more than sufficient and efficient guidance to this undertaking through periodic consultations, advice, and comments. Its able leadership has also helped ensure a clear understanding of the three component projects under the general heading of "Strengthening Access to Justice."

THE INTEGRATED BAR OF THE PHILIPPINES

The 40,461 lawyer members of the IBP have been continuously reminded of the three-point mission of the organization:

1. To elevate the standards of the legal profession;
2. To improve the administration of justice;
3. To enable the Bar to discharge its public responsibility more effectively.

The IBP national leaders and nine regional chapters have, in particular, been keen on developing and expanding legal aid services to poor litigants nationwide. Recently, with assistance from the United Nations Children's Fund⁶ and with increased subsidy from the Supreme Court and the Houses of Congress, the IBP has consistently been an able partner of government in extending a helping hand to the needy and the destitute. The IBP outgoing president Teofilo S. Pilando, Jr. has emphasized the role that the IBP members perform in social reform:

It is important to underscore that lawyers can, if they wish, participate in the social and economic transformation of the country. We lawyers engage in a profession that can be finetuned to meet the demands of a changing society. Our task as lawyers is not only to uphold the supremacy of the law but, more significantly, to help change the system that spawns laws that further prejudice the already prejudiced sectors of society.⁷

A Survey of Private Legal Practitioners to Monitor Access to Justice by the Disadvantaged

On the IBP's legal aid advocacy, Atty. Pilando said that the IBP shall "pay premium to economic and social rights. Without relegating matters related to traditional civil and political rights, legal issues concerning economic deprivation, social exclusion, environment, and technology shall receive special attention."⁸

The IBP National Committee on Legal Aid is guided by the words of its first chairman, former Chief Justice Roberto Concepcion: "Adequate free legal aid to the indigent and the needy is essential to the Primacy of the Law." As such, the former chief justice defined legal aid as seeking to "render equality before the law a reality in actual practice, to generate the people's faith in the law and in courts of justice, as well as in other agencies performing similar functions, as instrumentalities of their welfare, and to promote adherence to the Rule of Law and, hence, peace and order." Furthermore, the IBP "developmental legal aid" seeks to benefit not just an "individual and his personal interests but a class or a group of persons who face a common problem arising out of social conflicts in society."⁹

In connection with this project, the IBP national office permitted the use of its resources, helped refine the design and content of the main instrument, endorsed this study to its members, and gave valuable insight into the workings of the IBP in relation to access to justice. On their own, the IBP local chapters in Baguio, Cebu and Davao cities likewise mobilized their resources with respect to the required on-site visits and meetings.

ALTERNATIVE LAW GROUPS

ALGs seek to "participate in the empowerment of the marginalized sectors through advancing a critique of law and engaging in developmental law practice or assistance." Moving away from "traditional" law practice, ALGs "opt for a multidisciplinary approach" via the engagement of other professions and fields of study.¹⁰ ALG stalwart Marlon Manuel believes that the developmental legal practitioners see an opening in the Supreme Court's reform program for improving access for the poor via "legal and judicial education." More educated judges, suggests Manuel, will "have a better understanding of the issues concerning the marginalized groups."¹¹

More than 20 ALGs all over the country, under the umbrella of the 10-year old ALG, Inc., helped in various ways in finalizing the direction and assessment tools for their brand of lawyering. They provided concrete details and the latest information on the legal defense of marginalized persons, groups and sectors. With their youth, vitality and unflinching commitment to their clientele, the ALGs seek to "demystify" the law by bringing it closer to the marginalized sectors, empowering them with the basic legal skills and knowledge to engage the law, and using it as part of their strategy to advance

their issues.”¹²

Many ALGs in the National Capital Region, the Cordillera Administrative Region, Central Visayas, and Eastern Mindanao helped this undertaking from the start by helping refine the instruments used, referrals to regional organizations, and participating in an exclusive Focus Group Discussion (FGD) in the NCR.

SIGNIFICANCE OF THE STUDY

The importance of this study is derived from two related considerations:

1. *The need to describe and quantify lawyers’ perceptions on access to justice by the disadvantaged*

Lawyers have always been blamed for judicial failure in the country. However, they have not been given enough chance to explain the delay and congestion in the litigation process. Lawyers, also, have not been able to analyze and describe the problems and their causes, based on first hand experience of judicial processes. Thus, fairness or “justice” demands that they be allowed to speak out on the important aspects and practices in the judicial system that impinges on the overall outcome of the administration of justice.

2. *The need to relate access-to-justice problems to the judicial reforms*

No less than the Chief Justice Hilario G. Davide, Jr., has said that prioritizing access to justice in the Philippines has meant “not only multiplying courts and increasing the number of judges, but bringing procedural rules up to date and equipping judges and court officers, principally through judicial education, with the competencies that attend to the demands of vulnerable sectors.”¹³

Case delays caused by lawyers’ frequent requests for postponements have been pointed out as one significant reason for so-called “lawyerrelated” court inefficiency.¹⁴ The conduct of lawyers specified in the rules of court and in the ethical guidelines is too often overlooked, that is, until the most recent comprehensive Action Program for Judicial Reform, 2001-2006 (APJR). This presented a more comprehensive analysis of issues involved. Thus, the ability to cull and sift lawyers’ opinions regarding areas of possible intervention is a desired outcome of this study. Specifying lawyers’ concrete recommendations might help the judicial reform effort attain its desired robustness, substance and transparency.

OBJECTIVES General Objective

To determine the knowledge, attitudes, and practices of private legal practitioners regarding access to justice by the disadvantaged.

Specific Objectives

1. To describe the knowledge, attitudes and practices of lawyers disaggregated according to the following variables:
 - a. sex
 - b. age
 - c. indigenous/ethnic grouping
 - d. income
 - e. residence
 - f. place of practice (urban or rural).
2. To describe the perception and assessment of private legal practitioners related to:
 - a. Adequacy of judicial policies to protect the poor
 - b. Attention and fair treatment of the poor
 - c. Acceleration of judicial practices
3. To describe conditions related to the following indicators of access to justice:
 - a. Availability of adequate legal aid, particularly between arrest and arraignment;
 - b. Access to clients and availability of legal records to lawyers in advance for court appearances;
 - c. Affordability of the costs of litigation; costs and charges incurred (official and unofficial) by case, as compared to average costs to cover basic needs and average income;
 - d. Discrimination in access to bail.
4. To identify and describe barriers to access to speedy justice by disadvantaged groups as perceived and experienced by lawyers.
5. To identify sustainable mechanisms for monitoring access to justice.
6. To identify measures to improve capability-building in civil society to monitor judicial reforms.
7. To solicit suggestions from lawyers regarding innovative ways to improve access to justice by disadvantaged groups.

THEORETICAL FRAMEWORK

This study is informed by recent knowledge and wisdom on the nature of justice:

1. *Justice serves to ensure and advance democracy and its institutions.*

The nature of justice has been qualified by Felipe Miranda as the “quality of human relations which works towards the moral, intellectual and material development of men in society.”¹⁵ The “developmental end” and “democratic bias” of justice, therefore, flow from the political desire and need to realize a stable, rational, and sustainable environment that not only permits but also ensures peaceful social interactions.

2. *Justice, to be meaningful and relevant, must institutionalize access by the disadvantaged.*

The ends of justice may be served well if none get undue advantages over another, if access is attained on account of merit, if needs are provided well beyond token gestures and ritual implementations, if the principle of equity (“those who have less in life should have more in law”) is constantly observed.¹⁶

3. *The administration justice must be constantly reformed, especially with the participation of the society at large.*

In the Philippines and in similar contexts, the rule of law and the role of lawyers following this notion of justice have become programmatic calls for social and national transformation. Jose W. Diokno’s “Filipino Concept of Justice” calls for democratic institutions and patriotic and pro-poor reform of the structural weaknesses and defects.¹⁷ Alfredo Tadiar harks back to the significance of the principles of impartiality and objectivity in decision-making and equality of treatment, to affirm justice efforts that remain valid and useful indices of justice administration.¹⁸

In theory, therefore, accessibility is the main operational qualification of justice, in terms of social justice, that governs and realizes its developmental, democratic, institutional, and practical tenability. The supply side of this qualification is borne mainly by the judicial system, while its demand side is made up of people — clients, mainly the disadvantaged.

CONCEPTUAL FRAMEWORK

Access to justice means the “ability of people from disadvantaged groups to prevent and overcome human poverty by seeking and obtaining a remedy, through the justice system, for grievances in accordance with human rights principles and standards.”¹⁹ Vessela Terzieva writes that two important considerations (namely, problem and resolution) of access to justice, include: (a) procedural obstacles to filing a complaint in court, ineffective enforcement mechanisms, corruption, and other impediments to judicial

protection of rights; and (b) the right to legal aid that may encompass all procedural guarantees associated with the right to fair trial and access to justice in a broad sense.²⁰

The recent UNDP Kathmandu Workshop has proposed to look at the imperatives of access to justice with respect to the following principles that, by themselves, constitute the related broad and specific concepts in the administration of justice that may be applicable to the Philippine setting:

Major Areas in Practice Development (Immediate Causes of Deficient Access):

1.	Normative protection (Existence of remedy)	a. b. c.	By international and Constitutional law By legal and regulatory frameworks By customary norms and jurisprudence
2.	Capacity to seek a remedy (legal empowerment)	a. b. c.	Legal awareness Legal counsel Capacity to access formal and informal justice services
3.	Capacity to provide an effective remedy (adjudication, enforcement and oversight)	a. b. c.	Effective adjudication and due process: judicial, quasijudicial, informal, and traditional systems Enforcement: police and prisons Civil society oversight

DEFINITION OF TERMS

Some of the terms used in this study are used with the following corresponding meanings:

Alternative law groups – Private groups organized for the purpose of, mainly but not exclusively, providing legal *aid/probono* services, seeking judicial and legal reforms and legal empowerment, conducting legal education and training, etc.

They are deemed alternative in the sense that: 1) they are not in government employ; 2) they are involved in other areas of the administration of justice apart from litigation; and 3) they have a different way of sharing in the realization of the vision and mission of social justice, especially for the disadvantaged.

In the survey results presented in the next part of the study, lawyers who identified themselves as belonging to alternative law groups in the returned mailed questionnaire use ALG in its generic sense, and constitute the group referred to by the general definition.

Some types of alternative law groups are:

Academe-based – Groups of students and faculty members and legal consultants providing legal counsel and aid chiefly to indigent clients. Examples are the Ateneo de Manila University, University of San Carlos, and Ateneo de Davao groups.

Non-affiliated groups – Although these groups are organized along the same principles, methods and objectives as the affiliated groups (e.g. ALG, Inc.), they work independently of the umbrella organization. Examples are fraternity alumni based organizations, especially among those who were activists during their college days.

Affiliated groups – Groups such as those belonging to the ALG, Inc. who have agreed on a common framework for undertaking developmental legal aid and “alternative lawyering” for the poor.

Alternative Law Groups, Inc. (ALG, Inc.) – The loose coalition of 22 groups that seek to “participate in the empowerment of the marginalized sectors through advancing a critique of law and engaging in developmental law practice or assistance.” They have formally declared so in their registration papers as ALG, Inc. For a listing of the members of ALG, Inc., see Appendix E.

Disadvantaged – Persons, groups, classes and sectors of people, communities and the like who have been unable to access justice (due to underrepresentation, lack of protection, unequal treatment, etc.) and have generally become victims of the justice system. The poor and the marginalized women, children, indigenous populations and the handicapped are far too often the victims of the structural and procedural advantages gained by others.

Integrated Bar of the Philippines (IBP)- The national professional organization of Filipino lawyers whose names appear in the Roll of Attorneys of the Supreme Court. Historically, the Supreme Court’s October 5, 1970 Resolution on the Commission on Bar Integration, confirmed on 17 September 1971 by RA 6397, affirmed the Supreme Court’s power to “adopt rules of court to effect the integration of the Philippine Bar.” These constitute the legal bases for the foundation of the integrated bar or the IBP. On 9 January 1973, the Supreme Court ordained the integration of the Bar in accordance with its Rule 139-A, effective January 16, 1973.

Lawyer – Person admitted to the Bar and practicing the law profession.

Legal aid – Assistance by lawyers and lawyers’ groups, chiefly in the form of

advice and counsel for identified indigent clientele for client-based, issue-based, etc. purposes.²¹

Marginalized – Persons, groups, communities, and the like who have been, because of certain attributes and constraints, unable to access the benefits of growth and development.

Poor - Economically deprived groups as a consequence of low income, unemployment, absence of opportunities (due to educational, and other qualifications). It generally includes persons and their families who live below the poverty threshold.²²

Pro bono/pro bono client – Person or group of persons who cannot afford to pay attorney's fees chiefly, but not exclusively, during litigation.

