



ASSESSMENT OF THE CAPACITY OF THE PILLARS OF THE PHILIPPINE CRIMINAL JUSTICE SYSTEM

TO IMPLEMENT THE MEDIUM-TERM DEVELOPMENT PLAN
FOR THE CRIMINAL JUSTICE SYSTEM (2010-2016)

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EXECUTIVE SUMMARY

Recognizing the link between access to justice and economic development, the *Medium-Term Development Plan for the Pillars of the Philippine Criminal Justice System (2010-2016)* (MTDP for the CJS) was developed to further enhance access to justice in the country. This goal will not, however, be realized if the institutions tasked with the implementation of the plan do not have the requisite capacity needed for the effective and efficient delivery of public service. After all, “capacity,” as defined by the United Nations Development Programme, is the “ability to solve problems, perform functions, and set and achieve objectives.” To determine the capacities of the pillars of the Criminal Justice System, it is therefore imperative that an assessment be conducted.

Undertaking a capacity assessment is a daunting task that involves more than a cursory examination of the institutions involved. It requires an in-depth understanding of how the Criminal Justice System works as a whole – the interdependence between and among the pillars. While most assessments have steered towards a sector-based approach in capacity assessment, institutions must not be neglected because as “duty bearers,” they ultimately are responsible for the effective implementation of the plan. Hence, this Report creatively combined the two approaches.

Insufficiency of funds is a common problem plaguing the pillars. This is expected considering that the budget allocation for the entire Criminal Justice System is less than 10 percent of the total national budget. Moreover, a bulk of the allocated budget goes to personnel services with a small amount remaining for the institution’s programs and activities. Most difficulties consequently stem from this problem: lack of personnel; inadequate facilities; slow disposition of cases; congestion of courts; overcrowding of jails; and non-implementation of laws. These obstacles, however, should not be used as an excuse not to deliver basic services. Given the limited resources, each pillar must learn how to work with the resources available to them.

Guided by the “Social Contract” of President Benigno Simeon Aquino III, the pillars of the Criminal Justice System strive to strike a balance between the provision of an enabling environment for investment and the upholding of human rights. Thus, the current MTDP for the CJS seeks the enforcement of the rule of law, which in turn, leads to increased access to justice. While most of the activities in the MTDP for CJS are laudable, the pillars must put into place mechanisms that would monitor and evaluate the effective implementation of programs. Only if such mechanisms are in place will the government realize the gaps and come up with solutions to bridge the identified gaps.

There is still a need to continue improving the system. Legal awareness must be increased. Public confidence must be strengthened to ensure that judicial institutions will perform in an efficient, neutral and professional manner. Moreover, strengthening enforcement and oversight mechanisms are also needed. Admittedly, it cannot be expected that changes will happen overnight. The shift of perspective as well as the change in perception is a gradual process. With increasing support from the national government, however, and the current thrust of the MTDP, there is much optimism that justice will be rendered more accessible to the public.

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PART I

OVERVIEW

A. Introduction

Effective criminal justice systems can only be developed based on the rule of law and the rule of law itself requires the protection of effective criminal justice measures.¹

In 2009, the United Nations Development Programme (UNDP), in cooperation with the Government of the Republic of the Philippines, through the National Economic and Development Authority (NEDA), has launched the *Fostering Democratic Governance Programme under the Country Programme Action Plan 2009-2011* (the Programme). Among the activities under the Programme is the formulation of an access to justice medium-term plan. Thus, the inception of the current project on the *Formulation, Adoption and Advocacy of Medium-Term Development Plan for the Pillars of the Criminal Justice System 2010-2016* (the project).

The project, however, goes beyond the development of a Medium-Term Development Plan for the Criminal Justice System 2010-2016 (MTDP for the CJS 2010-2016). The project likewise attempts to undertake an assessment of the capacity of the pillars of the Criminal Justice System to formulate and implement development plans and policies that enable access to justice. It is only by assessing their respective capacities that the pillars of the Criminal Justice System can identify the development challenges they face and consequently build their capacity to better deliver services to claimholders.

The UNDP defines “capacity” as the “ability to solve problems, perform functions, and set and achieve objectives.”² Any approach to develop capacity must promote activities that build on these strengths.³ From the UNDP’s standpoint, capacities must be developed “so as to ensure it also works for the disadvantaged.”⁴ This is because the disadvantaged are the more vulnerable and less able to use justice remedies, which further reinforce their vulnerability.⁵ However, insufficient capacities are not the only obstacle to access to justice. Risks attach when one seeks to deliver justice. Thus, any strategies on access to justice should take into account risks and should attempt to minimize them.⁶

¹ UN Economic and Social Council [ECOSOC], *UN Economic and Social Council Resolution No. 2005/21: Strengthening the Technical Cooperation Capacity of the United Nations Crime Prevention and Criminal Justice Programme in the Area of the Rule of Law and Criminal Justice Reform*, July 22, 2005, E/RES/2005/21 <<http://www.unhcr.org/refworld/docid/46c455a7d.html>>.

² UNDP, *Programming for Justice: Access for All*, 6 (2005).

³ *Id.*

⁴ *Id.*

⁵ *Id.*

⁶ *Id.*

The UNDP has classified capacity building as both a means and an end for sustainable human development. It has considered capacity building as the foundation on which a country and its people can tackle, by their own will and efforts, the development challenges for a better future.⁷ However, capacity building is not just a matter of providing people with the skills and know-how to accomplish tasks and solve problems; it also means providing an environment in which individuals can exercise their capabilities. Thus, this Report, which is a companion piece to the MTDP for the CJS 2010-2016 (and as such, is designed to be read alongside that document), assesses the current state of the pillars of the Criminal Justice System and their problems, and identifies the necessary tools required to build their respective capacities.

B. Objectives

The project seeks to update/improve the MTDP for CJS 2007-2010 drafted in December 2006. The project is also expected to identify specific problems in the Criminal Justice System and formulate new strategies to address them, giving special focus on:

1. Access to justice by the poor and marginalized sectors;
2. Environmental Justice;
3. Extrajudicial Killings; and
4. Violence against Women and Children

Specifically, the project aims to:

1. Describe the context by analyzing existing literature on the access to justice situation of the Philippine Criminal Justice System, including an assessment and an analysis of how lack of full access to justice impacts on the state of poverty in the country;
2. Develop capacities and ensure participation by engaging the active participation of the key stakeholders (“pillars”) of the Criminal Justice System in the formulation of a new Medium-Term Development Plan;
3. Define the scope of the problem by determining challenges to full access to justice specific to the Criminal Justice System, formulating a set of goals and strategies to address such challenges, in the process adopting the rights-based approach to development programming, and identifying capacities necessary to address the challenges or execute strategies;
4. Characterize levels and means of participation by identifying levels of challenges in the hierarchies inherent in the Criminal Justice System, defining proper responses to these challenges through both intra-pillar and inter-pillar actions described in the plan, and identifying obstacles and incentives to participation by the stakeholders;
5. Specify strategies and programs to ensure participation in various levels of governance by formulating a coordinated development plan which maps out the issues, challenges and recommended actions for the pillars of the Criminal Justice System, including proposals for nationally and locally driven programs consistent with a national development framework;

⁷ Hopkins, Handbook on Capacity Assessment Methodologies: An Analytical Tool (1994).

6. Provide the implementation and monitoring framework by preparing a timetable for implementation of the development goals identified and defining indicators of success for each level of concern;
7. Build partnerships by securing serious commitment and active involvement of the pillars of the Criminal Justice System in the implementation of the plan and its inclusion in the national development plan;
8. Monitor and document agreements reached and initiatives undertaken during the (a) Summit on Extrajudicial Killings; (b) Forum on Access to Justice; (c) Forum on Environmental Justice; and the (d) National Summit on Family Courts, for integration in the revised and updated MTDP; and
9. Ensure the mainstreaming of gender dimension in all the phases of project implementation (e.g., gathering sex and age disaggregated data and ensuring the participation and gathering of views/perspectives of both men and women in the FGDs).

C. Methodology

Similar to the MTDP for the CJS 2010-2016, the Assessment of the Capacity of the Pillars of the Criminal Justice System was developed after a series of structured consultations with the members of the previous Technical Working Group (TWG) and representatives of the five pillars.

First Round of Consultations with Various Agencies

The research team made various consultation meetings with the following agencies comprising the five pillars from August 29, 2010, until September 22, 2010.

<i>Law Enforcement</i>	Philippine National Police (PNP) National Bureau of Investigation (NBI) Philippine Drug Enforcement Agency (PDEA) National Police Commission (NAPOLCOM) Armed Forces of the Philippines (AFP)
<i>Prosecution</i>	National Prosecution Service (NPS) Office of the Ombudsman Public Attorney's Office (PAO)
<i>Courts</i>	Supreme Court (SC) Court of Appeals (CA) Court of Tax Appeals (CTA) Sandiganbayan (SB)
<i>Corrections</i>	Bureau of Corrections (BUCOR) Bureau of Jail Management and Penology (BJMP) Board of Pardons and Parole (BPP) Parole and Probation Administration (PPA) Department of Social Welfare and Development (DSWD) Department of the Interior and Local Government (DILG) for provincial and subprovincial jails; Philippine National Police (PNP) for district, city, and municipal jails

Community

Commission on Human Rights (CHR)
Department of Social Welfare and Development (DSWD)
Public Attorney's Office (PAO)
National Commission on Indigenous Peoples (NCIP)
Department of the Interior and Local Government (DILG)–National
Barangay Operations Office (NBOO)

During those meetings, it was made known to the research team that most of the agencies were not given a copy of the Final Report on the MTDP for the CJS 2007-2010; hence, there was no conscious effort on their part to align their projects and programs with the outputs of the plan.

Focus Group Discussion

On September 23, 2010, the research team conducted a Focus Group Discussion (FGD) at the Fr. Bernas Center for Continuing Legal Education, Ateneo Professional Schools, Rockwell, Makati City. The FGD was for the purpose of confirmation and verification of the preliminary data gathered by the research team. To contextualize the discussion on the MTDP and the CJS, Dr. Victor Venida gave a lecture on the interplay between economic development and the CJS. Afterwards, intra-pillar and inter-pillar workshops were facilitated for the purpose of gathering data for the MTDP.

Second Round of Consultations

After the FGD, the NEDA released the *Guidelines for the Formulation of the Medium-Term Philippine Development Plan and Medium-Term Public Investment Program 2010-2016*⁸ (the NEDA Guidelines). As such, the research team had to make another round of consultation meetings with the various agencies composing the pillars of the CJS. This time, discussions included the directives of the NEDA Guidelines.

Validation Workshop

On October 28, 2010, the validation workshop brought together senior level officials of the agencies of the five pillars and participants of the FGD at the Justitia Room, Ateneo Professional Schools, Rockwell, Makati City. During the Validation Workshop, each agency was required to present their respective medium-term development plans, which were already in sync with the NEDA Guidelines and the Social Contract.

Strengths, Weaknesses, Opportunities, Threats Analysis

The agencies comprising the pillars were also asked to conduct a SWOT analysis. The agencies were provided guide questions to aid them in the conduct of this analysis. The representatives of the agencies and institutions were asked to answer the following questions:

⁸ National Economic Development Authority (NEDA), *Guidelines for the Formulation of the Medium-Term Philippine Development Plan and Medium-Term Public Investment Program, 2010-2016* <http://www.neda.gov.ph/Plans_and_Reports/MTPDP/2010_2016/planning_guidelines_oct2010.pdf> (last accessed on Dec. 2, 2010).

GUIDE QUESTIONS:	STRENGTH	WEAKNESS
1. Mandate		
<p><i>What is the mandate of your agency?</i> <i>Does your agency have a Mission-Vision or plans in the coming years?</i> <i>Are your programs in line with your mandate?</i> <i>Does your agency have the necessary powers to execute its mandate?</i></p>		
2. Resources (Programs, Funding, Facilities)		
<p><i>What specific resources (e.g. budget) and facilities do you have to address access to justice issues?</i> <i>Are your facilities sufficient to deliver services to client or to implement programs?</i></p>		
3. Personnel Management (Training, Knowledge, Organizational Structure)		
<p><i>Is your organizational structure conducive to an easy and speedy access to justice?</i> <i>Is it simple enough to prevent red tape?</i> <i>Does your agency provide training on human rights issues to personnel?</i> <i>Does your personnel agency possess the necessary skills and knowledge to provide services to your clients?</i> <i>Is the number of personnel sufficient to deliver services to client?</i></p>		
4. Management Information System (Website, Information Dissemination, Advocacy Campaigns)		
<p><i>Does your agency have a working website?</i> <i>Does your agency conduct Information, Education and Communication Seminars?</i> <i>Can the public gain access to pertinent rules and regulations, issuances issued by your agency?</i> <i>Do you impose prohibitive costs for your services to client?</i></p>		
5. Project Management		
<p><i>Are your programs sufficient to address access to justice issues?</i> <i>How does your agency check the effectiveness of a program?</i></p>		
6. Responsiveness to VAWC and HR Issues		
<p><i>Does your agency have a separate division or desk to address VAWC and HR concerns?</i> <i>Have you formulated any policy or program with regard to VAWC and HR issues?</i></p>		

GUIDE QUESTIONS:	OPPORTUNITIES	THREATS
1. Coordination with Other Pillars, POs, CSOs, and NGOs		
<p><i>Is your agency able to coordinate with the other pillars as well as related organized groups (e.g., people's organizations, civil society organizations, non-governmental organizations, etc.)?</i></p> <p><i>Does your agency need an enabling law to coordinate with another agency?</i></p> <p><i>Do the other pillars possess the facilities you need to address access to justice issues?</i></p> <p><i>In return, what resources do you have which you can share with the other pillars?</i></p>		
2. GAA Budget/International Organization Funding		
<p><i>Is the budget you receive from the National Government sufficient?</i></p> <p><i>Do you receive funding from international and local organizations? Is it sufficient?</i></p> <p><i>How dependent are you on external funding?</i></p>		
3. Public Perception		
<p><i>How does public opinion help or interfere with your task of providing access to justice?</i></p>		
4. Technology		
<p><i>Does your agency take advantage of technological advancements?</i></p>		
5. Political Agenda (Legislature, Executive)		
<p><i>How does the political agenda of the current administration affect your performance in providing access to justice?</i></p> <p><i>Is your enabling law sufficient to address access to justice issues?</i></p> <p><i>Does Congress need to amend it?</i></p>		
6. Communication (Language Barrier)		
<p><i>How does language barrier impede in serving your clients, especially the indigenous peoples?</i></p>		
7. Culture of Corruption		
<p><i>How does culture of corruption affect your delivery of service to your clients?</i></p>		

Review of Related Literature

In addition, a review of related literature was undertaken by the researchers. These include materials from the four Summits identified earlier, data from the National Statistical and Coordination Board, annual reports of the various agencies, and other related materials. Furthermore, a comparative analysis was made between capacity indicators found in the international standards and the current capacities of the pillars of the justice system.

D. Outputs

The project has produced two outputs, namely, (1) the Enhanced Medium-Term Development Plan that defines and updates the strategies and programs adopted by the agency to achieve its priority goals; the key result areas or outputs of the strategies and programs; the cross-cutting issues or the problems that each pillar has with other pillars that affect that pillar's effectiveness in performing its functions; and (2) the Capacity Assessment Report, which assesses the capacities necessary to address the issues and execute the strategies identified in the Medium-Term Development Plan.

This Report is divided into six parts:

Part I: Overview

Part II: Moving the Philippine Criminal Justice System Forward

Part III: Access to Justice

Part IV: Capacity Indicators under International Standards

Part V: Assessing the Capacities of the Pillars of the Philippine Criminal Justice System

Part VI: Conclusion and Recommendations

PART II

MOVING THE PHILIPPINE CRIMINAL JUSTICE SYSTEM FORWARD

A. The Criminal Justice System: An Overview

1. An Overview

The term “criminal justice” encompasses “a chain of events, activities, tasks, or functions that constitute the official response to perceived problems of law and order,” which includes the following: “crime prevention and crime reduction; the arrest and prosecution of suspects; the hearing of criminal cases by the courts; sentencing, administration and enforcement of court orders; parole and other forms of license for prisoners; and work with offenders and ex-offenders in prison or in the community.”⁹

In the Philippines, the “Criminal Justice System” consists of

the system of courts, including the barangay justice system, the informal justice system implemented through practice particularly by indigenous communities, and the quasi-judicial bodies empowered by law to perform adjudicatory functions; the systems for law enforcement and prosecution which involve investigating, apprehending and prosecuting those who could not be deterred from violating the law and the rules of the society; the system of corrections and rehabilitation or the means of rehabilitating offenders and returning them to the community as law-abiding citizens; and the community which collectively imposes limitations on individual behavior of citizens for the common good of civilized and democratic society that deters criminality and criminal behavior.¹⁰

Meanwhile, the Supreme Court has adopted the vision of the “Criminal Justice System” as follows:

to provide the public an effective system or process in the community by which crimes are investigated, and the persons suspected thereof are taken into custody, prosecuted in court and punished if found guilty, with provision being made for their correction and rehabilitation, and to provide the people the ability to seek and obtain a remedy through formal or informal institutions, and in conformity with human rights standards.¹¹

2. The Five Pillars of the Criminal Justice System

The CJS is envisioned as being supported by five pillars, namely: law enforcement; prosecution; courts; corrections; and the community. Each of these five pillars plays a vital role in the administration of justice and, as such, their interplay and cooperation is most necessary for the proper functioning of a Criminal Justice System.

⁹ Bryan Gibson and Paul Cavadino, *The Criminal Justice System: An Introduction*, 9 (2008).

¹⁰ Supreme Court of the Philippines and UNDP, *Conduct of Further Study on Operations and Linkages of the 5 Pillars of Justice Supreme Court of the Philippines: Final Report*, 2-1 (March 2006) [hereinafter SC & UNDP, 2006 *Final Report*].

¹¹ Supreme Court of the Philippines, UNDP, and UP-NCPAG, *Medium-Term Development Plan for the Criminal Justice System 2010-2016* (Dec. 2006).

a. Law Enforcement Pillar

The first pillar is the Law Enforcement Pillar. It consists mainly of the officers and personnel of the Philippine National Police, National Bureau of Investigation, Philippine Drug Enforcement Agency, Anti-Money Laundering Council (AMLC), Armed Forces of the Philippines, and 34 other related agencies. These agencies are “at the forefront of the Criminal Justice System of the country. They x x x directly deal with the citizens and are directly exposed to the criminal elements.”¹² Clearly, it is thus necessary that the member agencies within this pillar are both trained and well-oriented with “the ways of civil society.”¹³

Their work consists of the prevention and control of crimes, enforcement of laws and effecting the arrest of offenders, including the conduct of lawful searches and seizures, to gather necessary evidence so that a complaint may be filed at the Prosecution’s Office. Identified as the first point of contact with the community, this pillar initiates the CJS machinery upon arresting a person believed to be a suspect.¹⁴

b. Prosecution Pillar

The second is the Prosecution Pillar, which is composed of the National Prosecution Service of the Department of Justice (DOJ), Office of the Ombudsman, and the Public Attorney’s Office. While the focus of this pillar is the speedy disposition of cases,¹⁵ its principal task is the investigation of criminal complaints emanating from the community and the law enforcement agencies, and bringing these complaints to their successful prosecution in the judicial system.¹⁶ The prosecution pillar conducts preliminary investigation of cases filed in the prosecutor’s office and prosecutes cases filed in the court against alleged offenders after probable cause is established.

c. Courts Pillar

The Courts Pillar adjudicates cases and renders judgment. The Philippine Judiciary is a four-tiered court system consisting of the Supreme Court as the highest court of the land; the intermediate courts consisting of the Court of Appeals, Sandiganbayan, and Court of Tax Appeals; the second level courts, which consist of Regional Trial Courts and Shari’a District Courts; and the first level courts consisting of Metropolitan Trial Courts, Municipal Trial Courts in Cities, Municipal Trial Courts, Municipal Circuit Trial Courts and Shari’a Circuit Courts.

¹² John Maru, Effective Administration of the Police and Prosecution in Criminal Justice of Papua New Guinea, 120th International Senior Participants’ Paper, 158 <http://www.unafei.or.jp/english/pdf/PDF_rms/no60/ch11.pdf> (last accessed Nov. 28, 2010).

¹³ *Id.*

¹⁴ Felizardo Y. Francisco, Making a Difference in the Life of Students <<http://www.manilatimes.net/index.php/opinion/27820-making-difference-in-the-life-of-students>> (last accessed Nov. 29, 2010).

¹⁵ Rutchie Cabahug-Aguhob, RPOC-NorMin formulates Integrated Area/Community Public Safety Plan <<http://www.pia.gov.ph/?m=12&sec=reader&rp=1&fi=p060922.htm&no=9&date=09/22/2006>> (last accessed Nov. 29, 2010).

¹⁶ SC and UNDP, 2006 Final Report, *supra* note 10, at 4-1.

The goal of the Courts Pillar is not merely to adjudicate cases, but to do so in accordance with the Rule of Law and “without sacrificing the quality of justice.”¹⁷ Interestingly enough, the overall performance of the CJS may be determined by the performance of the Courts Pillar. Many of the factors that affect the disposition of a litigation – such as those that are in relation to the procurement of witnesses and evidence, the determination of probable cause and the like – are clearly outside of the control of the Judiciary.¹⁸ Nevertheless, because the litigation process brings all these factors together, “[t]he performance of the courts therefore would serve to synthesize to a large extent the overall performance of the criminal justice system.”¹⁹

d. Corrections Pillar

Comprising the Corrections Pillar are the jails and prisons administered by the Bureau of Corrections (BUCOR), the Bureau of Jail Management and Penology, and by the local government units with regard to provincial and subprovincial jails. The Philippine National Police likewise maintains detention facilities in its different police stations nationwide.

The Corrections Pillar may also be classified into two: institution-based and community-based corrections.²⁰ On one hand, the institution-based corrections include prisons and jails which house prisoners serving terms of imprisonment; under detention status; and those for safekeeping in selected cases. On the other hand, community-based corrections pertain to probation and parole. These are being managed by the Parole and Probation Administration of the DOJ. PPA conducts a post-sentence investigation of petitioners for probation as referred by the courts, as well as pre-parole/pre-executive clemency investigation for those referred by the Board of Pardons and Parole, to determine the suitability of the offender to be reintegrated in the community instead of serving their sentence inside an institution or prison. The PPA further supervises probationers, parolees and conditional pardonees to promote their rehabilitation and reintegration to the mainstream of society. It mobilizes the community resources, especially through volunteer probation aides.²¹

e. Community Pillar

The Community Pillar is composed of institutions such as the Department of Social Welfare and Development, Commission on Human Rights, National Commission on Indigenous Peoples, Public Attorney’s Office, barangays, civic organizations, and non-governmental organizations. Members of the Community Pillar are regarded to be both duty holders and

¹⁷ UN Human Rights Committee, Consideration of Reports Submitted by States Parties Under Article 40 of the Covenant [ICCPR], *Second Periodic Report, The Philippines*, Part I, F ¶1370 at 71, UN Doc. CCPR/C/PHL/2002/2 (Sept. 18, 2002).

¹⁸ UN General Assembly [U.N.G.A.], Human Rights Council Working Group on Universal Periodic Review, *National Report Submitted in accordance with Paragraph 15(a) of the Annex to the Human Rights Council Resolution 5/1 The Philippines*, Part III, ¶131 at 17, UN Doc. A/HRC/WG.6/1/PHL/1 (March 7, 2008).

¹⁹ *Id.* (emphasis supplied).

²⁰ SC & UNDP, *2006 Final Report*, *supra* note 10, at 2-6.

²¹ *Id.*

claimholders in the administration of justice.²² As duty holders, they have the responsibility to assist law enforcement and the courts in solving crime by providing information, by community participation in crime prevention and creating a culture of peace, and by supporting the mobilization of resources for peace and order.²³ As claimholders, they are the beneficiaries of the justice system and they play critical roles in holding system duty holders accountable.²⁴ Likewise,

[i]t is x x x emphasized that the community as a subsystem of the whole cyclical process is the most critical and useful component of the Criminal Justice System considering its massive and pervasive composition. This also plays a crucial role towards the society's common goal of a fair and equal administration of justice – either victims or criminals.²⁵

The importance of the Community Pillar cannot be overemphasized. In its own manner, it ideally participates in two main responsive roles of the CJS: *first*, that of crime prevention, and *second*, that of victim prevention.²⁶ As for the first, this pillar collectively imposes limitations on individual behavior of citizens that deter criminality and criminal behavior for the common good of civilized and democratic society.²⁷ Meanwhile, in relation to the second, it has been recommended that communities must disseminate more information regarding the roles and functions of the other components of the CJS, as well as broaden its own, in order to responsively contribute to victimization prevention.²⁸

Ultimately, criminals will come from the community and some will return to it.²⁹ From this alone, it can be seen how much impact the Community Pillar can have in the rendition of justice. By participating in government programs, though not entirely related to the criminal justice system such as livelihood programs and the like, the community can therefore help lessen the crimes by diverting what would be criminal enterprise into something more productive.³⁰ Additionally, by aiding in the capturing of criminals and in their subsequent prosecution, they can likewise ensure proper and just redress for crimes.³¹

3. The Interrelation and Cooperation Between and Among the Pillars of the CJS

Given that the pillars operate in just one system, the efficiency and effectiveness of one can easily be hampered by the inefficiency and incompetence of the other, notwithstanding the fact that they

²² *Id.*

²³ *Id.*

²⁴ *Id.*

²⁵ Ma. Millagros M. Matias and Melchor Julianes, Community's Participation in the Criminal Justice System Process: Impact on Victimization Prevention <<http://www.philjol.info/index.php/EACRB/article/viewFile/871/801>> (last accessed Nov. 26, 2010).

²⁶ *Id.*

²⁷ SC and UNDP, *2006 Final Report*, *supra* note 10, at 2-7.

²⁸ Matias and Julianes, *supra* note 25, at 38.

²⁹ Maru, *supra* note 12, at 160.

³⁰ *Id.*

³¹ *Id.*

function separately. This is because “[n]o pillar can operate in isolation for the performance of each impacts on the other.”³² The system is a step-by-step process, where many of the roles are “independent, interconnecting and overlapping.”³³ Therefore, in order for the system to operate smoothly, cooperation, coordination and concerted efforts of the pillars, namely the police, the prosecutors, the judiciary as well as the correctional services are necessary. The figure below shows the interaction between and among the Pillars of the Philippine CJS.

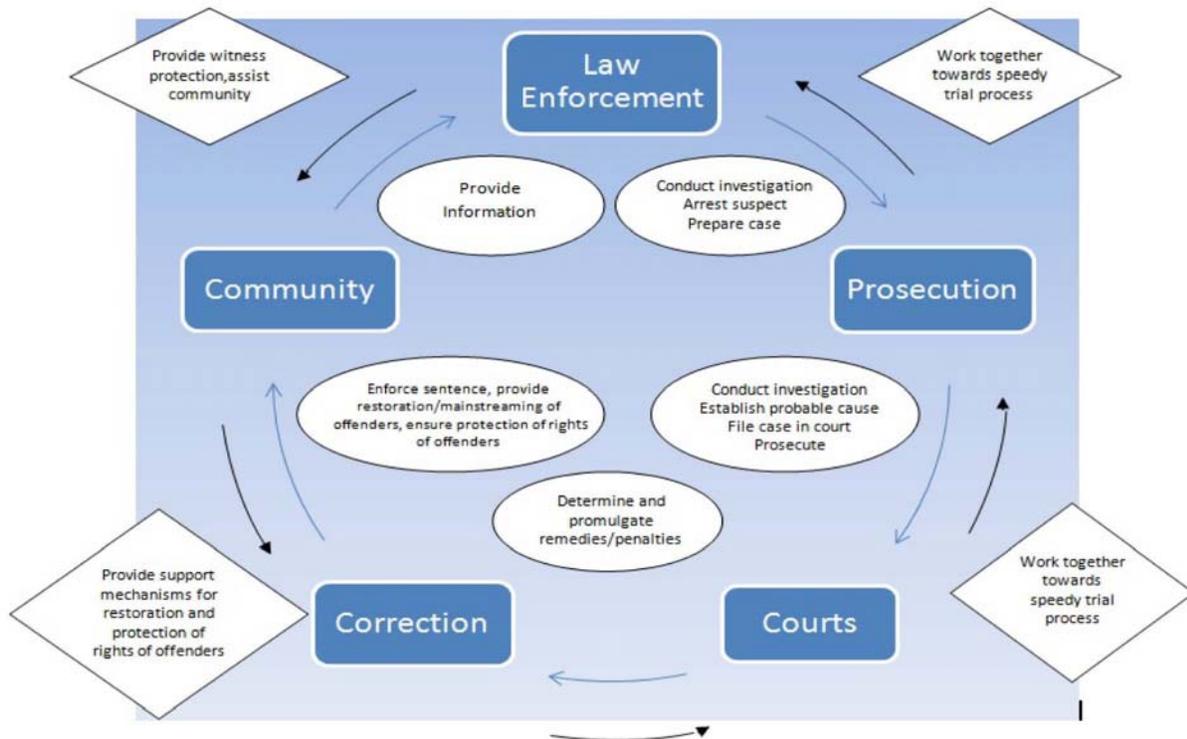


FIGURE 2.1 THE FIVE PILLARS OF THE PHILIPPINE CRIMINAL JUSTICE SYSTEM

Acknowledging that each pillar depends on the other, it cannot be stressed enough that for the Philippine CJS to be effective, coordination between and among the different pillars must be strengthened. A stronger CJS will, undoubtedly, not only result in a safer and more just society but also, inevitably, contribute to the economic development of the country. This is because it is believed that there exists a link between economic development and “amenities” such as low crime rate.³⁴ For a developing country like the Philippines, there is thus more reason to engage in the assessment and improvement of its CJS. An investment of effort in this exercise can certainly prove to be economically beneficial for all.

