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PROPOSED ROADMAP FOR CRIMINAL JUSTICE SYSTEM REFORMS

1 OBJECTIVES

- 1.1.1 This roadmap identifies the set of seamlessly integrated strategic reform recommendations identified in previous studies that will hopefully achieve a well-functioning integrated criminal justice system capable of achieving its overall goals and the individual objectives of each pillar.

2 COMPOSITION OF REFORMS

- 2.1.1 Reforms in the previous studies were identified in accordance with their contribution to the following stated goals:

- access to justice and respect for human rights
- case decongestion and delay reduction
- provision of appropriate justice remedies
- improvement of capacity to provide justice remedies
- improvement of capacity to demand justice remedies

Accordingly reforms were identified in the following areas:

- a) **NORMATIVE PROTECTION**, which includes reforms in the legal framework and the rules and procedures in criminal justice
- b) **OPERATING PROCESSES AND TECHNOLOGIES**, which include reforms in the processes and work technologies supporting mission-critical functions of the pillars
- c) **INSTITUTIONS DEVELOPMENT AND GOVERNANCE**, which include reforms in the assignment of governmental functions across levels of governance and in the structure and functions and internal administrative management of the pillars
- d) **HUMAN RESOURCES DEVELOPMENT**, which includes reforms in the planning and management of human resources across the pillars
- e) **FINANCIAL RESOURCE MANAGEMENT**, which include reforms towards improving the expenditures and the efficiency of their management by the government and the pillars

3 RECOMMENDATIONS

Recommendation No. 1 DECRIMINALIZE CERTAIN OFFENSES UNDER THE REVISED PENAL CODE AND SPECIAL LAWS AND CODIFICATION OF CRIMINAL LAW

A deeper study to decriminalize and de-penalize certain offenses where there is no specific offended party is necessary to improve the adjudication process. Legislation is also needed for instance, to abolish the crimes of prostitution, vagrancy, unjust vexation, premature marriages, failure to render assistance of or assume public office, simple disobedience to an agent or a person of authority, causing alarms and scandals, and traffic violations.

The amendment of the Bouncing Checks Law (BP Blg. 22) must likewise be studied, so that: (a) cases can only be brought to the regular courts if the dishonored check is of specified amount or higher, and (b) checks issued as guarantee for an obligation is excluded from its coverage.

Similarly, the threshold amounts in crimes against property under the Revised Penal Code, such as theft and estafa, should be adjusted to make them more attuned to the times. These amounts, which determine the corresponding penalty, were determined some 70 years ago. If the Code is amended, many crimes against property will be resolved at the level of metropolitan and municipal trial courts, instead of the regional trial courts.

The codification of criminal law is also proposed.

Recommendation No. 2 ADOPT MECHANISMS FOR ENFORCING STRICT COMPLIANCE TO MANDATORY CONTINUOUS TRIAL AND PRE-TRIAL

This will require that a case management support tool will be provided to judges in lower courts in order to manage their caseloads and the programming of trial hearings on the basis of continuous trials. A pre-trial conference that is efficiently and effectively administered by the judge should yield to a shorter trial period, if not altogether avert the need for trial through alternative modes of settlement that may be reached by the parties during the pre-trial period. The pre-trial conference provides for extensive use of discovery modes, which will eventually be helpful in the trial stage. In criminal cases, the pre-trial conference is used to consider plea bargaining, stipulation of facts, marking for identification of evidence of the parties, waiver of objections to admissibility of evidence, and such matters that will promote fair and expeditious trial of the criminal and civil aspects of the case.

It is recommended that the Supreme Court adopt mechanisms for the monitoring of the implementation of pre-trial and the imposition of sanctions for non-compliance. It is also recommended that extensive practical training on the procedures and case management tools within the context of continuous trials and the use of pre-trial be conducted by the PHILJA together with an accompanying video presentation that should be produced as a teaching tool.