Public interest litigation – In the words of Helen Hershkoff: "Public interest litigation (PIL) is not only a form of legal practice; it also constitutes a political practice that affords marginalized groups and interests an entry point into contested issues. To carry out the work, lawyers must marshal institutional structures, organizational techniques, and resources, such as funds and personnel." In this sense, PIL is in many respects synonymous with what Lags calls developmental/alternative lawyering.

Supreme Court- The highest court of the land.

METHODOLOGY

This study is principally a described assessment of private lawyer's perceptions of the significant aspects of the judicial system involving - and as they impact upon - the disadvantaged. It makes use of descriptive statistics and qualitative analysis.

Population and Sampling Technique

This study used the simple random sampling method:

- The IBP membership roster served as the population and sampling frame: 41,430 entries, with data on alphabetically listed lawyers' names and their respective work addresses, telephone numbers, and years of admission to the Bar.
- Excluded from the list were:
 - a. Names without addresses or with incomplete addresses;
 - b. Names whose work addresses are government agencies (based on

entries indicated by ministry, department, bureau, commission, city hall and other entities); and
 c. Names whose year of admission to the Bar are earlier than 1969.

- The cleaning up narrowed down the list to 10,000 alphabetically listed names, which were then numbered accordingly. To systematically select the samples at random, the total number (10,000) was divided by the required number of original respondents (1,500). The result was an interval of 6. Thus, every 6th name in the list was picked out as a sample unit. The first or the start of the sampling was also selected at random. In the event that the original samples did not return the questionnaires, another set of 1,000 names were chosen randomly as replacement. Using the same interval of 6, the replacement samples were picked out from the remaining 8,500. The questionnaires were then prepared for the total 2,500 lawyers randomly selected from the list.

A majority of the questionnaires (75%) were mailed to lawyers with Metro Manila addresses.

Only 141 questionnaires were accomplished and sent back for processing; about 676 bore the markings "Return to Sender" for incorrect or unknown addresses. The survey's very low response rate may be attributed to three factors: (1) nature of the survey; (2) reliability of the IBP database from which the sample was taken; and (3) lack of motivation on the part of respondents.

Area Distribution of Mailed Questionnaire

Area	% of mailed questionnaire from systematic random sample	% of lawyers who responded
NCR	75.2	65
Luzon	8.1	10
Visayas	10.0	17
Mindanao	6.7	8
Total	100.0	100

In spite of all efforts to increase the survey yield, such as the use of personalized cover letters, text reminders, phone calls, and some incentives, the response rate obtained was low. Despite its limitations, this study may still offer valuable insights into private lawyers' perception of, and role for, the disadvantaged.

Tabulated responses from 141 returned questionnaires constitute Data set A of this study. Another group, Data Set B was likewise tabulated from a sample of about 170 respondents from the cities that were visited. But for purposes of analysis, only Data set A has been extensively used, since this set comes from the random nationwide sample.

Instruments Used for Mailed Questionnaire

On each questionnaire, the recipient respondent was given ASIN contact information (e-mail addresses, cell phone numbers, fax and regular telephone lines) for queries and the like, to ensure questionnaire understanding and speedy return. Some respondents requested for electronic copies of the questionnaire and returned accomplished forms by e-mail.

An eight-page research survey questionnaire was developed, presented, pretested at the IBP national office, with ten participating lawyers who also critiqued the draft. All comments were used in the final version of the questionnaire duly commented and approved by the Supreme Court's PMO.

The questionnaire consists of the following:

1. Sociodemographic data – age, sex, religion, law school attended, year of Bar admission;
2. Clientele and legal practice- years of practice in particular offices/agencies, legal services provided, types of cases handled, membership in alternative law group, sectors represented;
3. Availability of legal aid between arrest and arraignment – stage involved in cases handled;
4. Access to clients and availability of legal records –how case records are accessed;
5. Affordability of the costs of litigation- payments demanded and litigation costs shouldered;
6. Access to bail- access to bail of clients; and
7. Acceleration of judicial processes/speedy trial- length of time for following case events, and factors for delay in proceedings;
8. Perception of the judicial system and procedure – Likert scale of various perceptions;

9. Attendant risks and gains – perceived and experienced gains and risks;
and
10. Recommendations- suggested reforms in the judicial process.

Statistical Analysis

Means (for quantitative variables) and percentages (for categorical variables) were determined to describe the characteristics of private lawyers, their clientele and practice, availability of legal aid between arrest and arraignment, access to clients and availability of legal records, affordability of costs of litigation, access to bail, acceleration of judicial processes, perception of the judicial system and procedure, and attendant risks and gains.

Medians were used to describe highly skewed variables. Where applicable, the t-test or the Mann-Whitney test was employed to compare the means or distributions of any two groups, respectively. To test the association between two categorical variables, the chi-square test was used. Two-sided tests were used and p values of .05 or less were taken to be statistically significant.

Focus Group Discussion Guide

The FGD guide focused on the following: the circumstances behind the choice of lawyering, especially lawyering for the poor; description of *pro bono clients*; qualities of lawyer-disadvantaged client relationship; perceptions on pro-poor laws; problems faced by the poor and underprivileged; measures undertaken to protect the disadvantaged; recommendations to improve the system of justice; and attendant risks and gains.

FGD Participants

From April to May, four FGDs were conducted in Metro Manila, Baguio, Davao and Cebu, in this order. Three of these were coordinated with the IBP chapters in Baguio, Davao City and Cebu City. The fourth FGD was conducted in NCR for the ALGs whose participants were also asked to accomplish the survey questionnaire. The tabulated responses from these questionnaires comprise data set B.

The FGDs used a guide for discussion that solicited qualitative and/ or validated answers on the lawyers' preferential option for the poor, problems encountered, and recommendations. The discussions generally lasted one-

and-a half to two hours.

Literature Survey

The study culled primary and secondary data from the libraries of the Supreme Court, IBP and the University of the Philippines-Diliman. Books, reports, monographs, journals and other on-line sources were used.

LIMITATIONS OF THE STUDY

The main research tool, the questionnaire, was confined to the measures of an effective access to justice, namely, the concepts of availability, affordability, access, and speed. But seeking to detail these concepts in the concrete circumstances of lawyers produced a rather long questionnaire that may have been cumbersome for some. Low return rate of questionnaires despite the endorsement from the IBP and Supreme Court— must have affected the objectives. The brief period (30 days) between receipt and requested return date may also account for the low turnover. Likewise, the outdated IBP database proved unreliable as about 600 questionnaires were returned to ASIN due to incorrect or unknown addressees. Requests for on-line updating on contact information of IBP members were apparently unheeded.

The FGDs were one forum for the qualitative responses needed but more of these would certainly have been more costly and tedious.

ETHICAL CONSIDERATIONS

This study sought to comply with all generally accepted ethical considerations in social science research, such as respect for anonymity/identity, adherence to confidentiality, and the general and specific cultural/ gender sensitivities built into the questionnaire and FGD guide. Although FGD discussions were recorded and duly marked on audiotapes, requests for non-inclusion in citations in this study have been duly noted and respected. Cases and/or identities were not mentioned, and hints at client or case identity avoided, at the behest of the facilitator.

¹ Choudree, Rajesh. (UNDP Governance Center, Oslo, Access to Justice Adviser). *Poverty and Access to Justice: An Overview*. 18 March 2002.

² Crime volume has increased by about 15 % as of the third quarter last year 2002, while the police's crime- solving efficiency has rating of -2.2%. See Philippine National Police, *Crime Trends*, at http://www.pnp.gov.ph/highlights/Crime%20Trends_Oct2002.htm. Other useful court case and crime trends statistics are available at <http://www.virtual-asia.com/ph/>. Some ideologically inspired attempts to link poverty to crime include, for example, the statement that the "increasing number of petty crimes (is) induced by poverty." (Ibon Foundation, *2002: A tough year for the poor*, 17 January 2003, at http://www.cyberdyaryo.com/press_release/pr2003_0117_01.htm.)

³ Davide, Hilario G. Jr. "The Judicial Response to Terrorism: National Venue." Speech at Strasburg Conference, 2002.

⁴ Brown, Mark Mallock. *Power of Democracy and its Critical Importance to Development*. Address by the UNDP Administrator at the Launch of the Human Development Report 2002, Manila, Philippines, 24 July 2002, at <http://hdr.undp.org/reports/global/2002/en/statements/administrator.cfm>.

⁵ "Access to Justice- An Overview, " at <http://www.undp.org/governance/cd/html/access.html>

⁶ Pilando, Teofilo S. Jr., *IBP Eastern Visayas Regional Convention*. Remarks on the occasion of the IBP Eastern Visayas Regional Convention, held at the Sabin Resort Hotel, Ormoc City on September 12-14, 2002, at <http://www.ibp.org.ph/mainframe/prespage/prespage006.htm>.

⁷ Teofilo S. Pilando, Jr. "The Role of Lawyers in Our Country's Socioeconomic Development." Message of IBP National President for the IBP Central Luzon Region Convention held on February 22-24, 2002 at the Subic Bay Freeport. At <http://www.ibp.org.ph/mainframe/prespage/prespage004.htm>.

⁸ Ibid.

⁹ IBP. "Brief History of the Integrated Bar of the Philippines." At <http://www.ibp.org.ph/mainframe/history001.htm>

¹⁰ Ruiz-Austria, Carolina. "Institutional Framework for Judicial Reform." Alternative Law Groups, Inc. 2003.

¹¹ Manuel, Marlon. "The Alternative Law Groups' Advocacy and the Supreme Court's Judicial Reform Program: Necessary Complementation Towards Justice System Reform." 2003 (on file with the author). 2000. This means that in 2000, 4.3 million families or 26.5 million Filipinos; more than one-third (34.0%) of the country's population was living below the poverty line. These figures indicate an increase over the 1997 levels of 4.0 million families or 24.0 million Filipinos striving to make ends meet. The annual per-capita poverty threshold or the amount required to satisfy food and nonfood basic needs reached P11, 605 in 2000, an 18 percent increase over the 1997 threshold of P9,843. Thus, a family of five (5) members should have a monthly income of P4,835 to meet their food and nonfood basic needs. In urban areas, poverty incidence stood still at 15.0 percent in 1997 and 2000. In rural areas, poverty worsened by 1.5 percentage points from 39.9 percent to 41.4 percent." See also Maria Glenda Lopez, "The Poor on Trial in the Philippine Justice System," *Kasarinlan* 14: 3 and 4 (1999), 69-90. (1999)

¹² Araya, Alfred Jr, "Alternative lawyers: Empowering the grassroots by demystifying the

law.” December 2001, at http://www.cyberdyaryo.com/features/f2001_1206_02.htm.

¹³Davide, Hilario G. Jr., “The Judicial Response to Terrorism: National Venue,” Speech at Strasburg Conference, 2002

¹⁴See for example: Jan Willem Bakker, *The Philippine Justice System*, Leiden: Leiden University, 1997, pp. 162-164; Myrna Feliciano and Alberto Muyot, *The Philippine Criminal Justice System*, Manila: Supreme Court of the Philippines, 2001, pp. 13-14. Cf. Vicente Mendoza, “Legal Delays: Cost and Causes,” *Solidarity* No. 112:60 (1987), pp. 60-63; Andres Narvasa, *Handbook on the Courts, and the Criminal Justice System*, Manila: 1996, pp. 3536; Dematee Jesus, Raval, etal. “Summary of Issues, Causes of Delay in Courts and Proposed Solutions Discussed in Previous Seminars on the Speedy Administration of Justice.” *Journal of the Integrated Bar of the Philippines* 13:1 and 2 (1985), pp. 21-31.

¹⁵Miranda, Felipe. “A Concept of Justice,” in Institute of Judicial Administration. *Administration of Justice: Focus on the Poor*. Diliman: UP Law Center, 1981, p.10 et seq.

¹⁶Cf. Comments by Jose Abueva, in Belinda Aquino (editor). *Administration of Justice in the Philippines: UP Assessment Project on the State of the Nation*. Diliman: UP-CIDS. (1994), 26-30.

¹⁷Diokno, Jose W. “A Filipino Concept of Justice” in Institute of Judicial Administration. *Administration of Justice: Focus on the Poor*, Diliman: UP Law Center, 1981. 3-9.

¹⁸Tadiar, Alfredo. “Shortfalls in the Institutional Administration of Justice” in Institute of Judicial Administration. *Administration of Justice: Focus on the Poor*, Diliman: UP Law Center. 1981. 37-46. See also, comments by Marcelo Fernan and Myrna Feliciano in Aquino, Belinda (editor). *Administration of Justice in the Philippines*. 39-40.

¹⁹United Nations Development Programme. Asia-Pacific Rights and Justice Initiative—Operationalizing the Practice Concept: Visioning. Workshop Report. Kathmandu, 28–29 April 2003, May 2003.