³² Chief Justice Reynato Puno, “Right and Righteous Justice,” Speech delivered at the PNP Ethics Day, Camp Crame, Quezon City (Jan. 7, 2008).

³³ Ina Reformina, Replacing Punitive Justice with Restorative Justice <<http://www.abs-cbnnews.com/-depth/11/16/10/replacing-punitive-justice-restorative-justice>> (last accessed Nov. 29, 2010).

³⁴ Catherine L. Lawson and Joanne Katz, Urban Economic Development and Restorative Justice: Exploring the Relationship Between Creativity and Crime Control <<http://www.entrepreneur.com/tradejournals/article/167934473.html>> (last accessed Nov. 29, 2010).

B. The Criminal Justice System and Economic Development

To further explore the link between the Criminal Justice System and Economic Development, this section of the Report takes from the lecture of Dr. Victor Venida delivered during the Focus Group Discussion on September 23, 2010, at the Fr. Bernas Center for Continuing Education, Ateneo Professional Schools, Rockwell, Makati City.³⁵ In this excerpt, Dr. Venida relates economic development with the Criminal Justice System.

Dr. Venida argued that development must be looked at from a long-term perspective – recognizing that development cannot be completed within the limits of one particular presidential term. However, he admitted that due to the constraints of policy-making – the dependence on the priorities of the present administration – policy planners must find a way to respond to those limitations.

To frame the discussion, Dr. Venida provided a brief overview of the basic precepts of the subject of economics. According to him, economics is the interrelationship of human wants and the world's "scarce" resources of labor, natural resources, and physical, financial, human and social capital. Since human wants and desires are infinite, they make all these resources scarce to satisfy all human wants and desires.

Economics becomes a tool to understand how an equitable distribution of resources can be achieved. Since not all human wants can be satisfied, some human wants will have to be sacrificed; while others have to be satisfied ahead of the others. This is the difficult situation that leaders must face in the context of economic planning – government will have to make choices. If it decides to build more roads and bridges, other projects and services will lose funding or be postponed.

Dr. Venida then posed the question, "Why do we have a Medium-Term Philippine Development Plan?" According to him, the assumption is that the Philippines wants to be a developed economy. In order to achieve this, we must look at successful economic models to identify the elements that characterize a "developed economy."

Dr. Venida pointed out that an important aspect of a developed economy is that most of its employed persons are engaged in "productive activities." Productive activities are activities that directly increase the capacity of a society to produce goods and services. These are essentially any profession or activity that is NOT unproductive.

If the Philippines is serious about developing its economy, it has to produce jobs that are productive in nature. Unfortunately, Dr. Venida observed that historically all societies put a premium on unproductive endeavors – namely, administration, management, government services, military, law, the religious, trade, finance, and accountancy. These activities do not directly increase society's productive capacity per se.

Dr. Venida was quick to add that while these sectors may be unproductive, they are nevertheless necessary to the efficient operation of the economy. The military, for example, plays an important role in ensuring that external threats against our sovereignty are prevented; the legal profession clarifies issues on ownership and assists in the orderly administration of justice. Succinctly, Dr. Venida stated that these professions are "socially necessary." Imagine the chaos if there is no government or military or the legal and accountancy professions. These sectors allow for the rest of the economy, the productive sectors, to continue to expand to generate incomes and employment.

³⁵ Taken from the Report on the Focus Group Discussion.

The challenge then for these professions is to render efficient services to make sure that government, accountants, managers, the military, police, judiciary, and lawyers can deliver the most number of services to the most number of people, in the least amount of time and resources.

Related to the need to maintain efficiency, Dr. Venida forwarded this question: “What makes an economic system grow?” Contrary to common perception, Dr. Venida stated that it is not dependent on the actual amount of money and funds that are available, rather, it is how fast those goods, services, people and thus money and funds circulate in the economic system. The faster this circulation, then the greater is the level of economic activity. This highlights the need to keep government processes efficient as these greatly assist in speeding up this circulation.

According to Dr. Venida, however, the CJS must do more than ensuring that it remains an efficient system. Instead, he enumerated three considerations for the CJS, namely:

(1) Efficiency

As previously discussed, ensuring the efficiency of government services has a positive impact on the entire economic system and processes of the country. Since time is one of the most important resources that people have, the least amount of it wasted, the more services can be delivered. To highlight the need for efficiency, it must be noted that foreign corporations are often discouraged to invest in the Philippines, not because of the economic climate, but because of the delays in procuring permits and clearances from government agencies.

In developed countries, government services, like the police and the courts, are so efficient that investors are not afraid to put up businesses or even relocate. They know that they will have effective redress for any grievance they may have. Efficiency entails speedy resolution of any matter that has to be dealt by government, such as in prosecution and litigation, or even as simple as payments for services or projects contracted.

(2) Long-term issues such as sanctity of contracts and continuation of programs

The stability of contracts and institutional respect for legal relationships are important considerations for investors, whether foreign or local. Investors need to know that even after 30 years, their ownership over a particular piece of property remains intact. Investors need the assurance that the contract they entered into in 2010 will be respected in 2020, regardless of the change in administration.

Similarly, investments, such as infrastructure and social services, require a dedicated long-term policy. Presidents and their administrators need to know that they are not required to radically change each and every policy of the previous president. From planning to completion of big ticket infrastructure projects, for example, it would require years, even decades, of constant funding.

(3) Governance: The increased monetization of transactions

According to Dr. Venida, Filipinos still believe in pre-modern attitudes towards commissions and “brokers.” In developed economies, people get paid for getting things done. Dr. Venida cites a personal example of his cousin who works for a construction firm in California. His work consists of procuring permits from city hall, a traditionally tedious task which normally takes at least two weeks. Perhaps, using his powers of persuasion, Dr. Venida’s cousin can

have permits released the same day. In turn, his boss compensates him for the speedy procurement of the permits. In other words, his cousin gets a permanent job, good pay and legal residency for his ability to expedite the processing of official papers. In the Philippines, the act of giving a commission or paying to expedite transactions is frowned upon. A Filipino would normally react to that by questioning the wisdom behind paying this type of a job since, *“bakit siya babayaran, eh ang puhunan niya ay laway lamang.* In developed economies, *kung puwedeng pagkakitaan o pagkatipiran ang laway mo, babayaran ka nila.”* (Why should one get paid for (perceived) minimum effort or, simply, lip service? In developed economies, one is paid for the least effort/contribution). Commissions and payments for services are standard practices in developed economies and are thus treated as part of taxable income. These forms of remuneration are still, by and large, considered illegal in the Philippines.

In sum, Dr. Venida reiterated, in different terms, some considerations for the CJS:

- The importance of nonviolent, impartial settlement of disputes. Investment on court systems, prison systems, technology, training of people and the like are necessary to deliver fast and efficient justice.
- Increase in demand: population increase and urbanization. Government has to lay down long-term plans to anticipate the needs of the people in the future. Modern economies do not react to the needs of the people at the present. Rather, modern economies prepare for the contingencies of the future. New York, for example, had already foreseen a water shortage in the coming years. Instead of waiting for that to happen, it has already invested in underground water reservoirs and pipes to ensure that the foreseen water shortage never comes to fruition. This project began in 1980 and is expected to be completed in 2020, and every elected administration has respected the original contract and played its own part in supporting the completion of this massive undertaking. In the Philippines, the government and its leaders must prepare for the future of 150 million Filipinos in about 40 to 60 years. Social services, infrastructure for education and health will have to be prepared for an impending population expansion;
- Efficiency: rules, settlement, time, decriminalization of crimes which are not inherently evil to focus society’s resources in addressing really serious crimes such as murder, rape, or robbery. In that way, the government’s resources are not funneled into addressing issues that other countries, like the Netherlands and the United States, already consider “legal.”

C. The Philippine Criminal Justice System: Goals and Thrust

Having explored the link between economic development and the Criminal Justice System, the Report now presents a summary of the Medium-Term Development Plans (MTDP) of the pillars for 2010-2016. The plans indicated in the MTDP ensure the means by which the pillars intend to effect changes and developments for each, not only to aid in strengthening the system as a whole and thus contributing to economic development, but also to provide “access to justice” for all.

1. The Medium-Term Development Plan 2010-2016

The basic task of the Medium-Term Philippine Development Plan (MTPDP) 2010-2016, as contained in the NEDA Guidelines, is to translate President Benigno Aquino III's development agenda as contained in his "Social Contract with the Filipino People" (the Social Contract).³⁶ The Social Contract envisions "a country with an organized and widely shared rapid expansion of our economy through a government dedicated to honing and mobilizing [the] people's skills and energies as well as the responsible harnessing of x x x natural resources."³⁷ Furthermore, the Social Contract aims to develop "a truly impartial system of institutions that deliver equal justice to rich or poor."³⁸

The attainment of this vision entails changes among each and every Filipino –" by doing the right things, by giving value to excellence and integrity and rejecting mediocrity and dishonesty, and by giving priority to others over ourselves."³⁹ Specifically, the changes the Social Contract advocates include the following:⁴⁰

- A. Transparent and accountable governance
- B. Upliftment and empowerment of the poor and the vulnerable
- C. Growing the economy through:
 - 1. Public infrastructure development
 - 2. Strategic public-private partnerships
 - 3. Policy environment for greater governance
- D. Creating a sustainable development for reform
 - 1. Peace
 - 2. Justice
 - 3. Security
 - 4. Integrity of natural resources

In translating the intended changes of the social contract, the plan formulation shall focus on the following approaches:⁴¹

- A. Attain a high and sustained economic growth;
- B. Provide equal access to development opportunities; and
- C. Formulate effective social safety nets.

³⁶ *Id.*; Office of the President, Directing the Formulation of the Medium-Term Philippine Development Plan (MTPDP) and the Medium-Term Public Investment Program (MTPIP) for 2010-2016, Memorandum Circular No. 3 (Sept. 2, 2010).

³⁷ Social Contract with the Filipino People, Nov. 26, 2009 <http://www.neda.gov.ph/Plans_and_Reports/MTPDP/2010_2016/MTPDP%20Reference%20Docs/01_Social%20Contract.pdf> (last accessed Nov. 7, 2010).

³⁸ *Id.* at 3.

³⁹ *Id.*

⁴⁰ NEDA, *supra* note 8, at 1.

⁴¹ *Id.*

To achieve a sustained high economic growth that provides full and productive employment, levels of private investment and entrepreneurship, especially among micro, small and medium enterprises (MSMEs) will be raised.⁴² Furthermore, the contribution to growth of the industry sector on the supply side and investments and net exports on the demand side will be increased. This will further be supported by macroeconomic stability, especially of the fiscal accounts; the provision of efficient and adequate infrastructure particularly in electricity, transport, and financing; the improvement of investor confidence by minimizing corruption, ensuring political stability, and enforcing the rule of law; and effective management of the inadequacies of the market (especially on information and learning externalities).⁴³

Access to development opportunities by each citizen living within and outside the country will ensure that the expansion of employment opportunities translates to poverty reduction.⁴⁴ The focus will be on improving human capabilities, especially of the poor, through the provision of better education, primary health care and nutrition, and other basic social services.⁴⁵ It is also important to level the playing field by improving access to infrastructure, credit, land, technology, and other productive inputs. Unbiased but facilitative policies that promote competition will be formulated as government improves governance and strengthens institutions.⁴⁶

Equitable access to development opportunities will be complemented by the implementation of responsive social safety nets that foster a more inclusive growth for Filipinos in residence and those abroad.⁴⁷ These social safety nets should be adequate, appropriate, equitable, cost-effective, compatible with incentives, sustainable, and adaptable to ensure not only the protection but also the promotion of extremely vulnerable groups.⁴⁸ The expected deteriorating effects of climate change in the future stress the need for social safety nets that support and capacitate the vulnerable sector to emerge out of poverty.⁴⁹

With this in mind, the pillars of the CJS set out to draft their respective medium-term development plans within the framework of the Social Contract. These plans were gathered and collated by the research team in the companion report to this document, the “Medium-Term Development Plan for the Pillars of the Philippine Criminal Justice System 2010-2016,” which is published separately.

2. The Medium-Term Development Plan Thrust: Access to Justice

Under the Social Contract, President Aquino desires to provide “a truly impartial system of institutions that deliver equal justice to rich or poor.”⁵⁰ This is in line with the belief that “[j]ustice

⁴² *Id.* at 2.

⁴³ *Id.*

⁴⁴ *Id.*

⁴⁵ *Id.*

⁴⁶ NEDA, *supra* note 8, at 1.

⁴⁷ *Id.* at 2.

⁴⁸ *Id.*

⁴⁹ *Id.*

⁵⁰ Social Contract with the Filipino People, Nov. 26, 2009 <http://www.neda.gov.ph/Plans_and_Reports/MTPDP/2010_2016/MTPDP%20Reference%20Docs/01_Social%20Contract.pdf> (last accessed on Nov. 30 2010).

systems [must] serve to recognize people’s entitlement to remedies when these are in dispute. For this reason, they are particularly important in the context of power inequalities x x x.”⁵¹ It may be concluded that the new thrust of the MTPDP likewise aims to enhance access to justice by the poor. The MTDP for the CJS 2010-2016 is therefore in line with the current administration’s MTPDP.

At present, many institutional and sectoral hindrances within the justice system exist to deter the less affluent from taking advantage of available remedies to address their concerns. As such, the focus of the MTPDP is to remove these barriers, or at the very least, lessen them in order to provide equal access for all.

In this regard, many of the plans of the various agencies within the pillars focus on recognizing the concerns of the poor who wish to avail of the system and on addressing the same. These plans are replete with steps that directly or indirectly contribute to the enhancement of access to justice. Admittedly, there are difficulties in enacting them, among them the lack of financial resources; nevertheless there is clear effort to make the Criminal Justice System more accessible so that in the long run, it can “deliver equal justice to the rich and poor” alike.

⁵¹ UNDP, Programming for Justice, *supra* note 2, at 4.

PART III

ACCESS TO JUSTICE

As the MTDP for the CJS 2010-2016 focuses on “access to justice,” an understanding of the concept and its correlation with economic development and poverty reduction is necessary to comprehend the far-reaching effects of making “justice” truly accessible to all.

A. Access to Justice: Defined

The 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.”⁵² Internationally, it is recognized by States that a formal definition of “access to justice” can be found in the 1998 Aarhus Convention⁵³ stating that the term may mainly refer to “access to a review procedure before a court of law or another independent and impartial body established by law.”⁵⁴

Some authors define “access to justice” as follows:

Access by people, in particular from poor and disadvantaged groups, to fair, effective and accountable mechanisms for the protection of rights, control of abuse of power and resolution of conflicts. This includes the ability of people to seek and obtain a remedy through formal and informal justice systems, and the ability to seek and exercise influence on law-making and law-implementing processes and institutions.⁵⁵

In the Philippines, access to justice is a right guaranteed under the 1987 Constitution. Article III, Section 11 thereof states: “Free access to the courts and quasi-judicial bodies and adequate legal assistance shall not be denied to any person by reason of poverty.” Recognizing access to justice as a constitutional right, the Philippine Supreme Court issued A.M. No. 08-11-7-SC,⁵⁶ *Re: Request of National Committee on Legal Aid to Exempt Legal Aid Clients from Paying Filing, Docket and Other Fees*, for the purpose of “[opening] the doors of justice to the underprivileged and x x x allow[ing] them to step inside the courts [to seek remedies]”:

Access to justice by all, especially by the poor, is not simply an ideal in our society. Its existence is essential in a democracy and in the rule of law. As such, it is guaranteed by no less than the fundamental law:

The Court recognizes the right of access to justice as the most important pillar of legal empowerment of the marginalized sectors of our society. Among others, it has exercised its

⁵² *Id.* at 5.

⁵³ Convention on Access to Information, Public Participation in Decision Making and Access to Justice in Environmental Matters, June 25, 1998, 2161 U.N.T.S. 450.

⁵⁴ *Id.* Art. 9(1). NOTE: The entire article states in detail the term access to justice as specifically applicable to its provisions.

⁵⁵ A Framework for Strengthening Access to Justice in Indonesia <<http://siteresources.worldbank.org/INTJUSFORPOOR/Resources/A2JFrameworkEnglish.pdf>> (last accessed Dec. 3, 2010), *citing* Bedner (2004), *Towards Meaningful Rule of Law Research: An Elementary Approach*, MS Unpublished, VVI, Leiden; and UNDP (n.d.), *Access to Justice Practitioner Guide*.

⁵⁶ Issued on Aug. 28, 2009.

power to ‘promulgate rules concerning the protection and enforcement of constitutional rights’ to open the doors of justice to the underprivileged and to allow them to step inside the courts to be heard of their complaints. In particular, indigent litigants are permitted under Section 21, Rule 3 and Section 19, Rule 141 of the Rules of Court to bring suits *in forma pauperis*.⁵⁷

B. Access to Justice and Development

Studies have been conducted which examined the correlation between access to justice and poverty reduction.⁵⁸ The World Bank, the UNDP, and the Asian Development Bank view the relationship between justice and development quite differently.⁵⁹

The World Bank considers justice and the access to justice a catalyst for economic growth. Thus, there is a tendency for the Bank’s programs to be geared more towards the institutional approach to justice.⁶⁰ It is noticeable how “the main thrust of the Bank’s justice and justice-related programs are directed to strengthening the capacities of legal and judicial institutions.”⁶¹ The underlying belief is that “[i]f these institutions are able to absorb the demands of and render judicial services to their constituents, then improvements in the quality life can take place.”⁶² Thus, it may be concluded that “[e]conomic growth is x x x affected by a sound and functioning judicial system.”⁶³

The UNDP views justice as closely related to poverty eradication. As explained by the UNDP:

Access to justice is essential for poverty eradication and human development for the following reasons:

Firstly, groups such as the poor and disadvantaged who suffer from discrimination, also fall victim to criminal and illegal acts, including human rights violations. Because of their vulnerability, they are more likely to be victims of fraud, theft, sexual or economic exploitation, violence, torture or murder.

Secondly, crime and illegality are likely to have a greater impact on poor and disadvantaged people’s lives, as it is harder for them to obtain redress. As a result, they may fall further into

⁵⁷ *Id.*, citations omitted.

⁵⁸ Michael Anderson, *Access to Justice and Legal Process: Making Legal Institutions Responsive to Poor People in LDCs* (2003); Asian Development Bank, *Law and Policy Reform at the Asian Development Bank* (2001); Buscaglia, *Investigating the Links Between Access to Justice and Governance Factors: An Objective Indicators’ Approach* (2001); Christine Parker, *Just Lawyers: Regulation and Access to Justice* (1999); United Nations Development Programme, *Asia-Pacific Rights and Justice Initiative: Operationalizing the Practice Concept*, consolidated by Kathmandu and Bangkok SURFs (2003); World Bank, *Legal and Judicial Sector at a Glance* (2000).

⁵⁹ La Salle Institute of Governance, *Background Paper on Access to Justice Indicators in the Asia-Pacific Regions*, 10-11 (2003).

⁶⁰ *Id.*

⁶¹ *Id.*

⁶² *Id.*

⁶³ *Id.*

poverty. Justice systems can provide remedies which will minimize or redress the impact of this – e.g., by clarifying agreements and titles, determining financial compensation, and enforcing penal measures.

Thirdly, justice mechanisms can be used as tools to overcome deprivation by ensuring, for instance, access to education by girls and minorities, or by developing jurisprudence on access to food, health or other economic, cultural or social human rights.

Lastly, fair and effective justice systems are the best way to reduce the risks associated with violent conflict. The elimination of impunity can deter people from committing further injustices, or from taking justice into their own hands through illegal or violent means.⁶⁴

The Asian Development Bank, on the other hand, believes that the existence of a legal environment conducive to development is essential for all developing countries.⁶⁵ Thus, the activities and programs tend to promote “the rule of law through a pro-poor legal and institutional framework for economic development”:⁶⁶

The legal system cannot operate without institutions that make these rules realized through effective and dynamic interpretation and enforcement. Similar to the previous two development agencies, ADB also makes a different interpretation as regards the link between justice and development. In order to establish the relationship between justice and development, there must be an adequate level of legal empowerment. Legal empowerment is defined both as a process and a goal. As a process, legal empowerment involves the use of law to increase disadvantaged population’s control over their lives through a combination of both education and action. As a goal, legal empowerment refers to the actual achievement by the disadvantaged of increased control of their lives through the use of law. The difference between these two lies in the actual control of disadvantaged groups and peoples using the law. Legal empowerment therefore serves as an indicator of access to justice. Furthermore, legal empowerment acts as a link to realize the synergy between governance, justice and poverty eradication.⁶⁷

C. Access to Justice and Poverty

The discussion above illustrates how the ability to access justice is used as an indicator of development. Increased access to justice is said to result in the improvement of the welfare of the poor. Indeed, the poor are more vulnerable since they are less likely to take legal actions because of heavy financial repercussions attendant to some of these remedies. Thus, they often become victims of crime; they are unable to assert land rights; they fail to secure certain property rights.

Increasing access to justice also affects governmental institutions. As the World Development Report notes, “legal institutions play a key role in the distribution of power and rights. They also underpin the forms and functions of other institutions that deliver public services and regulate market practice.”⁶⁸ As the World Development Report 2006 states, “people’s legal

⁶⁴ UNDP, Programming for Justice, *supra* note 2, at 3.

⁶⁵ La Salle Institute of Governance, *supra* note 59, at 10-11.

⁶⁶ *Id.*

⁶⁷ Asian Development Bank, Law and Policy Reform at the Asian Development Bank (2001); *Id.*

⁶⁸ World Bank, World Development Report 2006: Equity and Development, 156 (2005).

rights remain theoretical if the institutions charged with enforcing them are inaccessible.”⁶⁹ Once a normative system that protects the poor exists, and legal awareness is increased, appropriate institutions, both formal and informal, need to be accessible to all.⁷⁰

Accessibility, therefore, encompasses the following dimensions: physical access; financial access; sensitive service delivery; and access to non-state justice systems.⁷¹ Physical access refers to ensuring that institutions are close to users and provide user-friendly services.⁷² Financial access pertains to the costs involved in accessing legal institutions be they direct (e.g., filing fees) or indirect (e.g., transportation) which present a major hindrance to access to justice for the poor.⁷³ Sensitive service delivery refers to sensitivity with respect to the needs of the poor and marginalized, women, indigenous peoples, persons with disabilities, and children.⁷⁴ Access to non-state justice systems refers to informal systems like arbitration and mediation.⁷⁵ In the Philippines, this would include the *Katarungang Pambarangay*.

D. Access to Justice, Developing Capacities, and Capacity Indicators

Legal institutions are essential to the practice of justice;⁷⁶ however, they do not necessarily guarantee justice especially when they are unable to deliver the remedies promised by law. The availability of legal procedures does not likewise automatically result into just outcomes.⁷⁷ When institutions and procedures are unable to deliver or act as they should, they have insufficient capacities to provide access to justice.

All these, in one way or the other, contribute to reinforcing the vulnerability of the marginalized and their inability to obtain the remedies that may be rightfully theirs. As such, it is clear that both insufficient capacities are “a major obstacle to effective access to justice.”⁷⁸

While the concept of capacities will be further discussed in the succeeding sections of this Report, suffice it to say that a clear link between access to justice and developing the capacities of a justice system exists that cannot be ignored. It is thus important to improve institutions and sectors to meet the demands of access to justice. In particular, there are those who would advocate that risks be minimized and capacities be developed so that it likewise works for the disadvantaged.⁷⁹

⁶⁹ *Id.* at 25.

⁷⁰ Strengthening Access to Justice in Indonesia, *supra* note 55.

⁷¹ *Id.*

⁷² *Id.*

⁷³ *Id.*

⁷⁴ *Id.*

⁷⁵ *Id.*

⁷⁶ Asian Development Bank, Law and Policy Reform at the Asian Development Bank (2001); La Salle Institute of Governance, *supra* note 59, at 4.

⁷⁷ La Salle Institute of Governance, *supra* note 59, at 3-5.

⁷⁸ UNDP, Programming for Justice, *supra* note 2, at 6.

⁷⁹ *Id.* at 6.

To ensure that the capacities are developed according to the concept of access to justice, indicators are necessary to act as measures for the degree or level of compliance. “Indicators are important as markers for evaluating results.”⁸⁰ As an instrument or “yardstick for measurement” that can help the achievement of plans, indicators accomplish the following:⁸¹

1. Provide for monitoring desired levels of performance (e.g., success or failure) on a regular and sustainable basis.
2. Serve to identify problems – resolve and learn from them.
3. Set targets, projecting results based on specific objectives that are defined by a project document.
4. Utilized to ascertain the situation of an ongoing project or program.

Clearly, therefore, the concept of capacities and indicators must be further delved into, so as to facilitate the compliance of the MTDP for the CJS 2010-2016 to the requirements of access to justice.

⁸⁰ Asian Development Bank, *Law and Policy Reform at the Asian Development Bank* (2001); La Salle Institute of Governance, *supra* note 59, at 6.

⁸¹ La Salle Institute of Governance, *supra* note 59, at 6, *citing* Sudarshan (2003).

PART IV

CAPACITY INDICATORS UNDER INTERNATIONAL STANDARDS

A. Capacity: Defined

The UNDP defines “capacity” as the “ability to solve problems, perform functions, and set and achieve objectives.”⁸²

Recognizing the link between access to justice and capacities, the UNDP states that access to justice can be divided into different stages: “starting from a moment a grievance occurs (causing a dispute) to the moment redress is provided. Full access is ensured when the process is completed.”⁸³

The process of justice requires different skills at different stages x x x. These key capacities form the basis of UNDP support on access to justice x x x. The three major dimensions of capacity development are:

- Normative protection – Normative protection refers to individual and collective capacities to ensure that justice remedies to disadvantaged people are legally recognized, either by formal laws or by customary norms.
- Supply of remedies – Includes capacities enabling adjudication of decisions, enforcement of remedies and accountability of the process through civil society and parliamentary oversight.
- Demand for remedies – This relates to the key skills people need to seek remedies through formal and informal systems, including legal awareness, legal aid, and other legal empowerment capacities.⁸⁴

Note, however, that insufficient capacities are not the only obstacle to access to justice. Risks attach when one seeks to deliver justice. The risks may include economic loss, physical threats, social ostracism, among others. Thus, any strategies on access to justice should take into account risks and should attempt to minimize them.⁸⁵

“[C]apacity development requires both the accountability and empowerment of both stakeholders. Claimholders need to strengthen their capacities to become accountable in the exercise of rights; duty bearers often need to be empowered to be able to fulfill their obligations more effectively.”⁸⁶ In developing capacities, it is also suggested that any capacity development

⁸² UNDP, *Programming for Justice supra* note 2, at 6; Asian Development Bank, *Law and Policy Reform at the Asian Development Bank* (2001); La Salle Institute of Governance, *supra* note 59, at 5.

