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I. Introduction

The line “justice delayed, is justice denied” may sound like a cliché, however this statement holds great truth in it. A corollary to it is the statement “inaccessibility of justice is no justice at all”. These two statements may have a harsh tone to it however this is a common reality in the Philippine case.

There may be reforms initiated by the different Supreme Court Chief Justices, however, it is perceived that these reforms are not enough to ensure that justice in the Philippines is accessible. Reforms are not instituted in just the judicial system. The different agencies of the executive have also instituted a number of reforms to answer the problem of accessibility to justice. Even the legislature, through the creation of new laws to make justice more accessible, has helped improve the delivery of justice to all.

These efforts are not enough, however. It can still be observed that the judiciary has a large number of cases unsettled. There are still minors in conflict with the law which can be found in jails, them being in close contact with hardened criminals. Women are still maltreated and they still have limited options on what to do in cases of prostitution, trafficking, abuse and rape.

This policy brief will discuss the different dimensions of the problems in the access to justice. It will tackle the different constraints or impediments to access to justice and find alternatives or solutions to solve the problem. Proposals coming from the judiciary, government agencies, academe and even the best practices of other countries will be examined in the hope of finding ways to improve access to justice in the Philippines.

Definition of Access to Justice

Access to justice may be characterized as an elusive terminology in the sense that it does not have a direct formal definition. Rather, the definition of access to justice largely depends on the context to which it is being attributed. It is a process that has to be adapted to particular contexts and situations.

However, even if this is the case, the United Nations Development Programme (UNDP) gives a working definition of access to justice. UNDP defines access to justice as the “ability of people to seek and obtain a remedy through formal or informal institutions of justice, and in conformity with human rights standards”.¹

Furthermore, access to justice does not stand alone or go by itself. It is anchored on different formal and informal institutions in the justice system as well as to the other government agencies and the civil society. This implies that in order to have a truly functioning justice system, these aforementioned institutions must have an environment wherein access to justice may be made to work better for the poor and the disadvantaged sectors.

¹ UNDP, “Programming for Justice Access to All”. (Bangkok:UNDP,2005) 5.

The justice system may be divided into two categories, the formal and the informal. The formal justice system includes the courts, the police, corrections/prison officials, and others. The informal side of the justice system on the other hand involves the councils of elders, indigenous justice dispensation practices, and other local arbitration mechanisms.

It is said that the informal justice system may be more accessible by the poor in the sense that this system has been culturally rooted. Furthermore, it has the potential to provide an alternative for a speedy, affordable and meaningful remedy for the poor and the disadvantaged. However, the kind of justice derived from it may not always be effective and result in justice.²

In the problem on access to justice, there are key actors involved. They may be put into two categories, those on the demand to justice side, and the supply side. The demand side includes the people or the members of the society. In this brief, the poor and the disadvantaged sectors would be focused on. The supply side on the other hand includes the judicial system, both the formal and the informal.



Source: UNDP, "Programming for Justice Access to All". (Bangkok: UNDP,

² UNDP, "Access to Justice: Practice Note" (UNDP, 2004) 4.

II. Common problems and issues in access to justice

There are quite a number of issues and problems that plagues the justice system, thus hindering the poor and disadvantaged access to justice. There are several factors that may be said to greatly affect people's access to justice. These are the financial aspect, attitudes of the people toward the justice system, and the inability of the justice system to provide effective dispensation of justice.

Furthermore, access to justice is also limited by political, geographic or linguistic factors. Justice systems that are incomprehensible, remote, unaffordable, delayed and unfair, effectively deny legal protection to ordinary people.³ These problems and issues will be discussed more substantively in the succeeding parts of the paper.

Financial Problems

One of the primary reasons why people particularly the poor and disadvantaged do not have access to justice is the financial aspect. The high cost of hiring competent lawyers is an immediate impediment. Furthermore, the poor people do not pursue cases simply because they prioritize their work and livelihood. The opportunity costs when they pursue cases are higher compared to the benefits. This just takes them away from income-generating activities.