²⁰Public Interest Law Initiative. Access to Justice in Central and Eastern Europe: Comparative Report. November 2002.

²¹See Bautista, Mary Concepcion. “Responsibility of Lawyers to Render Free Legal Aid,” *Journal of the Integrated Bar of the Philippines* 13:1 and 2 (1985), 95-97. The beginning of legal aid and its modern application are discussed in Elbinias, Jesus. “Legal Aid: Delivery of Justice to All,” *Journal of the Integrated Bar of the Philippines* 13:1 and 2 (1985), 8088,136. For a nuanced discussion of its definition and mechanics, see Ponciano Mortera, “The Mechanics and Administration of Legal Aid, ” *Journal of the Integrated Bar of the Philippines* 13:1 and 2 (1985), 98-103.

²²According to the National Statistical Coordinating Board (2002): “Poverty incidence in the country or the proportion of families with per capita incomes below the poverty threshold was placed at 28.1 percent in 1997 and 28.4 percent in 2000. This means that in 2000, 4.3 million families or 26.5 million Filipinos; more than one-third (34.0%) of the country’s population was living below the poverty line. These figures indicate an increase over the 1997 levels of 4.0 million families or 24.0 million Filipinos striving to make ends meet. The annual per-capita poverty threshold or the amount required to satisfy food and nonfood basic needs reached P11, 605 in 2000, an 18 percent increase over the 1997 threshold of P9,843. Thus, a family of five (5) members should have a monthly income of P4,835 to meet their food and nonfood basic needs. In urban areas, poverty incidence stood still at 15.0 percent in 1997 and 2000. In rural areas, poverty worsened by 1.5 percentage

points from 39.9 percent to 41.4 percent.” See also Maria Glenda Lopez, “The Poor on Trial in the Philippine Justice System,” *Kasarinlan* 14: 3 and 4 (1999), 69-90. (1999)

2 Presentation of Data and Analysis

The data presented here are taken from the survey results that made use of the mailed questionnaire. Proceedings of the FGD are also presented to lend support to the survey, and findings of previous studies were noted to confirm conclusions made.

The practice of the legal profession in the Philippines is largely done in urban centers, with lawyers concentrated in the capital region. Drawing a list of respondents through systematic random sampling yielded an area distribution shown in Table 1 below.

From the systematic random sample list, 75% of lawyers come from the NCR, the rest from the other regions. This may be explained by the fact that the courts are basically located in urban centers. This reality makes it essential for lawyers to establish an urban practice even if they choose to reside in rural areas. Also, appellate courts are located in Metro Manila, although there are plans to establish regional appellate courts. This implies that the rural population need to access lawyers in the urban centers to get court representation, and may result in access difficulties among the disadvantaged sectors in the rural areas.

The lawyers that are being analyzed in this study are those who responded to the mailed questionnaire. The corresponding area distribution of respondents is shown in the last column of Table 1. While the sample size of respondents (141) may be small, its area distribution does not differ much from the systematic random sample.

In terms of regional representation, 75% of the systematic random sample comes from NCR, as compared to 65% among lawyer-respondents. The rest come from other regions of Luzon, the Visayas and Mindanao.

Table 1. Comparison of Distribution of Populations of Systematic Random Sample and Lawyer-Respondents

Area	Systematic Random Sample (N=2194)	Lawyer-Respondents to the Survey (N=141)
NCR	1649 (75%)	92 (65%)
Luzon	178 (8%)	14 (10%)
Visayas	220 (10%)	24 (17%)
Mindanao	147 (7%)	11 (8%)
Total	2194 (100%)	141 (100%)
Male	1820 (71.8%)	98 (70%)
Female	680 (27.2%)	42 (30%)

In terms of gender breakdown, 71.8 % are male and 27.2 % are female in the random sample list, as compared to 70 % male and 30 % female in the lawyer-respondent group.

Some assumptions may be made regarding lawyer-respondents to the mailed questionnaire. While many lawyers found the questionnaire too long, those who have litigation experience, and had done lawyering for the disadvantaged, were motivated enough to answer the survey questionnaire. Some corporate lawyers informed the research investigators that the questions were not relevant to their practice. From the comments given by some of those who received the questionnaire, it may be concluded that lawyering for the disadvantaged is not a universal experience among those in the legal profession. Some pointed out that their experience with poor litigants dated back to their student days.

DATA ABOUT LAWYERS

Demographic Profile of Respondents

The demographic profile of the respondents may very well represent the profile of litigation lawyers, as the lawyer respondents were aged 25-72 (median age = 37.5 years). Majority were male (70%), Catholic (91%), married (61%), and graduated from the University of the Philippines (26%). Other sociodemographic details of the respondents are shown in Table 2.

It was mainly the younger lawyers who responded to the survey. Note that some lawyers did not answer the survey questionnaire because, according to them, it was “not applicable.” It could be that many of the lawyers who render legal services to the disadvantaged are younger. The preponderance of male respondents in the sample reflects the predominance of male lawyers in private law practice, especially litigation.

From the systematic random sample drawn from the roster of the IBP, 73% were male and only 27% were female.

Close to one-half (39%) of the lawyer-respondents reported a monthly income range of P20,001 to P40,000, while 19% reported a P40,001 to P60,000 range; only 13% reported income above P100,000. Assuming that the lawyers did not underreport their income, it

Table 2. Sociodemographic Characteristics of Respondents

Mean Age in Years (SD)	40.5 (11.34)
Sex	
Male	98/140 (70%)
Female	42/140 (30%)
Religion	
Catholic	105/115 (91%)
Protestant	10/115 (9%)
Civil status	
Single	47/136 (35%)
Married	83/136 (61%)
Widowed/Separated	6/136 (4%)

may be observed that most respondents do not come from the high-income bracket lawyers. It is noteworthy that 51% of the respondents do not earn more than P50,000 per month. This shows that majority of those who render legal services for the disadvantaged earn less than the junior associates in leading Makati law firms. (Table 3)

Table 3. Income Bracket of Lawyer-Respondents

Monthly Income	No.of Respondents	Rank
Below P20,000	16/129 (12%)	4
P20,001 – P40,000	50/129 (39%)	1
P40,001 – P60,000	25/129 (19%)	2
P60,001 – P80,000	13/129 (10%)	5
P80,001 – P100,000	8/129 (6%)	6
Above P100,000	17/129 (13%)	3

Table 4. Law Schools Attended

Law School Attended	
University of the Philippines	36/137 (26%)
Ateneo	26/137 (19%)
San Beda College	19/137 (14%)
Other schools	56/137 (41%)

Table 5. Comparison of Demographic Profiles of Men and Women Lawyers

N		Male 98	Female 42	p
Age	Mean	42.0	36.9	0.021
	SD	11.67	9.86	
	Range	25-72	25-63	
	Median	39.5	35	
Civil status	Single	27%	54%	
	Married	69%	41%	
	Sep/Wid	4%	5%	
Monthly income	below P20,000	11%	16%	
	P20001-	40%	37%	
	P40001-	14%	32%	
	P60001-	12%	3%	
	P80001- above P100000	7% 16%	5% 8%	
School	UP	28%	22%	
	Ateneo	21%	12%	
	San Beda	11%	20%	
	Others	40%	45%	

Most of the respondents come from the University of the Philippines (26%) and the Ateneo Law School (19%), two schools known for providing free legal aid to the poor.

The private legal practitioners were asked to describe the nature of their practice. Of the total 224 responses, 44% were in law firms and 24% in solo practice. Other lawyers held positions in business firms (7%), the academe (9%), nongovernment organizations (7%) and other sectors (9%).

Comparison of Profiles of Male and Female Lawyers

The female lawyer-respondents are generally younger than their male counterparts, with a median age of 35 as compared to 39.5 among the men. In terms of age, there is a significant difference between the men (42) and the women (36.9) respondents. More than one half of the women lawyers (54%) are single, compared to 27% for the men. This may be attributed to their being younger, or due to the demands of a profession where women may have less time to devote to family matters.

In terms of monthly income, there is a more even distribution of respondents in various income categories among women than men, with the highest concentration (40%) of male lawyers at the P20,001 – P40,000 level. Note, however, that there are more men (16%) than women (8%) who reported an income above P100,000.

There is no significant difference between the practice of male and female lawyers as shown in Table 6 below, but some features are worth noting. There is a higher percentage of men lawyers in law firms and solo practice, but a higher percentage of women lawyers in the academe and NGOs. One woman lawyer in the FGD explained that some big law offices in Manila are male-dominated, with women-lawyers given negotiation tasks while the men do the litigation. This type of role delineation is further confirmed by a description of legal services lawyers performed.

Table 6. Comparison of Practice of Male and Female Lawyers

	Male	Female	
Nature of practice			
N	155	68	
Law firm	46%	41%	
Solo practice	25%	19%	
Business	7%	7%	
Academe	7%	15%	
NGO	6%	9%	
Others	9%	9%	
Legal services			
N	281	96	
Represent in court	30%	28%	
Documentation	27%	25%	
Legal counseling	27%	31%	
Mediation	11%	11%	
Others	5%	4%	
Type of cases			
N	350	131	
Criminal	25%	26%	
Civil	25%	26%	
Labor	23%	26%	
Administrative	20%	15%	
Others	7%	7%	
	Male	Female	p
For non <i>pro bono</i> cases			
Accept payment in kind			
N	84	32	
Yes	49%	38%	0.274
Charge additional fee if appealed			
N	85	31	
Yes	84%	65%	0.028
Ever declined a case			
N	87	36	
Yes	89%	72%	0.026

When lawyers were made to describe the legal services they rendered, the highest number of men (30%) made representation in court, while the highest percentage of women reported legal counseling (31%). In terms of types of cases handled, there is even and similar distribution of various types among men and women. In terms of fees charged, a

higher percentage of male lawyers would accept payment in kind (M=49%:F=28%) and charge additional fees when the case is appealed (M=84%:F=65%). Also, a higher percentage of male lawyers declined a case (M=89%: F=72%).

Professional Values

Lawyers who participated in the regional focus group discussions were asked why they chose the law profession. There were different reasons given, ranging from parent-lawyers to national historical figures like Manuel L. Quezon and Sergio Osmeña as role models. Some were student activists and members of human rights groups during the Marcos era who saw an opportunity in the law profession to continue their sociopolitical advocacy. Some wanted to help the poor and looked at the law profession as a means to obtain justice for them. Some cited religious reasons, with helping the poor being a fulfillment of the dictum: "A Person for Others."

Provision of legal aid for the poor was considered as a means of thanking God for passing the Bar examinations. One lawyer became involved in free legal assistance to complement the alternative practice of the wife, who did work for women and children. The practice of lawyering for the poor is perceived as a means of service to society, and a lawyer feels fulfilled as a result.

The interviews show that the lawyer-respondents have maintained their idealism. They view the law profession as a golden opportunity not only to excel professionally, but also as a means to work for justice in Philippine society. In a previous perception survey of lawyers conducted by the Social Weather Station (SWS Survey of Lawyers, 1994-1995), respondents expressed satisfaction with their work, since they perceive people to have a high regard for the law profession.

The lawyers were also able to share their experience in free legal assistance in law schools. Some FGD participants were in charge of the office for free legal assistance in schools where they were affiliated. Lawyers from the Ateneo de Davao, the Ateneo de Manila, and the University of the Philippines explained their programs, and how they are able to develop a core of dedicated volunteers who provide free legal assistance to disadvantaged groups. Law students on practicum, who attended various FGDs, confirmed the important role of law schools and legal education in molding lawyers with a social conscience.

University-based legal aid centers allow law students to immerse themselves and gain experience in lawyering for the poor, and they are given the opportunity to work with basic sector communities (peasants, laborers, indigenous peoples, etc.) For its students, the UP has introduced an elective subject on Law and Society.

Work with alternative law groups is not limited to taking up cases in court, as paralegal assistance is very much part of the experience. Students are thus introduced to alternative forms of settling disputes outside of the litigation process. They have conducted researches to help get an

injunction order, or they join picket lines to help poor communities gain public attention.

One of the most important lessons law students learn is that communities should be empowered to help themselves. Community immersion and integration work with the basic sectors has become an important factor in the formation of democratic values among lawyers. Lawyers' perception of the importance of practicum confirms earlier findings where lawyers expressed the view that legal education should stress more practicum and less detailed memorization. (SWS, 1994 -1995)

Lawyer Organizations Involved in Legal Assistance Programs

The Integrated Bar of the Philippines is the official organization of lawyers established by Republic Act No. 6397, which confirmed the power of the Supreme Court to effect the integration of the Philippine Bar. Presidential Decree. No. 181, promulgated on May 4, 1973, created the IBP as a corporate body, and provided government assistance to enable the organization to accomplish its purposes. The National Committee on Legal Aid (NCLA) implements the IBP Legal Aid Program and coordinates with 83 legal aid committees nationwide. Its activities are generally classified into traditional legal aid and developmental legal aid.