⁸³ UNDP, *Programming for Justice supra* note 2, at 6.

⁸⁴ *Id.*

⁸⁵ *Id.*

⁸⁶ Asian Development Bank, *Law and Policy Reform at the Asian Development Bank* (2001); La Salle Institute of Governance, *supra* note 59, at 5.

approach should promote activities that build on these strengths.⁸⁷ From the UNDP's standpoint, capacities must be developed "so as to ensure it also works for the disadvantaged."⁸⁸ This is because the disadvantaged are the more vulnerable and less able to use justice remedies, which further reinforces their vulnerability.⁸⁹

Clearly, therefore, it is imperative that international capacity indicators be understood so as to assist the Philippines's MTDP in developing a response to the demands of access to justice.

B. International Capacity Indicators

As countries have different legal systems, it is expected that the obstacles and risks facing the pillars of the CJS may vary. However, while countries may differ in their practices with respect to building capacities, there are common denominators underlying these practices. These include the following indicators: resources, performance (productivity), and punitivity.⁹⁰

In the Philippines, the concept of a CJS is necessarily understood as being composed of five pillars.⁹¹ For the CJS to function in an effective and efficient manner, it is necessary for the pillars to act in cooperation with the other,⁹² to ensure that justice is administered as it should be.

By looking at these indicators, one may develop a comprehensive perspective of the CJS and how it functions across borders.⁹³ While this section of the Report hopes to provide desired capacities under international standards, it is submitted that an internationally applicable quantitative perspective cannot be readily given, or if given, cannot be afforded absoluteness. This is because while the CJS of other countries may be similarly composed of the five pillars, the manner by which they act and the scope of their functions necessarily vary and are determined by each jurisdiction. Given these, there are clearly numerous variables that affect the data gathered⁹⁴

⁸⁷ UNDP, *Programming for Justice*, *supra* note 2, at 6.

⁸⁸ *Id.*

⁸⁹ *Id.*

⁹⁰ Steffan Harrendorf and Paul Smit, *Attributes of Criminal Justice System: Resources, Performance and Punity*, in European Institute for Crime Prevention and Control, affiliated with the United Nations (HEUNI), *International Statistics on Crime and Justice* (Steffan Harrendorf, Markku Heiskanen and Steven Marby, [Eds.] 2010) [hereinafter Harrendorf and Smit, *Attributes*] NOTE: This Report will not be discussing punitivity. Punitivity is "understood to mean a feature of the justice system itself, e.g., measuring the harshness of sentences." (*Id.* at 127) Given that the criminal justice system is Restorative in concept, this indicator is deemed unable to serve as a measure of the system in the same way as the other two.

⁹¹ National Statistical Coordination Board, 2010 Philippine Statistical Yearbook, Chapter 17: Public Order, Safety and Justice (2010).

⁹² *Id.*

⁹³ Harrendorf and Smit, *Attributes*, *supra* note 90.

⁹⁴ Kauko Aromaa, *Introduction*, in European Institute for Crime Prevention and Control, affiliated with the United Nations (HEUNI), *International Statistics on Crime and Justice*, 5-6 (Steffan Harrendorf, Markku Heiskanen and Steven Marby, [Eds.] 2010).

and thus, the numbers themselves admit of discrepancies which cannot support the existence of an applicable quantitative international standard.⁹⁵

Some of these figures were collected by surveys conducted by United Nations Surveys on Crime Trends and the Operations Criminal Justice System (UN-CTS)⁹⁶ but caution must be exercised in taking these figures at face value. They must not be taken “without adequate commentary regarding known problems in relation to its validity and interpretation problems.”⁹⁷ Additionally,

[a]s regards the overall performance of criminal justice systems in international perspective, UN-CTS data is not able to provide a valid answer. [This is because] such an overall assessment would necessarily mean an in-depth look at the criminal justice systems of the different countries in theory and practice. And even with sufficient knowledge on all criminal justice systems of the world it would be a very ambitious task to translate this knowledge into a handy performance task index, allowing for a ranking of countries based on the quality of criminal justice performance.⁹⁸

Furthermore, with respect to productivity,

[h]igh quantitative productivity⁹⁹ is not a measure for the overall performance of a system or for the quality of the results produced. The extent of productivity is highly dependent on the structure of the criminal justice system x x x. [It is not implied], therefore x x x that a system with high productivity rates performs better than a system with low productivity rates.¹⁰⁰

As such, it is clear that there is no international quantitative standard that is absolutely applicable. Absent such standard, the assessment of the performance of the pillars of the Philippine CJS may pose some difficulty. This notwithstanding, the Report will present figures that indicate the general performance of countries, as well as present the basic data of the South East Asia region, in order to at least provide information upon which the assessment of the Philippine capacity may be assisted.

To fully assess the pillars, however, the Report will present some *ideal* capacities which the pillar agencies themselves have deemed necessary for their optimum functioning. In this manner, the application of these ideal capacities will be in accord with the understanding that the optimum

⁹⁵ See European Institute for Crime Prevention and Control, affiliated with the United Nations (HEUNI), *International Statistics on Crime and Justice, Introduction*, Chapters 5 and 6 (Steffan Harrendorf, Markku Heiskanen and Steven Marby, [Eds.] 2010).

⁹⁶ Aromaa, *Introduction*, *supra* note 94, at 5.

⁹⁷ *Id.* at 6. NOTE: It is highly advised that this report be read in and of itself to further understand the issue of international statistics for Criminal Justice Systems.

⁹⁸ Harrendorf and Smit, *Attributes*, *supra* note 90, at 133.

⁹⁹ Quantitative productivity can be “defined as the relation between personnel strength and the output produced”; *Id.* at 121, citing P. Mayhew, *The Operation of Criminal Justice System*, in *Crime and Criminal Justice in Europe and North America, 1995-1997, Report on the Sixth United Nations Survey on Crime Trends and Criminal Justice Systems* 84-149 (K. Aromaa, S. Leppä, S. Nevala and N. Ollus, [Eds.] 2003) and P. Smit, *Prosecution and Courts*, in *Crime and Criminal Justice Systems in Europe and North America 1995-2004* 94-117 (K. Aromaa and M. Heiskanen, [Eds.] 2008) (with comparable approaches).

¹⁰⁰ Harrendorf and Smit, *Attributes*, *supra* note 90, at 121.

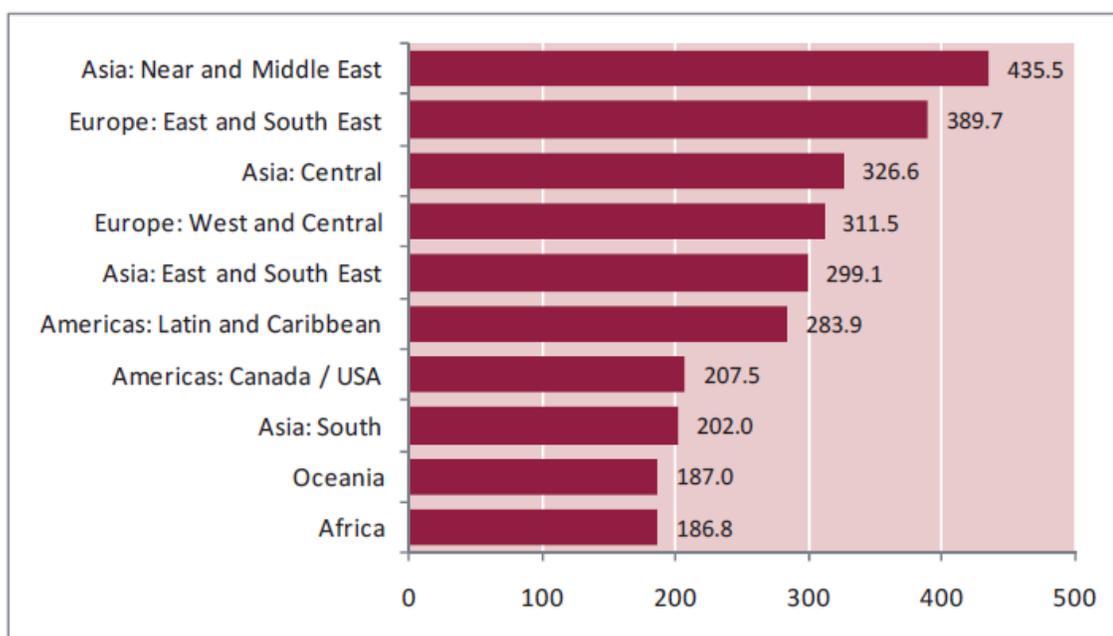
capacity of a country is to be determined and based on the needs of each country. These ideal capacities, therefore, are necessarily the applicable desired capacities for the Philippines and are thus, the data upon which the current performance of the five pillars of the CJS may be assessed.

1. Law Enforcement Pillar

a. Personnel

A “police personnel or law enforcement personnel” is defined by the 10th UN-CTS as a “personnel in public agencies whose principal functions are the prevention, detection and investigation of crime and the apprehension of alleged offenders.”¹⁰¹ This term, however, may cover persons who may not otherwise be considered as law enforcement personnel in other jurisdictions.¹⁰²

FIGURE 4.1: POLICE OFFICERS PER 100,000 POPULATION BY REGIONS AND SUBREGIONS¹⁰³



Looking at Figure 4.1, the European Institute for Crime Prevention and Control, affiliated with the United Nations (HEUNI), suggests that there seems to be at least some qualitative standard regarding the *necessary force* that a country must have. This, they say, is based on the fact – as shown in the table above – that the police personnel values are positively skewed.¹⁰⁴ The qualitative standard for a minimum of 100,000 population is that force necessary to “guarantee at least minimum security.”¹⁰⁵

¹⁰¹ Harrendorf and Smit, *Attributes*, *supra* note 90, at 115.

¹⁰² *Id.*

¹⁰³ *Id.*

¹⁰⁴ *Id.*

¹⁰⁵ *Id.*

Given this standard, therefore, varying figures would then be considered as the applicable rate for every 100,000 population. As can be seen in Figure 4.1, the South East Asia mean for this amount as of 2010 is 299.1 per 100,000. In the Philippines, however, the Philippine National Police (PNP) has stated that its desired capacity is one police personnel for every 500 population.¹⁰⁶ This would mean that for every 100,000 population, the Philippines hopes to allocate and deploy only 200 police personnel. Note, however, that this figure is strictly applicable only with regard to the PNP. By the definition of law enforcement indicated above, the same may include other agencies such as PDEA, NBI and the other agencies within the law enforcement pillar of the Philippines. The number of personnel in these agencies must also be considered in counting the number of law enforcement personnel per population ratio. However, these other agencies did not indicate any quantitative desired capacity in the same manner as the PNP did.

It must also be noted that countries with more libertarian traditions may not need a large police force and that they may also view community cooperation with the police as essential to law enforcement. This is in contrast to countries that would tend to use the police force to control citizen behavior and/or activities.

b. Performance

With respect to performance, “police productivity can be measured by the number of suspects they ‘produced’”¹⁰⁷ and thus, the ratio would pertain to the number of suspects apprehended per police personnel.¹⁰⁸ Based on the study conducted by HEUNI, there is no simple linear relationship between police personnel rates and suspects produced.¹⁰⁹ “The assumption that more police officers will also produce a higher output *must* therefore be rejected.”¹¹⁰ The results varied across countries, with the median for this indicator is 2.4 and its mean is 5.2. The study recorded a minimum is 0.1 for Serbia and the maximum 46.0 for Finland.¹¹¹

2. Prosecution Pillar

a. Personnel

“‘[P]rosecution personnel’ is considered as a government official whose duty is to initiate and maintain criminal proceedings on behalf of the state against persons accused of committing a criminal offense.”¹¹² Admittedly, it is difficult to establish the minimum number of prosecutors for a population of 100,000. This is because of the difference in the

¹⁰⁶ Report on the Validation Workshop held on October 28, 2010 at Justitia, Ateneo Professional Schools, Rockwell, Makati City.

¹⁰⁷ Harrendorf and Smit, *Attributes*, *supra* note 90, at 121.

¹⁰⁸ *Id.* at 122.

¹⁰⁹ *Id.*

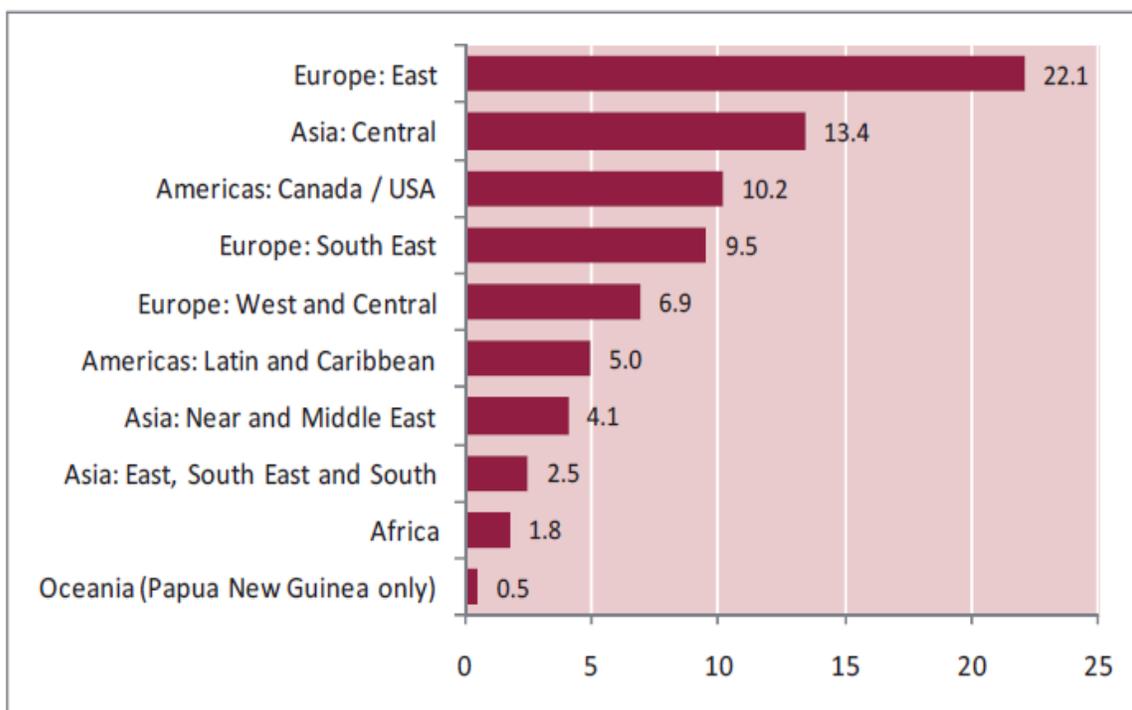
¹¹⁰ *Id.* (emphasis supplied).

¹¹¹ *Id.*

¹¹² *Id.* at 116.

practices of the various legal systems of different countries.¹¹³ The following figure will show that the number of prosecutors per 100,000 population is lower compared to that of police personnel.¹¹⁴ This is expected, however, because different legal systems assign different tasks to prosecutors.¹¹⁵

FIGURE 4.2: PROSECUTORS PER 100,000 POPULATION BY REGIONS AND SUBREGIONS¹¹⁶



The figure above shows that the median for the number of prosecutors varies across the regions and subregions.¹¹⁷ Specifically, the median for prosecutor personnel for South East Asia is 2.5 prosecutors per 100,000 population as of 2010.

b. Performance

Two main productivity indicators may be considered in the determination of the productivity of prosecutors: *first*, the number of prosecutions per prosecutor,¹¹⁸ and *second*, the number of convictions per prosecutor.¹¹⁹

¹¹³ *Id.* at 116-117.

¹¹⁴ Harrendorf and Smit, *Attributes, supra* note 90, at 116.

¹¹⁵ *Id.*

¹¹⁶ *Id.*

¹¹⁷ *Id.*

¹¹⁸ Harrendorf and Smit, *Attributes, supra* note 90, at 123.

¹¹⁹ *Id.* at 125.

With respect to the number of prosecutions per prosecutor, the median rate is 82.6 “persons prosecuted” and the mean is 194.0.¹²⁰ Again, these numbers may not be used to directly compare the rates in countries due to the difference among criminal jurisdiction.¹²¹ These figures are based on the use of the term “persons prosecuted,” which is understood to mean as “alleged offenders prosecuted by means of an official charge, initiated by the public prosecutor or the law enforcement agency responsible for prosecution.”¹²²

However, the study by HEUNI shows that there is no clear linear relationship between the persons prosecuted and the number of prosecutors.¹²³ Moreover, “the ratio between persons prosecuted and the number of personnel can by no means be a measure of the quality of performance.”¹²⁴

The second productivity indicator is the “ratio between persons convicted and the number of prosecutors.”¹²⁵ The term “persons convicted” is defined in the survey as “persons found guilty by any legal body duly authorized to pronounce them convicted under national law, whether the conviction was upheld or not.”¹²⁶ Based on the study by HEUNI, it appears that no linear relationship exists between the number of prosecutors and the conviction rate. However, the study determined the median is 44.3 convictions per prosecutor and the mean is 97.1.¹²⁷

The survey also gathered data on the number of convictions per 100,000 population. Based on the data gathered, Belgium has the highest number with 6,512 prosecutions for every 100,000 in cases of offenses other than intentional homicide.¹²⁸ In Asia, the country with the highest rate is South Korea with a rate of 2000+ convictions per 100,000. For crimes involving intentional homicide, Kazakhstan, Mongolia, Sri Lanka, Albania, Belgium, Belarus, Estonia, Lithuania, the Russian Federation and Turkey have the highest rate of convictions with at least at 8.0.¹²⁹ The median in Asia, however, is 2.1.¹³⁰ The median for all countries

¹²⁰ *Id.* at 123.

¹²¹ *Id.*

¹²² *Id.*

¹²³ *Id.*

¹²⁴ Harrendorf and Smit, *Attributes*, *supra* note 90, at 124.

¹²⁵ *Id.* at 125.

¹²⁶ *Id.*

¹²⁷ *Id.*

¹²⁸ Paul Smit and Stefan Harrendorf, *Responses of the Criminal Justice System*, in European Institute for Crime Prevention and Control, affiliated with the United Nations (HEUNI), *International Statistics on Crime and Justice* 89 (Steffan Harrendorf, Markku Heiskanen and Steven Marby, [Eds.] 2010) [hereinafter Smit and Harrendorf, *Responses*].

¹²⁹ *Id.* at 88.

¹³⁰ *Id.*

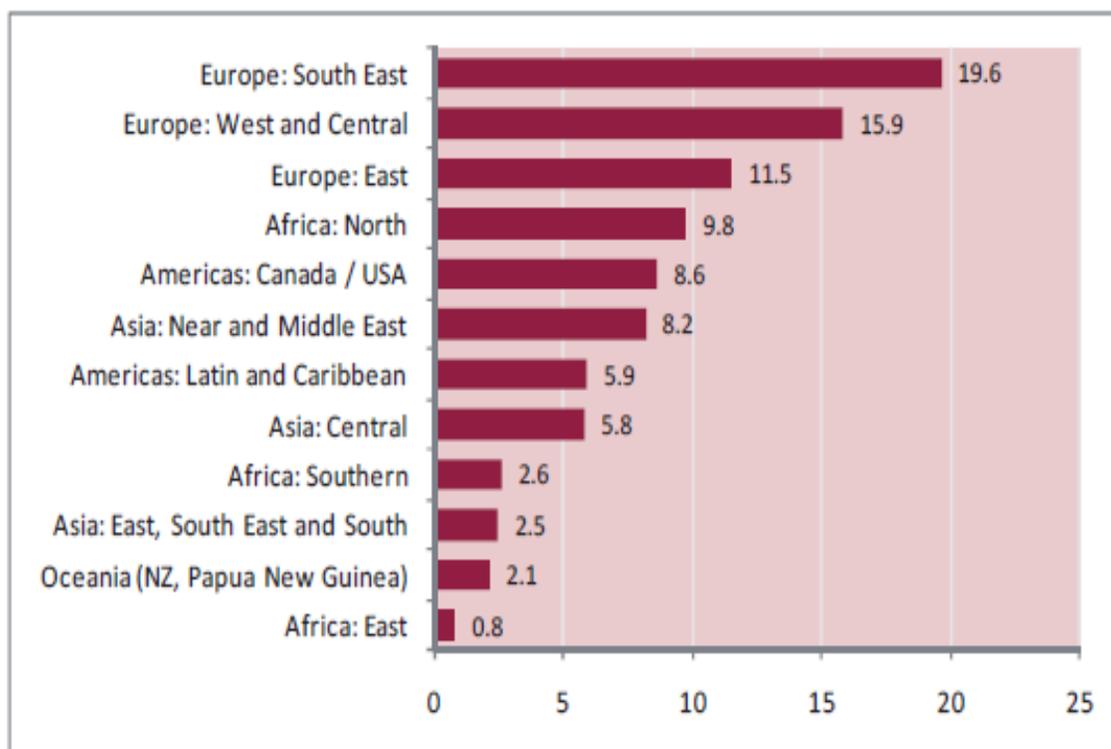
is 60 percent for adults and 35 percent for juveniles all countries. Figures are said to be lower for females; however, the figure is higher for *intentional homicide* with 71 percent.¹³¹

3. Courts Pillar

a. Personnel

The HEUNI used “judges or magistrates” to include “both full-time and part-time officials authorized to hear civil, criminal and other cases, including in appeal courts, and make dispositions in a court of law.”¹³² From this definition, it is clear that the numbers are not limited to the judges deciding solely criminal cases and as such, “the value is not directly related to criminal justice.”¹³³ Nevertheless, the figures still give an idea as to the number of judges that operate within justice systems.

FIGURE 4.3: PROFESSIONAL JUDGES PER 100,000 POPULATION (MEDIANS)¹³⁴



From the data seen on Figure 4.3, South East Asia has a median of 2.5, along with South and East Asia, but notably, within this demographic are some outliers, namely China and Mongolia.¹³⁵

¹³¹ *Id.* at 94.

¹³² Harrendorf and Smit, *Attributes*, *supra* note 90, at 118.

¹³³ *Id.*

¹³⁴ *Id.*

¹³⁵ *Id.* at 119.

b. Performance

With respect to performance, “[j]udges’ output cannot be validly measured due to the restrictions of the definition used. Since it is not clear to what extent the judgment of criminal cases is part of the judges’ duties, their performance cannot be measured by the output (in convictions) they produced.”¹³⁶

4. Corrections Pillar**a. Resources**

With respect to the resources utilized or spent for incarceration space, it is worth mentioning that “[t]he number of places available without overcrowding is x x x not a measure for the extent of resources spent, because the ‘official capacity’ of prisons is mainly subject to definition by each and every country, which does not necessarily imply a certain minimum standard and thus minimum standard costs.”¹³⁷

That having been said, the survey chose to simply focus on the total prison staff within adult prisons¹³⁸ and defines them as those “individuals employed in penal or correctional institutions, including management, treatment, custodial and other (maintenance, food service, etc.)”¹³⁹ Note, however, that the figures referred to make no distinction as to the function of the staff; rather, it accounts for the entirety of staff as a whole and differentiated only by gender.¹⁴⁰ A number of factors have been identified as causes for the variety,¹⁴¹ but the ultimate conclusion is that “the inmate staff ratio is not a valid indicator for the quality of prison conditions.”¹⁴²

¹³⁶ *Id.* at 121.

¹³⁷ Harrendorf and Smit, *Attributes*, *supra* note 90, at 120.

¹³⁸ *Id.*

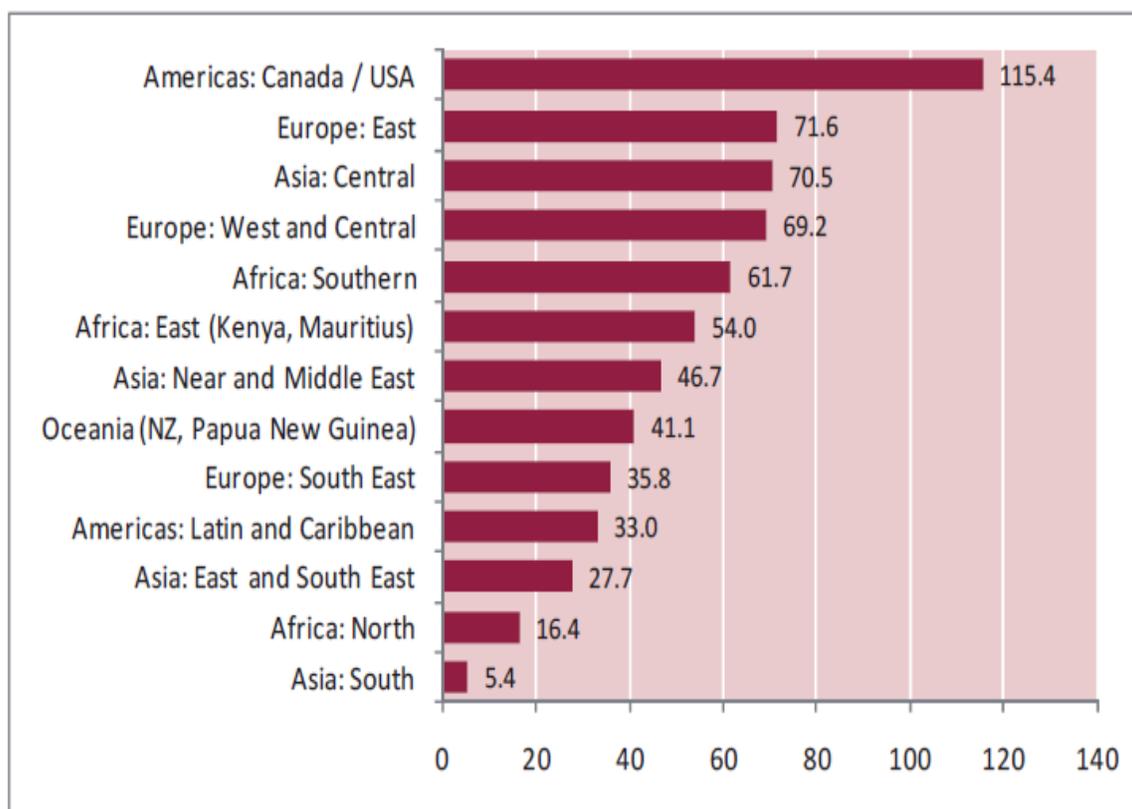
¹³⁹ *Id.* at 121.

¹⁴⁰ *Id.*

¹⁴¹ *Id.*

¹⁴² *Id.* at 120-21.

FIGURE 4.4: CORRECTIONAL STAFF IN ADULT PRISONS PER 100,000 POPULATION BY REGIONS AND SUBREGIONS (MEDIANS)¹⁴³



From the above data, the median is 50.7 and the mean is 54.4.¹⁴⁴ South East Asia, in particular, has a median of 27.7.

b. Performance

Because the term performance is understood here as productivity, the rate of prison staff versus incarceration cannot be an indicator for corrections since incarceration is not a product of the prison staff.¹⁴⁵ Neither can it be used to determine the support or attendance rate¹⁴⁶ nor the security rate of the facility.¹⁴⁷ At this point, no performance capacity indicator has been identified to assess the prison staff.

¹⁴³ Harrendorf and Smit, *Attributes*, *supra* note 90, at 121.

¹⁴⁴ *Id.*

¹⁴⁵ *Id.*

¹⁴⁶ *Id.* citing P. Mayhew, *The Operation of Criminal Justice System*, in *Crime and Criminal Justice in Europe and North America, 1995-1997, Report on the Sixth United Nations Survey on Crime Trends and Criminal Justice Systems* 93 (K. Aromaa, S. Leppa, S. Nevala and N. Ollus, [Eds.] 2003).

¹⁴⁷ Harrendorf and Smit, *Attributes*, *supra* note 90, at 121.