There are also fees that are collected during the filing of cases. These fees collected by the judiciary further decreases the possibility of the poor to pursue justice. They view these fees as a further burden and a great drain to their very limited resources.

Reluctance to use the law⁴

The reluctance of the poor and the disadvantage to use the law can be characterized as culturally rooted. Getting involved with the courts and the police even if the individual is innocent poses social stigma. Other members of the community see litigation as making trouble while a simple "brush with the police can be interpreted as guilty until proven innocent". Furthermore, "a closer analysis reveals that for the poor, the decision to avoid contact with the legal system is less a symptom of parochial traditionalism than it is a rational response to the opportunities and risks which the legal system presents".⁵

In addition, there is also a growing mistrust by the poor and the disadvantaged of the judicial system as a whole. They view the law and consequently the entire legal system as not truly catering to the needs of the poor and the disadvantaged. Rather, they see

³ Decker, Klaus, et. Al., "Law or Justice: Building Equitable Justice Institutions" (*****)

⁴ Anderson, Michael, "Access to Justice and Legal Process: Making Legal Institutions Responsive to Poor People in LDCs", (Sussex: Institute of Development Studies) 16.

⁵ Anderson (16).

the legal system as a tool of oppression by the wealthy members of society and by the government.

Furthermore, historical, social and cultural factors also contribute to the problem of “legal poverty” and access to justice in many societies. The entrenched discriminatory attitudes and practices against women, children and other vulnerable people reinforce a perception of discrimination as a matter of fate among such groups. Being so routinely treated with contempt, excluded groups can over time subscribe to social norms and subservient behaviors, which diminish their capacity to aspire and learn about their respective rights.⁶

In cases where the judicial system had been subject to corruption or had been used by the government or the elites to exploit or to harass them, then there is still that fear of the judicial system. This usually happens in authoritarian states where laws are at times used to harass people rather than to protect their rights. Even if there is already no authoritarian rule and that the state is in a process of democratization, the people still are skeptical about the judicial system

Institutional Imbalances and Biases

The way the justice system conducts its processes can also serve as a factor that will inhibit the poor and the disadvantaged to engage or participate in the judicial system. This simply means that the manner in which the dispensation of justice is being done further alienates the poor and the disadvantaged from the judicial system.

More often than not, the laws that are being made in countries are not of the vernacular or of the native tongue. The laws are commonly written in English. The poor and the disadvantaged oftentimes do not understand these laws. How then can they know their rights and demand for justice when they do not understand or know what it is that they should be demanding?

In addition, the manner in which the justice system is made to operate is very formal and that it is commonly shrouded in mystery. A commoner, especially the poor may not totally understand these processes. This in turn becomes target for abuse by some lawyers. They prey on the ignorance of the poor, thus enabling them to charge exorbitant fees. They have the tendency to delve into the technicalities oftentimes ignoring the fact that their clients do not fully comprehend what is happening.⁷

Furthermore, there are also instances wherein there are no courts present in far- flung places. Or if there are, there are no judges in- charge in those areas. For cases wherein there are no courts present, people are forced to travel to key cities or municipalities where there are courts. As stated before, this further drains the financial resources of

⁶ Decker, et. al (16)

⁷ Anderson (19).

the poor in terms of their fare, food, and other expenses. New technology that will improve the speed and efficiency of the courts are also lacking.

There are also instances wherein there is shortage of legal practitioners. This is especially true for those practitioners who are employed by the government to handle the cases of the poor. Lawyer to client proportions are oftentimes very low, thus further causing problems in access to justice. Even in countries where there are groups or lawyer's organizations giving free legal aid, they are operating in the cities. The rural poor and disadvantaged then have nowhere else to ask for free legal support.

Another common problem that most countries are facing are the court-associated delays. There are a lot of courts where they have an excessive number of backlogs. These delays in the dispensation of justice may be attributed to the lack of infrastructure, funding, personnel and even competent judges. This further removes the trust of the people in the judicial system thus making the way of seeking and pursuing litigations.