Traditional legal aid is defined as “extending legal assistance to qualified clients by way of legal advice or opinion, counseling, and legal representation before courts of justice or quasi-judicial and similar bodies.” Developmental legal aid is lawyering for public-interest causes and involves “a class or a group of persons who face a common problem arising out of social conflicts in society.” Traditional legal aid generally involves personal interests of individual clients, whereas developmental legal aid involves class interests of particular groups as clients. (www.ibp.org.ph)

Traditional legal aid has also been provided for by civic and professional organizations like FLAG and women lawyer organizations like FIDA, WILOCI. During the martial law years, human rights lawyers formed MABINI and similar groups to assist victim of human rights abuses. But most of these organizations have also branched out into developmental legal aid. As a consequence of the evolution of developmental legal aid, alternative law groups (ALGs) have emerged, with each organization specializing in the legal requirements of a basic social sector.

An interview of alternative law groups associated with SALIGAN provided information about the nature of ALGs and the scope of the work that they do. They explained that ALGs in the Philippines might be compared to the public interest law office (PILO) in the West, which takes up public-interest issues for court litigation. But the work of ALGs is unique

to developing countries, where presumably they have become champions of the disadvantaged sectors of society. ALG work in the Philippines is more advanced when compared to other developing countries. They are usually identified with some basic social sectors or with single-cause advocacy groups (i.e., environment, etc.) They may also be involved in the following activities:

- Case handling
- Legislative advocacy (to change an erroneous law, judicial advocacy - reform of court rules, etc.)
- Paralegal training and education
- Research and publication; and
- Networking and capability-building

Alternative Lawyering for the Disadvantaged

The lawyer-respondents were asked if they were members of an alternative law group. This was generally defined as being involved in “rendering free legal aid, developmental legal assistance or similar public interest lawyering.” The definition was given to differentiate those involved in lawyering for the disadvantaged from those who are not involved in this activity. The term ALG in this section is used within a generic context.

About one-fourth of the respondents (34/141 or 24%) said they were members of an Alternative Law Group (ALG). The Free Legal Assistance Group was the most common ALG mentioned, as it represents the traditional legal assistance, along with professional lawyers’ groups like WILOCI and FIDA. Free legal assistance provided by the Integrated Bar of the Philippines was also classified as ALG work. For purposes of analysis, the respondents were categorized as ALG or non-ALG members.

The characteristics of ALG and non-ALG members were compared. The distribution of respondents by sex, income group and law school did not vary much between the ALG and non-ALG members. However, it was found that, on the average, ALG members were significantly older than their non-ALG counterparts ($p=.050$). (Table 7)

The apparent older mean age of ALG members is explained by the fact that the founders of the ALG are those who graduated from law school during the last days of the Marcos regime (early 1980s) and hence would now be in their 40s.

That 50% of ALG members come from UP and the Ateneo may be attributed to the fact that many of the ALGs were a spinoff from organi-

zations of these schools, like UP Paralegal Volunteers Organization (PVO), the Ateneo Human Rights Center, etc. There is a higher percentage of women lawyers (38%) in ALGs than in non-ALGs (27%), in contrast to a higher percentage of men lawyers (73%) in non-ALGs as compared to ALGs (62%). There is also a higher percentage of ALG members in the academe (14% vs.7%) and NGO work (14% vs. 4%) when compared to non-ALGs.

Those in the ALG category earn more than the non-ALG group. The reason may be that those who claimed to do ALG work also do private law practice on the side. Or it may be because the ALG affiliated lawyers are older than the non-ALG respondents.

Table 7. Sociodemographic Characteristics by ALG Affiliation

	ALG (34)	Non-ALG(107)	p
Sex			.228
Male	62%	73%	
Female	38%	27%	
Age			.050
Mean, SD	44.3, 12.54	39.3, 10.72	
Median	44	37	
Range	26-68	25-72	
Law school			
UP	29%	25%	
Ateneo	21%	18%	
San Beda College	9%	16%	
Other schools	41%	41%	
Civil status			.338
Single	35%	33%	
Married	59%	67%	
Widowed/Separated	6%	0%	
Nature of practice	ALG(63)	Non-ALG(161)	---
Law firm	40%	46%	
Solo practice	22%	24%	
Business	5%	8%	
Academe	14%	7%	
NGO	14%	4%	
Others	5%	11%	

Lawyers charge different types of fees. In cases that are not *pro bono*, the usual modes of payment required are lump sum (13%), appearance fee plus installment, according to the stages of the case (54%), contingent (16%), and time charges (16%). More than three-fourths of acceptance fees are priced at more than P10,000 and over, while nearly half of appearance, time charges and termination fees are priced at P1,000 and

below (Table 9). While contingent fees are prohibited by the code of ethics, they have become common practice, particularly in cases associated with property or labor cases involving back wages and other forms of settlement. Charging fees based on time spent is a common practice among law firms.

Table 8. Comparison of Lawyers' Income

Monthly income	ALG	Non ALG	—
Below P20,000	12%	12%	
P20,001 – P40,000	27%	43%	
P40,001 – P60,000	30%	16%	
P60,001 – P80,000	9%	10%	
Above P80,000	21%	19%	

Table 9. Minimum Charges by Type of Fees

Lawyer's Fee	Acceptance (114)	Appearance (187)	Time Charges (65)	Termination (61)	Others (59)
P1,000 & below	18%	48%	42%	44%	90%
P1,001-P10,000	4%	21%	17%	0%	5%
P10,001-P20,000	32%	30%	40%	16%	2%
P20,001-P30,000	25%	2%	2%	25%	0%
>P30,000	19%	0%	0%	15%	3%

Table 9 shows that the prevalent practice is to charge an acceptance fee and an appearance fee for attending hearings. Acceptance fees are usually above P10,000 (76%) while appearance fees are minimal (P1,000 and below: 48%).

Almost half of the lawyers (46%) stated that they accept payment in kind. If the case is appealed, 79% (92/117) charged an additional lawyer's fee. More than eight-tenths (104/124 or 84%) of the lawyers admitted having declined cases. Reasons for refusing cases include too much caseload (62/104 or 60%) and inability of client to pay lawyer's fees (17/104 or 16%). Too much caseload may imply refusal for other reasons, such as conflict of interest or lack of willingness to defend a particular client.

Regarding litigation fees, most of legal aid cases are free. Some ALG lawyers adopt a socialized fee structure to ensure sustainability. Most lawyers are able to assess how much a client can afford to pay during the interview. Cases are normally referred by other NGOs and government agencies like the DSWD, DAR, etc.

Attendant Risks and Gains

Lawyering for the disadvantaged has corresponding losses and rewards. Loss of income (30%) is compensated by personal fulfillment (36%). Then there is psychological reward (18%), spiritual growth (18%),

and development of professional expertise. This shows the high value that the respondents put on rendering legal services to the disadvantaged.

Table 10. Attendant Risks and Gains for Lawyering for the Poor

I. Risks	ALG (87)	Non-ALG (197)	Total (284)
Emotional	17%	18%	18%
Psychological	11%	12%	12%
Health	10%	6%	7%
Family pressure	9%	9%	9%
Loss of opportunity for professional advancement	9%	8%	8%
Security	20%	14%	15%
Loss of income	23%	34%	30%
II. Gains	ALG (82)	Non-ALG (195)	Total (287)
Political mileage	4%	2%	2%
Media mileage	2%	2%	2%
Psychological reward	18%	18%	18%
Personal fulfillment	30%	38%	36%
Professional advancement/expertise	16%	19%	18%
Travel	9%	3%	5%
Spiritual growth	20%	17%	18%
Funding support	0%	1%	0%

The scores of ALG members were compared with non-ALG members, and an examination of attendant risks shows that loss of income was identified as the most common risk among ALG members (23%) and non-ALG members (34%). Non-ALG lawyers rated loss of income (34%), emotional stress (18%), security (14%) and psychological reasons (12%) as top risks in lawyering for the poor. These are most likely the reasons why this group of lawyers are not involved in groups that lawyer for the poor.

Note that loss of income is higher (34%) among non-ALG members, indicating that income concerns may constitute the strongest deterrent to lawyering for the poor, especially among young/new lawyers. There was no significant difference in the response of male and female lawyers when their responses were disaggregated, as they ranked the factors in the same order.

Among ALG lawyers, the same risks were cited but with a different ranking. The highest concern was still loss of income but the item had a lower rating of 24% when compared with non-ALGs. The next top concern is security (20%), a higher concern among ALGs. Lawyers active in alternative lawyering have narrated personal experiences of risks to life when representing laborers, farmers, and human rights activists.

Emotional and psychological risks are next in line, as working with victims can exact emotional risks. There was also a difference noted in the ranking given by men and women. Male lawyers cited gains in the follow-

ing order: 1. Personal fulfillment (35%); 2.5. professional advancement (19%); 2.5. spiritual growth (19%); and 4. psychological reward (18%).

Female lawyers ranked the factors in the following order: 1. personal fulfillment (37%); 2. psychological reward (19%); 3. spiritual growth (17%); 4. professional advancement (16%). Professional growth is ranked higher by the men while the women gave higher value to psychological rewards.

During focus group discussions (FGDs) with ALGs, their members affirmed that loss of income is attendant to ALG work and constitutes the greatest deterrent for lawyers to continue the work. Especially with lawyers with families to support, the issue has to be discussed with the spouse.

Sometimes lawyers unknowingly absorb the experiences of their abused clients, and tend to feel abused themselves. One woman lawyer experienced depression after defending women victims. Sometimes, the opposite effect happens, as they eventually become desensitized to abusive acts. They feel the need to distance themselves from cases they take up. In one instance husband and wife had to undergo psychological counseling to overcome feelings of depression and victimization.

In terms of personal gains, non-ALG members identified: a. personal fulfillment (38%); b. professional advancement (19%); c. psychological reward (18%); and d. spiritual growth (17%) as top rewards for lawyering for the poor. ALG members likewise identified the same factors but gave a different ranking as follows: a. personal fulfillment (30%); b. spiritual growth (20%); c. psychological reward (18%); and d. professional advancement (16%) as top rewards for lawyering for the poor.

Based on the ranking, non-ALGs gave higher value to personal and professional factors over psychological and spiritual factors. For ALGs, where spiritual growth may be closely associated with personal fulfillment and psychological reward, leaving professional concerns in fourth rank. Note that nonmaterial concerns outrank material issues like political and media mileage, travel and grants, in the hierarchy of values of lawyer-respondents.

Lawyers gain personal fulfillment in proportion to the significance they associate with the experience of lawyering for the poor, and the feeling is influenced by a lawyer's world-view and personal experience. Former activists see lawyering for the disadvantaged as part of the continuum of their advocacy and political beliefs in the elusive search towards a just society. Those who are spiritually inclined see the work as the fulfillment of becoming a "person for others." Lawyers generally feel empowered by the capabilities endowed by the profession, and they now see themselves in a

position to become change agents or to help persons or groups that need assistance.

DATA ABOUT THE DISADVANTAGED

Basic Sectors

The term “disadvantaged” better captures the plight of poor clients, since many aspects of the legal system as well as the other pillars of justice work to their disadvantage. They are underrepresented and, as a consequence, deprived of due process. Most poor clients have no regular income and only earn enough money to provide for their basic needs. They are usually the victims of anti-poor laws. The term “basic sectors” was used in the survey questionnaire to refer to social groups that are frequently associated with the poor. Poverty is used as the point of reference in the use of “basic sectors.”

Table 11 shows the distribution of cases handled by type of sector and by type of clients (whether paying or *pro bono*). The lawyers across categories (ALGs as against non-ALGs; paying and *pro bono*) are shown to commonly represent workers in the formal sector and the urban poor, as the two basic sectors merited top rank in all the columns in the table below. Among ALGs, workers in the informal sector (10%) rank third among paying clients, while farmers (11%) and the youth (11%) are given the 3.5 ranks among the nonpaying clients. Among non-ALGs, the youth sector (11%) is third in rank among paying clients, while among the nonpaying, farmers (11%) rank third, and workers in the informal sector (10%) fourth.

Interestingly, the proportions of *pro bono* cases handled by non-ALG members for the urban poor and women were higher than the proportions of *pro bono* cases by ALG members (19% as against 16% and 7% as against 2%, respectively).