PART V

ASSESSING THE CAPACITIES OF THE PILLARS OF THE PHILIPPINE CRIMINAL JUSTICE SYSTEM

A. Law Enforcement Pillar

Peace and order is an essential ingredient to maintaining economic development, social order and political stability.¹⁴⁸ A condition of peace and order facilitates the growth of investments, generates more employment opportunities and attracts more tourists.¹⁴⁹ Sustained economic growth will facilitate the influx of local and foreign investments, as well as tourism, which, in turn, will generate employment opportunities.

The Philippine National Police, the National Bureau of Investigation, the Philippine Drug Enforcement Agency and the National Police Commission, along with 34 other agencies performing police functions, are the agencies spearheading the law enforcement in the country. These agencies are generally tasked to prevent the commission of crimes and maintain peace and order in the community.

1. Existing Capacities

Philippine National Police

Under RA No. 6975,¹⁵⁰ the Philippine National Police (PNP) was established, consisting of members of the police forces who were incorporated into the Integrated National Police (INP) pursuant to Presidential Decree No. 765; the officers and enlisted personnel of the Philippine Constabulary (PC); and the regular operatives of the abolished NAPOLCOM Inspection, Investigation and Intelligence Branch.¹⁵¹

Among its powers and functions¹⁵² are to:

- Enforce all laws and ordinances relative to the protection of lives and properties;
- Maintain peace and order and take all necessary steps to ensure public safety;
- Investigate and prevent crimes, effect the arrest of criminal offenders, bring offenders to justice and assist in their prosecution;
- Exercise the general powers to make arrest, search and seizure in accordance with the Constitution and pertinent laws;

¹⁴⁸ NEDA, Medium-Term Philippine Development Plan (2004-2010) 187, Chap. 16.

¹⁴⁹ *Id.*

¹⁵⁰ An Act Establishing the Philippine National Police Under a Reorganized Department of the Interior and Local Government, and For Other Purposes (Department of the Interior and Local Government Act of 1990), Republic Act No. 6975.

¹⁵¹ *Id.* § 23.

¹⁵² *Id.* § 24.

- Detain an arrested person for a period not beyond what is prescribed by law, informing the person so detained of all his rights under the Constitution;
- Issue licenses for the possession of firearms and explosives in accordance with law;
- Supervise and control the training and operations of security agencies and issue licenses to operate security agencies, and to security guards and private detectives, for the practice of their professions; and
- Perform such other duties and exercise all other functions as may be provided by law.

In 2005, the PNP launched its Integrated Transformation Program (ITP), which is the organization's road map for long-term and lasting reforms in the Philippine National Police. The ITP is now being implemented in order to: resolve organizational dysfunctions and improve the quality of police services; strengthen law enforcement capabilities; and enhance the welfare and benefits of personnel and dependents.¹⁵³

It identifies 12 key result areas that when completed altogether, will achieve PNP transformation, namely: national policy and institutions development; police operations; facilities development; human resources development and management; administrative and financial management; strategic planning and performance management; information and communication technology; demonstration of excellence through development of best practices; public information and advocacy; reform management; anti-corruption; and promotion of human rights.¹⁵⁴

The PNP ITP has the ultimate goal of applying an integrated institutional framework, strategy, and process that will transform the PNP into a more capable, effective, and reliable police force. Through its transformation process, the PNP would be able to enhance the quality of its services and relationships with the community, improve the peace and order situation, and maintain a safe environment that is conducive to socio-economic growth.¹⁵⁵

Currently, the PNP is facing challenges and problems in the delivery of police services:¹⁵⁶

- 92 percent of the PNP Annual Budget goes to personnel services or salaries and allowances of PNP personnel. Less than 8 percent goes to maintenance and other operating expenses, and less than 1 percent is set aside for capital outlay. This has been the situation for the past five years.
- 80 percent or 1,282 police stations all over the country are considered illegal settlers on lands or buildings owned by local government units or private individuals. Police precincts are made of inferior materials making both the station and its personnel vulnerable to hostile enemy action or to the forces of nature.
- The PNP is still 65 percent short of land patrol vehicles, 80 percent short of aircraft and 75 percent short of watercraft. Limited fuel supply limits the PNP from doing continuous

¹⁵³ PNP <<http://www.pnptransformation.org/index.php?option=comcontent&view=article&id=49&Itemid=138>> (last accessed Dec. 3, 2010).

¹⁵⁴ *Id.*

¹⁵⁵ PNP, Goals and Objectives <http://www.pnptransformation.org/index.php?option=com_content&view=article&id=49&Itemid=138> (last accessed Dec. 3, 2010).

¹⁵⁶ PNP, Realities in the PNP <http://www.pnptransformation.org/index.php?option=com_content&view=article&id=63> (last accessed Dec. 3, 2010).

patrols. Inadequate communication equipment leads to poor coordination among police personnel, while most police stations lack proper equipment for the execution of their duties.

- 57 percent or 67,489 of PNP personnel are still in dire need of decent shelter. This explains why 60 percent from PO1 to PO3 personnel actually live below the poverty line.
- PNP uniformed personnel are also not covered by social security or government service insurance system; and only half of the pension budget requirement is allotted to the PNP.
- The PNP has only one tertiary hospital situated in Camp Crame and 16 dispensaries nationwide. Health equipment and facilities are old and outmoded. The AFP Medical Center allots P935.80 for every patient; the Quirino Medical Center allots P410.29 for every patient; while the PNP General Hospital spends a measly P125.92 for every patient confined in the hospital.
- In terms of educational assistance, only 7 percent or 5,071 of the total 73,541 PNP personnel with dependents are receiving scholarship grants and assistance from the PNP.
- The PNP also has to contend with the low public perception of the integrity and competence of the police. This is evidenced by the fact that only 15 percent of the victims of crimes file cases/complaints at the police station level or other law enforcement agencies. The victims' decision not to report their encounter with crime is because most of them see crime reporting to be a waste of time, citing slow police action and a cumbersome process of reporting. Low percentage of crime reporting is an indication of diminishing public trust and confidence in the police and the criminal justice system with many saying they would rather depend on "praying" for protection.

With the implementation of the ITP, the number of police officers actually increased. However, since population grew as well, the ratio decreased from the previous years as shown in the table below:

**TABLE 5.1: PHILIPPINE NATIONAL POLICE
RATIO OF POLICE OFFICERS TO POPULATION (1987 TO 2009)¹⁵⁷**

Year	Number of Police Officers	Ratio
1987	50,810	1:1,129
1988	53,374	1:1,100
1989	53,300	1:1,128
1990	55,072	1:1,127
1991	89,296	1:696
1992	100,917	1:630
1993	97,263	1:669
1994	95,534	1:697
1995	95,109	1:722
1996	102,098	1:683

¹⁵⁷ NSCB, 2010 Yearbook, *supra* note 91, at 17-5.

1997	104,401	1:684
1998	108,772	1:672
1999	109,722	1:681
2000	108,786	1:707
2001	105,784	1:743
2002	112,944	1:710
2003	112,508	1:728
2004	118,100	1:708
2005	113,566	1:751
2006	116,405	1:747
2007	119,914	1:740
2008	122,679	1:737
2009	124,752	1:739

The public approval rating of the PNP registered a high of 67.44 percent in 2009. The September to October survey revealed that 73 percent of the probability sample of 4,400 respondents nationwide felt the positive changes that resulted from the PNP's transformation initiatives.

The P10 billion fund for the PNP's Capability Enhancement Program enhanced police services on the ground. Police visibility was reinforced with the recruitment of police officers. Public services were improved with the construction and repair of police station buildings and other facilities, and acquisition of move, shoot, communicate and investigate equipment.¹⁵⁸

Technical innovations supported police operations through the state-of-the-art Regional Tactical Operation and Intelligence Center (RTOIC) at the NCRPO that serves as the main monitoring and dispatch hub of all police operations in Metro Manila.¹⁵⁹

The Model Police Station Project, the center of the PNP's transformation initiatives, ably provided communities with better police services through the well-equipped police stations manned by disciplined and highly trained personnel.¹⁶⁰

Anti-criminality and anti-insurgency efforts were made more responsive through the Local Anti-Criminality Action Programs and LOI Payapa which decentralized the formulation and implementation of strategies to support patrol, investigation, and internal security operations in the local setting.¹⁶¹

The statistical increase in the total crime volume of 111,860 in 2009 resulted from the adoption of the Unit Crime Periodic Report (UCPER) which is a more accurate and efficient system of crime reporting. All PNP units were required to submit the UCPER to the national headquarters for consolidation into the National Crime Reporting System.¹⁶² The table shows the reported index and non-index crimes using the new system:

¹⁵⁸ Based on the Executive Summary of the 2009 Annual Accomplishment Report.

¹⁵⁹ *Id.*

¹⁶⁰ *Id.*

¹⁶¹ *Id.*

¹⁶² *Id.*

**TABLE 5.2: PHILIPPINE NATIONAL POLICE
REPORTED INDEX AND NON-INDEX CRIMES BY REGION¹⁶³**

	Index Crimes			Non-Index Crimes			Total Crimes		
	Total	Cleared	Crime Clearance Efficiency (%)	Total	Cleared	Crime Clearance Efficiency (%)	Total	Cleared	Crime Clearance Efficiency (%)
Philippines	301,703	74,519	24.70	200,962	52,148	25.95	502,665	126,667	25.20
NCR	40,969	21,644	52.83	18,713	13,982	74.72	59,682	35,626	59.69
CAR	8,316	1,746	21.00	4,332	756	17.45	12,648	2,502	19.78
I	11,339	3,669	32.36	5,688	2,017	35.46	17,027	5,686	33.39
II	10,774	1,702	15.80	8,257	783	9.48	19,031	2,485	13.06
III	30,512	5,859	19.20	25,909	4,992	19.27	56,421	10,851	19.23
IV-A	28,116	6,536	23.25	19,496	4,266	21.88	47,612	10,802	22.69
IV-B	7,635	2,149	28.15	6,603	1,357	20.55	14,238	3,506	24.62
V	12,564	3,830	30.48	7,461	2,493	33.41	20,025	6,323	31.58
VI	31,413	2,724	8.67	23,612	2,044	8.66	55,025	4,768	8.67
VII	25,333	4,539	17.92	10,429	4,012	38.47	35,762	8,551	23.91
VIII	15,715	2,120	13.49	12,887	1,546	12.00	28,602	3,666	12.82
IX	9,612	2,709	28.18	11,558	2,078	17.98	21,170	4,787	22.61
X	27,240	3,418	12.55	18,000	2,140	11.89	45,240	5,558	12.29
XI	18,652	2,734	14.66	11,781	2,189	18.58	30,433	4,923	16.18
XII	12,337	5,492	44.52	9,326	4,503	48.28	21,663	9,995	46.14
XIII	7,966	1,855	23.29	4,315	1,116	27.02	12,281	3,021	24.60
ARMM	1,228	811	66.04	508	391	76.97	1,736	1,202	69.24
National Support Units	1,982	982	49.55	2,087	1,433	68.66	4,069	2,415	59.35

Source: Philippine National Police

The next two tables show the (a) crimes committed against children and (b) violence against women:

**TABLE 5.3: PHILIPPINE NATIONAL POLICE
REPORTED CRIMES COMMITTED AGAINST CHILDREN
BY CLASSIFICATION OF OFFENSE (2003 TO 2009)¹⁶⁴**

Classification of Offense	2003	2004	2005	2006	2007	2008	2009
Total	7,300	7,557	6,320	6,114	6,688	8,588	9,787
Rape	3,107	3,099	2,794	2,235	2,501	2,981	3,040
Incestuous rape	290	229	206	183	243	229	211
Attempted rape	293	244	224	169	213	221	251
Acts of Lasciviousness	1,090	1,058	938	719	702	876	918

¹⁶³ NSCB, 2010 Yearbook, *supra* note 91, at 17-4.

¹⁶⁴ NSCB, 2010 Yearbook, *supra* note 91, at 17-12.

Physical Injuries/Maltreatment	1,947	1,893	1,212	1,177	1,150	1,450	2,368
Kidnapping	78	110	51	23	26	17	37
Others	–	–	–	326	139	35	90
Violation of RA 7610 (Child Abuse)							
Child Trafficking	15	18	45	48	60	70	–
Child Labor	48	22	17	5	6	1	6
Child Prostitution	41	37	8	14	15	13	12
RA 9262	–	–	41	51	36	52	60
Other Forms of Child Abuse	135	517	506	786	1,064	2,048	2,040
Other Related Crimes							
Parricide	5	12	26	9	8	6	24
Neglect/Abandonment	35	34	29	14	17	7	5
Sexual Harassment	13	23	11	14	23	31	42
Inducing a Minor to Abandon Home	12	12	4	4	2	2	3
Seduction	84	99	54	60	58	72	67
Murder	29	37	25	34	59	61	47
Frustrated murder	16	20	10	26	5	1	2
Attempted murder	9	3	10	6	23	38	79
Abduction	–	–	36	106	113	96	108
Homicide	21	36	28	41	55	80	119
Abortion	2	2	4	2	–	1	3
Simple seduction	3	3	9	6	4	6	33
Unjust vexation	22	39	16	33	48	65	81
Theft	5	10	16	23	35	112	115
Others (Reckless Imprudence Resulting to Homicide)	–	–	–	–	83	17	26

**TABLE 5.4: PHILIPPINE NATIONAL POLICE
REPORTED CASES OF VIOLENCE AGAINST WOMEN
BY CLASSIFICATION OF OFFENSE (2003 TO 2009)¹⁶⁵**

Classification of Offense	2003	2004	2005	2006	2007	2008	2009
Total	8,011	7,383	6,505	5,889	6,647	7,864	10,482
Rape	1,045	997	927	670	837	811	770
Incestuous Rape	72	38	46	26	22	28	27
Attempted Rape	275	194	148	186	147	204	167
Acts of Lasciviousness	646	580	536	389	358	445	485
Physical Injuries/Wife Battering	4,296	3,553	2,335	1,902	1,505	1,307	1,498
Sexual Harassment	112	53	37	40	46	18	54
RA 9208	–	–	–	–	24	34	152
RA 9262	–	–	924	1,301	2,387	3,599	5,285
Threats	420	319	223	204	182	220	208
Seduction	17	62	19	29	30	19	19

¹⁶⁵ NSCB, 2010 Yearbook, *supra* note 91, at 17-11.

Concubinage	180	121	102	93	109	109	99
Sex Trafficking/White Slavery	4	17	11	17	–	–	–
Abduction/Kidnapping	36	29	16	37	23	28	18
Unjust Vexation	101	90	50	60	59	83	703
Other Related Crimes							
Neglect/Abandonment	50	37	18	42	71	75	107
Homicide	45	88	52	73	61	76	60
Slander	135	83	68	57	49	39	18
Murder	66	52	33	53	68	57	57
Attempted Murder	23	38	20	5	10	14	14
Frustrated Murder	29	42	17	44	49	50	45
Oral Defamation	188	149	109	103	117	104	100
Parricide	53	62	35	37	40	73	52
Illegal Recruitment	12	4	14	8	9	7	34
Non-gender Crimes							
Malicious Mischief	36	46	23	21	16	22	17
Theft	68	79	69	80	96	115	103
Estafa	51	26	18	14	3	21	7
Holdup	34	61	21	34	47	39	71
Others	17	563	634	364	282	267	312

Human rights advocacy was also reinforced as the PNP strictly implemented the observance of policies that provide for the protection of basic rights and civil liberties of citizens including criminals. To further improve the PNP's capability in addressing human rights issues and violations committed by its own personnel, police offices nationwide established and now maintain Human Rights Desks in their respective jurisdictions.¹⁶⁶

Additionally, the PNP published the PNP Citizen's Charter in August 2009, to improve frontline services for the public and to encourage vigilance against irregularities. This was done pursuant to the Anti-Red Tape Act.

Going back to its ITP, one of the problems encountered by the PNP in the implementation of the program is the passive response of the public. To most people, the ITP will not change the "corrupt-ridden" PNP. This negative public perception is among the challenges being faced by the ITP. However, such perception has slowly been improving. In a 2008 Survey of Enterprises on Corruption conducted by the Social Weather Station (SWS), there was an improvement in the ratings of sincerity in fighting corruption for the PNP, compared to a similar SWS survey in 2007.¹⁶⁷ From its previous score of -25, the PNP rated -18 in 2008.

The other major problem is budget allocation. The budget of the PNP for 2010 is P49,889,574,000.00.¹⁶⁸ As stated earlier, majority of this budget goes to salaries and allowances for

¹⁶⁶ Based on the Executive Summary of the 2009 Annual Accomplishment Report.

¹⁶⁷ Social Weather Station, 2008 Survey of Enterprises on Corruption: Anti-corruption sincerity ratings improved for only 8 out of 30 agencies, Nov. 21, 2008 <<http://www.sws.org.ph/pr081121.htm>> (last accessed Dec. 3, 2010).

¹⁶⁸ General Appropriations Act Fiscal Year 2010 [2010 General Appropriations Act], Republic Act No. 9970 (2010).

personnel. Fortunately, the PNP has been able to receive funding from non-government organizations like the Hanns Siedel Foundation, for some of its projects.

While the PNP has strived to modernize, approximately 30 percent of computers in police stations nationwide are actually donations from LGUs and NGOs. Almost 90 percent of the total police stations that do not have computers are located in PRO ARMM and PRO 8; 47 percent have no internet access due to financial constraints; and 100 percent have no internet access due to unstable signal or no internet service provider in the area.¹⁶⁹ Furthermore, PRO 4B was found to be the most ill-equipped because only 13 percent of its City and Municipal Police Stations have radio communications. Most of the radio equipment issued nationwide have defective battery packs.¹⁷⁰

National Bureau of Investigation

Created in 1936 with the enactment of Commonwealth Act No. 181, the National Bureau of Investigation (NBI) was a Division of Investigation (DI) under the Department of Justice. Patterned after the US Federal Bureau of Investigation, its mandate was to serve warrants and *subpoenas*; to make searches and seizures under legal warrants for violations of the laws of the Philippines; and to make arrests without warrants for a crime committed in their presence or within their view.¹⁷¹

The main objective of the NBI is the establishment and maintenance of a modern, effective, and efficient investigative service and research agency for the purpose of implementing fully principal functions provided under RA No. 157,¹⁷² as amended.

On June 19, 1947, RA No. 157 repealed Commonwealth Act No. 181 and converted the Division into the Bureau of Investigation with its functions expanded and the powers of its investigating staff increased. Executive Order No. 94, issued on October 4, 1947, renamed it to the presently known National Bureau of Investigation.

Under the supervision of the Department of Justice (DOJ) and headed by a Director, and supported by an Assistant Director and six Deputy Directors, the NBI is tasked mainly to:

1. investigate crimes and other offenses against the laws of the Philippines, both on its own initiative and as public interest may require;
2. assist, when officially requested, in the investigation or detection of crimes and other offenses;
3. act as national clearing house of criminal records and other information, for use of all prosecuting and law enforcement entities in the Philippines, of identification records, of identifying marks, characteristics and ownership or possession of all firearms and test bullets fired therefrom;

¹⁶⁹ PNP, ICT Management <http://www.pnp.gov.ph/main/index.php?option=com_content&view=article&id=139&Itemid=118> (last accessed Dec. 3, 2010).

¹⁷⁰ PNP, ICTManagement <http://www.pnp.gov.ph/main/index.php?option=com_content&view=article&id=139&Itemid=118> (last accessed Dec. 3, 2010).

¹⁷¹ Commonwealth Act No. 181, § 3.

¹⁷² An Act Creating a Bureau of Investigation, Providing Funds Therefor and Other Purposes, Republic Act No. 157 (1947).

4. give technical help to all prosecuting and law enforcement offices, agencies of the government, and courts which may ask for its services;
5. extend its services in the investigation of cases administrative or civil in nature in which the government is interested;
6. establish and maintain an up-to-date scientific crime laboratory and conduct researches in furtherance of scientific knowledge in criminal investigation;
7. coordinate with other national or local agencies in the maintenance of peace and order; and
8. undertake the instruction and training of a representative number of city and municipal peace officers at the request of their respective superiors along effective methods of crime investigation and detection in order to ensure greater efficiency in the discharge of their duties.

Investigative and Intelligence Services

The Investigative and Intelligence Services, including Regional and District Offices of the Bureau, received 12,480 cases in 2009, a slight increase of 3.4 percent from last year's 12,070 cases. It also rendered special and miscellaneous services to 53,335 cases.

The Bureau terminated 12,145 criminal cases, an increase of 6.1 percent from last year. Of these, 4,274 were recommended for prosecution. It has also located 237 subjects/persons by virtue of warrants/orders of arrests issued by different courts nationwide and through requests made to locate missing persons.

NBI experts in the fields of forensic medicine and chemistry, questioned documents, ballistics, polygraphy, dactyloscopy and investigative photography of 16,965 terminated cases with 1,729 court appearances. These include the examination and analysis of 43,954 specimens.

Clearances

In 2009, the NBI received and acted upon 4,677,580 applications for clearance or a daily average of 19,329. The NBI Clearance-on-Wheels has been further extended to universities and colleges of different cities and municipalities nationwide.

Challenges and Constraints

Resource limitations and constraints, such as the inability to replace old and outdated office and technical equipment as well as dilapidated office structures, remain to be challenges. Moreover, the NBI Marikina Satellite Office was not spared by Typhoon Ondoy that flooded Metro Manila in 2009. The records stored thereat were either damaged or destroyed.

Atty. Auralyn Pascual of the NBI's Management Planning and Audit Division likewise confirmed these resource constraints during the Validation Workshop where she cited the effect of insufficiency of funds on the Bureau's personnel. She revealed that in lieu of lawyers, the NBI is forced to hire professors, medical technologists and other professionals to do the Bureau's work due to budget constraints.

Likewise, due to budget constraints, the NBI is unable to construct additional infrastructure projects, or at the very least repair the existing dilapidated structures. In

fact, Atty. Pascual related how some NBI offices are not owned by the Bureau and are in danger of eviction.

For 2010, the NBI was appropriated a budget of P851,520,000.00.¹⁷³ In rare cases, the NBI receives additional but minimal funding from international organizations such as the Federal Bureau of Investigation (FBI) and the Australian Federal Police (AFP).

Atty. Pascual likewise identified the long queues at the NBI Clearance Section as a major problem despite the decentralization of the clearance processing to the field offices and kiosks and the existence of e-payment procedures. Every year, the Bureau noted, there is an increase in clearance applicants. In Carriedo alone, there are 12,000 applicants on an average day from January to March.

To increase public awareness of the services rendered and in compliance with the Anti-Red Tape Act of 2007, the NBI has implemented the Citizen's Charter. Its website also provides the public the basic services provided by the Bureau. At present, web enhancements are being undertaken to develop its use and capability to interact with more clients/people. These efforts are, however, hampered by budgetary constraints.¹⁷⁴ The Bureau also strives to conduct seminars/trainings on investigative techniques whenever requested by other law enforcement agencies and other government agencies. The Bureau, however, admits that it cannot pursue nationwide IEC seminars and trainings due to lack of personnel and financial resources.¹⁷⁵

To update its personnel on current human rights issues, the NBI invites resource persons from the CHR during its basic agents/special investigators training. However, the Bureau admits that it sorely lacks periodic/regular trainings on human rights for its agents/special investigators. There is also a need to increase its personnel. It cannot do so, however, because of the government's rationalization plan.

Despite the lack of resources, the NBI has created two divisions tasked to handle human rights cases: first, the Violence Against Women and Children Division (VAWCD), which is tasked to handle VAWC-related cases; and second, the Internal Affairs Division (IAD), which is tasked to investigate HR concerns. The NBI is also establishing child-friendly studios in all regional and district offices. It must also be mentioned that the NBI provides the necessary shelter to the beneficiaries of the Witness Protection Program. Additionally, the NBI also has organized the Environmental and Wildlife Protection Division, tasked to conduct operations against violations of environmental laws. The effectiveness of these programs is currently being monitored by the Management Planning and Audit Division (MPAD).

Lastly, Atty. Pascual considered the pending passage of the NBI modernization and reorganization bill as a challenge. The legislation is a very much-needed law which could solve the problems mentioned.

¹⁷³ 2010 General Appropriations Act.

¹⁷⁴ Based on the SWOT Analysis submitted by the NBI.

¹⁷⁵ *Id.*

Philippine Drug Enforcement Agency

For 30 years, RA No. 6425, otherwise known as the Dangerous Drugs Act of 1972, had been the backbone of the Philippine drug law enforcement system. Despite the efforts of various law enforcement agencies mandated to implement the law, the drug problem alarmingly escalated. The high profitability of the illegal drug trade, compounded by the then existing laws that imposed relatively light penalties to offenders, greatly contributed to the gravity of the problem.

Recognizing the need to further strengthen existing laws governing the Philippine drug law enforcement system, President Gloria Macapagal-Arroyo signed RA No. 9165, or the Comprehensive Dangerous Drugs Act of 2002, on June 7, 2002, which took effect on July 4, 2002. RA No. 9165 defines more concrete courses of action for the national anti-drug campaign and imposes heavier penalties to offenders.

The enactment of RA 9165 reorganized the Philippine drug law enforcement system. While the Dangerous Drugs Board (DDB) remains as the policy-making body, it created the Philippine Drug Enforcement Agency (PDEA) under the Office of the President. The new law also abolished the National Drug Law Enforcement and Prevention Coordinating Center, Philippine National Police–Narcotics Group (PNP-NARGRP), National Bureau of Investigation–Narcotics Unit (NBI-NU), and the Customs Narcotics Interdiction Office (CNIO). Personnel of these abolished agencies were to continue performing their tasks on detail service with the PDEA subject to a rigid screening process.

The PDEA is the agency primarily tasked with the enforcement of RA No. 9165. Atty. Valentina Asencio, Attorney III, Legal and Prosecution Service, discussed the strategies deemed necessary to accomplish PDEA’s medium-term development plan.

As of December 2009, the Agency had a total workforce of 1,207 personnel, comprising 3 presidential appointees, 999 organic personnel; 50 detailed PNP personnel; 1 detailed PPSC personnel; 10 detailed AFP personnel; 11 contractual employees; 11 case monitors; and 18 consultants.¹⁷⁶

In 2009, a total of 9,709 anti-drug operations, 3,765 buy-bust operations, 24 interdictions, 84 marijuana eradications, 469 search warrant servings, 109 warrants of arrest implemented; and 5,258 operations were conducted by PDEA.¹⁷⁷ These operations resulted in the arrest of 9,052 drug personalities and the filing of 7,714 drug cases in courts nationwide.¹⁷⁸ PDEA has also referred 209 cases to the Anti-Money Laundering Council (AMLC) in connection with its buy-bust operations.

¹⁷⁶ *Id.*

¹⁷⁷ 2009 Annual Report of the PDEA.

¹⁷⁸ *Id.*

**TABLE 5.5: PHILIPPINE DRUG ENFORCEMENT AGENCY
PROFILE OF REHABILITATED DRUG ABUSERS AND ARRESTED DRUG USERS (2009)¹⁷⁹**

	Profile of Rehabilitated Drug Abusers	Profile of Arrested Drug Abusers
Average Age	28 years old	30 years old
Ratio of male to female	10:1	8:1
Civil Status	Single	Single
Employment Status	Unemployed	Unemployed/Underemployed
Educational Attainment	High School level	High School level
Residence	Urban	Urban
Minors	24%	20%

PDEA has identified three major activities related to illegal drugs: cultivation of marijuana; manufacturing of shabu; and drug-trafficking. In February 2009, the Agency formulated and implemented the PDEA's three-year campaign plan from the period 2009-2012 entitled PDEA LOI No. 01-09: PDEA Campaign Plan "Bandila" dated February 27, 2009. The PDEA Campaign Plan "Bandila" provides concrete directions and framework, objectives, target goals and time line, strategy and plan of action that will orchestrate performance of operational mandates and efforts of the Agency and other government instrumentalities. It aims to significantly reduce the illegal drug problem in the country through relentless neutralization of drug personalities and syndicates; render local drug production infeasible and unsafe for producers; make the availability of illegal drugs discouragingly hard to find and too expensive for the market; make people aware of how the illegal industry thrives as well as the ill-effects of illegal drugs; and mobilize the citizenry to pressure drug personalities and collate towards submission.