Recommendation No. 3

REVIEW AND IMPROVE THE RULES OF COURT

Review and amendment of the Rules of Court to further speed up, simplify and render more inexpensive the disposition of cases. The review should consider the following improvements:

- Limiting the period within which Judges of Municipal Trial Courts have to terminate the preliminary investigation of criminal cases
- Return to decisions by the Supreme Court en banc in order to avoid conflicting decisions on same issue
- Setting of fixed amounts of time for the presentation of evidence and cross examinations; use of affidavits in lieu of direct testimony of witnesses; prohibition of postponements; and submission of draft orders and resolutions
- Deputizing Barangay officials to act as process servers because the cause of delay in preliminary investigation is the lack of adequate process servers
- Implementing electronic payment of legal fees, electronic case filing, and electronic delivery of summons, orders and notices
- Adopting teleconferencing as substitute for personal appearances of accused and witnesses
- Authorizing law enforcement agents to file cases directly with the Metropolitan Trial Courts and/or Municipal Trial Courts in chartered cities so warrant of arrest may be issued immediately for the detention of prime suspects of heinous crimes
- Reducing the grounds for motion to quash (presently, there are eight grounds for motion to quash – Section 3, Rule 117, Rules of Criminal Procedure)
- Amending Section 5(b), Rule 113, on warrantless arrest, which requires personal knowledge of facts on the part of the peace officers or private persons that the person to be arrested has committed the offense, inasmuch as it is very seldom that the peace officer is present during the commission of the crime which is the only instance when he could be considered to have personal knowledge thereof.
- Finding of probable cause by the prosecutors to be binding on the courts for purposes of proceeding with trial.
- Carving out of more exemptions from the filing of bonds
- Relaxing the Constitutional requirements for a judge to repeat all facts of a case in a decision, to shorten the time necessary to pen decisions
- Shortening the filing period for several pleadings and abbreviating court processes by reducing direct testimonies
- Looking into the problems of language in court proceedings by studying the use of local dialects instead of English
- Review the time standards provided in the rules of court and speedy trial act, identify appropriate criteria to be used in the determination of time standards for specific types of cases and establish time standards for case types
- Review procedures for the litigation process for specific types of cases

Recommendation No. 4
REVIEW THE JURISDICTIONAL STRUCTURE OF THE COURTS

Prior studies provide recommendations on improving court jurisdictional structures in specific areas based on assessments of specific issues in these areas. An assessment of the effects of the current court jurisdictional structure on geographical access, case congestion and delay, judge capacity, and overall coherence of the court system is recommended. These include:

- (1) Establishment of small claims courts
- (2) Reassignment of jurisdiction of less complex corruption cases from Sandiganbayan to the lower courts
- (3) Reorganization of the distribution of case assignments in the Sandiganbayan by allowing individual justices to handle specific cases and selectively assigning cases to divisions and to the En Banc
- (4) RTC Heinous Crime Courts should focus on heinous crime cases; remove civil caseload.

Recommendation No. 5
**REMOVE DUPLICATION AND OVERLAP AND DEFINE CLEARLY THE
OPERATIONAL DELINEATION AMONG PRE-TRIAL, THE BARANGAY JUSTICE
SYSTEM AND THE COURT-ANNEXED MEDIATION SYSTEM**

Judges argue that cases that have passed through the Barangay Justice System do not require pre-trial. A mandatory court-annexed mediation is being implemented in the lower courts and in the Court of Appeals. Experience with the pilot court annexed mediation units indicate very low referral of cases by judges but high settlement rates were recorded by the mediation units. During pre-trial an attempt to arrive at an amicable settlement is made. There is therefore a need to study these systems and clearly define their jurisdictions and operational delineation, in order that they can meaningfully contribute to case decongestion and delay reduction.

Within the context of established jurisdictional delineations and the operational processes therefor, the strengthening of the Barangay Justice System and implementation of the court-annexed mediation system should be considered as effective means of case decongestion and early dispute resolution. Mechanisms at the barangay level must be installed in order to protect poor and vulnerable parties from the abuse of more politically and economically powerful opponents to the case.