Table 11. Sectors Represented in the Last Five Years by Type of Client

Basic Sectors	ALG(141)		Non-ALG (339)	
	Paying(62)	ProBono(89)	Paying(127)	ProBono(212)
Farmer	8%	11%	9%	11%
Fisherfolk	6%	4%	4%	6%
Indigenous people	2%	4%	0%	3%
Urban poor	15%	16%	13%	19%
Workers in the formal sector	19%	15%	28%	15%
Workers in the informal sector	10%	9%	9%	10%
Women	8%	2%	8%	7%
Children	8%	8%	2%	5%
Youth	8%	11%	11%	9%
Persons with disabilities	4%	2%	2%	2%
Senior citizens	8%	6%	7%	8%
Victims of disasters and calamities	4%	4%	2%	1%
Others	2%	7%	6%	3%
All sectors	37%	63%	37%	63%

Note that the biggest sectors of the disadvantaged that are provided legal representation by the respondents are the urban poor and labor (formal and informal). This could be because a large number of the respondents are based in urban areas. This reflects the urban bias of lawyers in general. There are very few lawyers in the rural areas.

Lawyers noted an increasing societal concern for youth offenders and abused children, since the rights of children are now protected. Specialized ALGs working for children have surfaced and have taken up cases to defend them.

Most of the private lawyers provided more than one of the following legal services: representation of one of the parties in trials (111/374 or 29%), legal counseling (29%), documentation (27%), mediation (11%), corporate law (3%), and research/education (1%). This shows the range of services that lawyers now provide to their clients.

Of the cases they handled (n=483), 25% were criminal, 26% civil, 24% administrative, and 6% others. Civil cases usually refer to money claims and include ejection cases, while administrative claims refer to labor cases in the NLRC or agrarian reform cases in the Department of Agrarian Reform Adjudication Board (DARAB).

Access to Lawyers

Individuals or groups may gain access to lawyers through various lawyer organizations and institutions that provide legal assistance. The IBP website explains how to access free legal assistance from the IBP. Applicants for free legal assistance may go to the National Committee on Legal Aid (NCLA) offices in the IBP Building in Doha Julia Vargas Avenue, Ortigas Center Pasig City, during office hours from Monday to Friday.

In the provinces, applicants may go directly to any of the 83 local legal aid committees. Beneficiaries coming from the NCLA offices are normally

referred to the local legal aid committee of the province or city where the cases have their strongest nexus or connection. The NCLA, however, has the option to directly handle cases of national importance or significant social impact. The various IBP units provide legal counseling and legal representation.

The NCLA screens clients to determine if they are qualified for free legal assistance. The double “M” tests are used to determine when a person or group of persons is qualified to be a beneficiary. The first “M” is MEANS and refers to a client’s income. An applicant is qualified if he/ she earns less than P14,000 annually if residing in Metro Manila, or less than P10,000 if residing outside Metro Manila. The second “M” stands for MERIT since the cause of action of the applicant must be meritorious or have legal basis.

IBP regional chapters have adopted similar mechanisms. The former president of the Baguio IBP chapter explained how local IBP lawyers are assigned to handle *pro bono* cases. The local IBP chapter supplies the court with a list of available lawyers who become *counsel de officio* of indigent cases. There are also walk-in clients, as the Baguio IBP office is located within the Halls of Justice premises. The office of the Public Attorney’s Office is likewise situated within the same premises. The lawyers who were interviewed claimed that they exerted the same effort and enthusiasm to work on both cases of *pro bono* and paying clients.

Many local lawyers welcome the opportunity to be assigned by the courts as they see it as an opportunity to develop good relations with the judge. In a relatively small community like Baguio, developing a good reputation with the judges is perceived as a good professional move while providing service to the community through free legal assistance.

Poor clients may approach the Public Attorney’s Office or the local IBP chapter for legal assistance. Sometimes, they also approach lawyers with radio programs or lawyers referred by their relatives and friends. From the survey data, the client himself/herself (28%) or his/her family (23%) asked for legal representation. In a good number of *pro bono* cases (17%), the Court appointed a *counsel de officio*.

Among ALGs regularly lawyering for a specific basic sector, groups of persons or communities have access to lawyers that work with their organization. Most ALGs work with communities or organized sectors, and the arrangement makes possible close and regular interaction that facilitates legal assistance. Lawyers are not only involved in litigation, but also in education and paralegal training to empower communities and organized groups to work for their rights.

Types of Cases Handled in Behalf of Disadvantaged Clients

Traditionally, *pro bono* cases involve poor individuals charged with the commission of a crime. Under such circumstances, the court assigns lawyers to poor individuals who do not have access to lawyers. Lawyers reported different types of individual criminal offenses that they have handled for the poor. These include *Batas Pambansa Bilang 22* cases, which involve vendors who are made to open checking accounts and then issued postdated checks as guarantee for loans given by loan sharks, and those involving political offenders charged with heinous crimes.

Some lawyers think that the creation of special courts, like those specifically for drug cases, has worked to the disadvantage of poor individuals, since they are readily charged with a crime and they are not in a position to defend themselves. Some lawyers observe a trend where poor individuals become victims of injustice in the haste to convict individuals, and thus create a good public impression related to peace and order. Current slang would call this “pogi points.” Only wealthy individuals accused of similar crimes can afford to defend themselves.

Among ALGs with basic sector affiliation, the types of cases they get to handle depend on their organizational links. ALG lawyers are active in cases related to the environment, women and children’s rights, indigenous peoples, farmers and laborers.

DATA ABOUT THE JUDICIAL SYSTEM

Provision of Legal Representation

The legal practitioners were asked to indicate at what stage and before what type of court they have appeared when representing their clients. There was no difference between the reply of ALG and non-ALGs, where the highest percentage of cases were heard at the: (1) Regional Trial Court, (2) Municipal/Metropolitan Trial Court, and (3) Preliminary/Custodial Investigation. The ranking shows that many clients go through preliminary and custodial investigation without the benefit of lawyer representation.

A greater proportion of cases by ALG members were pursued at the Court of Appeals and the Supreme Court, in comparison with cases by nonALG members ($p=.011$). (Table 12) This may indicate the more organized and sustainable nature of ALGs as compared to non-ALGs, who may not have the will power and the tenacity to pursue cases up to the appeals stage.

The lawyers were also asked to specify the stage in criminal litigation they are usually summoned for legal representation, and the party who requests it. Representation of clients occurred at different stages of the case, with 39% represented before trial, 42% during trial, and 19% during appeal.

Table 12. Appearance in Courts

	ALG (284)	Non-ALG (647)
Preliminary/Custodial Investigation	17%	20%
Municipal/Metropolitan Trial Court	21%	22%
Regional Trial Court	27%	31%
Court of Appeals	14%	8%
Supreme Court	8%	5%
Other Courts	2%	2%
Quasijudicial Agencies	11%	12%

Table 13. Stages of and Party Requesting Legal Representation

Stages Paying (566)	Pro Bono (397)	Total (963)	
Custodial investigation	8%	10%	9%
Inquest/Preliminary investigation	16%	16%	16%
Petition for review with the DOJ	11%	9%	10%
Petition for bail (COURT)	10%	10%	10%
Arraignment	13%	17%	15%
Pretrial	13%	12%	13%
Trial	13%	13%	13%
Promulgation of judgment	8%	7%	7%
Appeal	8%	6%	7%

Requesting Party	Paying (254)	Pro Bono (276)	Total (530)
Client	37%	18%	28%
Family of client	24%	22%	23%
Friend of client	15%	18%	16%
Assigned by IBP	1%	7%	4%
Assigned by law office	15%	5%	10%
Appointed by the Court as Counsel de officio	4%	17%	11%
NGOs/Cause-oriented groups	3%	9%	6%
Others	2%	3%	2%

Table 13 shows that the lawyers stood for most of their clients during inquest (16%). The highest percentage (17%) of *pro bono* clients was represented during arraignment. That the lawyer-respondents often represent their clients for the first time during trial (whether paying or *pro bono*) indicates that lawyers are usually called on after the case has been filed in court. Ideally, access to legal representation should be before the case goes to court, as in custodial investigation, inquest, or preliminary investigation in criminal cases.

The client himself/herself (28%) or his/her family (23%) asked for legal representation. Among paying clients, the client (37%) as the requesting party is given the top rank, followed by a members of the family (24%). Among *pro bono* cases, the family member (22%) is the most common

answer for the party that requested for representation. In a good number of *pro bono* cases (17%), the Court appointed a *counsel de officio*. (Table 13) Requests from clients themselves account for only 18% in *pro bono* cases because most *pro bono* clients in criminal cases are already detained. Thus, 40% of requests in *pro bono* cases have to come from family/friends and 24% from IBP assignment or appointment as *counsel de officio* by the court.

Table 14 compares access to clients and availability of legal records between paying and *pro bono* clients. There are significant differences in proportions between the two groups, with regard to the time a client is seen or talked to, and the party who pays for copies of legal documents. Whether or not a client is detained, the percentage of clients given access to their lawyers before the date of the hearing is significantly lower in the *pro bono* group than that in the paying group. Among *pro bono* clients, 14% saw their lawyer only during the hearing, compared to a mere 3% among paying clients under similar circumstances. Furthermore, it is the lawyer who pays for legal documents in a greater percentage (45%) of *pro bono* cases, compared to 11% among paying clients. As expected, paying clients obtain (55%) and pay (87%) for the legal records in majority of cases.

Table 14. Access to Clients and Availability of Legal Records

Time client is seen or talked to if not detained/ not involved in a criminal case	Paying (122)	Probono (112)	Total (234)	p .003
Before the date of the hearing	97%	86%	91%	
Only during the hearing	3%	14%	9%	
Manner of obtaining copy of records	Paying (165)	Probono (139)	Total (304)	.106
Provided by client	55%	47%	52%	
Secured by lawyer/paralegal staff	41%	44%	42%	
Others	4%	9%	6%	
Party paying copies of documents	Paying (131)	Probono (129)	Total (260)	<.001
Client	87%	40%	64%	
Lawyer	11%	45%	28%	
Others	2%	15%	8%	
Time client is seen or talked to if detained	Paying (93)	Probono (100)	Total (193)	<.001
Before the date of the hearing	90%	70%	80%	
Only during the hearing	10%	30%	20%	
If client is in detention	Paying (86)	Probono (91)	Total (177)	
Opportunity to freely talk with client	99%	92%	95%	.065
Provision of a private place to talk with client	79%	68%	73%	.090

Note that in *pro bono* cases, in contrast to paying cases, the lawyer often talks to the client only during the hearing itself (14% if the client is

not detained and 30% if the client is detained). This despite the answer that lawyers can talk freely with detained clients (95%), and that there is a private place in jail where they can talk (73%). Ideally, the lawyers should have talked with the client before the hearing of the case. This affects the quality of the legal services provided. It also is a cause for delay, as one reason for a postponement is that the lawyer needs more time to “study the case.”

Cost of Litigation, Bail, etc.

Of the 123 pro bono cases, 62% of clients can afford to pay for cost of copies of transcripts and documents. The lawyers alleged that they had handled cases when they were obliged to pay the cost of copies (82%), because the client could not afford this. When inquired further about the frequency of such occasions, 57% said sometimes, 36% many times, and 7% all the time.

The lawyers were also asked to describe other costs of litigation they have shouldered. The cost of litigation varied for different items. Bail, transcripts, and filing fees were the highest cost items, while serving notices and pleadings was lowest (Table 15). Transcripts had become very expensive (mean of P5,042.50), ranging from P100 to P150,000, with one lawyer-respondent quoting P10,000. But the median cost cited is P500, which is still expensive for indigent clients.

Lawyers during FGD sessions again observed that the reproduction of transcripts has become commercialized. Lawyers reported that payments for the transcriptions of the stenographic notes are overpriced. They said that one page is only made up of one paragraph, typed double spaced with big margins, and contains little text. The clerk of court is not doing anything to adjust it or to lessen the cost. The sale of stenographic notes has become a business for court stenographers.

Table 15. Cost of Litigation in Pesos

	N	Mean	Median
Transportation	60	1350.82	500
Documents	41	1492.20	500
Transcript	40	5042.50	500
Filing fees	9	1872.22	1000
Serving notices and pleadings	37	825.95	200
Bail	6	8000.00	5000
Food	33	1831.67	500

The cost of litigation has become very expensive, especially if we consider the prevailing income levels in the country. The cost of litigation becomes more expensive when one considers the hidden costs, such as

lost income for time spent in jail, for attending court hearings, and for following up cases. Then there are also the nonmonetary costs, like emotional trauma, etc.

The proportion of paying clients who were able to post bail was found to be significantly higher than that of *pro bono* cases (96% versus 22%, $p < .001$). The reasons mentioned for not being able to post bail were: crime not bailable (24%), amount too high for client (25%), client has no money or property (40%), and client refuses to post bail (1%).

The incidence of detention for inability to post bail has become quite common. Poor defendants languish in jail for inability to post bail. The amount of bail is left to the discretion of the court upon the recommendation of the prosecutor. Lawyers of poor clients cannot negotiate the reduction of bail. Lawyers also observed that the provision of surety for bail has become a profitable industry, and in some places the arresting officer is given a commission for referral.