In terms of upgrading the capacity of the staff of the courts, they are not that aware of current changes and improvements in the judicial system. Corollary to this, there is a lack of expertise in handling certain complex processes, which if accomplished by the staff, would greatly improve the efficiency and speed of dispensation of justice.

Another problem being faced not only by court staff, but judges as well is the low salary. They cannot focus that much in improving access to justice and disadvantaged sector remedies if they themselves are hard- up in surviving. This low salary can also serve as a factor for them to engage in corruption, which further degrades the justice system.

BARRIERS TO ACCESS TO JUSTICE

From the user's perspective, the justice system is frequently weakened by:

- ▶ Long delays; prohibitive costs of using the system; lack of available and affordable legal representation, that is reliable and has integrity; abuse of authority and powers, resulting in unlawful searches, seizures, detention and imprisonment; and weak enforcement of laws and implementation of orders and decrees.
- ▶ Severe limitations in existing remedies provided either by law or in practice. Most legal systems fail to provide remedies that are preventive, timely, non-discriminatory, adequate, just and deterrent.
- ▶ Gender bias and other barriers in the law and legal systems: inadequacies in existing laws effectively fail to protect women, children, poor and other disadvantaged people, including those with disabilities and low levels of literacy.
- ▶ Lack of *de facto* protection, especially for women, children, and men in prisons or centres of detention.
- ▶ Lack of adequate information about what is supposed to exist under the law, what prevails in practice, and limited popular knowledge of rights.
- ▶ Lack of adequate legal aid systems.
- ▶ Limited public participation in reform programmes.
- ▶ Excessive number of laws.
- ▶ Formalistic and expensive legal procedures (in criminal and civil litigation and in administrative board procedures).
- ▶ Avoidance of the legal system due to economic reasons, fear, or a sense of futility of purpose.

UNDP, "Access to Justice: Practice Note" (UNDP, 2004) 4.

III. Access to Justice: The Philippine Case

In the previous discussions on access to justice, it was shown that the poor and the disadvantaged sectors (women, children, old people, indigenous peoples) are wanting when it comes to access to justice. The discussions above however tackled access to justice in a very general manner. Different cases were taken from different countries. However, it can be observed that the discussions above holds true in the Philippines.

The Philippines also suffers from an inaccessible justice system. There are also countless reforms being initiated by the different government agencies. These however are not enough based on the statistics being presented.

Causes of Delays in the Provision of Justice Remedies⁸

Lawyer attributed delay

- ❖ Notorious filing of petitions for extensions and postponements
- ❖ Absence, tardiness and ill preparedness of lawyers
- ❖ Lack of competence in discovery proceedings
- ❖ Abuse of procedures and provisional remedies (such as TROs)
- ❖ Heavy lawyer caseload and indiscriminate acceptance of caseload resulting in incompetence
- ❖ Protracting of cross examinations
- ❖ Propensity to elevate case by filing petitions for mandamus, prohibition or certiorari

Judge attributed delay

- ❖ Insufficient knowledge on developments in law and jurisprudence
- ❖ Deficient knowledge of court procedures
- ❖ Judge absenteeism and tardiness
- ❖ Trials are conducted on piecemeal basis
- ❖ Leniency in granting of postponements by judges and laxity in enforcement of rules of procedures
- ❖ Lack of competence in judicial decision writing (decisions wanting in clarity, precision, coherence and depth)
- ❖ Poor administrative skills, poor case management, laziness, inefficiency and corruption

⁸ CPRM, "Conduct of Further Study on Operations and Linkages of the 5 Pillars of Justice". (Manila: UNDP-Supreme Court, 2006).