Recommendation No. 6
MODERNIZE CASE MANAGEMENT TECHNOLOGY AND INFORMATION SYSTEM IN
THE LOWER COURTS

A systems functional specifications and user requirements definition was developed funded by the World Bank PHRD Grant for an enterprise-wide case management information system in the lower courts. The system provides a unique case identification mechanism, allows tracking of case location and status, provides mechanism for detecting forum shopping, delay and violation of statutory time limits, and detained parties whose stay in jail have exceeded the maximum penalty prescribed by law for his offense. The system provides tools for judges to manage case prioritization and scheduling, and courtrooms utilization management. It provides functions for e-payment, e-issuance of court orders and notices. At the analytic level it allows court administrators and justices to track the performance of judges, locates specific cases of interest and provides information useful in monitoring and evaluating institutional performance.

The adoption of transcription technology, teleconferencing, electronic case-filing, electronic issuance of summons, orders and notices have been planned. These will require substantial one-time public investments in installing the infrastructure and in designing and implementing the various application systems.

Funding for these is available under a Judicial Reform Support Program Loan from the World Bank. The implementation of the case management information system should be implemented within the context of an integrated criminal justice information system.

A change management program is essential particularly since these will revolutionize court processes and the way the courts communicate and relate to court users. User training, technology competency training, thematic training in specific work areas and public information and advocacy would be essential components of the change management strategy.

Recommendation No. 7
DESIGN AND ADOPT AN INTEGRATED CRIMINAL JUSTICE INFORMATION SYSTEM

The design and installation of an integrated criminal justice information system that will link crime and case information across the pillars is recommended. The integrated system will have the following system components:

- a) crime management information system of PNP, NBI and other police agencies which will store data on crime offenders, crimes, and other crime indicators. The system will also support police operations by allowing information sharing to facilitate tracking of suspects and cases, crime mapping and crime analysis
- b) prosecution system which will contain a case management information system that will support the management of specific cases and overall caseload
- c) court case management system which will provide information and management support required in the management of caseload and case management by judges and clerks of courts

- d) jail management information system which will provide information and management tools in tracking prisoners, their conditions, status and activities and other relevant information
- e) criminal justice information sharing system which will allow exchange of information across the pillars within the bounds of disclosure policies

The development of crime classification and crime indicators will be necessary in establishing the criminal justice information system.

Recommendation 8
ADOPT A HOLISTIC APPROACH TO THE IMPROVEMENT OF THE CRIME
INVESTIGATION SYSTEM OF THE POLICE

Improving the overall capacities of the police for crime investigation will require a holistic approach that will involve the following:

- a) Improvement and integration of police manuals into one manual for police operations including among others specific improvements investigation procedures, eyewitness identification procedures, interrogation procedures, arrest, and rules on evidence
- b) Modernization of the crime laboratory such that its capacity for scientific analysis of crime case evidence is improved
- c) Strengthening the independence of crime investigations and the analysis of evidence and providing institutional mechanisms for insulating these. The outsourcing of scientific analysis of evidence should be considered to improve efficiency and strengthen independence of the process
- d) Establish mechanisms to ensure that prosecutors get all the evidence
- e) Improve case documentation procedures and skills in police report preparation
- f) Strengthen the curricula and teaching technologies in PPSC on crime scene investigation, interrogation and field investigation, case documentation and reporting, and witnessing in courts. Mastery of the police manual should be a pre-condition for completion of the training and education program
- g) Improve the remuneration of the police force as a way of strengthening their insulation from undue politicization and corruption
- h) Improve the resources and facilities of court stations and services to vulnerable groups
- i) Develop peer to peer and office dialogue mechanisms for regularly collectively analyzing crime cases and for information and experience sharing
- j) Focus policemen on just doing police work and not deploy them as body guards of important people
- k) Pilot these and other institutional reforms at the police station level creating pilot model police stations

Recommendation No. 9
ESTABLISH THE INDEPENDENCE OF THE CRIME INVESTIGATION AND PROSECUTION AGENCIES TOGETHER WITH A MEANINGFUL OPERATIONALIZATION OF JUDICIAL AUTONOMY

Consider establishing an independent National Prosecution Service, and PNP/NBI together with the operationalization of reforms in judicial independence. The parameters for the independence of the prosecution and police must be defined while operating within the reasonable bounds of existing administrative and financial management laws, rules and regulations of the government. This will include addressing such issues as: removing negotiable and highly discretionary support from LGUs; reintegrating authority to the PNP Chief to recruit, appoint and promote and discipline the police force without prejudice to an appropriate civilian review system; removing LGU authority over the internal administration of the police force; removing the NPS as an organic structure of the DOJ and establishing it as an independent agency.