The plan took effect in the third quarter of 2009 and became the rallying point of control, orchestration and management of all anti-drug efforts and activities of the Agency and its supporting units in other agencies.¹⁸⁰

PDEA also launched its Court Watch Project to monitor the status and developments of drug cases nationwide. This gives the management a better analysis of trends in prosecution, as well as points out specific witnesses, prosecutors or judges with recurring patterns of excuses and possible irregularities. Also included in the project is the strengthening of the legal capabilities of witnesses through the conduct of case conference and moot court activities.

To date, the Agency is monitoring a total of 105,492 drug cases nationwide. Out of this number, a total of 25,192 or 23.88 percent of drug cases have been resolved in courts which consequently led to the conviction of 7,622 drug suspects. The implementation of the project has significantly decreased the dismissal rate by 28.5 percent and the acquittal rate by 20 percent. Also, because of this project, 297 drug law enforcement officers are facing administrative/criminal cases.

PDEA is, however, concerned with a new strategy employed by drug-traffickers: the use of Filipinos as drug couriers. A drug syndicate often offers huge amounts of money to the couriers. The illegal drugs are hidden internally by ingesting or swallowing latex balloons or special capsules filled with illegal drugs. According to this study, this is a common but medically dangerous way of smuggling small amounts of drugs. A courier can die due to overdose if a packet bursts or leaks.

¹⁷⁹ *Id.*

¹⁸⁰ *Id.*

Other methods of concealment include: hiding the drugs inside shoes; strapping these to one's body; placing these in books, bottles of shampoo/coffee and parcels. As of November 12, 2010, PDEA has recorded 630 Filipino drug couriers who are already imprisoned abroad.¹⁸¹ Out of this number, 75 are in death row in China. PDEA admits that, in these cases, it is the Department of Foreign Affairs which is tasked to help these women.

There are also cases where children are being used as drug couriers. Drug syndicates have been taking advantage of RA No. 9344, or the Juvenile Justice and Welfare Act of 2006, which takes away the criminal liability of children 15 years old and below, who are caught violating the law.

Similar to other agencies, PDEA is constrained by the insufficiency of funds. In 2010, the Agency was appropriated a P502,474,000.00 budget. This is lower than the Agency's budget the year before. Because of this, PDEA has been creative in looking for sources of funds. They usually look for donors and align their projects with the thrust of such donors so that the programs may receive additional funding. PDEA has also observed that in other countries, properties of those convicted of drug-related cases are presumed to have proceeded from drug-related activities. These properties are then sold and a portion of the proceeds goes to the agency. If this were the case, Atty. De Guzman said that the Agency would have more money to fund its operations. However, here, any proceeds go directly to the national coffers.

National Police Commission

The National Police Commission (NAPOLCOM) is mandated by RA No. 6975, as amended, to exercise administrative control and operational supervision over the PNP. It is an attached agency to the Department of the Interior and Local Government (DILG) for purposes of program and policy coordination. It is a collegial body composed of a Chairperson and four regular commissioners. The DILG Secretary is the ex officio Chairperson of the Commission and the PNP Chief as ex officio member.

NAPOLCOM has seven staff services in its central office and 17 regional offices nationwide as follows: Planning and Research Services; Inspection, Monitoring and Investigation Service; Crime Prevention and Coordination Service; Installations and Logistics Service; Legal Affairs Service; Personnel and Administrative Service; Financial Service. The Commission also has a formal administrative disciplinary appellate machinery consisting of the National Appellate Board and the Regional Appellate Boards.

In accordance with its mandate to supervise the PNP, NAPOLCOM accomplished the following in 2009:

- Issued 723 resolutions and 3 memorandum circulars which provide the PNP with operational and administrative policies and guidelines;
- Approved 96 PNP equipment specifications out of 146 proposed standard specifications of various PNP supplies and materials and equipment that were reviewed and evaluated;
- Conducted technical inspection and physical inventory of police assets and properties at the PNP National Headquarters covering 38 offices/units;
- Inspected and audited 1,844 PNP offices/stations/units nationwide to determine the state of police personnel, activities and facilities;

¹⁸¹ ABS-CBN News, 630 Filipino "Drug Mules" in prisons overseas <<http://www.abs-cbnnews.com/video/global-filipino/11/11/10/630-filipino-drug-mules-prisons-overseas>> (last accessed Dec. 3, 2010).

- Monitored the following activities: extent of participation of 707 Local Chief Executives in police administration in their territorial jurisdiction; status of 8,352 administrative and 1,884 criminal cases involving uniformed police personnel which were recorded for disposition during the period under review. Of the recorded administrative and criminal cases, 2,668 administrative cases and 453 criminal cases were disposed of; alleged involvement of 380 police members in illegal activities, organized crimes and other forms of misbehavior as contained in 121 reports gathered from tri-media, walk-in complainants, letter-complaints and other sources; implementation of LOI Patnubay, Oplan Paglalansag, Police Visibility Program and WCCDs in 2,181 police stations; alleged human rights violations by 1,042 PNP members as indicated in 128 reports received through complaints, referrals from other agencies and other sources; and compliance with 700 PNP Offices/Units with NAPOLCOM inspections and audit recommendations;
- Acted on 1,559 complaints against erring PNP members out of 2,030 complaints received.

NAPOLCOM also formulated the new crime reporting form for the PNP named as “PNP Crime Incident Report Form” and the “Manual on PNP Crime Reporting System” to standardize the collection of data on police crime statistics. This has been implemented by the PNP since 2009. The following table will show the reported index and non-index crimes by region using the new system. Since this is a new crime reporting system, the crime data for 2009 was set as the baseline for future research, study and comparison. Hence, crime statistics in 2009 cannot be compared with the crime data obtained during previous years as the parameters are no longer the same.¹⁸²

**TABLE 5.6: PHILIPPINE NATIONAL POLICE
REPORTED INDEX AND NON-INDEX CRIMES BY REGION (2009)¹⁸³**

	Index Crimes			Non-Index Crimes			Total Crimes		
	Total	Cleared	Crime Clearance Efficiency (%)	Total	Cleared	Crime Clearance Efficiency (%)	Total	Cleared	Crime Clearance Efficiency (%)
Philippines	301,703	74,519	24.70	200,962	52,148	25.95	502,665	126,667	25.20
NCR	40,969	21,644	52.83	18,713	13,982	74.72	59,682	35,626	59.69
CAR	8,316	1,746	21.00	4,332	756	17.45	12,648	2,502	19.78
I	11,339	3,669	32.36	5,688	2,017	35.46	17,027	5,686	33.39
II	10,774	1,702	15.80	8,257	783	9.48	19,031	2,485	13.06
III	30,512	5,859	19.20	25,909	4,992	19.27	56,421	10,851	19.23
IV-A	28,116	6,536	23.25	19,496	4,266	21.88	47,612	10,802	22.69
IV-B	7,635	2,149	28.15	6,603	1,357	20.55	14,238	3,506	24.62
V	12,564	3,830	30.48	7,461	2,493	33.41	20,025	6,323	31.58
VI	31,413	2,724	8.67	23,612	2,044	8.66	55,025	4,768	8.67
VII	25,333	4,539	17.92	10,429	4,012	38.47	35,762	8,551	23.91
VIII	15,715	2,120	13.49	12,887	1,546	12.00	28,602	3,666	12.82
IX	9,612	2,709	28.18	11,558	2,078	17.98	21,170	4,787	22.61
X	27,240	3,418	12.55	18,000	2,140	11.89	45,240	5,558	12.29
XI	18,652	2,734	14.66	11,781	2,189	18.58	30,433	4,923	16.18
XII	12,337	5,492	44.52	9,326	4,503	48.28	21,663	9,995	46.14
XIII	7,966	1,855	23.29	4,315	1,116	27.02	12,281	3,021	24.60
ARMM	1,228	811	66.04	508	391	76.97	1,736	1,202	69.24
National Support Units	1,982	982	49.55	2,087	1,433	68.66	4,069	2,415	59.35

Source: Philippine National Police

¹⁸² See Note 1, Table 17.1 in NSCB, 2010 Yearbook, *supra* note 91, at 17-4.

¹⁸³ *Id.*

NAPOLCOM also formulates, for the approval of the President, an annual National Crime Prevention Plan (NCP) through the Inter-agency and Multi-sectoral Technical Committee on Crime Prevention and Criminal Justice (TCCPCJ). The NCP consists of the action programs and strategies for implementation by the five pillars of the Criminal Justice System, non-government agencies and local government units.

Because it involves the five pillars, NAPOLCOM focuses on inter-pillar coordination in order to reduce crime levels, deter criminal activities, increase community safety, and minimize the occurrence of anti-social behavior. The strengthening of this inter-pillar coordination, collaboration, and linkage is achieved primarily through sustaining consultative processes, utilizing information and technology exchanges, and managing crime prevention programs and projects. As an example, Director Myrna Medina, Staff Service Chief of the NAPOLCOM's Crime Prevention and Coordination Service, illustrated how the reported crime levels increased when the PNP implemented an enhanced system of recording and gathering information from other law enforcement agencies. Prior to this move by the PNP, a lot of crimes remained unreported.

During the Validation Workshop, Director Medina likewise identified the top five issues that affect the performance of organizations in the Criminal Justice System: (1) limitations on resources; (2) program coverage and priorities; (3) lack of personnel; (4) public involvement; and (5) political interference and corruption. As a whole, the main problems of the entire Criminal Justice System are poor linkages and relationships among the five pillars, and their minuscule capability coupled with a poor image to face a caseload that is rapidly piling up.

The key strategies for the entire Criminal Justice System include: strengthening and upscaling inter-pillar collaboration and coordination, institutional strengthening of the NAPOLCOM's structure on crime prevention, sustaining active community engagement in crime prevention, having a broadened spread/reach of information dissemination, and advocacy and support for CJS reforms.

Director Medina also identified key strategies for each pillar. For example, the law enforcement pillar's core objective is to have adequate resources through increase in budget allocation; and the implementation of a transformation program that upholds meritocracy and undertakes policy review as essential input to the decision making process. The prosecution pillar's core objective is to have a well-managed case flow process achieved through adequate training and well-compensated prosecutors; training for police to enhance investigative capability; and improved coordination with the police. For the courts, the core objective is to have a sufficient budget achieved through the passage of new laws which enhance financial independence. The corrections pillar's core objective is to improve its services, through mobilization of funding institutions for educational and livelihood programs which provide jobs for inmates, cause the implementation of a unified and coordinated rehabilitation system, and eventually lead to the creation of a Department of Corrections. The community's core objective is to have a higher level of participation achieved through the adoption of consultative processes and mechanisms with stakeholders; provision of adequate resources that support CJS in the formal education system; and values reorientation of leaders.

In addition, each pillar has its own flagship programs. The law enforcement pillar has the PNP's Integrated Transformation Program. The prosecution pillar has a Prosecution, Law Enforcement and Community Coordinating Service (PROLECCS) which involves a one-day conference-dialogue in selected provinces and the eventual organization of PROLECCS at the regional level. The courts pillar has its Access to Justice program, which is a mix of smaller programs aimed at bringing the

judiciary to the people. The corrections pillar has a jail decongestion program, which includes advocacy for the passage of the Release on Recognizance Bill, passage of the Aggabao Bill, revision of the Memorandum of Agreement on Jail Decongestion, and integration of BJMP and provincial jails under one department. It also includes the establishment of youth detention homes in all local government units and advocacy programs for the rights of the prisoners. Lastly, the community pillar has programs which accord official recognition of the exemplary performance of the CJS pillars, and programs which aim to educate people about the pillars and how they work.

NAPOLCOM has also monitored and processed crime statistical reports and the Complaints Standard Reporting Format for Women and Children Concerns Desk submitted by different police offices/stations/units nationwide.

In 2009, NAPOLCOM likewise published and distributed the “Police Manual on the Management of Cases of Children in Conflict with the Law (CICL).” It has also conducted seminars and awareness drives on crime and drug abuse prevention and control in various schools and barangays nationwide.

2. Response to Summit Issues

Forum on Increasing Access to Justice

As the primary institution for law enforcement and maintenance of peace and order, it is vital for the PNP to make its services accessible to the public. To make the law enforcement pillar more accessible to the public, the PNP enhanced police visibility on the ground. Through its Capability Enhancement Program, it intends to recruit more police officers, construct and repair police stations and facilities, and acquire modern police equipment.

In addition, police stations were upgraded to function as community peace and development centers. In connection with this, Model Police Stations were established. These model stations are well-equipped and manned by highly trained and disciplined personnel for better services to the community. The PNP likewise launched the “*Quality Service Lane*” in seven pilot police stations as a standard of efficient service.

The PNP also created Complaint Referral Action Centers (CRAC) to better facilitate the prompt receipt of, and action on, complaints of violations and offenses. It has also set up Alert 24/7 as the legal hotline for inquiries on police operations. For its part, the NBI strives to provide accessible and user-friendly services through its Public Assistance Center, NBI Hotline, and Complaints and Recording Division Alert Duties.

To encourage the community to be vigilant in keeping the community safe and secure, the Local Anti-Criminality Action Programs and LOI Payapa decentralized the formulation and implementation of strategies to support patrol, investigation and internal security operations at the local setting. The PNP also formed Barangay Peace-Keeping Action Teams (BPAT) for peace and order maintenance in the barangays.

For faster and more efficient delivery of Service, the NBI prioritized (1) the acquisition of state-of-the-art equipment to enhance operational capability and (2) the upgrade of its records system and database. Pursuant to these, the NBI initiated the establishment of an Automated Fingerprint Identification System (AFIS) database; Integrated Ballistics Identification System (IBIS); dental records database; and a national DNA database. Case monitoring and records procurement are made easier through the computerization of records into paperless records. This is

complemented by the provision of an online quick search of case status, monitoring and documents tracking; and the launching of the SIStem, which is a paperless case monitoring and tracking system.

The PDEA has launched its Court Watch Project (the “Project”) to monitor drug cases nationwide. Part of the Project is the strengthening of legal capabilities of witnesses through case conference and moot court activities. It has also commenced the program called *Operation “Private Eye”* to encourage participation of citizens by reporting illegal drug operations. The Agency also forged a memorandum of agreement with LGUs for the establishment of Barangay Anti-Drug Councils.

The NAPOLCOM has put up Action Centers and spearheaded the establishment of a composite group of the DILG network for receipt of complaints against erring police officers.

To lessen the cost for complainants, the PNP and the NBI maintain public hotlines and provide online services. The NBI makes use of technology for quick and less expensive case monitoring and document tracking.

The law enforcement agencies have also initiated various programs aimed at making their officers/agents/representatives more sensitive to the concerns of the poor. The PNP published the Information, Education, and Communications (IEC) Materials on Rights-Based Policing including development of Rights-Based Policing Training Video. Human Rights Desk Officers conduct inspection of PNP custodial facilities. The PNP also holds various seminars and workshops such as Training of Trainers on Human Rights, Seminar-Workshops on Strategic Planning for PNP Human Rights Development Program, Forum-Workshop for PNP Human Rights Desk Officers, Two-Day Human Rights Deepening Seminars, Two-Day Human Rights Deepening Seminars for QUAD Officers, and Human Rights-Based Forum for Top Level PNP Officers. The Human Rights Affairs Office of the PNP carries out the mainstreaming of human rights policies, programs and projects.

Human rights advocacy is also given focus for the protection of basic rights and civil liberties of the citizens, including suspects and convicted criminals. The PNP has established Human Rights Desks in police stations nationwide. Further, a human rights-based policing committee and a project management team for human rights-based policing were created. The PNP has also issued a directive prohibiting the presentation of suspects to media.

To increase awareness of the public and claimholders, the PNP has launched a Public Information Advocacy, which consists of activities such as stakeholder’s forum, Transformation Caravan, *Pulong-Pulong*, *Ugnayan*, Transformation Forum, community awareness lectures on public safety, gender awareness, among others. The PNP also leads community-based dialogues on human rights to gather insights and concerns at the local level. For broader dissemination, the PNP makes use of the tools of media through a PNP radio program called “*Pulis at Your Serbis*” and a PNP television program called “*Talakayan sa Isyung Pulis*.”

PDEA has a Campaign Plan, which raises the people’s awareness on illegal drugs, while the NAPOLCOM continues the PROLECCS, a project implemented together with the prosecution pillar, which involves a one-day conference-dialogue in selected provinces.

National Summit on Family Courts

Making its facilities suited to the special needs of women and children, the NBI plans to establish women and children-friendly investigation studios in all regional and district offices. It has also created two divisions specifically tasked to handle human rights cases: the Violence Against Women

and Children Division for VAWC-related cases and the Internal Affairs Division for investigation of human rights concerns.

The PNP has issued a Memorandum Circular directing Women and Children's Desk Officers to perform the dual function of investigator and complainant in cases where none of the family and relatives is willing to file a criminal complaint in behalf of the child.

The PNP, in coordination with DSWD, has also issued a Guide for Media Practitioners on the Reporting and Coverage of Cases Involving Children. This directive prohibits the presentation of suspects to media, including CICL. Other PNP activities aligned with this are the RTD on Intervention for Children Who Sexually Abuse Other Children, Law Enforcement Administration of Juvenile Justice, and Women and Children Protection Program.

The law enforcement agencies also give regular training workshops on Gender and Development, Magna Carta for Women, Standard Reporting System for WCPD, Women's Month celebration, and Men Opposed to Violence Against Women Everywhere seminar.

The NAPOLCOM has published the Police Manual on the Management of Cases of CICL and a PNP Manual on Dealing with Juvenile Offenders. It has also implemented the Women and Children Standard Reporting System.

National Consultative Summit on Extrajudicial Killings and Enforced Disappearances

To address the issues raised during the EJK Summit, the AFP has created the AFP Human Rights Office to institutionalize its efforts to strengthen awareness by the armed forces of human rights and international humanitarian law principles. The PNP has also institutionalized Human Rights Desks in police stations nationwide. The NBI provides a halfway house for Witness Protection.

The AFP has also published the AFP Human Rights and International Humanitarian Law Handbook. Furthermore, it has incorporated principles of human rights law and international humanitarian law in its Internal Security Operations. To complement these publications, the AFP conducts In-House or In-Service Troop Information and Education. The AFP has also launched *Oplan Bantay Laya II*, which embodies HR and IHL policies in the Standing Rules of Engagement. This, however, is currently suspended.

Forum on Environmental Justice

The NBI has established the Environmental and Wildlife Protection Investigation Division. It also continuously implements the Memorandum of Agreement ("MOA") with the Department of Environment and Natural Resources for the protection of wildlife. The PNP has similarly entered into a MOA with the LGUs and other concerned agencies for the implementation of administrative laws focusing on environmental justice. The PNP also heightens awareness of environmental concerns through its programs such as Earth Hour 2009, *Takbo Para sa Kalikasan*, and PNP *Scubasurero*.

3. Analysis

The lack of resources has been the major challenge for the agencies under the law enforcement pillar. Even if agencies such as the PNP receive a considerable amount from the national budget, this remains insufficient to answer for the increasing needs of the community for peace and order. Thus, agencies resort to external funding from other organizations in order to meet the growing needs of the community. However, these agencies may not always be successful in procuring such

external funding. This often leaves out projects, though highly beneficial to the community, to be unimplemented as agencies begin to prioritize.

This lack of resources consequently results into another challenge that agencies in the law enforcement pillar face – the lack of facilities. Undeniably, the lack of facilities has been a source of problems in the law enforcement agency. The state of the country's facilities is still not at par with its foreign counterparts.

Moreover, as discussed, the increasing demand for more law enforcers is inevitable with the increasing population. As it is, the country's population rate has grown acutely. However, the number of law enforcers has not grown that much. In its ITP, the PNP desires to achieve a ratio of one police officer for every 500 population. This means that in order to meet this target, the number of police personnel has to grow exponentially as well if population growth is not addressed.

Coordination between law enforcement agencies is also something that is much left undone. Ideally, each law enforcement agency should be able to easily tap information from one another in monitoring crimes and movement of criminals. However, such coordination has been slow and there exists no single database for these agencies to use in addressing crimes.

Further, the role of the local governments has always been crucial in the peace and order situation. The extent of control of local government units over the police remains to be a problem. The extent of the local government's role in policing functions is still vague and highly subject to politics.

Anti-corruption efforts are also well under way for the law enforcement pillar. Based on the SWS surveys, the pillar has seen improvements in their perception. However, such rating remains to be poor. Images of the corrupt cop are not easily erased from people's minds and thus, the pillar has to continually endeavor to transform this perception.

Programs and plans of the law enforcement agencies are very ideal and indeed transformative. However, much of the transformation happens at the top levels and at headquarters. Admittedly, the PNP, in their SWOT Analysis, recognizes that there is resistance to change and often, such changes have not fully cascaded to all units. Thus, the ability to let these changes in the system reach the grassroots of every community continues to be a challenge for the law enforcement agencies and a major factor in the success or failure of such plans.

With respect to their response to the issues raised in the four Summits, it can be seen that their programs focus mostly on access to justice issues. Very few programs promote environmental justice.

Specifically, the programs are geared towards improvement of physical access and heightening of sensitivity of the law enforcers. But while the agencies have extensive programs and activities meant to train law enforcement officers, and build their awareness on human rights and the needs of women and children, there are other sectors of the society whose needs require special redress such as the poor and marginalized, indigenous peoples, and persons with disabilities.

4. Recommendations

PNP's ITP presents a comprehensive and holistic approach to reform the PNP with its assessment of its present institutional framework, policies, systems, structures, and procedures. An isolated approach in the design of the Program was avoided. Its vision, goals, and targets, as well as its

specific programs, projects, and activities were actually formulated to support the achievement of the overall reform objective for the entire Criminal Justice System to be able to provide speedy, impartial, and accessible justice. The Program's design also aims to support achieving the PNP reform goal of enhancing delivery of peace and order and public safety services within the context of an improved public trust and confidence in the Criminal Justice System.

Continuing this program is essential. However, as stated above, the leaders should ensure that whatever changes will be implemented will reach the grassroots level. This may require coordination with the local government unit and setting out a clear definition of its role in local law enforcement. Politics among the ranks must be minimized if not completely removed. Independence of the police force, especially at the local level, must be maintained and a clear system of accountability be set in place.

Improvement of information channels to change public perception about the police should also be undertaken. If the community perceives the law enforcer as an ally rather than a possible enemy or cohort of a criminal, there will be more coordination and cooperation in the reporting and solving of crimes.

And because resources are admittedly limited, integration of functions may be in order. There are overlaps in the functions of the PNP, NBI, and PDEA. Although rationalization has been implemented or is being implemented in these agencies, a review of their functions is still necessary in order to conserve limited resources. Specialization of the agency's functions instead of further broadening is also recommended.

A creation of an integrated crime management information system to be shared by the law enforcement agencies would also be necessary to further improve the criminal justice system.

B. Prosecution Pillar

Tasked with the burden of prosecuting offenses, the prosecution pillar is composed of the National Prosecution Service of the Department of Justice, the Public Attorney's Office, and the Office of the Ombudsman.

1. Existing Capacities

Department of Justice–National Prosecution Service¹⁸⁴

Acting as the legal counsel and principal law agency of the government, the Department of Justice (DOJ) has responded well to the challenges of the time by implementing programs directed towards strengthening the institution, improving public service delivery, and protecting the rights of the people.

The National Prosecution Service (NPS) is mandated to assist the Secretary of Justice in the performance of powers and functions of the Department relative to its role as the prosecution arm of the government, particularly, the investigation and prosecution of criminal offenses. The said

¹⁸⁴ Based on the Annual Accomplishment Report of the Department of Justice 2009 <<http://www.doj.gov.ph/files/2009Annual.pdf>> (last accessed Nov. 7, 2010).

mandate and present NPS organization is contained in PD No. 1275,¹⁸⁵ as amended, and EO No. 292, Administrative Code of 1987.

By the end of CY 2009, the NPS has 14 regional offices with around 200 constituent offices and 100 suboffices for the 136 cities and 80 provinces nationwide. During the same period, the NPS was manned by 1,908 prosecution officers (prosecutors and prosecution attorneys) out of the existing 2,406 plantilla positions (498 or 21% vacancies) and 1,643 administrative support staff out of 1,945 plantilla positions (302 or 16% vacancies). The said NPS personnel were augmented by around 1,000 support staff provided by local government units (LGUs) and other sources.

As shown in Table 5.7, the overall vacancy rate for prosecution officers, while decreasing through the years, remains high due to lack of applicants in many areas and delays in recruitment and appointment. For the support staff, vacancies have increased significantly as a result of the government rationalization program.

**TABLE 5.7: NATIONAL PROSECUTION SERVICE
CY 2005-2009 OPERATIONS STATISTICS: PLANTILLA POSITIONS¹⁸⁶**

Particulars	2005	2006	2007	2008	2009
<u>Prosecution Officers</u>					
Plantilla Positions	2,305	2,398	2,403	2,404	2,406
Filled Positions	1,397	1,584	1,728	1,827	1,908
Vacant Positions	908	814	675	577	498
Vacancy Rate	39%	34%	28%	24%	21%
<u>Support Staff</u>					
Plantilla Positions	1,796	1,945	1,945	1,945	1,945
Filled Positions	1,678	1,751	1,713	1,687	1,643
Vacant Positions	118	194	232	258	302
Vacancy Rate	7%	10%	12%	13%	16%

Source: DOJ Personnel Division

In 2009, based on available statistics from reports of prosecution offices nationwide, it is estimated that the NPS handled a total of 350,000 cases for preliminary investigation. This constitutes the bulk of the workload of prosecution officers (this figure does not include pleadings and reopened cases such as motions, petitions for review, and court orders). With 1,908 prosecution officers by the end of 2009, the prosecutor-case ratio relative to preliminary investigation can be calculated to an average of one prosecution officer handling 183 cases for the entire year. Out of the said preliminary investigation case load, an estimated 74 percent or 260,000 cases were resolved.

As shown in Table 5.8, the case load and disposition figures for 2009 are significantly lower than those of the previous years. This is due to the new docketing and reporting systems implemented during the year which rationalized the way investigation cases are assigned docket numbers and statistically reported.

¹⁸⁵ Reorganizing the Prosecution Staff of the Department of Justice and the Offices of the Provincial and City Fiscals, Regionalizing the Prosecution Service, and Creating the National Prosecution Service, Presidential Decree No. 1275 (1978).

¹⁸⁶ Planning and Statistics Division of the Planning and Management Service, Department of Justice.

**TABLE 5.8: NATIONAL PROSECUTION SERVICE
CY 2005-2009 OPERATIONS STATISTICS: PRELIMINARY INVESTIGATION CASE LOAD AND DISPOSITION¹⁸⁷**

Particulars	2005	2006	2007	2008	2009
<u>Case Load</u>					
Total	391,382	406,243	393,521	415,535	337,008
Average per prosecutor	280	256	228	227	177
<u>Disposition</u>					
Resolved Cases	298,147	317,602	312,153	320,806	251,071
Disposition Rate	76%	78%	79%	77%	75%
<u>Pending Cases</u>	93,235	88,641	81,368	94,729	85,937

Source: Reports of the Prosecution Offices as of September 30, 2010 (2009 reports still incomplete)

Besides the said investigation work load, around 900,000 to 950,000 criminal cases were prosecuted or represented in the first and second level trial courts in CY 2009 as shown in Table 5.9. This is based on the data provided by the Supreme Court. Thus, an average of one prosecutor handles 472 to 498 court cases (this figure does not include civil/family court cases investigated by prosecutors as deputized representatives of the Solicitor General).

**TABLE 5.9: NATIONAL PROSECUTION SERVICE
CY 2005-2009 OPERATIONS STATISTICS: CRIMINAL CASES IN LOWER COURTS¹⁸⁸**

Particulars	2005	2006	2007	2008	2009
Total Case Load	1,187,690	1,120,184	1,073,776	1,053,744	990,467
Average per prosecutor	850	707	621	577	519

Source: Court Management Office, Office of the Court Administrator

In the Annual Report for 2009 of the DOJ, the NPS identified various organizational issues and concerns that hamper the performance of the NPS. The primary concern is severe personnel deficiency for many prosecution offices nationwide due to the many vacancies and/or the inadequate plantilla positions as against the workload and the number of courts. Inadequate physical and logistical resources as well as internal management constraints/weaknesses have also been pointed out as factors affecting performance.