Law enforcement attributed delay

- ❖ Delay in transmittal of case to the Prosecutor's Office
- ❖ Protracted investigations and inquiries thus preliminary investigations remain unresolved
- ❖ Evidence not promptly submitted to court
- ❖ Non- appearance during trial
- ❖ Failure to effect a valid arrest
- ❖ Lack of internal coordination
- ❖ Poor case documentation
- ❖ Poor coordination Weak coordination with prosecutor in case preparation

Prosecutor attributed delay

- ❖ Protracted investigations and inquiries thus preliminary investigations remain unresolved
- ❖ Preliminary investigations are appealed to the secretary of justice
- ❖ Heavy prosecutor caseload
- ❖ Deficient prosecutor competencies

Delay caused by institutional weakness

- ❖ Lack of court resources and facilities
- ❖ Inefficiencies in the postal service particularly delays in the delivery of notices
- ❖ Delays in the filling up of judicial vacancies
- ❖ Weakness in the judicial appointment systems
- ❖ Complicated rules couched in complex language
- ❖ Insufficient training
- ❖ Lack of formal systems for ensuring inter- pillar coordination
- ❖ Deficient case management system and tools and information technology support across pillars

Republic Act 8493 (The Speedy Trial Act of 1998)

RA 8493 was made into law as an answer or solution to the increasing backlogs and case congestion in the court systems. The law states that in 11 months time from the filing of information to the issuance of decision by the lower courts, the case must take only 11 months or 330 days.

LEGAL BASIS, STAGE IN THE PROCESS	DURATION SPECIFIED BY LAW		
	YEARS	MONTHS	DAYS
SPEEDY TRIAL ACT			
From filing to arraignment			30
From time of arraignment to first day of trial			30
From the first day of trial to the termination of trial			180
From the termination of trial to the issuance of decision			90

Even with the passing of Republic Act (RA) 8493 or more commonly known as the Speedy Trial Act of 1998, the number of cases pending in the courts has not changed noticeably. From the period of 2000- 2004, the clearance rates of the courts are just averaging 42.94%.⁹

Annual Case Load and Clearance Rates of Lower Courts, 2000-20004

YEAR	TOTAL CASELOAD	TOTAL DISPOSED	CLEARANCE RATE (%)
2000	1, 510,558	685,977	40.63
2001	1,416,667	575,699	37.15
2002	1,405,972	587,093	41.75
2003	1,352,452	529,553	39.15
2004	1,534,528	905,925	56.03

Original Source: OCA, Supreme Court of the Philippines

The disposition rates however during the years 200-2004 were relatively high considering that judges in the lower courts have case loads that range from 300-3,000. The disposition rate has a very high average of 104.09%. This means that there are still judges who are working hard.

Annual case flows and disposition rates of lower courts, 2000-2004

YEAR	INFLOWS	OUTFLOWS	DISPOSITION RATE (%)
2000	695,417	685,977	98.64
2001	592,086	575,699	97.23
2002	565,004	587,093	103.90
2003	533,573	529,553	99.24
2004	745,737	905,925	121.48

Original Source: OCA, Supreme Court of the Philippines

Furthermore, there is a high archival rate of the lower courts. It was seen that this high archival rate of the lower courts is attributed by the inability of the police to nab the suspects within the prescribed 6- month period.

⁹ CPRM, "Conduct of Further Study on Operations and Linkages of the 5 Pillars of Justice". (Manila: UNDP-Supreme Court, 2006).

Composition of judicial actions

YEAR	RESOLVED/		ARCHIVAL RATE	
	CASES DECIDED % OF TOTAL CASELOAD	% OF ALL CASES DISPOSED	% OF TOTAL CASELOAD	% OF ALL CASES DISPOSED
2000	23.42	51.56	15.64	34.43
2001	23.78	58.52	13.43	33.05
2002	24.79	59.38	14.58	39.91
2003	23.96	61.21	12.55	32.06
2004	29.60	50.15	14.67	24.86

Original Source: OCA, Supreme Court of the Philippines

There are also cases that are still pending with the lower courts. These pending cases have already exceeded the prescribed time limit stated in the Speedy Trial Act of 1998.

Percentage of civil and criminal case exceeding prescribed time limits, lower courts

COURT	CIVIL	CRIMINAL
RTC	57.6	46.1
METC	38.8	51.4
MTCC	57.0	27.4
MTC	35.1	51.2
MCTC	50.0	34.6

Original Source: Rosemary Hunter, CPRM, CDDRP, SC-WB, 2002.