Delay in Court Trial

Table 16 presents the average period of time spent for case events. No significant differences were found in the duration of events between paying and *pro bono* cases. However, it may be observed that, generally, it takes longer for a *pro bono* case to progress in the court system, as shown in table below, where additional days/months are involved, as compared to paying clients. It is only in the item "from one hearing date to another" where it takes more days among paying clients than *pro bono* cases. Lawyers of paying clients possibly resort to postponement of hearing more often and use time to their favor.

Table 16. Duration of Different Stages in a Case

	Paying		Pro bono		P
	n	Mean, SD	n	Mean, SD	
Filing of complaint to referral to prosecutor for inquest (days)	80	13.7, 15.98	70	15.9, 19.82	.459
Filing with prosecutor's office to filing of information with the court (days)	95	59.6, 50.01	79	64.9, 62.90	.551
Filing of information in court to date of arraignment (days)	100	45.7, 34.89	82	48.7, 38.98	.594
From one hearing date to another (days)	97	62.9, 165.24	80	42.0, 24.76	.223
Filing of information to the promulgation of judgment (months)	92	24.3, 14.63	79	25.0, 15.62	.750
Filing of appeal to issuance of decision (days)	77	468.8, 529.65	65	497.1, 568.61	.762

The duration of court proceedings is very long for both types of clients. The average duration from filing of information to judgment is around two years. Note that the various stages are unduly long. As the adage goes, justice delayed is justice denied, and there is a long way to go towards the faithful implementation of the Speedy Trial Act. While the law provides for a time frame whereby a case may be resolved, the delay takes place in calendaring a case. The rules of court that liberally allow postponement is another cause of delay.

There are factors inherent within the court system that cause delay in judicial proceedings involving the disadvantaged. The most common causes of delays pointed out were congestion of court calendar, lack of judge, and motions for extension or postponement. The proportions for pay and *pro bono* cases were also found to be comparable. (Table 17)

There are causes of delay that are beyond the control of the courts, such as lack of courts (8%), lack of judges (10%), lack of prosecutors (6%), lack of PAO lawyers (6%). But note that some of the major causes of delay are within the control of the courts, like: corruption in the courts (6%), motions for extension/postponement (10%), congestion of court calendars (12%), absence of judges, prosecutors, PAO or lawyers (8%), and absence of witnesses (8%).

Perceptions About the Judicial System

Statements reflecting perceptions of the judicial system and procedures were formulated. The lawyer-respondents were asked to indicate their agreement with these statements by affixing a score of 1 for Strongly Agree, 2 for Agree, 3 for No Opinion, 4 for Disagree, and 5 for Strongly Disagree. The top scores are highlighted in the table below.

Table 17. Causes of Delay

	Pay (813)	Probono (761)	Total (1574)
Lack of courts	8%	8%	8%
Budget limit of judiciary	4%	4%	4%
Lack of judge	11%	10%	10%
Complexity of rules	3%	3%	3%
Medium of communication	1%	2%	2%
Lack of prosecutors	7%	6%	6%
Low priority given to pending cases of disadvantaged	3%	3%	3%
Prohibitive cost of litigation	5%	5%	5%
Lack of legal knowledge	2%	3%	3%
Language difficulties	1%	1%	1%
Corruption among judges and/or judicial personnel	7%	6%	6%
Corruption among lawyers and/or clients	4%	3%	4%
Motions for extension/postponement	11%	9%	10%
Court calendar is congested	12%	12%	12%
Lack of PAO lawyers	5%	7%	6%
Absence of judges, prosecutors, PAO lawyers or private lawyers	8%	7%	8%
Absence of witnesses	8%	9%	8%
Others	1%	1%	1%

Table 18. Distribution of Responses for Perception Survey

Statements (n)	Agree	Neutral	Disagree
The judicial system and rules are adequate to protect the disadvantaged. (138)	44%	7%	49%
The recent judicial reforms (e.g. Speedy Trial Act) are adequate to protect the disadvantaged. (133)	39%	17%	44%
The disadvantaged are given priority attention in the judicial processes (136)	14%	24%	62%
Present laws are adequate to protect the disadvantaged in the justice system (136)	35%	12%	53%
Justice practitioners have the sensitivity to protect the rights of the disadvantaged (134)	26%	31%	44%
Justice structures are accessible to the disadvantaged. (134)	30%	14%	56%
Justice personnel are sensitive to the needs of the disadvantaged. (134)	17%	27%	56%
Justice information is available to the disadvantaged. (135)	16%	17%	67%
Cost of litigation is affordable to the disadvantaged. (136)	7%	5%	88%
Judicial processes accelerate decision-making. (134)	13%	22%	65%
There is adequacy of modern equipment/court facilities to accelerate decision-making. (136)	7%	7%	86%
Court decisions are generally impartial and uninfluenced by other concealed factors. (136)	25%	16%	59%
Court decisions are, in general, socially acceptable. (135)	44%	26%	30%
Court decisions reinforce public trust in the judicial system. (134)	39%	30%	31%
Court processes are gender-sensitive (e.g. rape cases). (136)	36%	37%	27%
Court decisions are gender-sensitive. (136)	31%	47%	22%
The IBP Legal Aid Program provides adequate assistance to the disadvantaged. (133)	31%	34%	35%
Corruption is widespread in quasi-judicial agencies. (137)	63%	22%	15%
Corruption is widespread at the following levels of the justice system:			
a. Prosecutor's Office (133)	63%	26%	11%
b. Municipal/Regional Trial Courts (134)	56%	28%	17%
c. Appellate Courts (130)	39%	45%	16%
d. Supreme Court (128)	20%	54%	26%
Corruption in the justice system impedes access to justice by the disadvantaged. (131)	85%	8%	7%

From the perception of lawyers, the impediments to access to justice by the disadvantaged are the costs of litigation, corruption in the system of justice, particularly in quasi-judicial agencies and at the prosecutor's office. Other contributory factors include the lack of court facilities for speedy decision-making, lack of access to judicial information, and the slow pace of judicial processes.

Table 19. Mean Scores of ALG and Non-ALG Members

Statements	ALG (32)	Non-ALG (102)	p
Justice structures are accessible to the disadvantaged.	3.7	3.3	.044
Cost of litigation is affordable to the disadvantaged.	4.5	4.1	.024
	Male (93)	Female (38)	
Justice personnel are sensitive to the needs of the disadvantaged.	3.4	3.8	.019
There is adequacy of modern equipment/court facilities to accelerate decision-making.	4.1	4.5	.006
Court decisions reinforce public trust in the judicial system.	2.9	3.3	.018

Some statements were found significantly different between ALG and non-ALG members, and between male and female practitioners. These are shown in Table 19. The scores given by ALG members are significantly higher than those given by non-ALG members. ALG members feel more strongly about the inaccessibility of justice structures and the unaffordable costs of litigation as barriers to access to justice by the disadvantaged. Women also agreed more strongly about the lack of sensitivity of justice personnel to the disadvantaged, and the lack of court facilities. They also disagreed more strongly to the statement that court decisions reinforce public trust in the judicial system.

Some lawyers claimed that people generally complain about the services of government lawyers, which includes the fiscal and the Public Attorney's Office, since they are perceived to be unprepared for the cases that they take up. Some are said to be guilty of not even reading their case histories, despite the fact that they get a percentage of the compensation.

Regarding the legal system, the lawyers involved with children suggested that all court personnel should be women-and-child sensitive. It is said that only the family courts are trained to be family-sensitive. Children offenders whose penalty is less than six months should instead be endorsed to their barangay for rehabilitation. In the province of Cebu, it is only in Cebu City where there are family courts. In other parts of Cebu, child offenders are arraigned in regional trial courts and treated like adult offenders, while cases where children are victims get dismissed. Even in law school, not all take up children's rights.

There are enough laws to protect the poor, like the Civil Code, which provides that the courts should decide in favor of labor in cases where all things are equal. The Constitution contains social justice provisions, and there is also a speedy trial law. But in terms of implementation, the poor become disadvantaged when the law and the rules of court are used

against them. In many cases, it takes time for cases of the poor to be calendared while they languish in jail. At other times, there is "speedy calendaring," particularly in drug cases involving the poor. The amount of bail is subject to the discretion of the court. The rich can readily post bail, while the poor need guarantors to be able to get a surety bond. It is suggested that bail rates be socialized.

SOCIAL MILIEU OF LAWYERING

Regional Characteristics and Concerns

Baguio

In Baguio, officers and active members of the IBP are also members of ALGs associated with advocacy groups for the indigenous peoples, women, and environment. They lawyer for the poor and also handle labor, women, and political cases, including ancestral domain claims. They have also handled estafa cases, the incidence of which has increased with the entry of money-lending individuals and organizations who lure poor vendors, for example, to contract loans and issue postdated checks to amortize their loans. In cases of default, criminal cases are filed against these vendors as provided for in *Batas Pambansa Bilang 22*. From the perception of some lawyers, BP 22 has made the courts the collection agents of banks and individuals, and is partly responsible for clogging the court dockets.

Political cases handled by Baguio lawyers usually involved human rights cases of apprehended activists and members of the NPA in the Cordillera region. Some ancestral domain claims usually cover watershed areas that eventually develop into environmental issues. The new law on dangerous drugs has filled the prisons with poor people caught on flimsy charges, and the drug courts have been slow to prosecute them, despite the IBP lawyers' representations. Students wanting to challenge tuition increases have tried court injunctions but have realized that the process is slow, expensive, and often to their disfavor. The main disadvantage of lawyers working in rural and geographically difficult areas is difficulty of access, particularly when working for indigenous peoples.

Baguio IBP lawyers are seeking a dialogue with the Supreme Court to make suggestions for the improvement of legal procedures and other matters, particularly those affecting lawyers working in the Cordilleras, where forms of the indigenous justice system still govern common tribal relations. That the Supreme Court holds sessions in Baguio City during the summer has made it easier for Cordillera lawyers to appeal certain cases.

Cebu

Poor clients of the IBP office in Cebu City include poor walk-in clients and those whose cases were assigned to the IBP lawyers by judges. Many local IBP members welcome the opportunity to be assigned to a *pro bono* case because it is a means of developing a good relationship with the judge. In general, Cebu lawyers like to handle *pro-bono* cases because they see that

many litigants are poor. If they win the case, it can add to their worth as litigators. It was also mentioned that a lawyer who takes *up pro bono* cases should have the heart, the commitment and the money to assist the poor. If the lawyer does not accept a *pro bono* case wholeheartedly, then he may not give it enough attention. He usually has to spend for food, transportation, and gathering of needed evidence.

The Cebu City Chapter of the IBP has always been given recognition for its pro-active programs and social involvement. This is attributed to the good relationship and leadership of the IBP Cebu City chapter.

One issue raised during the discussion is that PAO (Public Attorney's Office) lawyers are continuously decreasing. Inversely, PAO cases are increasing. And since there is real need to assist poor litigants, the burden is passed on to the local IBP chapter. To answer such need, it was suggested that every one of the 400 active lawyers in Cebu be made to handle three to five *pro-bono* cases. The local IBP should also assign 10 core lawyers who should serve in litigation cases for the poor.

Another issue is the practice by many members of the PNP and other law enforcers of detaining poor people without the benefit of legal counsel or, worse, without even informing them that they have the right to counsel. It was suggested that police officers who deliberately and habitually do this be penalized. The IBP suggested that the arresting officers should report arrested persons to the local IBP, especially when the accused cannot afford a private counsel.

Another problem observed: Prosecutors often investigate and file cases against the poor even if the latter have no counsel to defend them. Or, even if they have a lawyer, prosecutors often do not furnish the defense with a copy of the charges. To answer this problem, it was suggested that the Rules of Court be amended to make it mandatory for the accused to have counsel during inquest and preliminary investigation. If the accused cannot afford lawyer, it should be made the duty of the prosecutor to get him one during inquest. Similarly, the Rules of Court should penalize police officers and prosecutors who prevent the accused from getting counsel on time.

The lack of judges is another problem in the judicial system. This is due to the low salary of judges. Another reason is that the council that selects judges, the Judicial and Bar Council (JBC), is perceived to be very politicized. If an applicant judge has no connection with the JBC members, there will be difficulty getting the approval of the JBC. Clearly, political considerations play a role in the appointment of judges. It was suggested that the local IBP be allowed to nominate judges. In addition, the Supreme Court may appoint judges *de officio* for arraignment purposes only. Retired judges may be appointed for such purpose.

On the adequacy of laws to protect the poor, the lawyers commented that there are many laws to protect the rights of people but they are not properly implemented. One such law is RA 7438, known as the Rights During Custodial Investigation, wherein the poor have the right to get a free transcript of stenographic notes. In the same manner, the participants agree that what is wrong in the judicial system is not the laws or policies but rather the implementation. The continuing legal education of the court personnel should considerably improve the system.