Public Attorney's Office¹⁸⁹

The principal free legal aid office of the Philippine Government is the Public Attorney's Office (PAO). On March 23, 2007, RA No. 9406¹⁹⁰ was signed into law. RA No. 9406 or the PAO Law provides for the upgrading of salaries and allowances for public attorneys equivalent to their counterpart in the National Prosecution Service. RA No. 9406 further reorganized the PAO with the creation of 359

¹⁸⁷ *Id.*

¹⁸⁸ Source: Planning and Statistics Division of the Planning and Management Service, Department of Justice.

¹⁸⁹ Public Attorney's Office, Annual Accomplishment Report for the Year 2009 <<http://www.pao.gov.ph/78/Accomplishment-Report-2009:-Narrative-Report>> (last accessed Dec. 4, 2010)

¹⁹⁰ An Act Strengthening and Reorganizing the Public Attorney's Office (PAO), Amending for the Purpose Pertinent Provisions of Executive Order No. 292, otherwise known as the "Administrative Code of 1987," as amended, Granting Special Allowance to PAO Officials and Lawyers, and Providing Funds Therefor [The PAO Law], Republic Act No. 9406 (2007).

new lawyer positions and 164 new support personnel positions complementing the 1,047 present public attorneys and 802 support personnel.

At present, PAO has 17 regional offices and 274 district and subdistrict offices. Most of the offices are situated in the Halls of Justice nationwide along with the courts and other offices involved in the administration of justice.

As of December 2009, PAO has 1,407 lawyers, who actively handle criminal and civil cases before 2,182 courts nationwide, and about 29 lawyers who devote themselves on appealed cases before the Court of Appeals, the Supreme Court, and the Office of the President. Below is a table indicating the number of existing offices and assigned lawyers in each region, and its proportionate ratio to existing courts therein.

**TABLE 5.10: PUBLIC ATTORNEY'S OFFICE
RATIO OF PAO LAWYERS TO COURTS PER REGION (2009)¹⁹¹**

Region	District Offices	PAO Lawyers	Courts	Ratio
Central Office		122	NA	NA
National Capital Region	15	249	338	1.38
Cordillera Administrative Region	10	38	65	1.71
I: Ilocos Region	21	82	140	1.71
II: Cagayan Valley	13	61	101	1.65
III: Central Luzon	26	94	209	2.22
IV-A: CALABARZON	31	105	234	2.29
IV-B: MIMAROPA	10	46	62	1.35
V: Bicol Region	19	61	149	2.44
VI: Eastern Visayas	17	95	160	1.68
VII: Central Visayas	22	76	151	1.99
VIII: Western Visayas	24	83	133	1.60
IX-A: ARMM	2	28	83	2.96
IX-B: Zamboanga Peninsula	13	48	75	1.56
X: Northern Mindanao	19	73	81	1.11
XI: Davao Region	11	54	82	1.52
XII: SOCCSKSARGEN	10	55	64	1.16
XIII: CARAGA	11	37	55	1.49
TOTAL	274	1,407	2,182	1.55

The introduction of district offices in different regions of the country complements the agency's mission to provide litigants free access to courts, judicial and quasi-judicial agencies by rendering legal assistance.

It is also worthy to mention that aside from handling criminal and civil cases, PAO lawyers are likewise mandated to handle: (1) preliminary investigation of cases before the Office of the Public Prosecutor; (2) labor cases before the National Labor Relations Commission; (3) administrative cases before administrative bodies like DARAB, PRC, COMELEC, Bureau of Customs, DECS, PLEB, Insurance Commission, etc. This contributes to the heavy case load of PAO lawyers. Table 5.11 shows the various services rendered by PAO to its clientele.

¹⁹¹ PAO, 2009 Annual Report, *supra* note 191.

TABLE 5.11: PUBLIC ATTORNEY'S OFFICE
CLIENTELE ASSISTED BY THE PUBLIC ATTORNEY'S OFFICE ACTIVITIES/SERVICES (2006 TO 2009)¹⁹²

Type of Activities/ Services	2006	2007	2008	2009	Growth Rates		
					06-07	07-08	08-09
Indigent Persons Served*	4,609,627	4,382,611	4,839,988	4,154,587	(4.9)	10.4	(14.2)
Regular Services	656,342	493,962	560,843	499,111	(24.7)	13.5	(11.0)
Criminal	516,067	374,362	424,661	377,978	(27.5)	13.4	(11.0)
Civil	59,354	51,542	54,530	48,707	(13.2)	5.8	(10.7)
Administrative Cases	16,949	6,871	8,169	7,134	(59.5)	18.9	(12.7)
Prosecution	37,034	42,630	51,628	45,894	15.1	21.1	(11.1)
Labor	26,938	18,557	21,855	19,398	(31.1)	17.8	(11.2)
Appealed Cases	6,729	6,939	7,570	8,058	3.1	9.1	6.4
Women clients	63,832	79,050	80,698	69,404	23.8	2.1	(14.0)
Children in Conflict with Law	16,436	19,125	17,565	14,785	16.4	(8.2)	(15.8)
Limited Services	746,204	652,467	729,643	492,687	(12.6)	11.8	(32.5)
Arraignment	286,830	181,945	196,585	123,925	(36.6)	8.0	(37.0)
Pre-trial	119,892	122,988	142,697	81,130	2.6	16.0	(43.1)
Promulgation	72,053	76,019	103,381	38,067	5.5	36.0	(63.2)
Others	267,429	271,515	286,980	249,565	1.5	5.7	(13.0)
Non-Judicial Services	2,592,082	2,595,862	2,805,423	2,480,313	0.1	8.1	(11.6)
Legal Documentation	799,361	860,799	868,838	714,474	7.7	0.9	(17.8)
Clients Counseled	1,041,952	1,010,092	1,128,017	912,239	(3.1)	11.7	(19.1)
Oaths Administered	332,000	276,299	392,512	530,451	(16.8)	42.1	35.1
Mediation	418,769	448,672	416,056	323,149	7.1	(7.3)	(22.3)
Outreach Activities	528,002	535,206	638,246	590,229	1.4	19.3	(7.5)
Custodian/ Inquest Investigation	146,453	147,329	182,445	117,840	0.6	23.8	(35.4)
Jail Visitation	381,549	387,877	455,801	389,811	1.7	17.5	(14.5)
Prisoners Interviewed	208,839	208,572	232,968	178,168	(0.1)	11.7	(23.5)
Prisoners Provided Assistance	172,710	179,305	222,833	211,643	3.8	24.3	(5.0)
Barangay Outreach	–	–	–	60,698	–	–	–
Jail Decongestion Program	–	–	–	12,653	–	–	–
Office of the CPA	–	–	–	9,227	–	–	–

* Includes judicial and quasi-judicial cases;

Source: Public Attorney's Office

¹⁹² Data from the National Statistical Coordination Board.

Table 5.11 also shows how PAO's Free Legal and Medical Jail Visitation and Decongestion Program has contributed to the decongestion of jails nationwide. In 2007, a total of 86,593 clients of the PAO were either acquitted, released from confinement or otherwise obtained favorable dispositions of their criminal cases. In 2008, there were 81,966 accused; in 2009 there were 118,619 accused who regained their freedom through the free legal assistance provided by the PAO.

The PAO aims to increase the number of its lawyers to a ratio of one PAO lawyer to one court. While the following table shows that plantilla positions have been filled, PAO faces a high turnover of PAO personnel. These personnel either transfer to private firms or to other government agencies such as the NPS.

TABLE 5.12: PUBLIC ATTORNEY'S OFFICE PLANTILLA POSITIONS (2009)¹⁹³

	Authorized	Filled	Unfilled
Lawyers	1,407	1,407	0
Support Personnel	966	966	0
Total	2,373	2,373	0

**TABLE 5.13: PUBLIC ATTORNEY'S OFFICE
NUMBER OF PAO LAWYERS AS OF SEPTEMBER 30, 2010**¹⁹⁴

Region	Authorized Position	Filled Position	Unfilled Position
Central Office	103	103	0
NCR	259	259	0
I	82	82	0
II	60	60	0
CAR	48	48	0
III	93	93	0
IV-A	117	117	0
IV-B	33	33	0
V	62	62	0
VI	95	94	1
VII	76	76	0
VIII	83	83	0
ARMM	28	28	0
Zamboanga	48	48	0
X	73	73	0
XI	54	54	0
XII	54	54	0
CARAGA	39	39	0
Total	1,407	1,406	1

¹⁹³ PAO, 2009 Annual Report, *supra* note 191.

¹⁹⁴ Taken from Public Attorney's Office.

The high turnover rate of PAO lawyers is primarily due to the following reasons:

- (1) Resignation to engage in private law practice;
- (2) Transfer to the National Prosecution Service;
- (3) Transfer to the judiciary;
- (4) Transfer to other government-owned and -controlled corporations;
- (5) Heavy workload; and
- (6) No attractive retirement benefits.

Due to uncompetitive compensation package and allowance given to its personnel, the PAO has difficulty maintaining its roster of lawyers. With the recent upgrading of salary grades for lawyers in the agency pursuant to the PAO Law (RA No. 9406), the PAO is hopeful to retain most of its lawyers in the service until retirement age, more or less.

On the average, a PAO lawyer is assigned to two to four courts while a prosecutor is assigned only to one court. The PAO has only 1,407 authorized plantilla positions for lawyers. This unfair advantage in the number of prosecutors over PAO lawyers is due to the provision of PD No. 1275, as amended by PD No. 1513, which states that “whenever there is an increase in the number of court salas, there shall be a corresponding increase in the number of assistant provincial/city fiscal positions at the ratio of two fiscals to a sala.”¹⁹⁵

The current case load of one PAO lawyer is 388 cases. However, based on the table below, the average case load of PAO lawyers, including judicial and non-judicial cases, is 2,219. The number of cases involving VAWC totalled 64,343. Meanwhile, those involving CICL total 12,577. The number of clients assisted as of August 2010 is 3,112,265.

**TABLE 5.14: PUBLIC ATTORNEY’S OFFICE
NUMBER OF CASES INVOLVING INDIGENTS PER REGION (JANUARY TO AUGUST 2010)¹⁹⁶**

Regions	Criminal	Admin. II (Prosecutor’s Office Cases)
NCR	77,803	13,409
CAR	3,836	261
Region I	13,156	1,343
Region II	5,883	1,105
Region III	58,410	6,793
Region IV-A	82,298	4,340
Region IV-B	6,878	341
Region V	13,027	2,424
Region VI	16,233	3,909
Region VII	15,301	857
Region VIII	4,570	965

¹⁹⁵ Amending Presidential Decree No. 1275 Entitled “Reorganizing the Prosecution Staff of the Department of Justice and the Offices of the Provincial and City Fiscals, Regionalizing the Prosecution Service and Creating the National Prosecution Service,” Presidential Act No. 1513, §3 (1978).

¹⁹⁶ Taken from Public Attorney’s Office.

Region IX-A	2,461	103
Region IX-B	7,037	542
Region X	11,529	1,585
Region XI	12,021	1,019
Region XII	10,824	1,146
CARAGA	5,184	3,653

In addition, the PAO cannot sufficiently address issues on access to justice because it does not have a Witness Protection Program. Hence, PAO has suggested that Congress needs to amend the law.¹⁹⁷

Office of the Ombudsman¹⁹⁸

Since the Office of the Ombudsman (OMB) is mandated under the Constitution to act on any complaint submitted to it, in whatever form it may be, it is common place for the OMB to find itself inundated by complaints. These complaints need to be investigated in order to determine which of them warrant further fact-finding investigation and prosecution. In 2009 alone, a total of 12,736 complaints have been received by the OMB. Although this number is slightly lower than the number of complaints received the previous year, it is still higher than the average annual number of complaints received from 2005 to 2008. More than half of these complaints are now undergoing fact-finding investigation. The number also includes around 3,700 criminal and 3,500 administrative cases docketed by OMB offices nationwide. These cases are now undergoing preliminary investigation and/or administrative adjudication. (Please refer to the table below for the number of complaints received by the OMB from CY 2006-2009.)

**TABLE 5.15: OFFICE OF THE OMBUDSMAN
NUMBER OF COMPLAINTS RECEIVED BY THE OMBUDSMAN (2006-2009)**

No. of complaints received per calendar year	2006	2007	2008	2009
Complaints received annually	13,602	10,824	13,225	12,736
Monthly Average (<i>annual number of complaints divided by 12 months</i>)	1,134	902	1,102	1,061
Daily Average (<i>monthly average number of complaints divided by 22 working days</i>)	52	41	50	48

As of December 31, 2009, the OMB has a total of 1,073 personnel nationwide: 320 (30%) of which are lawyers, and the remaining 753 (70%) comprising investigators, other technical staff (legal researchers, accountants, IT personnel, etc.) and administrative support staff, almost half (48%) of whom are stationed at the Central Office. It also appears that one lawyer is assigned 40 cases annually. The OMB has raised its concern on the need to increase its plantilla to accommodate the number of complaints they receive each year. Another difficulty encountered by the OMB is the non-cooperation of certain important witnesses. Also, relevant documents are not always available. Furthermore, the Office of the Special Prosecutor (OSP) observed that it takes other agencies more

¹⁹⁷ Based on the SWOT Analysis submitted by the Public Attorney's Office.

¹⁹⁸ Office of the Ombudsman, Annual Report 2009 of the Office of the Ombudsman <<http://www.ombudsman.gov.ph/docs/statistics/ANNUAL%20REPORT%202009.pdf>> (last accessed Nov. 8, 2010).

time to comply with the subpoena their office issues. The OSP mandate is impeded by existing rules, practice, and organizational structure to that of reinvestigation and resolution of motions for reconsideration of probable cause finding made by other area/sectoral offices.

The OMB has placed at least 80 government officials and employees under preventive suspension. The OMB also continues to impose disciplinary actions against erring government officials and employees. In 2009, hundreds were found administratively liable for various offenses and were meted out penalties ranging from reprimand to dismissal from the service with the accessory penalty of forfeiture of benefits and perpetual disqualification to hold public office.

Upon finding of probable cause, the OMB has filed criminal cases against public officials and employees before the appropriate court. In 2009, the OMB filed a total of 189 Informations before the Sandiganbayan. Among those charged were a former congressman, city and municipal mayors, assistant secretaries and state university presidents. In the same year, the OMB posted a 30.34 percent conviction rate, which is higher than the average annual conviction rate from 2001 to 2007. Among those prosecuted by the OMB and convicted by the Sandiganbayan in 2009 were mayors, municipal treasurers, registers of deeds, a state university president, and a provincial prosecutor.

The OMB has implemented various programs, projects and activities pursuant to its three-pronged approach: enforcement of anti-graft and corruption laws; corruption prevention and public assistance; and anti-corruption education and promotion. For years now, the OMB has been implementing the *Integrity Development Review* (IDR). The IDR is used to assess the robustness of corruption-resistance mechanisms and identify the vulnerabilities to corruption of government agencies. To date, a total of 18 government agencies have undertaken the IDR. In late 2009, plans were drawn up to bring the IDR to local government units beginning 2010 with funding support from the USAID.

The OMB Citizen's Charter, finalized in 2009, showcases key frontline procedures of the OMB intended to provide meaningful, responsive, and relevant service by OMB personnel. It provides simple and user-friendly step-by-step guides on how to avail of such services by enabling the public to walk through the procedures and standards set by the Office. These guides are printed in tarpaulins and prominently displayed within the OMB Central Office.

The OMB incessantly strives to strengthen the capabilities of its employees to meet the demands of its mandate and programs. However, available training opportunities are very limited and do not really answer the on-the-job and developmental needs of the employees. The OMB makes sure, however, that newly hired personnel are given training and the old ones re-trained to keep them abreast of the latest jurisprudential pronouncements of the Supreme Court.¹⁹⁹ The recent exodus of well-trained personnel, however, resulted in a temporary lull of output (ERs, IRs). The lesser the number of personnel, the more case load. Newly hired employees are not as proficient and efficient as older employees, thus trainings and seminars are needed.

The OMB has also expressed its concerns over the vulnerability of budget allocation to political influences. It has noted that the office perceives the current administration as regarding them with disfavor because the head was affiliated with the previous administration.

¹⁹⁹ Based on the SWOT Analysis submitted by the Office of the Ombudsman.

Insufficient budget sometimes lead to unsatisfactory delivery of services to stakeholders. The office, however, operates within the budget which Congress deemed as sufficient. The office has learned how to maximize what was allotted to it.²⁰⁰

2. Response to Summit Issues

Forum on Increasing Access to Justice

A number of issues have been addressed by the prosecution pillar to increase access to justice in its current MTDP 2010-2016.

To make legal services more accessible to the poor, especially those who live in the provinces and rural areas, the PAO has increased the number of lawyers assigned in each of the regional and district offices.

The DOJ has lowered the cost of litigation by the issuance of the Revised Manual of Prosecutors. The Revised Manual prescribes standard preliminary investigation form, pro forma complaints and pleadings. The DOJ has also limited the required number of copies of complaints and annexes. The PAO has also issued its PAO Manual and Legal Forms although this has yet to be implemented.

The PAO has revised the definition of “indigency” in Memorandum Circular No. 02, Series of 2010. Under the current definition, more people can qualify to avail of the free legal services that PAO lawyers render.

For its part, some of the OMB has resorted to requiring parties to simply file a clarificatory reply rather than asking the parties to appear in person at the OMB offices which is more costly to their clients.

The members of the prosecution pillar need to also be sensitive to the needs of their clients. In this regard, the DOJ-NPS plans to implement the Code of Ethics and institute integrity/performance accountability mechanisms which will involve claimholders. The PAO intends to conduct regular trainings, seminars and orientation on the PAO Code of Conduct, PAO Operating Manual, Civil Service Rules and Regulations, Code of Professional Responsibility and other pertinent laws. The OMB has created a position of VAWC and Sexual Harassment Officer.

The PAO promotes the utilization of the Alternative Dispute Resolution to help de-clog court dockets but also to lighten their case loads.

To increase awareness among the claimholders, the PAO will continue engaging in IEC campaign using the tri-media – print, radio and TV. The DOJ, in coordination with the DILG, will work towards the dissemination of the following information at the barangay level: rights of the accused, child’s rights and other basic human rights. By issuing their respective Citizen’s Charters, the agencies do not only outline their frontline services but likewise highlight citizen’s rights.

National Summit on Family Courts

Admittedly, the laws on VAWC and CICL are relatively new. Thus, there is a need for regular seminars and trainings to familiarize the duty-holders of the same. The government official must also be guided in the implementation of the said laws. The PAO has issued a Memorandum Circular with regard to legal assistance in cases involving VAWC and other related laws. The DOJ has issued

²⁰⁰ *Id.*

Department Circular No. 39, dated August 15, 2007, or the Prosecutor's Manual on Handling Child-related Cases. This Manual covers children with disability during preliminary investigations. The DOJ conducts regular trainings of prosecutors on the implementation of RA No. 9344. There is also an ongoing study on the discernment of CICL below 18 but above 15 years old. The DOJ further sees the need to re-tool prosecutors in writing child-sensitive resolutions.

National Consultative Summit on Extrajudicial Killings and Enforced Disappearances

With respect to this summit, the DOJ has issued Department Order No. 257 on March 27, 2007. It designated prosecutors to conduct inquest/preliminary investigation/reinvestigation of alleged human rights violations and extrajudicial killings, and if evidence warrants, to initiate the prosecution.

3. Analysis

While steps have been taken to address the issues raised during the four summits, admittedly the efforts are not enough.

The primary concern for the three agencies of the prosecution pillar is the severe personnel deficiency. Considering that the lawyers are involved in the prosecution of offenses, the deficiency hinders the ability of the prosecution pillar to effectively deliver services to their clients.

Personnel deficiency adds to the growing problem of court congestion. With the number of cases handled by the prosecutors for instance, they are sometimes forced to ask for continuance. This results in delay in the disposition of cases. Furthermore, the number of a lawyer's case load affects his/her performance. Indeed, the more cases are handled by a single lawyer, the less attention is given to individual cases. This sometimes leads to the dismissal of cases due to technicalities.

Certain projects of the DOJ require the Department to coordinate with other government agencies. However, the limited number of lawyers hampers the ability of the DOJ to render assistance to other agencies.

Most accused in criminal cases who cannot afford to hire their own lawyers are represented by the PAO. It is common to see one PAO lawyer handling more than 30 criminal cases in one day, especially at the first level courts. Oftentimes, the PAO lawyer only gets to consult with his/her client minutes before the scheduled hearing. Effective representation is one of the aspects of access to justice. This is defeated by the lack of personnel.

The problem is not easily solved by simply hiring additional personnel. The government's rationalization program, which aims to streamline bureaucracy, prevents the NPS, PAO, and OMB from increasing their plantilla. Any increase must first be approved by the Department of Budget and Management.

Budgetary constraints likewise affect the performance of the NPS, PAO, and the OMB. The OMB has also expressed its concerns over the vulnerability of budget allocation to political influence.²⁰¹ This affects the ability of the agencies to improve physical and logistical resources.

The efforts of the agencies towards the computerization of records must, however, be lauded. All three agencies have launched their respective websites which provide information readily accessible to the public. The websites, however, are not regularly and immediately updated.

²⁰¹ Based on the SWOT Analysis submitted by the Office of the Ombudsman.

Thus, information is sometimes incomplete.

Moreover, despite procurement of some office equipment, the PAO still greatly lacks computers which are necessary in the immediate preparation and submission of pleadings with the courts and other quasi-judicial bodies. This problem continues on account of the insufficiency of funds that are needed to answer the additional requirements for equipment of new public attorneys and staff.²⁰²

Within their own organization, there are areas that need to be improved. According to an official of the DOJ, the organizational structure of the Department makes justice accessible. However, it is admitted that some of the systems, procedures and controls in place tend to create bottlenecks and delays. At the OMB, the organizational structure is not fully maximized. Relationships and interdependence of the functions of each position are not clearly spelled out, which result in the overlapping of responsibilities and under-working of certain employees.²⁰³

The DOJ has already worked towards making justice accessible to the public. It has rationalized fees at the prosecution level. However, there is still a need to comprehensively review the fees/charges being imposed.²⁰⁴ Moreover, the DOJ has regularly been conducting trainings on special human rights concerns, such as those that touch on women, children, and extralegal killings. A DOJ official, however, stated that there is much room for further improvement on fundamental human rights perspective.²⁰⁵ While the DOJ sees the need to address VAWC and human rights issues, it is hindered by the insufficiency of resources. Thus, only the national and regional offices currently have divisions or desks which directly address VAWC and HR issues. Further, while the DOJ has formulated a number of programs with respect to VAWC and HR issues, sustainability of implementation is still a serious concern due to resource constraints.²⁰⁶

Certain issues have been ignored and overlooked because the OMB opted to strictly keep with its mandate. RA No. 6770 specifies the jurisdiction of the OMB. Thus, the OMB lacks initiative for VAWC and HR cases.²⁰⁷ It has, however, created special task forces, such as the Task Force on Anti-Trafficking. In addition, the OMB has no specific program towards full access to justice.²⁰⁸ While efforts are continuously done to improve services and there is a continuing effort to reduce processes involved in important and routine transactions (although review processes cannot be avoided), there is no training on human rights issues.²⁰⁹

Moreover, the OMB also observed that while the office is mandated to prevent corruption, its plans and programs are neither evolving nor pro-active. They are reiterations of activities, projects, and policies that are already in place. Furthermore, the Office of the Special Prosecutor

²⁰² PAO, 2009 Annual Report, *supra* note 191.

²⁰³ Based on the SWOT Analysis submitted by the Office of the Ombudsman.

²⁰⁴ Based on the SWOT Analysis submitted by the Department of Justice.

²⁰⁵ *Id.*

²⁰⁶ *Id.*

²⁰⁷ Based on the SWOT Analysis submitted by the Office of the Ombudsman.

²⁰⁸ *Id.*

²⁰⁹ *Id.*

observed that there is no serious effort to review OMB/OSP mandate/regulations/programs in view of the changing times, and the current social, economic and political situation.²¹⁰

The PAO, on the other hand, cannot sufficiently address issues on access to justice because it does not have a Witness Protection Program.²¹¹

It must also be noted that there is a need to put in place a mechanism for the assessment and monitoring of its programs. The DOJ has already put one in place but this is still considered weak.²¹²

Notably, a number of DOJ's projects have received foreign funding. However, the Department says that because the budget appropriation is not enough for the operation of all the offices and attached agencies within the Department, there is a tendency to be heavily reliant on foreign funding.²¹³ The OMB, for its part, admits that funding agencies have expressed their willingness to finance specific programs/projects. While it tries to prevent corruption within the OMB itself, the OMB does not discount the possibility that the funds it has received might be used for purposes other than what they were intended for.²¹⁴

With respect to the Forum on Environmental Justice, not much had been done by the agencies and there appears to be no proposals regarding the same.

4. Recommendations

As can be seen from the discussion above, steps were already taken by the agencies within the prosecution pillar to make justice available to the poor. Recognizing the problems faced by each institution is a step towards identifying solutions.

First, there is a need to strengthen the capability of the agencies by increasing the number of personnel. This is difficult considering the budgetary constraints. However, the concerned agencies have already put in place mechanisms to ease the caseloads of prosecutors and PAO lawyers.

Second, while the DOJ has already revised the Manual of Prosecutors which resulted in the rationalization of fees, certain fees, as admitted by a DOJ personnel, may still be cut down. This would entice the poor to seek remedy at the prosecution level.

Third, the three agencies say that there is a need to raise the level of awareness with respect to VAWC and HR issues. Thus, the agencies must coordinate with the other agencies, particularly with the courts and community pillars, to update themselves with human rights concerns.

Fourth, the use of ADR mechanisms should likewise be promoted. This would not only decrease the number of cases being filed at the prosecution level, but at the same time ease the case load of PAO lawyers.

²¹⁰ *Id.*

²¹¹ Based on the SWOT Analysis submitted by the Public Attorney's Office.

²¹² Based on the SWOT Analysis submitted by the Department of Justice.

²¹³ *Id.*

²¹⁴ Based on the SWOT Analysis submitted by the Office of the Ombudsman.

Last, a system for the monitoring and evaluation of the effectiveness of programs must be adopted by the agencies. While the DOJ has stated that one is already in place, it admits that it is still weak. Thus, it is possible that the monitoring is not properly conducted.

C. Courts Pillar

Mandated by the Constitution to settle actual controversies involving rights which are legally demandable and enforceable,²¹⁵ the Philippine Judiciary consists of four levels: (1) the Supreme Court (SC); (2) the intermediate courts consisting of the Court of Appeals (CA), Sandiganbayan (SB), Court of Tax Appeals (CTA), and the Shari'a Appellate Courts; (3) the second level courts, composed of Regional Trial Courts (RTCs) and Shari'a District Courts; and (4) the first level courts composed of the Metropolitan Trial Courts (MeTCs), Municipal Trial Courts in Cities (MTCCs), Municipal Trial Courts (MTCs), Municipal Circuit Trial Courts (MCTCs), and Shari'a Circuit Courts.

1. Existing Capacities

Supreme Court

The SC, composed of a Chief Justice and 14 Associate Justices, is the highest court and is considered as the court of last resort.²¹⁶ The SC has administrative supervision over all courts and the personnel²¹⁷ and has the power to promulgate rules concerning the protection and enforcement of constitutional rights, pleading, practice, and procedure in all courts; the admission to the practice of law; the integrated bar; and legal assistance to the underprivileged.²¹⁸ Because of this, all revisions of rules by the other court levels will have to pass through the SC. Also, approval for majority of the plans and activities of all courts is necessary. Thus, changes in the judiciary, as regards systems or procedures, are mostly dependent on the initiative and discretion of the SC.

More importantly, most of these changes would require funding. Under Section 3 of Article VIII of the Constitution, appropriations for the judiciary may not be reduced by the legislature below the amount appropriated for the previous year and, after approval, shall be automatically and regularly released. This is to ensure that the judiciary remains an independent body, enjoying fiscal autonomy.