In terms of children's access to justice, there are also certain problems. This basically is on what to do with children who are in conflict with the law or the juvenile delinquents.

From 1995 to 2000 alone, more than 10,500 children were arrested and detained every year. In the first quarter of 2003, more than 4,500 children have been imprisoned, 441 of them are girls. What is more alarming is the fact that 5% of the total population of jails is made up of children.

But what makes a juvenile offender? They are either male or females of ages between 14 and 17. They are said to be elementary school drop-outs coming from urban or rural poor families commonly living in the slums.¹⁰ UNICEF provides a more comprehensive and formal definition. Juvenile justice refers to all the offences committed by children and young people (below the age of 18) whether: discovered or not; reported or not to the police or any other law enforcement agency; brought before a judicial, administrative or other body; sentenced or not. Children may also be considered an offender for acts that would not be punishable if committed by an adult (e.g. status offences; vagrancy). The terms "juvenile delinquents", "juvenile offenders", "children in conflict with the law"

¹⁰ UNICEF, "Children in Conflict with the Law: Factsheet"

and “children in contact with the law” have the same meaning.¹¹ They are detained because of minor offenses like petty theft, sniffing of solvent (rugby), and vagrancy.

The problem with access to justice of these children comes from their being children and that they should not be mixed with the hardened criminals in jail. Amnesty International found out that a common practice by the police is to mix these children in the same facilities where the adults are detained. Furthermore, the punishments for their offenses are oftentimes similar to those imposed on the adults. With them being children and in close contact with criminals, they are oftentimes subject to torture and abuse.

There is another problem that is being faced by children. These may come in the forms of abuse or harassment coming from their own homes. Since they are children, the persons who should be protecting them in the first place, their families, oftentimes violate their rights.

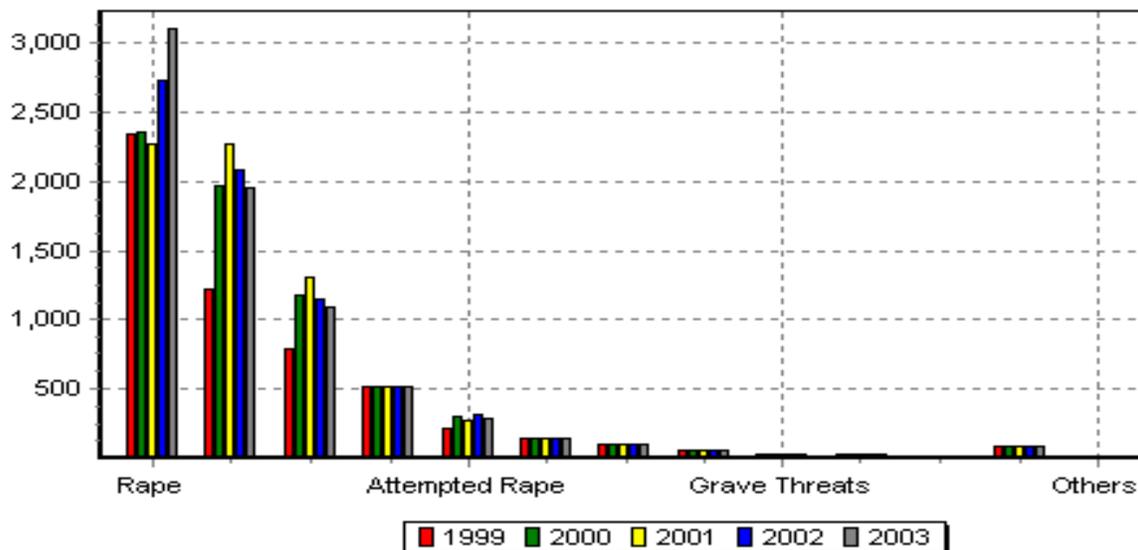
Cases of Violence Against Children by Classification of Offenses and Year.					
	1999	2000	2001	2002	2003
Rape	2348	2354	2275	2732	3107
Physical Injuries/ Maltreatment	1225	1973	2274	2086	1947
Acts of Lasciviousness	786	1181	1312	1155	1090
Violation of 7610-Child Abuse	516	516	516	516	516
Attempted Rape	210	303	271	321	293
Maltreatment	139	139	139	139	139
Missing/Abduction	106	106	106	106	106
Child Labor/Exploitation	58	58	58	58	58
Grave Threats	32	32	32	32	32
Child Prostitution	31	31	31	31	31
Sexual Harassment	7	7	7	7	7
Neglect/Abandonment	79	79	79	79	79
Others	16	16	16	16	16