The implementation of judicial independence reforms include adopting one-line item budget which should be automatically and fully released by removing transactional requirements, putting in place mechanisms for the objective determination and automatic remittance of LGU support to the courts, and assumption by the Judiciary of the authority to determine the details of its budget, organization and staffing.

These will require legislation and long-term development of institutional capacities as well as considerable political will. These will be one of the most difficult reforms to put in place.

Recommendation No. 10
UNDERTAKE DETAILED REVIEW AND REENGINEERING OF THE ENTIRE PUBLIC DEFENSE SYSTEM TO IMPROVE CAPACITY TO PROVIDE SERVICES, IMPROVE ACCESS AND EFFICIENCY AND STRENGTHEN ITS INDEPENDENCE

Within severely limited budgetary resources government must improve the efficiency of expenditures for public defense by adopting among others good governance framework and practices. A detailed review and reengineering of the social defense system is needed, such review to consider the following:

- a) Integrating all legal services of the national government into the PAO;
- b) Refocusing the role of the PAO from directly providing legal services to mobilizing and managing the countries resources for public defense
- c) Establish PAO as an independent agency with some corporate powers allowing it to mobilize private sector resources
- d) Assign public defense functions to LGUs (starting with high income LGUs) with PAO performing oversight roles and functions (providing and enforcing service standards, providing technical assistance)
- e) Pass a law requiring all law firms, law students and law practitioners to render free legal assistance to the poor and remote barangays

- f) Strengthen partnership mechanisms among PAO, the courts, IBP and alternative law groups to improve geographical access of public defense services particularly in remote areas

Recommendation 11
**ASSESS POSSIBILITIES FOR MAINSTREAM CUSTOMARY MODES OF ADJUDICATION
IN THE CRIMINAL JUSTICE SYSTEM**

The 1997 Philippine Constitution provides that the state shall consider the customs, traditions, beliefs and interests of national cultural communities in the formulation and implementation of state policies (Art. XIV, Sec. 17). Consistent with this provision of the Constitution, Republic Act 8371 or the Indigenous Peoples' Rights Act (IPRA) was promulgated, recognizing the indigenous peoples' justice system and conflict resolution institutions, and using their own traditional methodologies and practices.

This is recognition, for example, of the traditional justice systems of the indigenous communities in the Cordilleras and among the Lumads of Mindanao, whose traditional practices serve as alternative dispute mechanisms. While the systems among the indigenous peoples' justice systems vary in approaches and methodologies, common to these traditional practices is the participation of the community members in settling disputes.

A study on the potential expansion of the jurisdiction of the Shari'a courts and the removal of the overlapping of its functions with the regular lower courts should be also undertaken.

These traditional forms of justice should however be reconciled with the national legal systems and internationally recognized human rights processes and with the penal code. There is therefore a need to provide clear parameters on how these may be integrated and made compatible with the current legal system of government.

Recommendation 12
**REMOVE DUPLICATION, OVERLAPPING, PROLIFERATION AND FRAGMENTATION
OF LAW ENFORCEMENT FUNCTIONS, REINTEGRATE POLICE
FUNCTIONS AND REMOVE INSTITUTIONALIZED POLITICISATION OF THE
POLICE**

In order to conserve severely limited budget resources, improve overall coherence and efficiency and clarify accountability, a system wide rationalization of police institutions should be undertaken to address the following issues:

- a) remove duplication of functions and jurisdictions between the NBI and PNP
- b) reintegrate specialized crime agencies into the regular police force thus removing duplicative overhead expenditures and conflicting jurisdictions
- c) reintegrate police powers and functions now assigned to more than 30 national government agencies to a reorganized PNP/NBI
- d) define the role of local governments in policing