Court appeals take long and it was suggested that there be regional appellate courts. Sometimes an appealed case is dismissed and the lawyer concerned is not even aware of it. The appellate courts should also make use of alternative means of communication, like e-mail, in making notifications. The matter of language is also an obstacle to speedy justice. Cebuano documents have to be translated into English to make the document acceptable. The process of mediation should likewise be strengthened to settle cases outside of the courts.

There are active ALGs in Cebu; and among the groups that attended the FGD were Free Lava, an ALG for children, women and the poor. It is a volunteer association of lawyers who render free legal aid to children in conflict with the law, who are sexually abused, etc., to women (prostitutes, sexually abused, etc.), and other similar cases for the poor. The Children's Legal Bureau is an ALG for children which accepts volunteer lawyers and paralegals to assist juvenile justice cases. The Environment Legal Assistance Center (ELAC) that takes up cases related to the environment is active in Cebu and has handled cases to protect fisherfolk, the natural environment, and other related cases. Very prominent in Cebu is the role of San Carlos University, which has established a Legal Aid Center that attracts law student practitioners from other provinces and regions in Visayas and Mindanao to work for disadvantaged groups.

Work with ALGs is not limited to taking up cases in court, as paralegal assistance is very much part of the experience. Students are thus introduced to alternative forms of settling disputes outside of the litigation process. They do research to get an injunction order or join picket lines to help the cause of communities.

One of the most important lessons that students learn is that communities should be assisted in helping themselves. The FGD participants expressed the view that the integration of work into the basic sectors is important in values-formation for lawyers. One specific example that was cited was the use of law students to simulate the flow of water in one area to prove the flooding that would result from an industrial project. As getting expert opinion can be expensive, the student volunteers did the water simulation to help the

community prove their point. The participants have come to believe that justice is the true arbiter of conflict.

Davao

Davao lawyers who were interviewed handle cases for women, children, laborers, farmers, civil servants, indigenous peoples, rebels, etc. There were lawyers who came from the environment NGOs, human rights and legal aid groups of Ateneo de Davao and the IBP. Most of them were immersed in work for the poor, and defended their rights within and outside of the court system. They think that lawyering for the poor is a moral and social responsibility, and is perceived as a means of paying back their debt to society. As the Ateneo de Davao is a leading law school in the region, lawyering for the poor becomes a concrete manifestation of the “person for others” credo of the Jesuits. But nobility of purpose is not limited to Ateneo graduates, since most of them believe that the law should compensate for what a person lacks in material possession. Almost all of them have taken up *pro bono* cases for the poor.

It is perceived that the justice system, as well as the rules of court, generally works against the poor. Lawyers think that policemen are often too harsh and arrest people just to show how “effective” they are. More seriously, they cited drug cases when policemen plant evidence and arrest people who will be tried in special drug courts. The court system is neither helpful to the poor nor ready to implement laws to protect and help the disadvantaged. The court system imposes a lot of requirements that poor people find difficulty complying with. The matter of posting bail has also become a profitable business for insurance companies.

Some lawyers said that some policemen were paid commissions by bonding companies for referrals, and for making it appear that arrests made were voluntary surrender cases. While the prosecution recommends bail, it is the prerogative of the judge to determine the final amount. It is also the lawyers’ perception that prosecutors file cases indiscriminately. In Davao it is common practice that they file cases even before the end of the waiting period. The so-called Davao death squads commit human rights violations against the poor, who find it difficult to defend themselves. The matter of appeal has also proven difficult for poor clients, since these entail prohibitive costs, including filing fees, transportation expenses for travel to Manila, and very strict administrative requirements.

Their recommendations include educating communities on the law and the legal system, training paralegals to help do the work, substituting community service instead of imprisonment for certain types of offenses, increasing the salaries of judges to be able to fill up the vacancies, and organizing communities for empowerment.

National Capital Region

Metro Manila serves as the national center of ALGs. Some of the ALG members who were interviewed were members of SALIGAN, WOMENLEAD, KAISAHAN, Women's Legal Bureau, Ateneo Human Rights Center, and ALTERLAW. Metro Manila ALG members have a more national orientation than their regional counterparts. Points of discussion included developmental law, the role of law schools, motivation for lawyering for the poor, gender sensitivity, etc.

The respondents consider alternative lawyering as lawyering for social justice. It is concerned more with the structures and relationship in society. When the law is used to perpetuate social injustice, alternative lawyering makes use of the law to work for social change. For this reason, alternative law groups focus more on social impact rather than individual cases.

Talking about the role that law schools play in molding lawyers who are pro-poor, the participants said that schools could indeed inspire aspiring lawyers to have a heart for the disadvantaged through the curriculum. Elective courses that provide law students to hold their practicum with ALGs, and immerse themselves in depressed communities, should be encouraged to involve students in lawyering for the poor. An elective course like Law and Society is being currently being offered in the UP College of Law. Meanwhile, at the Ateneo Law School, the Ateneo Human Rights Center continues to encourage and support law students to volunteer their services for the underprivileged. Ultimately, however, the decision to pursue alternative law practice lies with the individual lawyer.

Alternative law practice was discussed and the participants were asked if alternative lawyering is not a way to get rich. They said that although they don't earn as much as mainstream lawyers do, some of their organizations allow them to earn additional income. They can accept private clients provided that the case is not in conflict with the thrust of the organization. On the average, lawyers stay in ALGs for four years.

However, some concerns in terms of finances are expected to be encountered once they raise their own families. For this reason the ALGs are exploring means to provide additional perks, like retirement benefits to lawyers in alternative practice.

Alternative lawyering requires being child-sensitive, gender-sensitive, case-sensitive, and being sympathetic to clients. It involves providing legal education to empower people.

More often than not, it also entails shouldering the expenses when clients are unable to pay on their own. These include documentation fees, transcripts, food, transportation etc. In relation to their clients, it was said that it is imperative that a community be organized before an ALG handles its case/s. Otherwise, the lawyers will not get the kind of cooperation and involvement they need from the community.

When asked about how they view the justice system, the lawyers said that the judiciary is not efficient in terms of time. One possible reason is that there is too much congestion in the courts. A participant, who once worked for a justice in an appellate court, revealed that in many instances, cases were dismissed on technicalities to reduce caseloads in courts, without considering the merits of the case. Similarly, the Speedy Trial Act is perceived to be ineffective because it is not implemented properly. In addition, the court environment is not conducive to proper hearings. Courts in the country are poorly maintained and are a depressing sight.

In order to improve the justice system, the participants recommended the following: Judges should work fulltime and review cases immediately to avoid a pileup. Judges and clerks of court should be good managers to facilitate the speedy disposition of cases. Justice staff should also be more conscious that “justice delayed is justice denied.” Everyone should be justice-sensitive. Also, technology should be enhanced and used accordingly to speed up disposition of cases.

Social Influences

Lawyers perceive the justice system as affected by political, geographic and economic factors. As rich people have the political and economic clout to help their cases, the court system may be manipulated to the advantage of people with financial resources.

The system is also vulnerable to political influences, particularly in the matter of appointments to the bench. While the Constitution recognizes the separation of powers, appointments to the judiciary are still made by the President. Congress, which passes laws affecting the judiciary based on its members’ perception of what is important, also sets the priorities. The executive branch may also choose to highlight its own judicial agenda in terms of increased budget allocation to its priority programs.

In a previous SWS survey (1994-1995), lawyers considered fraternity/sorority connections, pressure of politicians, public attention due to media coverage, and pressure from relatives and friends as “somewhat important” factors that influence a judge’s decision.

Various lawyers perceive media influence differently. Media exposure is sometimes helpful but at other times can be an obstacle to justice. It depends on which side is able to use media to its advantage. In Davao, some of the factors that helped their cases for disadvantaged groups include media coverage and initiatives like *Bantay Bata*, a project of ABS-CBN. Media can work to the advantage or disadvantage of the poor. Sensationalism can affect cases in such a way that some of their defendants are perceived to be guilty even before court trial. However, it was observed that the media is not careful about the rules of confidentiality in child cases. The media also need training in child-sensitivity.

However, some members of the IBP with radio programs said that they use media to advocate for the disadvantaged. They also get their *pro-bono* clients from poor people who listen to their radio programs. But the media hardly affect the decision-making of the courts especially the Supreme Court. These are only used to catch the attention of the courts when a certain case needs to be resolved quickly.

AWARENESS OF JUDICIAL REFORM

A little less than half of the lawyer (47%) reported awareness of the Judicial Reform Agenda (JRA) of the Supreme Court. Of those who knew about the JRA, 38% opined that the reforms are inadequate. The lawyers who were knowledgeable about the JRA cited the Integrated Bar of the Philippines (37%), media (32%), and professional lawyer groups (20%) as sources of information, among others. Moreover, there were no significant differences between the lawyers who were aware and unaware of the JRA, with respect to membership in ALG, age, sex, and law school graduated. (Table 20)

Table 20. Awareness of the Judicial Reform Agenda

	Aware (63)	Notaware(72)	p
ALG			.255
Member	20%	29%	
Nonmember	80%	71%	
Gender			.151
Male	75%	64%	
Female	25%	36%	
Age in years			.358
Mean, SD	41.7, 1.50	39.9, 1.38	
Law school			.162
UP	23%	29%	
Ateneo	16%	19%	
San Beda	10%	19%	
Others	52%	33%	

GOOD PRACTICES OF LAWYERS' ORGANIZATIONS

The Integrated Bar of the Philippines

The IBP has the distinct privilege of being the official organization of all lawyers in the Philippines, and is capable of wielding sufficient influence to improve access to justice by the disadvantaged. It also has the distinction of being both a private and public institution. Its membership is essentially made up of private individuals, since lawyers become members after joining the Bar and its funding comes from membership dues. But it is also a semi-public institution by its government funding and it is expected "to perform certain vital public functions and to assist the Government particularly in the improvement of the administration of justice, the upgrading of the standards of the legal profession, and its proper regulation." Its very mission situates it at the core of discussions related to improvement of access to justice.

In line with its mandate to improve the quality of the law profession, the IBP has formulated a Code of Professional Responsibility. It regularly conducts a Mandatory Continuing Education Program (MCEP), and has used its annual convention and regional meetings to disseminate information among its lawyer members. It has initiated a system of accrediting law schools to ensure quality legal education through a system of incentives to law schools that meet certain established criteria.

The IBP has also institutionalized and expanded its legal assistance program, available through the Chief Justice Roberto Concepcion Legal Assistance Center. It has raised funds to expand its services for poor litigants with meritorious cases. It has adopted a jail decongestion project to provide for “the expeditious release of overstaying detainees pursuant to applicable rules and procedure.” For the purpose, it established linkages with concerned government agencies, NGOs, religious and civic organizations, and provides paralegal training to their partners.

The organization is active in developmental legal aid, as it networks with organizations in the basic sectors, such as women, children, human rights victims, indigenous peoples and overseas Filipino workers to improve their legal capacity to address the needs of their sectors. They have provided paralegal training, represented poor litigants, engaged in media advocacy, and initiated computerization of NCLA cases to improve access to justice among the basic sectors.

Among its local chapters nationwide, the IBP has institutionalized the practice of providing assistance to poor litigants in coordination with its national arm, the National Legal Aid Center, and it has adopted the practice of making the vice-president of every chapter officially in charge of the legal assistance program. As various IBP local chapters have set up offices near or within the court premises, they have physically complied with the principle of improving access to justice by poor clients by making their office a contact point between IBP lawyers and persons or organizations in need of legal assistance and representation.

The IBP chapters that are able to provide legal assistance to poor individuals are able to fulfill the traditional role of lawyers in achieving justice in society. As the IBP officers are also perceived to be respectable members of their respective communities, they are able to wield considerable influence to help the disadvantaged groups. The Cebu chapter has taken a proactive stance and has made representations with the police and the other pillars of justice, with a view to improving the justice system. Those members with access to media have used it to educate the general public about their legal rights. With its national presence maintained through local chapters, the IBP may be said to be in the vanguard of judicial reform and of protecting the legal rights of the disadvantaged.

Alternative Law Groups, Inc.

An alternative law group (ALG) is a specialized group of lawyers who advocate for a particular cause, or for a specific basic sector or a group of basic sectors with similar concerns. It is usually part of a network of other

ALGs (ALG Inc.) who are members of advocacy and/or civil society groups. The term "Alternative Law Groups, Inc." as used in this section, refers to the network of ALGs with specialized law practice with various basic sectors.

Regular ALG lawyers have established and maintained partnerships with communities. They have established standard guidelines in rendering developmental legal assistance to their regular clients and they usually sign a memorandum of agreement with them for representation purposes.