Source: Philippine National Police

¹¹ UNICEF, “Justice for Children: Detention as a Last Resort.”

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Cases of Violence Against Children by Classification of Offenses and Year.



Reforms Initiated by the Different Agencies of the Government

There are several reforms initiated by the government to answer the increasing inaccessibility to justice. These reforms came from the judiciary, legislature, and the executive branch through its agencies concerned with access to justice.

The judiciary under the leadership of Chief Justice Hilario Davide Jr. came up with the Action Program for Judicial Reform (APJR). It is a comprehensive program for the judiciary with the purpose of making the judiciary work more efficiently and effectively. "The APJR's mission is to provide speedy and fair dispensation of justice to all, have judicial autonomy and independence from political interference, improve the people's access to judicial and legal services, install systems to improve quality of external inputs to the judicial process, promote efficient, effective and continuously improving judicial institutions, and conduct its business with dignity, integrity, accountability and transparency."¹² For the purpose of this document, the programs that are relevant to access to justice will be highlighted.

In order to ease the increasing number of backlogs of cases in the courts, the Supreme Court came up with a project called "Justice on Wheels". It was patterned from the Guatemalan Mobile Court System. The Mobile Court was initially assigned to hear cases involving juveniles in conflict with the law. The main purpose was to hear cases involving juveniles who wanted to plead guilty, or who wanted to be diverted or released

¹² Supreme Court. Matrix of Judicial Reforms.

on recognizance. More importantly, the Mobile Court prioritized the hearing of cases of those who have been in detention for more than the maximum penalty for their particular cases. This strategy was intended to help decongest the various youth reception and detention centers within the Metro Manila area, which were holding up to five times their designed capacities.¹³

66 days after it first operated on 20 December 2004 to 11 November 2005, the Justice on Wheels Project was able to visit quite a number of juvenile detention centers and jails within Metro Manila. It was able to hear a total of 1,126 cases and was able to secure the release of 391 detainees. This accounts for 35% of the total number of cases heard.

In addition to reforms that aim reduction in case backlogs, there are also reforms initiated by the judiciary to make Supreme Court decisions to be easily understood by ordinary people. In order to break the language barrier that inhibits people to participate or pursue litigations, the Supreme Court plans to translate its landmark decisions into Filipino and other major dialects. To facilitate this reform, the Supreme Court tasked Court of Appeals Justice Jose Dela Rama as Chairman.¹⁴

Alternative Justice and Dispute Resolutions

It was stated in the beginning paragraphs that the informal mechanisms of dispensation of justice are more accessible to the poor and the disadvantaged. The informal system can be seen as having the potential to help make justice more accessible.

The most prominent example of alternative dispute resolution is the Barangay Justice System (BJS). Indigenous justice practices of mediation and conciliation are now being formalized and institutionalized through the BJS. The BJS is seen by the government, Non governmental organizations and some development agencies as an effective mechanism to meet the justice needs of the disadvantaged and marginalized sectors. Furthermore, it can resolve issues of court backlogs. For the community, it enables them to resolve their own conflicts.¹⁵

The BJS can be viewed as a two way reform. It helps reform the supply side of justice by serving as a venue for dispensation of justice. For the demand side on the other hand, it serves as a mechanism for the empowerment of the poor and the disadvantaged sectors.