Recommendation No. 13
STRENGTHEN THE CAPACITIES OF PROSECUTION AGENCIES –NPS AND OMB

The government must strengthen the core capacities of prosecution agencies simply by providing more prosecutors to NPS and OMB. The criteria for the determination of the appropriate number of prosecutors should be established based on caseload. Caseload fluctuations can be addressed by adopting some flexible prosecutor deployment and tenure mechanisms which may include outsourcing prosecutors and providing legal research staff to prosecutors for example through deployment of law students as practicum

Recommendation No. 14
REENGINEER THE INSTITUTIONAL FRAMEWORK OF THE CORRECTIONS PILLAR, DEVOLVE DELIVERY WHILE MAINTAINING STRONG OVERSIGHT

The preparation of a devolution plan for the correction system and the rationalization of its institutional framework within a devolution context are recommended. Such devolution program will involve:

- a) Transferring to provinces, cities and municipalities the responsibility for the provision and maintenance of local jails
- b) Streamline the oversight agencies of national government by removing its delivery functions and strengthen their role in providing and enforcing standards
- c) Provide mechanisms for private sector participation in restorative justice and providing half way houses particularly for women and youth offenders

Recommendation No. 15
AMEND THE PROBATION LAW TO EXPAND ITS COVERAGE

The coverage of the Probation Law could be expanded to include sentences of *prision mayor* medium, except in drug cases. This will ease the severely congested penal facilities in the country and thereby contribute to the efficiency of the Bureau of Corrections in processing papers of inmates.

Moreover, if more offenders could benefit from probation, they could be persuaded to enter a guilty plea with the prospect of being put under probation instead of being imprisoned, resulting in more criminal cases speedily disposed by the courts. This would also not only prevent but minimize appeals.

Recommendation No. 16
POPULARIZE THE LAW TOWARDS BETTER COMMUNITY CAPACITY TO DEMAND JUSTICE REMEDIES AND IMPROVED COMMUNITY CONTRIBUTION IN PROVIDING JUSTICE REMEDIES

The general public who are familiar with the law may be better able to support and more cooperative with the police in solving crimes and will have stronger capacities to demand the provision of justice remedies thus strengthening the accountability of criminal justice institutions. Aside from the strategy of tapping the media to popularize the law measures include:

- a) Integrating criminal justice teaching exemplars or subjects into the formal education system, building on the gains of the CHR's teaching exemplars on human rights
- b) Integrate law popularization procedures in the legal assistance services of government and private sector and in the Barangay Justice System

Recommendation No. 17
MAINSTREAMING RBA IN CRIMINAL JUSTICE

This involves the design and implementation of rights-based approaches (RBA) by mainstreaming them into the operational procedures and practices and in training programs of policemen, prosecutors, lawyers and judges. RBA is now being formulated and implemented by the CHR. What need to be done is to formulate specific approaches and tools and provide assistance to the pillars in conducting assessments of their policies, procedures and practices and designing mainstreamed RBA into these.

Recommendation No. 18
STRENGTHEN THE HUMAN RESOURCES MANAGEMENT SYSTEMS ACROSS THE PILLARS

The studies pointed to serious issues in human resources management that undermine the efficiency, effectiveness and integrity of the criminal justice system. Reforms to address these issues have been identified. These include the following:

- a) Conduct and rethink the entire police education and training system and reconsider its transfer to the PNP. Police training must produce competent policemen who upon completion of training have acquired core competencies in all relevant aspects of police operations and procedures, the law, and the police tools.
- b) Integrate prosecutor training to the Philippine Judicial Academy and expand the training programs as well as the institutional capacities and resources of the Academy. Specialized training programs on case management, law and jurisprudence, management of trials by judges, decision-writing and judicial comportment by judges, case preparation by prosecutors, trial skills of prosecutors and other specialized competency areas. PhilJAs reach and delivery system must be considerably improved.

- c) Improve qualification standards for new recruits (police, investigators and agents and prosecutors) accompanied by attractive compensation and benefit package, and career development opportunities; and expanding the skills mix for investigators and other personnel involved in highly specialized crime intelligence and investigation.
- d) Improve the policies and procedures for police performance evaluation and promotion
- e) Design and adopt new psychometric tools for policemen and judges to weed out those whose character profile does not fit requirements of integrity and other personality traits required for the job.