In 2009, 0.89 percent of the P1.414 Trillion budget or a total appropriation of P12,680,044,000.00 was allocated to the judiciary.²¹⁹ Personal Services was allotted P7.95 Billion or 71.8 percent of the SC and lower courts budget, while Maintenance and Other Operating Expenses (MOOE) accounted for 27.7 percent at P3.07 Billion.²²⁰ The remaining 0.5 percent went to Capital Outlay, which was allotted P52.438 Million, a drop of P287.21 Million from the previous year.²²¹

²¹⁵ PHILIPPINE CONSTITUTION, Art. VIII, Sec. 1.

²¹⁶ Supreme Court, 2009 Annual Report 95 (2010).

²¹⁷ PHILIPPINE CONSTITUTION, Art. VIII, Sec. 6.

²¹⁸ PHILIPPINE CONSTITUTION, Art. VIII, Sec. 5.

²¹⁹ Supreme Court, 2009 Annual Report, *supra* note 218, at 55 *citing* <<http://www.dbm.gov.ph/index.php?pid=3&nid=1640>> and 2009 General Appropriations Act.

²²⁰ *Id.* at 57.

²²¹ *Id.*

While the national appropriations allotment represented an increase of P2.4 Million from the previous year, the judicial branch's overall percentage of the national budget posted only a slight increase, from 0.83 percent in 2008 to 0.89 percent in 2009.²²²

TABLE 5.16: APPROPRIATION FOR THE JUDICIARY (2004 TO 2009)²²³

	2004	2005	2006	2007	2008	2009	2010
Judiciary budget (in billions)	7.07	7.52	7.52	9.35	10.27	12.68	12.66
Percentage of the National Budget	0.88	0.83	0.83	0.83	0.83	0.89	0.97

Source: Supreme Court 2009 ANNUAL REPORT and GAA

Remarkably, however, in 2010, the judiciary only received a total appropriation of P12,662,661,000.00 or a little less than the previous year's budget, but the percentage of such appropriation vis-à-vis the national budget has increased. The judiciary's allotment, however, remained below one percent of the national budget. The SC and lower courts budget gave Personal Services – P8.018 Billion; MOOE – P3.028 Billion; and Capital Outlay – P111.088 Million.

For 2011, the SC asked for P27.1 Billion as its budget. However, the proposed budget for the judiciary has been set to P14.31 Billion.²²⁴ In contrast to the 2010 budget where the percentage of the courts in the budget increased, the proposed budget would approximately set the percentage of the judiciary at a lower level. Moreover, it threatens to affect the plans of the SC for the judiciary, such as the building of a Manila City Hall of Justice, computerization of lower courts, and hiring of additional personnel.²²⁵ As such, this may also affect the Court's plan to improve the speedy disposal of cases.²²⁶

Because the budget given to the Court is insufficient to cover its needs, the Court has resorted to taking and/or applying for loans to support its judicial reform initiatives. These initiatives all form part of the Court's judicial reform program to transform the judiciary by modernizing facilities, systems and procedures to strengthen the capabilities of courts for better efficiency, flexibility and effectiveness and taking advantage of information and communications technology (ICT) and electronic case management.

With the task of modernization, court facilities need to be improved. Courts have often resorted to what is available and not what is optimal. As an example, safety has become an issue for the courts of Manila. Even if the current building has been ordered condemned, the Manila courts still make use of the structure. Thus, there is a pressing need to construct a building to house Manila courts.

²²² *Id.* at 56.

²²³ *Id.*

²²⁴ Department of Budget and Management, DBM Press Release, Abad: Government mindful of judiciary's needs vis-à-vis limited funds, Sept. 14, 2010 <<http://www.dbm.gov.ph/index.php?pid=3&nid=2070>> (last accessed Dec. 3, 2010).

²²⁵ Lira Dalangin-Fernandez, Judiciary's budget woes continue, 2011 budget offers no solution, Philippine Daily Inquirer, Sept. 6, 2010 <<http://newsinfo.inquirer.net/topstories/topstories/view/20100906-290798/Judiciarys-budget-woes-continue-2011-budget-offers-no-solution>> (last accessed Dec. 3, 2010).

²²⁶ *Id.*

Furthermore, an upgrade of information technology systems is also an integral part of modernizing the courts. The use of an electronic case management system has been sought to help improve case disposition. In this respect, the SC has implemented the enhanced Case Flow Management (eCFM) and Case Management Information System (CMIS) in the past. Currently, the SC has implemented the Judiciary Case Management System (JCMS). E-payment is an example of the initiatives under the auspices of this program. Online transactions are also being considered. Most of these initiatives were implemented through pilot courts and they have proven to be successful. Implementation of these initiatives nationwide is currently underway.

Transforming the judiciary does not only entail modernizing facilities and equipment. It will also require modernizing systems and procedures. In this aspect, a review of how judges manage their cases or a conduct of a judicial audit for the midterm review of a court's case management may be in order.

Such judicial audit was piloted in Cebu. There, the purpose of the audit was to assess the current case management of the judge and to come up with a case management plan for the court. Feedback was given on how cases could be disposed faster and a commitment from the judge to implement the recommended case management plan was made. It has been observed that with such a case management plan, there was a remarkable improvement in the pace of case disposition. The highest improvement was observed at 600 percent and the lowest was 200 percent improvement.

Although there is a clamor for the creation of additional courts from some sectors, this may not always be possible considering the resources of the SC and the procedural rigors to qualify as judge. As it is, budget is tight and the Judicial and Bar Council (JBC), albeit continuing to find competent judges to fill the vacancies, has been slow in the process.

**TABLE 5.17: VACANCY RATE OF JUDGES IN THE FIRST AND SECOND LEVEL COURTS
AS OF SEPTEMBER 30, 2010**

Courts	Total Judicial Positions	Total Incumbent Judges	Total Vacancies	Vacancy Rate
Regional Trial Courts	967	772	195	20.17%
Metropolitan Trial Courts	95	74	21	22.11%
Municipal Trial Courts in Cities	212	171	41	19.34%
Municipal Trial Courts	387	290	97	25.06%
Municipal Circuit Trial Courts	470	313	157	33.40%
Shari'a District Courts	5	0	5	100.00%
Shari'a Circuit Courts	51	31	20	39.22%
Total	2,187	1,651	536	24.51%

Source: Court Management Office, Supreme Court

Notably, as of September 2010, there was a vacancy rate of 24.51 percent with 536 vacancies among the 2,187 positions available for judges in the first and second level courts. In 2009, the JBC continued to focus on programs to reduce the vacancy rate and improve the quality of the nominees, thus processing 3,918 applications for 227 judicial positions in the Supreme Court, the third-level courts, and the lower courts.²²⁷

²²⁷ Supreme Court, Annual Report, *supra* note 218, at 57.

Moreover, the cooperation of Congress for the creation of additional courts is needed.

Nevertheless, the SC recognizes the need for courts to specialize in the adjudication of cases and is lobbying for the creation of such courts (e.g., family courts). In the interim, it has resorted to designating courts to be family courts or environmental courts.

As of September 2010, out of the 110 designated to handle family cases, there were three vacancies;²²⁸ while special courts for environmental cases had 15 vacancies out of the 115 designated.

Below are tables showing the distribution of pending child and family cases, drug cases, and criminal cases for the first and second level courts.

**TABLE 5.18: PENDING CHILD AND FAMILY CASES AND DRUG CASES
FIRST AND SECOND LEVEL COURTS**

	TOTAL			VIOLENCE AGAINST WOMEN			DRUG USERS (MINORS)			RAPE WITH MINOR VICTIM			RAPE WITH MINOR ACCUSED		
	As of Dec 2009	As of May 2010	As of June 2010	As of Dec 2009	As of May 2010	As of June 2010	As of Dec 2009	As of May 2010	As of June 2010	As of Dec 2009	As of May 2010	As of June 2010	As of Dec 2009	As of May 2010	As of June 2010
RTC	50,266	48,941	39,160	6,219	6,210	5,099	1,027	966	839	17,226	16,218	13,395	452	437	407
METC	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
MTCC	1	1	1	0	0	0	0	0	0	0	0	0	0	0	0
MTC	16	13	12	4	2	2	0	0	0	0	0	0	0	0	0
MCTC	28	26	23	6	10	8	0	0	0	2	0	0	2	0	0
	CHILD AND FAMILY CASES									DRUG CASES					
	RAPE WITH MINOR VICTIM AND ACCUSED			CHILD ABUSE			ALL OTHER CHILD AND FAMILY CASES			TOTAL			DRUG MANUFACTURING		
	As of Dec 2009	As of May 2010	As of June 2010	As of Dec 2009	As of May 2010	As of June 2010	As of Dec 2009	As of May 2010	As of June 2010	As of Dec 2009	As of May 2010	As of June 2010	As of Dec 2009	As of May 2010	As of June 2010
RTC	769	710	602	10,010	10,049	7,764	14,563	14,351	11,054	6,083	55,076	48,818	210	186	143
METC	0	0	0	0	0	0	0	0	0	14	17	7	0	0	0
MTCC	0	0	0	0	0	0	1	1	1	0	1	1	0	0	0
MTC	2	2	2	7	7	6	3	2	2	357	3	3	0	0	0
MCTC	0	0	0	10	10	9	8	6	6	11	7	7	0	0	0
	DRUG CASES														
	DRUG PUSHERS			DRUG USERS			ALL OTHER DRUG CASES								
	As of Dec 2009	As of May 2010	As of June 2010	As of Dec 2009	As of May 2010	As of June 2010	As of Dec 2009	As of May 2010	As of June 2010	As of Dec 2009	As of May 2010	As of June 2010			
RTC	16,145	14,422	12,965	17,940	15,129	12,815	26,568	25,339	22,895						
METC	0	0	0	8	8	3	6	9	4						
MTCC	0	0	0	0	0	0	0	1	1						
MTC	2	0	0	342	0	0	13	3	3						
MCTC	0	0	0	2	1	1	9	6	6						
SHDC	0	0	0	0	0	0	0	0	0						
SHCC	0	0	0	0	0	0	0	0	0						

²²⁸ Data from the Court Management Office of the Supreme Court.

**TABLE 5.19: PENDING CRIMINAL CASES
FIRST AND SECOND LEVEL COURTS**

	Violation of BP 22			Estafa			Environmental Cases			Heinous Crimes Cases under RA 7659			Illegal Possession of Firearms		
	As of Dec 2009	As of May 2010	As of June 2010	As of Dec 2009	As of May 2010	As of June 2010	As of Dec 2009	As of May 2010	As of June 2010	As of Dec 2009	As of May 2010	As of June 2010	As of Dec 2009	As of May 2010	As of June 2010
RTC	1,536	1,402	1,313	34,589	33,080	28,732	1,102	1,074	913	14,138	13,564	11,635	4,405	4,770	4,131
METC	36,938	27,612	17,620	3,408	3,279	1,807	0	0	0	0	6	6	844	720	421
MTCC	20,300	16,469	13,475	3,529	3,178	2,776	138	89	60	0	0	0	1,134	890	703
MTC	7,830	7,024	5,959	1,605	1,512	1,403	69	50	50	6	5	5	722	717	755
MCTC	2,719	2,590	2,325	1,064	952	846	142	128	119	2	1	2	620	628	593
	Commercial Cases			Rape under RA 8353			Violation of Sexual Harassment Act			Tax Evasion or Violation of Tax Laws					
	As of Dec 2009	As of May 2010	As of June 2010	As of Dec 2009	As of May 2010	As of June 2010	As of Dec 2009	As of May 2010	As of June 2010	As of Dec 2009	As of May 2010	As of June 2010			
RTC	502	337	320	4,030	3,990	3,491	195	163	142	255	250	203			
METC	0	0	0	0	0	0	6	33	2	762	748	158			
MTCC	1	1	0	3	1	1	24	24	22	64	76	48			
MTC	4	2	1	7	4	0	65	25	54	26	20	26			
MCTC	502	337	320	4,030	3,990	3,491	195	163	142	255	250	203			

Declogging court dockets is a priority for the SC. The statistics for 2009 show that total backlog has decreased. However, the growth rate for the number of cases decided or resolved has likewise decreased. Court-case disposition rate has also decreased. Below are the statistics for case backlog, number of cases decided or resolved, as well as the court-case disposition rate.

TABLE 5.20: CASE BACKLOG BY TYPE OF COURT (2004 TO 2009)²²⁹

Courts	2004	2005	2006	2007	2008	2009
Total	808,488	660,360	737,699	603,576	612,551	596,858
Supreme Court	6,842	—	—	—	—	—
Court of Appeals	23,098	—	20,158	—	—	—
Sandiganbayan	1,892	2,338	2,075	1,794	2,263	1,891
Court of Tax Appeals	639	983	730	6 97	6 73	699
Regional Trial Courts	348,312	345,706	358,467	363,777	355,550	357,717
Metropolitan Trial Courts	153,427	114,719	129,702	86,800	88,560	92,545
Municipal Trial Courts in Cities	121,249	100,863	101,867	76,042	72,440	59,087
Municipal Trial Courts	83,019	55,878	67,604	45,345	50,178	37,998
Municipal Circuit Trial Courts	69,607	39,634	56,695	28,962	42,443	46,401
Shari'a District Courts	54	13	60	29	84	154
Shari'a Circuit Courts	309	226	341	130	360	366

²²⁹ NSCB, 2010 Yearbook, *supra* note 91, at 17-17.

TABLE 5.21: NUMBER OF CASES DECIDED/RESOLVED BY TYPE OF COURT (2006 TO 2009)²³⁰

Court	2006	2007	2008	2009	Growth Rates		
					2006-2007	2007-2008	2008-2009
Total	307,904	289,034	297,939	270,131	(6.1)	3.1	(9.3)
Supreme Court	–	–	–	–		–	–
Court of Appeals	14,347	13,245	a	a	(7.7)	–	–
Sandiganbayan	426	175	266	176b	(58.9)	52.0	(33.8)
Court of Tax Appeals	317	398	388	348	25.6	(2.5)	(10.3)
Regional Trial Courts	133,282	128,787	135,968	130,691	(3.4)	5.6	(3.9)
Metropolitan Trial Courts	49,221	45,116	52,598	44,585	(8.3)	16.6	(15.2)
Municipal Trial Courts in Cities	58,017	54,198	53,913	51,209	(6.6)	(0.5)	(5.0)
Municipal Trial Courts	28,567	25,788	24,240	24,610	(9.7)	(6.0)	1.5
Municipal Circuit Trial Courts	23,306	21,083	30,335	18,249	(9.5)	43.9	(39.8)
Shari'a District Courts	34	46	29	23	26.5	(32.6)	(27.6)
Shari'a Circuit Courts	486	370	275	306	(48.1)	0.5	19.8

a – No report submitted from January 2008 to present.

b – No report submitted from September 2009 to present.

Note: Cases decided/resolved refer to the cases that have been given decision based on merits, including those that have been dismissed, withdrawn, or amicably settled during the reference period.

TABLE 5.22: COURT-CASE DISPOSITION RATE (2003 TO 2009)²³¹

Court	2003	2004	2005	2006	2007	2008	2009
Total	0.70	0.74	0.82	0.85	0.69	0.88	0.83
Supreme Court	0.97	0.97	–	–	1.00	–	–
Court of Appeals	1.00	0.96	–	1.20	0.93	–	–
Sandiganbayan	3.08	1.98	0.97	1.18	1.28	0.68	1.54
Court of Tax Appeals	0.81	0.73	0.71	1.21	0.84	1.90	1.29
Regional Trial Courts	0.64	0.69	0.79	0.79	0.68	0.81	0.80
Metropolitan Trial Courts	0.59	0.68	0.76	0.73	0.59	0.82	0.74
Municipal Trial Courts in Cities	0.78	0.87	0.84	0.88	0.79	0.86	0.94
Municipal Trial Courts	0.77	0.77	0.89	1.03	0.72	0.98	1.08
Municipal Circuit Trial Courts	0.80	0.76	0.95	1.11	0.75	1.61	0.88
Shari'a District Courts	2.33	1.50	1.17	0.77	0.81	0.67	0.35
Shari'a Circuit Courts	0.71	0.89	0.90	1.07	0.93	0.70	0.72

Note: Court-Case Disposition Rate is the ratio of total cases decided/resolved over total cases filed in a year. A ratio of less than 1 indicates an increasing backlog; greater than 1, decreasing backlog; and equal to 1 means that the backlog is being maintained.

Source: Supreme Court.

²³⁰ *Id.* at 17-16.

²³¹ *Id.* at 17-19.

Despite the different statistics, the SC has steadily increased its case disposal, demonstrating that declogging court dockets is indeed one of the priorities of the Court.

TABLE 5.23: SUPREME COURT PERCENTAGE OF CASE DISPOSAL (2007 TO 2009)

		2007	2008	2009
En Banc	Judicial Matters	41%	46%	45%
	Administrative Matters	64%	64%	69%
First Division	Judicial Matters	58%	55.31%	63.30%
	Administrative Matters	63%	65.49%	71.90%
Second Division	Judicial Matters	58%	66.81%	57.66%
	Administrative Matters	47%	47.94%	41.99%
Third Division	Judicial Matters	35%	40.89%	59.57%
	Administrative Matters	50%	64.15%	67.52%
TOTAL		51.2%	58.9%	59.31%

Note: Percentage of Case Disposal is the ratio of case output over case input.

Source: SC Annual Reports

The Court has also made significant gains in one of its projects, the Enhanced Justice on Wheels (EJOW), which has regularly helped in speedier case disposition. This is relevant as most of the cases involve light offenses which have weak or insufficient evidence.²³² Since its re-launch in 2008, EJOW has freed 5,303 prisoners, conducted 5,747 rounds of mediation in civil suits, and given free legal aid to 2,514 indigent clients.²³³ With this project, the Court has opened its doors to provide wider access to justice, bringing the courts closer to the people, and improving public perception.

It is also quite noteworthy that from 2005 the total number of judges has increased, with more female judges present in the courts.

TABLE 5.24: NUMBER OF JUDGES BY TYPE OF COURT AND BY SEX (2005 TO 2008)²³⁴

Court	2005			2006			2007			2008		
	M	F	Total									
Total	1,063	426	1,489	1,167	460	1,627	1,245	567	1,812	1,186	576	1,762
Supreme Court	–	–	–	9	5	14	9	5	14	10	5	15
Court of Appeals	–	–	–	47	18	65	47	21	68	44	19	63
Sandiganbayan	–	–	–	11	3	14	11	3	14	12	2	14
Court of Tax Appeals	–	–	–	4	2	6	4	2	6	4	2	6
Regional Trial Courts	569	206	775	597	211	808	575	224	799	542	228	770

²³² Frinston Lim, 'Justice on Wheels' frees 120 prisoners, *Philippine Daily Inquirer*, Nov. 20, 2010 <<http://newsinfo.inquirer.net/breakingnews/regions/view/20101120-304321/Justice-on-Wheels-frees-120-prisoners>> (last accessed Dec. 3, 2010).

²³³ *Id.*

²³⁴ NSCB, 2010 Yearbook, *supra* note 91, at 17-19.

Court	2005			2006			2007			2008		
	M	F	Total	M	F	Total	M	F	Total	M	F	Total
Metropolitan Trial Courts	33	36	69	31	31	62	35	33	68	32	37	69
Municipal Trial Courts in Cities	119	44	163	112	46	158	129	66	195	125	67	192
Municipal Trial Courts	153	76	229	165	80	245	180	110	290	178	110	288
Municipal Circuit Trial Courts	161	63	224	163	63	226	225	99	324	209	103	312
Shari'a District Courts	–	–	–	–	–	–	–	1	1	–	–	–
Shari'a Circuit Courts	28	1	29	28	1	29	30	3	33	30	3	33

The SC is also moving towards a more gender responsive judiciary. In 2008, the Committee on Gender Responsiveness in the Judiciary (CGRJ), in cooperation with the United Nations Development Fund for Women (UNIFEM), conducted a Knowledge Sharing Seminar for justices, judges, and women's groups from Thailand and Vietnam on January 14-19, 2008, on the theme "Gender Equality and the Judiciary: Sharing the Philippine Judiciary's Experience in Implementing its Gender and Development Program to the Judiciaries in Southeast Asia," among other seminars and focus group discussions.²³⁵ The CGRJ also coordinated with the SC Office of Administrative Services in the implementation of 11 gender sensitivity training and orientation sessions on the Administrative Procedure in Sexual Harassment Cases and Guidelines on Proper Work Decorum in the Judiciary for SC employees, male and female alike, from April to November.²³⁶

Moreover, the number of court personnel is also an issue. In 2009, there were 2,253 employees with the SC and 23,273 with the lower courts.²³⁷ Since there is a lack of personnel in some courts, courts resort to having their staff multi-task. This may inevitably lead to delays and inefficient services. Compensation for judges and justices is also an issue for the Court.

In the past administration, the SC responded remarkably to issues with its issuances in connection to the circle of human rights: Rules on the Writ of Amparo, Rules on the Writ of Habeas Data, and Rules of Procedure on Environmental Cases. The challenge for the present court is to remain responsive to these issues whether it be through new issuances or continuation of its current projects.

Court of Appeals²³⁸

At present, the CA as an appellate court (with the jurisdiction to review death penalty cases) has 23 divisions and 69 justices. Seventeen divisions are located in the Manila station while three divisions each are currently in the Cebu and Cagayan de Oro stations. As it stands, the CA, however, does not have the full complement of justices with only 62 sitting.

²³⁵ Supreme Court, 2008 Annual Report 61 (2009).

²³⁶ *Id.*

²³⁷ Supreme Court, 2009 Annual Report, *supra* note 218, at 57.

²³⁸ Based on the consultation meetings with CA Presiding Justice Andres Reyes, Jr. and Justice Noel Tijam on Sept. 14, 2010, Sept. 17, 2010, and Oct. 26, 2010, and Validation Workshop Presentation of the CA, Report on the Validation Workshop for the MTDP for the CJS 36 (2010).

Structural facilities of the CA need improvement. The CA Manila station is currently handicapped with only two floors; while its main building remains in a state of disrepair after a fire gutted it in 2007. The Cebu and Cagayan de Oro stations have similar concerns. Both stations still lease their offices from private enterprises. However, the local government of Cebu has donated a plot of land to put up buildings for the Cebu station; and the CA recently received its patent for land in Cagayan de Oro from the national government to build offices for the CA justices. Notwithstanding, the construction of buildings to house the Cebu and Cagayan de Oro stations will be dependent on the sufficiency of resources and funding.

Moreover, the CA at this time has no public information office. Since 2006, the CA has had an informal group of journalists following the disposition of cases in the CA. There are, however, no official communication channels that have been institutionalized. On the production and distribution of information materials, the CA has twice revised its flow charts since 2006, which have been posted in its building.

As regards case management, the institutionalization of the One-Stop Processing Center (OSPC) and the roll-out of CMIS version 2 for all three CA stations were done. Given this OSPC, almost all concerns from filing to certification, may now be addressed. Following the increase of cases, the CA also states that inquiries regarding the status of these cases or any related matter may be entertained by the information division of the CA via telephone. Current measures also include the establishment of a cable network to increase the OSPC's efficiency.

At the same time, with the help of the American Bar Association, two versions of the CMIS have been made since 2006. The new CMIS version features a more user-friendly interface, and information within it is available to the public on the internet. It also boasts of a system of bar-coding court documents. The CA desires the full coordination of the three CMIS stations by the end of November 2010. The launch of the CMIS version 2 in July 2010 has helped in the case disposition of the CA, allowing magistrates to spend less time on monitoring and transmitting documents or cases and to focus their efforts on actual decision making. But despite the CMIS project, the current computer system of the CA remains inadequate to handle the requirements of electronic filing.

In 2010, the CA saw a renewed effort at diminishing the case load of justices pursuant to the Zero Backlog Project (ZBP) spearheaded by Presiding Justice Reyes. The project aims to increase the disposition rate of the court which, at the end of 2009, stood at 38.23 percent for all cases; from these, the rate for criminal cases stood at 20.2 percent. Recent statistics on ZBP, however, are not yet available because the inventory of cases has not yet been completed. On its end, the CA declared that the priority is on criminal cases, especially those that involve detention.

In addition, the CA has constantly availed of seminars sponsored by PHILJA to enhance the competence of its court personnel. Similar seminars have also been made available for the non-legal personnel. The CA has also established its Gender and Development (GAD) focal point in 2007.

Sandiganbayan²³⁹

The Sandiganbayan is a special court primarily tasked to try criminal and civil cases involving graft and corrupt practices and such other offenses committed by public officers and employees.²⁴⁰

²³⁹ Based on the SB Website <<http://sb.judiciary.gov.ph>> (last accessed Dec. 3, 2010) and on the consultation meeting with Atty. Mary Ruth Milo-Ferrer and Sandra Calugay on Sept. 16, 2010.

²⁴⁰ PHILIPPINE CONSTITUTION, Art. XIII.

Composed of a Presiding Justice and 14 Associate Justices, its mission is to give life and meaning to the constitutional precept that a public office is a public trust, and to impress upon public officers and employees that they are at all times accountable to the people with their duty to serve with the highest degree of responsibility, integrity, loyalty and efficiency.

Case backlog has decreased to 1,891 in 2009 from 2,263 in 2008. This decrease, however, has not changed much from the figure in 2004 of 1,892.

Moreover, the number of cases decided/resolved has also not improved from the figure in 2003, which was at 426.²⁴¹ For 2009, the SB posted a disposal of 357 cases or a decrease of 284 cases from the disposal of 641 cases in 2008.²⁴² This indicates a percentage decrease of 44.31 percent.²⁴³ Out of the 357 cases, 346 were criminal.²⁴⁴ They involve violations of RA No. 3019, falsification, malversation, perjury, and violations of various Presidential Decrees.²⁴⁵ Table 5.25 provides the details of the nature of cases disposed in 2009.

**TABLE 5.25: NUMBER OF CASES DISPOSED OF ACCORDING TO NATURE OF OFFENSE
(JANUARY-DECEMBER 31, 2009)²⁴⁶**

Nature of the Offense	Total	Percentage
Crime Against Religious Worship	–	–
Arbitrary Detention	2	0.56
Violation of Domicile	1	0.28
Assault Resistance and Disobedience	1	0.28
Perjury	10	2.80
Falsification Cases	75	21.01
Mal/Misfeasance	–	–
Bribery	1	0.28
Malversation Cases	69	19.33
Infidelity of Public Officers in the Custody of Prisoners/Documents	1	0.28
Other Offense Committed by Public Officers	–	–
Murder	3	0.84
Homicide	–	–
Physical Injuries	6	1.68
Threats and Coercions	1	0.28
Kidnapping	–	–
Estafa Cases	7	1.97
Robbery	–	–
Theft	–	–
Malicious Mischief	1	0.28

²⁴¹ NSCB, 2010 Yearbook, *supra* note 91, at 17-16.

²⁴² Sandiganbayan, *Thirty-first Annual Report of the Sandiganbayan Calendar Year 2009*, 15 (2010).

²⁴³ *Id.*

²⁴⁴ *Id.*

²⁴⁵ *Id.* at 16.

²⁴⁶ *Id.* at 58, *see* Table 16a.

Rape and Acts of Lasciviousness	–	–
Slander	1	0.28
Illegal Marriage	–	–
Violation of RA 3019	132	36.97
Violation of Presidential Decrees	10	2.80
Qualified Seduction	–	–
Unlawful Arrest	–	–
Adultery and Concubinage	–	–
Others	25	7.00
Special Civil Action	4	1.12
Civil Cases (including PCGG cases)	2	0.56
Appealed Cases	5	1.40
TOTAL	357	100.00

Two hundred twenty-nine of the criminal cases (65.15%) were terminated after trial and 36 criminal cases (10.08%) were dismissed without trial.²⁴⁷ While 15 criminal cases (4.20%) were terminated after the accused pleaded guilty; five criminal cases (1.40%) were terminated after the accused pleaded guilty; and 59 criminal cases (16.53%) were withdrawn by the prosecution.²⁴⁸

TABLE 5.26: MANNER OF DISPOSAL FOR CRIMINAL CASES²⁴⁹

Manner of Disposal for Criminal Cases	No. of Cases	Share in %
Dismissed without Trial	36	10.08
Pleaded Guilty	15	4.20
Terminated After Trial	229	64.15
Convicted	34	9.53
Acquitted	118	33.06
Convicted/Acquitted	7	1.96
Convicted/Archived	1	0.28
Convicted/Acquitted/Dismissed/Archived	12	3.36
Convicted/Acquitted/Dismissed	3	0.84
Convicted/Dismissed/Archived	1	0.28
Convicted/Dismissed	6	1.68
Acquitted/Dismissed	5	1.40
Acquitted/Archived	4	1.12
Acquitted/Dismissed/Archived	14	3.92
Acquitted/Pleaded Guilty	1	0.28
Dismissed with Trial	11	3.08
Dismissed with Trial/Dismissed without Trial	10	2.80
Dismissed with Trial/Archived	2	0.56
Transferred to other Courts	3	0.84
Withdrawn by Prosecution/OSP	59	16.53
Archived without Prejudice	5	1.40

²⁴⁷ Sandiganbayan, *Report*, *supra* note 244 at 18.