In addition to the above- mentioned reforms, there is also an increasing promotion and at the same time respect for indigenous judicial practices. The Republic Act 8371 or the

¹³ Hon. Adolfo Azcuna, "The Justice on Wheels of the Philippines". (Presented during the *International Conference and Showcase on Judicial Reforms* held at the Shangri-la Hotel, Makati City, Philippines on 28-30 November 2005).

¹⁴ Supreme Court. (2006)

¹⁵ Restorative Justice Online, "Using Traditional Practices to Improve the Justice System". (2004).

Indigenous Peoples Rights Act recognizes the indigenous peoples conflict resolution institutions.

Laws created for the Protection Of the Disadvantaged and Vulnerable Sector

There are also laws created in order to help prevent the violation of the disadvantaged sectors rights. These in certain ways give the disadvantaged sectors protection to their own rights. Furthermore, with the creation of such laws, the disadvantaged sectors are seen to be acknowledged that they indeed need protection.

Laws Created Particularly for the Protection of Vulnerable/ Disadvantaged Sectors

SECTOR	PHILIPPINE LAW	
Victims of unjust imprisonment/ detention and victims of crimes	RA 7309	An Act Creating a Board of Claims Under the Department of Justice for Victims of Unjust Imprisonment or Detention and Victims of Violent Crimes and for Other Purposes
Arrested persons/ detainees	RA 7438	Defining Certain Rights of Persons Arrested, Detained or Under Custodial Investigation as well as the Duties of the Arresting, Detaining and Investigating Officers and Providing Violations for Penalties Thereof
Senior Citizens	RA 9257	Expanded Senior Citizen's Act of 2003
Women	RA 7877	Anti Sexual Harassment Act of 1995 Declaring Sexual Harassment Unlawful in the Employment, Education, or Training Environment and for Other Purpose
	RA 6725	An Act Strengthening the Prohibition on Discrimination Against Women with Respect to Terms and Conditions of Employment, Amending for the Purpose Article 135 of the Labor Code as amended
	RA 6955	An Act to Declare Unlawful the Practice of Matching for Marriage to Foreign Nationals on a Mail- Order Basis and for Other Similar Practices Including the Advertisement, Publication, Printing or Distribution of Brochures, Flyers and Other Propaganda Materials in Furtherance Thereof and Providing Penalty Therefor
	RA 7192	An Act Promoting the Integration of Women as Full and Equal Partners in Development and Nation- Building and for Other Purposes
	RA 8353	An Act Expanding the Definition of the Crime of Rape, Reclassifying the Same as a Crime Against Persons, Amending for the Purpose Act No. 3815, as Amended, Otherwise Known as the Revised Penal Code and for Other Purposes
Women and Children	RA 9208	Anti Trafficking in Persons Act of 2003
Persons With Disabilities	RA 7277	Magna Carta for Disabled Persons An Act Providing for the Rehabilitation, Self- development, and Self Reliance of Disabled Persons and their Integration into the Mainstream of Society and for Other Purposes
Indigenous Peoples	RA 9371	Indigenous Peoples Rights Act of 1997
Children in Conflict with the Law	RA 9344	An Act Establishing a Comprehensive Juvenile Justice and Welfare System, Creating the Juvenile Justice and Welfare Council Under the Department of Justice, Appropriating Funds Therefor and for Other Purposes

The recently enacted Juvenile Justice Act is one of the landmark legislations that were made for the protection and enhancement of children's Access to Justice. This legislation calls for restorative justice to be incorporated into all laws, policies and programmes applicable to children in conflict with the law.

Restorative Justice under this law is defined as

“... a principle which requires a process of resolving conflicts with the maximum involvement of the victim, the offender and the community. It seeks to obtain reparation for the victim; reconciliation of the offender, offended and the community; and reassurance to the offender that he/she can be reintegrated into society. It also enhances public safety by activating the offender, the victim and the community in prevention strategies.”

Under this new law, children who are under the age of 15 are not to be charged with crimes. Rather, these offenders would be subject to diversion programs. They will go undergo anger management trainings, participate in community services, make apologies, and strive for the reparation of the damage they have caused.