Despite their poverty, lawyers feel that the disadvantaged should share in the responsibility of pursuing the case. Communities should be able to define their stakes and contribute time, effort and money to pursue cases involving them. Thus, they will remain committed to what they are fighting for. Individual clients are generally asked how much they can contribute, while NGOs and communities generate contributions or use outside funding to pursue their case. While a lawyer is expected to shoulder most of the work in *pro bono* cases, members of ALG Inc., because they work for specific groups or communities, require community participation. Together with the other members of NGOs and the community, they provide paralegal assistance and are involved in research, education, fund raising, and the like.

The alternative lawyering approach is perceived to be advantageous to clients from the basic sectors, as organizations affiliated with ALG Inc. are expected to make use of an integrated approach. This includes research and education, and exhausting alternative means to win a case, like writing letters to the editor of a newspaper, holding rallies, and trying to win public opinion. This makes it easier for an ALG lawyer who would no longer carry the burden alone. In the traditional legal aid assistance setup, the lawyer is expected to do much of the preparatory legal work. Especially if the client is detained, only the immediate family members can be relied upon to assist.

In contrast, among ALGs, the lawyer merely acts as facilitator and coordinator of the preparatory and support work that involves paralegal and metalegal activities, where other members of the NGO or the community are actively involved. There is more evidence of community and sectoral involvement when they share in the work to pursue a collective concern or the case of a member. In the process, members of the NGO and/or the community learn about the rights and remedies available to them that contributes to sectoral/community empowerment.

The reputation of ALGs as cause-oriented and working for public causes can bolster the chance of the disadvantaged for fair treatment of their case. In terms of final outcome, getting a favorable court decision is not the only measure of victory. Sometimes, even when poor litigants lose a case, it may be good enough that they were paid compensation. Working through

organized ALGs makes the work of achieving justice for the poor more sustainable.

Cause-oriented lawyers are attracted to ALGs that give sufficient opportunities to advocate for their favorite sector or organized group. When asked why they joined the alternative law groups, some lawyers said it their way of sharing God's blessings with others. Some women lawyers got fed up with the dirty practices in mainstream lawyering, where women are often discriminated upon and used to corrupt judges.

A typical ALG is SALIGAN, which is a Filipino term for "basic and fundamental." Note the emphasis on legal self-reliance and the de-professionalization of the practice of law. Simply put, the organization wants to dissociate the administration of law away from its traditional locus (lawyers, the courts, and the judicial system), and bring them to the level of communities, who should be vigilant about the protection of their rights, knowledgeable, and legally self-reliant in seeking remedies. The SALIGAN concept is to move away from a litigation-and lawyer-centered law practice towards community self-reliance and empowerment.

The group has five major programs to address concerns:

- a. Women;
- b. Labor (including local and overseas labor, formal and
- c. informal);
- d. Urban poor;
Peasants (including farmers, farm workers and
fisherfolk);
and
- e. Local governance.

Another ALG is the Women's Legal Bureau, Inc. (WLB). As its name implies it is only intended to promote the interests of women. It is a feminist legal nongovernment organization working to empower women through the use of, and engagement with, the law and institutions. Its mission is to provide feminist legal services and actively engage in advocacy, together with other women's groups, to transform the law and the legal system, further the right of women to self-determination, and the advancement of their dignity, rights and leadership, in concert with national and global movements for alternative development.

Table 21. Examples of ALG

I. SALIGAN

Guiding principles and objectives:

- 1 Genuine base participation and legal self-reliance
 - 2 Advocacy through legal resources
 - 3 Deprofessionalization of the law and its administration
 - 4 Organizational/internal sustainability
-

To advance the interests of these sectors, SALIGAN undertakes these major activities:

- 1 Legal literacy or alternative legal education
 - 2 Paralegal formation
 - 3 Litigation support
 - 4 Organizational cases
 - 5 Test or precedent cases
 - 6 Sectoral and multisectoral cases
 - 7 Policy work
 - 8 Research and publication
 - 9 Internship
-

II. WOMEN'S LEGAL BUREAU

WLB has five core programs:

- a Feminist Legal and Developmental Service Program
 - b Feminist Legal and Policy Research and Publication
 - c Feminist Legal Education and Training
 - d Public Information and Advocacy
 - e Institutional Support Program
-

These programs require the following major activities:

- 1 Representation of women in judicial tribunals and extrajudicial proceedings for the protection and redress of their rights
 - 2 Court advocacy for judicial interpretation of laws and challenges of laws on human rights and constitutional grounds
 - 3 Advocacy for legal reforms in Congress
 - 4 Organizing women lawyers nationwide to engage in legal advocacy for women's rights
 - 5 Sensitizing members of the legal profession and the law enforcement agencies
 - 6 Contributing to the enhancement of developmental legal scholarship
-

Profile of members of ALG Inc.

A total of 17 ALG lawyers participated in the FGDs conducted in this study, aged 27-57, with a median age of 34 and a mean age of 36.1, and a standard deviation of 8.07 years. Among them, 10 (49%) are married and 7 (41%) are single. The nature of their practice is concentrated in NGO work (39%), with some of them still active in law firms (21%) and solo practice (14%). Their monthly income ranges from below P20,000 (41%) to P20,000 – 40,000 (47%) with only two individuals quoting income above P40,000.

One ALG executive director revealed that he only receives a monthly salary of P24,000, much less than the monthly salary of his wife. Both husband and wife have previously come to an agreement about income and expense sharing to enable the husband to engage in ALG work. Extra income from related activities like research often was also channeled to the ALG to defray operating costs.

It is interesting to note that among lawyers in this group, the most represented basic sectors were farmers (15%) and children (12%), followed by indigenous peoples, the urban poor, and workers in the formal sector, with 11% for each. Such data indicates that members of ALG Inc. attend to the legal requirements of the rural population, as represented by the farmers and indigenous peoples. This will help address the lack of access to lawyers in rural areas, and underscores the need for lawyers' groups to extend their reach to rural areas and geographically difficult areas, including those populated by indigenous peoples.

There is also almost equal representation in preliminary / custodial investigation (22%) and in regional trial courts (23%), suggesting that ALG Inc. lawyers are actively involved in various stages: before trial (40%), during trial (39%), and during appeal (21%). There is also very high awareness of judicial reforms (94%) among them, and their sources of information are the IBP (25%), media (25%), and professional lawyer groups (38%).

There was no significant difference between the representation they provided their paying and *pro bono* clients. Both groups were similarly represented in various stages of the court case. They meet with their paying clients (87%) and their *pro bono* clients (89%) before the date of the hearing, with only a few cases (12%) of meeting clients during the hearing. The records of the case were provided by the client (51%), with clients (48%) paying for the cost of the documents. Most of the lawyers usually charge appearance fees (61%) below P1,000 or contingent fees (26%), and they accept payment in kind (81%).

LAWYERS' RECOMMENDATIONS FOR REFORMS

The respondents made the following major recommendations to improve access to justice by the disadvantaged:

A. On Lawyering for the Disadvantaged

1. Require new lawyers to render legal services for the disadvantaged, and the time spent could be credited to the Mandatory Continuing Legal Education.
2. Encourage lawyers to accept cases for the disadvantaged by providing them with some compensation or an allowance to cover costs.
3. Require law students to serve the disadvantaged sectors.

B. On the Judicial System

1. Eliminate corruption in the judiciary.
2. Strictly implement the Speedy Trial Act.
3. Strengthen the *Katarungang Pambarangay* so that minor cases will not be brought to court.
4. Provide for regional access for the appeal courts.
5. Create special courts for disadvantaged groups.
6. Initiate moral reform among the officers of court.

C. On Court Procedures and Administration

1. Recruit more judges, prosecutors and PAO lawyers and increase their salaries to attract the best and the brightest.
2. Lower the cost of litigation, especially the cost of transcripts. The disadvantaged should be exempted from paying fees for transcripts.
3. Enforce punctuality in courts.
4. Improve the Rules of Court to speed up the proceedings.
5. Give priority to cases of the disadvantaged in the court calendar, or designate special courts for them. There should be better management of court calendars.
6. Implement a better information campaign on newly issued rules of procedure, court circulars, and the like.

CONCLUSION

Conditions of poverty define the circumstances that result in lack of access to justice. A structural analysis of access-to-justice issues identifies stakeholders who complement one another: the poor and the disadvantaged as the “claim holders”; and the institutions (ministries, local governments, etc.) groups (bar associations, alternative law groups, etc.) and individuals (lawyers, prosecutors, etc.) as the “duty bearers.” The present study, as part of baseline data for judicial reform, attempted to dissect the structures (individuals and organizations) and processes that constitute access to justice.

The lawyers' perception as duty bearers were used to examine "normative protection (existence of remedy), capacity to seek a remedy (legal empowerment), and the capacity to provide an effective remedy (adjudication, enforcement and oversight)" for disadvantaged groups with "grievances in accordance with human rights principles and standards." (UNDP Asia-Pacific Rights and Justice Initiative, 2003) ¹ Hopefully, the lawyers' perspectives and experiences will help define the impediments and obstacles that disadvantaged groups have to face to gain access to justice and, together with baseline data about other stakeholders, provide the starting point for judicial reform initiatives.

The disadvantaged groups are the poor and marginalized who constitute the underrepresented groups who are deprived of due process and become the victims of the poor implementation of legal safeguards. Generally, the poor are really at a disadvantage, given the prevailing practices and structure in the present judicial system. Their lack of financial resources has made it difficult for them to obtain justice. Some unscrupulous and corrupt bureaucrats who implement the justice system can make life difficult for poor individuals who are charged with commission of a crime, or for poor victims of injustice. In contrast, wealthy individuals and persons with means and connections have the power to maneuver through the justice system to delay or hasten their case to get favorable judgment.

Under unjust circumstances, lawyers have a vital role to play to help the poor gain access to justice. Many lawyers' hearts beat for the poor and have remained idealistic. They do not aspire only for material and financial rewards, but find personal, emotional, psychological, spiritual, as well as professional fulfillment in lawyering for the poor.

The disadvantaged groups as the "claim holders" need committed lawyers as dedicated "duty bearers" to assist them. Lawyers, by virtue of their professional training and means, can help the poor wade through the judicial processes and win their case. The lawyers constitute the first line of defense to protect the weak against overwhelming odds that are stacked against them.

Lawyer organizations are important to enable the poor to gain access to legal assistance, the most basic form of professional aid that lawyers can provide. The Integrated Bar of the Philippines, professional lawyer groups, and alternative law groups, as well as law schools, have initiated different modalities of legal aid available to assist the underrepresented and marginalized sectors. The government has likewise created the Public Attorney's Office to provide free legal assistance to indigents who cannot afford to hire lawyers. The courts have also taken the responsibility of appointing *counsels de officio* for such clients.

More important than providing legal aid, however, is the empowerment of the disadvantaged. The practice of developmental legal aid and alternative law groups of providing comprehensive assistance, from legal counseling to litigation within and beyond the court system, has contributed to the empowerment of the basic sectors. In the final analysis, there is need for a multisectoral approach to judicial reform. The State, civil society, lawyers and the basic sectors should move towards strengthening basic communities. This will ensure political and economic stability, and serve as the foundation of a just and democratic society.

STUDY RECOMMENDATIONS

1. The strengths and weaknesses of lawyers and their organizations should be further analyzed to be able to define their institutional role as duty bearers in improving access to justice for the disadvantaged. It is suggested that further studies be conducted on the impact of the IBP and ALGs, and other legal aid centers, in improving access to justice and related issues. Mechanisms adopted by lawyer groups to help the disadvantaged will, thus, be assessed.
2. Lawyers' organizations should take a pro-active role to analyze the strengths and weaknesses of the basic sectors they work with. These are the starting point of initiatives to improve access to justice. They should use a community/peoples' empowerment framework as basic tool in legal aid and developmental legal assistance work. The ultimate objective is to enable communities to help themselves. The reflexivity approach should be used, whereby study respondents and victims may use the developmental legal aid initiative to reflect on, and better understand, their conditions to be able to address them beyond the judicial parameters.
3. Lawyers' organizations should extend their reach to basic sectors in rural and geographically isolated areas. Outreach activities in these areas should be able to address the imbalance in the availability of lawyers whose practice is mostly concentrated in urban areas.
4. Lawyers involved with the basic communities should intensify their advocacy to minimize discriminatory behavior and biases against various groups in the basic sectors. Advocacy initiatives may take the form of training, organizing, and media activities.
5. Lawyers should be able to make use of modern technology to be able to develop data bases about disadvantaged groups, and to be able to communicate with strategic partners about urgent issues related to access to justice.

To advance the interests of these sectors, SALIGAN undertakes these major activities:

1. Legal literacy or alternative legal education
2. Paralegal formation
3. Litigation support
4. Organizational cases
5. Test or precedent cases
6. Sectoral and multisectoral cases
7. Policy work
8. Research and publication
9. Internship

1 UNDP Asia-Pacific Rights and Justice Initiative, "Visioning" Workshop Report, Kathmandu, April 28-29, 2003.

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