Recommendation No. 19
STRENGTHEN DISCIPLINARY MEASURES PARTICULARLY ON MATTERS
CONNECTED WITH CRIMINAL CASE MANAGEMENT

A review of disciplinary procedures and manuals on discipline in the pillars is recommended. Disciplinary measures relating to compliance with specific rules on the handling of criminal cases should be put in place, synchronized with the improvement of operating rules and procedures in the pillars, such as the rules of court. Specific measures can already be adopted such as:

- a) Imposing disciplinary actions on policemen who fail to appear during trials.
- b) Imposing sanctions and penalties to lawyers who are notoriously tardy or absent during court hearings. This will require that the court establish a tracking system of lawyers in litigation cases.
- c) Developing standards for police case investigation and arrest procedures and defining compliance parameters together with sanctions for breaches in procedures
- d) Integrating in the performance standards and evaluation system such criteria as case reporting skills and performance, investigation performance and other relevant criteria on the management of cases by the police
- e) Imposing stronger disciplinary actions on judges with habitual tardiness and absenteeism

Recommendation No. 20
ADOPT A ONE-TIME COMPREHENSIVE ACTIVITY TO FAST TRACK THE PROCESSING
OF SOME 600, 000 CASES COMPRISING THE CASEBACKLOG IN THE LOWER
COURTS

Such initiative will require planned action and resource mobilization which include among others the following:

- Identify all courts with unmanageable case backlogs
- Inventory case backlogs
- Formulate a typology of cases as basis for the formulation of procedures and determination of interim time standards
- Develop interim time standards and procedures for the processing of case backlogs
- Develop and implement training program for appointed judges who will participate in the project
- Design an organizational mechanism for providing judges to process case backlogs
- Install a project management mechanism to monitor the project, identify and provide administrative and technical support systems and do trouble shooting if necessary
- Develop mechanisms for cooperative arrangements with the other pillars of justice (PNP, NBI, NPS, OMB and social defense agencies and private organizations) in order to facilitate the gathering or provision of evidence, production of witnesses, provision of legal assistance to pauper litigants, arrest of suspects, provision prosecutors, etc.

Recommendation No. 21
PASS LEGISLATION TO RATIFY INTERNATIONAL TREATIES AND CONVENTIONS

International treaties and conventions are best exemplified by those pertaining to the promotion and protection of human rights. At the core of the international human rights system is the United Nations and its charter which was signed on 26 June 1945. The charter provides provisions that set the foundation for the international human rights system. In particular, under Article 55 of the charter member-nations commit to promote “universal respect for and observance of, human rights and fundamental freedoms for all without distinction as to race, sex, language or religion.” Article 56 of the charter provides that all members commit to take joint and separate actions in cooperation with the UN to ensure the achievement of the provisions of Article 55.

The Philippines is signatory to twenty-three (23) human rights treaties and protocols. Thus, the government is bound to comply with and ensure the implementation or observance of the provisions of these treaties and protocols.

International legal framework like that on the above on human rights provides normative protection for access to justice by providing (a) international obligations for states; (b) other standards that are not binding to the states as such but give normative guidance on specific issues (e.g., resolutions, declarations, guiding principles, etc.) and may be indicative of a growing internal consensus to further develop the international legal framework; (c) an

additional forum for access to justice (e.g. communications and inquiry procedures initiated through treaty bodies and regional courts and commissions, in cases where national mechanisms are ineffective); (d) mechanisms to monitor states compliance with treaty obligations; and (e) an additional forum to create or influence national norm making.

The legal gaps in the protection of human rights include the non-inclusion of international law in the national law of the country. This is specifically true in the case of torture and other cruel, inhuman or degrading treatment or punishments. The Philippines is a signatory of the UN convention on the matter and on the international humanitarian law, but there is no national law yet to implement the conditions and requirements of these commitments.

There is need therefore to study the legal barriers to international legal protection, especially the non-incorporation in the national law of ratified treaties in which the country is a signatory.