The Juvenile Justice Act gives protection and access to justice to CICL. They are not subjected to the trauma of having to spend in jail with criminals. Rather, they are subjected to psychological therapies, which seek to address the root cause of their delinquency. Furthermore, they are not subjected to physical, psychological and sexual abuse, unlike when they are kept and mixed with other criminals.

Discussion of Alternatives

There is a need first and foremost to improve the capacity of the primary actor, the judicial system, in promoting and championing access to justice and participation of disadvantaged sectors. The mere fact that they are tasked to promote and protect this right of the poor and disadvantaged puts them in a position wherein they have the ability to provide for a substantial change.

To answer the burgeoning problem of case backlogs, there is a need to upgrade the capacity of the staff and of the judges so that they may be able to utilize present technology to make dispensation of justice a lot speedier. In addition, and if not, the more important one, is to make their salaries competitive in order to attract private legal practitioners to serve as judges of courts.

In addition to that, there is also a need to strengthen and “build justice values”. These values must be incorporated into the work ethics of all court personnel. They must be trained to act in accordance to the promotion of access to justice and participation of all sectors.

To further improve the mechanisms of inter- agency communication, between and among government agencies in- charge of access to justice and participation of disadvantaged sectors, coalitions and other cooperation mechanisms must be established. There must also be a closer link- up and coordination of activities with law groups, NGOs and the media in order to avoid duplication of projects.

As stated above, the court personnel must develop work ethics in order to reduce delays in the dispensation of justice due to personnel absenteeism and tardiness. Likewise, judges must impose more stringent punishments or sanctions to lawyers who are causing delays.

In order to avoid the alienation of indigenous peoples, the disadvantaged sectors particularly the intellectually challenged and illiterate, court proceedings and laws must be translated into more easily digestible and comprehensible ways. The efforts of the Supreme Court to translate Supreme Court decisions in Filipino is a laudable move, however, there are still a number of indigenous peoples who do not understand Filipino. The only language they know of is their ethnic dialect.

In order to educate the common people of their rights, and in order to empower them and improve their justice demanding skills, they must first be taught the basics of the law. Information dissemination and campaigns must not stop at merely putting posters and giving out flyers, rather, there should be teach-ins and group discussions especially with the indigenous and disadvantaged people. This could be done in partnership with volunteer groups or NGOs and Law Groups.

Earlier, the ADR was said to have the potential to reach out to people who are seeking justice. It is faster than court settlements. It costs lower compared to expenses incurred in court litigations. This mechanism should be used to the fullest by the courts.

To fully realize the potentials that ADR possesses, there is also a need to strengthen people's trust to it as an alternative to court litigations. The benefits, processes and complexities of ADR must be fully known and explained to the people in the community for it to be accepted and trusted.

In addition, people will tend to trust and utilize ADR more if they know that the mediator is competent enough in his capacity to act. Therefore, there should be training programs designed to increase the capacity of these mediators.

The poor and the disadvantaged must also be empowered. Strengthening the supply side of justice is just the half side of the coin. People must also be empowered in order for them to demand justice.

Educating the poor and the disadvantaged, in addition to providing them with development programs to fully empower them is the key. This can be done in partnership with foreign organizations and local NGOs. The setting up of legal clinics and legal aid centers can be greatly helpful for the poor.

Summary and Conclusion

There are a lot of issues confronting access to justice and participation of the disadvantaged sectors. In order to address these issue, there is a need of a twofold reform. Reforms in access to justice must not be concentrated to the supply side of justice, but also to the demand side of justice.

Increasing the number of judges and personnel in the judiciary cannot solve the problem. People must also be educated and empowered in order for them to have the capacity to demand for their rights. Aside from strengthening the court systems through technological and personnel capacity upgrades, the poor and disadvantaged must also be given legal empowerment, awareness, and legal aid and counsel.

In order to facilitate for an impartial and equally accessible justice system, discriminatory acts aimed at women, indigenous peoples, children, old people, persons with disabilities, etc., must be eliminated. When these reforms are taken into consideration, applied into the justice system, then, it can be said that justice is not far at hand.