²⁴⁸ *Id.*

²⁴⁹ *Id.*

Moreover, acquittal rate remains to be high. In 2009, it was 33.06 percent.²⁵⁰ The SB attributes such to inability of the OMB to effectively prosecute the cases and the OMB's propensity to file cases under RA No. 3019,²⁵¹ Section 3(e) as a catchall for other incidents. In addition, the number of SB personnel continues to be inadequate.

Although the SB has been the pilot court for the CMIS, these case figures may be attributed to the delay in the trial. Because certain rights are afforded to the public officers and employees accused in these cases such as motions for judicial determination of probable cause and motions for bill of particulars, the SB is tied to entertain such motions and determine these before trial could commence. Consequently, delay is inevitable.

Furthermore, the SB has tried to amend its Internal Rules to be more responsive but the SC has not approved such and has returned this revision to the SB. Presently, the draft of the new revision of the Internal Rules is with the justices for approval accepting that any decision made will entirely depend on the SC.

Court of Tax Appeals²⁵²

Originally created under RA No. 1125,²⁵³ the CTA is composed of a Presiding Justice and five Associate Justices. In 2004, RA No. 9282²⁵⁴ expanded the CTA's jurisdiction elevating it to the level of the CA. It acquired both the original and appellate jurisdictions over civil and criminal tax cases involving the National Internal Revenue Code, Tariff and Customs Code, and the Local Government Assessment Code. The expanded jurisdiction transferred to the CTA the jurisdiction of the RTCs and the CA over matters involving criminal violation and collection of revenues under the National Internal Revenue Code and Tariff and Customs Code. In addition, it also acquired jurisdiction over cases involving local and real property taxes which used to lie with the RTCs and the CA. However, despite its expanded jurisdiction, the CTA still has no power to rule on cases of abuse of discretion or excess of jurisdiction.

The CTA envisions itself as a specialized tax court that is impartial, competent, transparent, and worthy of public trust and confidence, ensuring faithful compliance with tax laws. To achieve this vision, the CTA is guided by the following goals: (1) to ensure the fair collection of taxes by the Government; (2) to provide adequate judicial remedies to taxpayers against unreasonable and unjustified tax assessments and through the refund of excess taxes paid; (3) promotion of the common good through the proper interpretation of tax statutes; (4) adherence to the independence of the judiciary; and (5) enhancement of the public trust and confidence in the judiciary.

²⁵⁰ *Id.*

²⁵¹ Anti-Graft and Corrupt Practices Act, Republic Act No. 3019 (1960).

²⁵² Based on the CTA Website <<http://cta.judiciary.gov.ph>> (last accessed Dec. 3, 2010), on the consultation meeting with Presiding Justice Ernesto Acosta, Attys. Rene Natividad and Roseller Villarubia, on Sept. 1, 2010, and the Strength, Weakness, Opportunities, and Threats (SWOT) Analysis of the CTA.

²⁵³ An Act Creating the Court of Tax Appeals, Republic Act No. 1125 (1954).

²⁵⁴ An Act Expanding the Jurisdiction of the Court of Tax Appeals (CTA), Elevating its Rank to the Level of a Collegiate Court with Special Jurisdiction and Enlarging its Membership, Amending for the Purpose Certain Sections of Republic Act No. 1125, as amended, otherwise known as the Law Creating the Court of Tax Appeals, and for Other Purposes, Republic Act No. 9282 (2004).

The CTA's record management has drastically improved with its computerization program. This computerization was done in connection with the Case Management Information System. With the CMIS, it is now easier for claimholders to request copies of the records. A CMIS kiosk has also been established in this connection. However, the CMIS project has been temporarily suspended at the end of the initial phase, sponsored by the United States Agency for International Development (USAID) and American Bar Association–Rule of Law Effectiveness (ABA-ROLE). In order to expand the CMIS project, the CTA would still need to find a partner sponsor agency.

Additionally, the case disposition rate for the CTA has improved throughout the past six years. Although the 2009 figure of 1.29 decreased from the 2008 figure of 1.90, the growth of the case disposition rate is still an improvement from the 2003 and 2004 figures of 0.81 and 0.73, respectively. However, growth for the cases decided/resolved by the CTA has constantly decreased since 2007. Nonetheless, case backlog has decreased from the 983 in 2005 to 699 in 2009.

Moreover, the budget currently allocated to the CTA remains insufficient. The CTA has to ask assistance from the SC for its share in the Judiciary Development Fund to purchase equipment. Additionally, it is relatively dependent on funding for special projects like the CMIS.

Furthermore, one of the problems plaguing the prosecution of tax cases before the CTA is the lack in competence of the prosecution lawyers to litigate tax issues. Most prosecutors are not versed in tax laws and procedure. Consequently, many of the tax evasion cases filed by the government were dismissed due to lack of familiarity with tax laws and procedure of the prosecuting lawyers.

Similarly, due to the same lack of familiarity, many business persons and investors have actually been discouraged from investing in the Philippines. Moreover, many business persons have been subjected to useless tax suits. The propensity of the government to file such cases may be inimical to economic growth. Thus, to prevent undue harassment of the taxpayer, the CTA prioritizes criminal cases.

2. Response to Summit Issues

Forum on Increasing Access to Justice

Recognizing the problems of slow adjudication and delays experienced by the judicial system, the courts have tried to focus on declogging court dockets and reducing case load of judges. However, more than this plan, the courts have also provided access to justice by creating programs to ensure that courts are more responsive and accessible to people's needs.

Courts have started to establish their own case management systems to monitor the status of the cases and see whether they are proceeding as scheduled. Before, it was common that in order to determine the status of one's case, one would need to go around and scramble through the court. With the establishment of these case management information systems, every litigant would be able to know the status of his case. In the SC, the Enhanced Case Flow Management System has been implemented. There is a plan to integrate this system with the previous system, the Court Administration Management Information System (CAMIS). The SC currently plans to implement nationwide the Enhanced Case Flow Management (eCFM) System, while the CA has set in place its Case Management Information System (CMIS) in all three stations of the CA. Further, the CA has put up a One-Stop Processing Center (OSPC). The SB for its part, being the pilot project for the CMIS, plans to further expand and enhance its CMIS.

There is also a plan to fully computerize courts and undertake e-documentation of pleadings and annexes. A move towards presentation of evidence by means of CDROM, applicable specifically to accused who are in prison for other offenses in other places other than the court where they are being prosecuted or the same accused is being prosecuted in different courts distant from each other, has also been proposed. To further enhance physical access, the SC likewise plans to rehabilitate the Halls of Justice nationwide and complete all pilot courts; the SB has begun constructing its courthouses in Baguio City and Cebu. However, such plans are highly dependent on available funding (from the national budget or external sources) and require that present facilities be upgraded.

Moreover, the courts recognize that they also lack human resource complement to address cases. In order to dispose of cases faster and to ensure that courts are always available, more personnel are needed. Such need were recognized by the CA and SB while developing their plans.

The EJOW program perhaps is one of the biggest contributions to providing access to justice. Designed to ensure that courts get closer to the people (being mobile at that), the EJOW program also takes inventory of all detention prisoners and prioritize their cases. The EJOW program has made remarkable progress not only providing another avenue to resolve cases at a faster pace through mediation but also helping in decongest jails, freeing thousands of detention prisoners since its relaunch. The SC plans to further expand this program.

Another program that ensures that the courts are always accessible is the designation of Saturday courts; however, there has been no official designation from the SC of such courts. Presently, it is only the SB that has institutionalized this for bail purposes.

Furthermore, the sense of corruption and presence of undesirables have made people hesitant to turn to courts for justice. It is in this sense that the SC has plans to strengthen its Court Cleansing Initiative and continue its Integrity Development Review.

Aside from physical access, financial access is similarly a key for the poor to gain access to justice. Consequently, the SC has made efforts to mitigate the costs of litigation. The SC resolution in A.M. No. 08-11-7-SC or the Rules on Exemption from the Payment of Legal Fees of the Clients of the National Legal Aid Committee (NCLA) and of the Legal Aid Offices in the Local Chapters of the IBP was issued by the Court. OCA Circular No. 67-2007 was issued as well for the clients of PAO to be unconditionally exempted from paying docket fees and other fees. The SC has also allowed exemption for indigents from payment of filing fees under the Rules of Court.

The SC has also provided free legal services by making it mandatory for lawyers to render free legal aid under Bar Matter No. 2012. However, its implementation has been held in abeyance pending the issuance of the Implementing Rules and Regulations of the IBP. There have been concerns among lawyers on how these hours would be monitored and regulated.

The SC is likewise set to complete the implementation of an e-payment system in all courts.²⁵⁵ The e-payment system, which is an in-house developed system of the SC Management Information Systems Office (MISO), provides litigants with the convenience of having to pay different fees with only one receipt.²⁵⁶ In the previous manual system, litigants had to pay for seven different

²⁵⁵ Supreme Court, SC Completes E-Payment in Metro Manila Courts <<http://sc.judiciary.gov.ph/news/courtnews%20flash/2010/11/11181001.php>>.

²⁵⁶ *Id.*

fees with individual receipts upon the filing of a case, namely: Special Allowance for the Judiciary (SAJ), Judiciary Development Fund (JDF), Legal Research Fund (LRF), Victims' Compensation Fund (VCF), Philippine Mediation Center (PMC), Sheriff's Trust Fund, and the Land Registration Authority (LRA).²⁵⁷ Now, reporting of cases has become more efficient as the problem of lost receipts has been addressed by the computerization of payment and the legal fees standardized in all system-covered courts.²⁵⁸ The implementation of an online payment system is also underway, and is set to be launched in 2011. Along with eCFM and CMIS, this initiative helps in declogging congested dockets and solves delays in case management and resolution through the use of technology.

Aware of the plight of marginalized sectors, the SC has an ongoing project to define and look into possibilities of interfacing both the formal and informal justice systems. The SC has further supported the advocacies of organizations to further heighten awareness on informal sectors' concerns. In this Forum itself organized by the SC, the Court received several inputs from different stakeholders including the farmers/peasants, fisherfolk, migrant workers, informal sector workers (vendors), indigenous peoples, Moro communities, senior citizens, urban poor or informal settlers, among others. By including these various stakeholders, the Court also gave them a venue to be aware of each other's situation. The Court further hopes that projects would be scaled up to include a broader application in building the capacities of the informal sector .

The SC has also made measures to decriminalize certain offenses. With Administrative Circular No. 12-2000 and A.M. No. 00-11-01-SC, the application of a fine rather than imprisonment is preferred as a penalty to BP Blg. 22 cases. Similarly, Administrative Circular No. 08-2008 imposes the penalty of a fine instead of imprisonment in libel cases. Moreover, with the issuance of A.M. No. 08-8-7-SC that amended the Rules of Procedure for Small Claims Cases, it gave claimholders an option to file a civil suit rather than a criminal suit for money claims involving P100,000 or less.

Looking to other modes of dispute resolution, the Court has laid emphasis on the use of alternative dispute resolution and mediation. The SC has issued A.M. No. 07-11-08-SC, or the Special Rules of Court on Alternative Dispute Resolution, to provide for other ways to resolve cases. The use of mediation in the EJOW program has also proved beneficial for faster case disposition.

It bears emphasis that claimholders must also be aware of the existence of these programs catered to provide access to justice. All of these programs would be futile or ineffective if the claimholders are not able to use them. To this end, the SC has provided for the distribution of wall sheets and flow charts to illustrate what happens in a case. Notably, these wall sheets and flow charts are also printed in Filipino allowing more people to understand how the judicial system works. The SC will also continue to strengthen its relations with the media. The CA and SB will each seek to establish a Public Information Office (PIO). The SC's Access to Justice for the Poor Project has also provided IEC Guidelines for Municipal Court Information Officers while OCA has issued OCA Administrative Circular No. 16-2007 designating Clerks of Court as Municipal Court Information Officers. Further to its information campaign, courts will also provide tours for students and claimholders alike.

National Summit on Family Courts

There is an increasing need for more family courts with the rising number of family cases. Currently, the SC has designated selected courts as family courts. There is a pressing need for the creation of

²⁵⁷ *Id.*

²⁵⁸ *Id.*

such courts to address this, and, in turn, respond to the clamor for more qualified family court judges.

Moreover, the court has issued specific rules for certain types of cases such as in A.M. No. 02-1-18-SC or the Rules on Juveniles in Conflict with the Law; and in A.M. No. 07-8-2-SC or the Rules on Children Charged Under the Comprehensive Dangerous Drugs Act. Aside from the current provisions in the Rules giving special treatment when children are made witnesses or involved with cases, the SC has also issued SC Memorandum Order No. 59-2004 authorizing the Court Administrator to act on and approve requests of lower courts for the hiring of interpreters for the deaf. Nonetheless, there is still need to sensitize the courts on persons with disabilities because, except for these efforts, the present courts have not been particularly accessible to the disabled.

The SC has also issued SC Circular No. 151-2010 ordering all trial courts in the country to fast-track resolution of cases involving violations of RA No. 9208 or the Anti-Trafficking in Persons Act of 2003.

Further, the SC has also been holding seminars to enable a gender sensitive judiciary. As such, seminars on CEDAW and Gender Sensitivity have been provided to the members of the judiciary particularly the staff. A Strategic Gender and Development (GAD) Mainstreaming Plan for the Philippine Judicial System has also been devised by the Committee on Gender Responsiveness in the Judiciary. In the SB, the court conducts semestral assessments on GAD aside from the conduct of CEDAW and VAWC seminars.

As mentioned, the SC encourages the use of alternative dispute resolution. Family cases are not an exception. In consonance with this, the Court issued A.M. No. 10-4-16-SC or the Rules on Court-Annexed Family Mediation and Code of Ethical Standards for Mediators. In addition, the SC has held Regional Multi-Sectoral Stakeholders Seminars on Increasing Access to Family Courts.

National Consultative Summit on Extrajudicial Killings and Enforced Disappearances

During Chief Justice Reynato Puno's term, the circle of human rights was one of its highlights. To accord more protection in the light of the growing concern that extralegal killings and enforced disappearances were increasing, the SC held this summit. Several rules since then have been issued by the SC in its wake – A.M. No. 07-9-12-SC on the Rule on the Writ of Amparo and A.M. No. 08-1-16-SC on the Rule on the Writ of Habeas Data. The IDR Committee has also submitted a draft of Rules on Procedure for Whistleblowing.

Moreover, the SC has also issued Administrative Order No. 150-2007 designating all branches of the RTC to take cognizance of extralegal killings and enforced disappearances or threats, whenever such cases are raffled/assigned to them.

Aside from the summit, the SC has also held multi-sectoral and skills building seminar-workshops on Human Rights Issues: Extralegal Killings (ELK) and Enforced Disappearances (ED), as well as the Forum on the Rule of Habeas Data.

However, there is a lot to improve. Possible amendments to the Rule on the Writ of Amparo are being looked at. Bills that address ELK and ED will need to be re-filed. Ratification of the Additional Protocols of the Geneva Convention is also being lobbied in Congress. Possible amendments of the Rules of Court may also be necessary to be more attuned to the different needs in ELK and ED cases.

Forum on Environmental Justice

Due to the issuance of the SC on the Rules of Procedure for Environmental Cases, capacity building has been the focus. Both duty bearers and claimholders are being informed of the Rules in seminars and workshops. Multi-sectoral capacity building is also being done. Aside from these, a sourcebook on environmental justice is also being developed by PHILJA.

And although the SC has designated special courts (“green” courts) to hear, try, and decide environmental cases, there is still a need to expand such, there being a lack of courts that specialize in handling environmental cases. In addition, there are certain issues that the Rules do not touch on, e.g., precautionary principle. Overlapping of jurisdictions is still a problem and monitoring compliance remains an issue.

3. Analysis

Delay and slow case disposition are the main and common concerns for the courts pillar. These are brought about by several factors. Though delays may be caused by the lack of witnesses on the law enforcement side and by prosecution or defense-caused delays, the current judicial structure which adheres to the constitutional mandate of according due process to litigants has also contributed to such. The structure allows for every litigant to use all available remedies and for all parties to be heard. Such inevitably lead to delays and a slower pace of adjudication. Moreover, the insufficiency of resources, facilities, and judges also contribute to this situation.

The SC, in its effort to address such delays, has issued new rules to provide more mechanisms for justice. The Court has come out with the Rule on Small Claims Cases and opened up alternative remedies such as the Writ of Amparo, Writ of Habeas Data, and the Writ of Kalikasan. Its EJOW program has also brought the courts closer to the people, allowing weak cases to be dismissed early on and detained prisoners freed.

However, there is still a lot to be changed. The SC must continue to be on top of these changes. Presently, the judicial system is highly centralized in the SC. All rules and changes in procedures must necessarily go through the highest court in the land; and these changes have been very slow, oftentimes taking years to develop. Moreover, even administrative concerns of local courts have to secure the approval of the SC. Thus, without the initiative and direction of the SC, the courts pillar would practically be left at a standstill. This remains a threat especially once the projects under the Action Program for Judicial Reform are finished. New changes must be initiated.

Corruption also remains a major problem. In an SWS survey, one-fourth of present lawyers say many/very many judges are corrupt.²⁵⁹ However, although half (49%) say they know of a case in their own city or province where a judge took a bribe, only 8 percent of such lawyers said they reported the bribery, the main excuse of those keeping silent being that they could not prove it.²⁶⁰ The SC should continue to address this issue of accountability and perception, and ensure that people, specially the marginalized and the poor, could truly depend on the institution considered as the bulwark of justice and the rule of law.

²⁵⁹ Mahar Mangahas, Linda Luz Guerrero and Marlon Manuel, *New SWS Study of the Judiciary and the Legal Profession Sees Some Improvements, But Also Recurring Problems*, Jan. 25, 2005 <<http://www.sws.org.ph/pr050125.htm>> (last accessed Dec. 3, 2010).

²⁶⁰ *Id.*

4. Recommendations

Changes in the procedures are still crucial. Review and improvement of the Rules of Court is still necessary to find ways on how to speed up the disposition of cases. The Rules of Court has to be more responsive to the current needs of the times. Mobility and new modes of communication must be integrated into the system. Along with this, full computerization is also necessary for the Court to implement such. It is in this vein that online payment of legal fees, e-documentation and e-filing must still be pursued. Likewise, new modes of discovery must also be studied and if possible integrated in the system. Enforcement of mandatory timelines must be set more strictly. The courts need to strengthen disciplinary measures to ensure speedier disposition.

Decentralization, especially in administrative matters, is also recommended in order to address the immediate need of local courts. As long as a clear and strong system of accountability is in place, corruption concerns and lapses would be prevented.

The court must also continue its initiatives to further broaden access to justice by the poor and marginalized. Programs such as the EJOW should be continued and further expanded, which are actually being done by the SC. And although there are budget constraints, computerization of courts again is necessary in order to ensure an efficient case management system. Pilot systems that have been successful should be slowly implemented in all courts.

Lastly, the perception of the judiciary should be continuously improved. Trust must be established with the public through effective information dissemination. Media relations should be further developed to improve awareness of the people.

D. Corrections Pillar

The corrections pillar is composed of the institutional and non-institutional agencies of the government. The institutional agencies include the Bureau of Corrections (BUCOR) under the Department of Justice (DOJ), the Bureau of Jail Management and Penology (BJMP) under the Department of the Interior and Local Government (DILG), and the Council for the Welfare of Children under the Department of Social Welfare and Development (DSWD). On the other hand, the non-institutional agencies include the Parole and Probation Administration (PPA), and the Board of Pardons and Parole (BPP), which are all under the DOJ.

1. Existing Capacities

Bureau of Corrections

The BUCOR is the only primary institution in the corrections pillar that provides full custody and rehabilitation programs for the transformation of insular prisoners, those sentenced to more than three years to capital punishment. The mandate of the BUCOR is to rehabilitate national prisoners.

Among the functions of the BUCOR are the following: (1) safe-keep prisoners convicted by the courts to serve sentence in prisons; (2) keep prisoners from committing crimes while in BUCOR's custody; (3) provide inmates' basic needs as human beings; (4) ensure rehabilitation programs are made available to the inmates for their physical, intellectual, and spiritual development; and (5) develop livelihood programs to assist inmates earn a living and develop their skills while in prison.

The BUCOR maintained in its custody 35,793 inmates, 1 percent higher than the previous year. Congestion rate in all prison facilities decreased from 75 percent to 65 percent; with the New

Bilibid Prison as the most overcrowded facility with 120 percent congestion rate. Despite the decrease, however, congestion remains to be the number one problem of the Bureau.

**TABLE 5.27: BUREAU OF CORRECTIONS
COMPARATIVE TABLE OF POPULATION AND CONGESTION RATE**

Station	Capacity	Population		Congestion (%)		No. of Guard		Ratio GD:INM	
		First Semester							
		2010	2009	2010	2009	2010	2009	2010	2009
NBP	9,000	19,843	20,694	120	138	802	771	1:31	1:26
CIW	1,000	1,779	1,652	78	65	86	27	1:21	1:61
IPFF	4,000	3,788	3,191	–	–	124	123	1:31	1:25
DPPF	3,500	5,650	5,381	61	74	199	195	1:29	1:28
CIW (Mind)	200	219	209	9.5	–	–	–	–	–
SRPPF	1,550	1,283	1,299	–	–	87	83	1:15	1:15
SPPF	1,500	1,690	1,672	13	11	80	72	1:21	1:23
LRP	1,000	1,541	1,354	54	35	50	44	1:31	1:30
TOTAL	21,750	35,793	35,452	65	75	1428	1,315	1:25	1:26
Percent Change (%)		1		-10		9		–	

The table below shows the number of inmates admitted and released as of December 31, 2009.

**TABLE 5.28: BUREAU OF CORRECTIONS
INMATES STATISTICS AS TO ADMISSION AND RELEASES AS OF DECEMBER 31, 2009²⁶¹**

	No. of Inmates	Admission	Releases
NBP	21,034	3,780	2,138
CIW	1,726	331	164
IPFF	2,984	22	350
DPPF	5,685	905	524
CIW-Mindanao	222	0	0
SRPPF	1,303	126	124
SPPF	1,564	4	173
LRP	1,416	293	147
Total as of Dec. 2009	35,934	5,461	3,620
Total as of Dec. 2008	34,547	5,496	3,241
Percent Change (%)	4	-0.6	12

To address the problem of congestion at the national penitentiary, qualified medium security prisoners in Muntinlupa are shipped to less populated prisons and penal farms. Colony assignments are not only to decongest the premier national prison but also to provide personnel to improve the production capacity of the other penal farms. A total of 1,451 or 4 percent of the total populace were transferred to other prison facilities as follows: IPFF – 1,000; SPPF – 255; DPPF – 1; LRP – 150; and PMA – 45.

²⁶¹ Taken from the Bureau of Corrections.

The Reception and Diagnostic Center (RDC) is designated to receive, study, and classify inmates and detainees committed to this Bureau. The Center conducts prison orientation and initial health services including immunization treatment, personality diagnosis for institutional placements and treatment program. The admissions (2,284) at RDC continued to rise above the number of releases (2,229), classified into first offenders (1,842) and recidivists (442). The rate of recidivism is 19 percent of admissions. The number of admissions decreased by 22 percent from the first semester of the previous year, while the number of releases increased by 49 percent.

A total of 2,398 *carpetas* were processed and forwarded to the Board of Pardons and Parole. The released inmates (2,229) comprised 6 percent of the entire inmate population.

Most of the escapees were inmates of minimum security classification and, because of their security class, were allowed to work outside the prison dormitories. However, escapees in the penal colonies involved those working in the farm under guard. There were 29 escapees from January to June 2010.

Intensive campaign against the entry of contraband was observed. A series of search operations was conducted to rid the prison premises of contraband. The search operations led to the confiscation of prohibited drugs, deadly weapons, intoxicating liquor, gambling paraphernalia, cellular phones, and similar items.

Efforts are also made to instill discipline among inmates. The Board of Discipline acts on the cases of inmates violating prison rules and regulations. Every breach of discipline is reported to the proper prison authorities. For inmate discipline, 2 percent of the inmate population was involved in the administrative and criminal cases. One hundred thirty-seven were charged in court for various criminal offenses committed while in custody. On the other hand, 434 inmates faced administrative sanctions.

The welfare of inmates as to the provision of their basic needs has improved with the increase of daily food ration and the medicine allowance at P50 and P3 per day/inmate, respectively. The annual budget per inmate is P22,272.00.

As of June 2010, 209 inmates died. The Bureau undertakes measures to upgrade the health care and improve the living conditions inside prison compounds. The most prevalent diseases are Upper Respiratory Tract Infection (URTI), Pulmonary Tuberculosis (PTB), Hypertension (HPN), and skin diseases.²⁶²

The BUCOR has implemented six reformation programs: Sports and Recreation; Morale and Spiritual; Education and Training, Therapeutic Community; Work and Livelihood; and the Health Care.

²⁶² Based on the Accomplishment Report of the Bureau of Corrections as of June 2010.

**TABLE 5.29: BUREAU OF CORRECTIONS
REFORMATION PROGRAMS AS OF JUNE 2010²⁶³**

Reformation Programs	NBP	CIW	IPPF	DPPF	SPPF	SRPPF	LRP	Total		Remarks
								June 2010	June 2009	
Population	19,843	1,779	3,788	1,690	1,283					
<i>Training and Education</i>										
Enrollees	876	447	94	697	290	293	110	2,807	3,645	23%↓
Graduates	872	115	0	74	30	208	0	1299	728	79%↑
<i>Behavior Modification Programs</i>										
Therapeutic Community Program	202	151	0	23	60	24	0	460	424	9.56% of drug cases
Muntinlupa Juvenile Training Center	17							17	23	26%↓
Sports and Recreation	8,463	1,460	1,500	823	1,651	1,291	450	15,638	14,391	9%↑
Moral and Spiritual	19,328	1,602	2,481	3,629	786	1,145	351	29,322	28,265	4%
Work and Livelihood	2,993	202	172	1,513	1,364	587	79	6,910	8,376	18%↓
Health Care Programs	13,888	831	3,355	1,396	2,782	1,666	2,127	26,045	20,039	30%↑
Employment Rate								19%	24%	5%↓

The Bureau says that the limited budget appropriated to their rehabilitation programs renders it difficult for the Bureau to enhance the same. The Bureau could not procure the facilities and equipment necessary to serve all their clients. The Bureau said that this affects the effectiveness of the programs as shown by the rate of recidivism, at 18 percent in 2009. The Bureau, however, has creatively augmented its budget. For instance, the Bureau has resorted to the cultivation of medicinal plants to be used as alternative medicines to inmate patients at the NBP Hospital.²⁶⁴

The following tables show the profile of the inmates with regard to the following classifications: crimes committed; age; educational profile; and occupation.

²⁶³ Taken from the Bureau of Corrections.

²⁶⁴ Based on the SWOT Analysis submitted by the Bureau of Corrections.

TABLE 5.30: BUREAU OF CORRECTIONS
INMATES STATISTICS ACCORDING TO CRIMES COMMITTED AS OF JUNE 2010²⁶⁵

CRIME PROFILE	NBP	CIW	IPPF	DPPF		SRPPF	SPPF	LRP	TOTAL
				F	M				
Against National Security and the Law of Nations	126	5	0	0	0	0	2	9	142
Against the Fundamental Law of the State	0	0	0	0	0	0	0	10	10
Against Public Order	51	0	25	0	2	0	54	1	133
Against Public Interest	91	0	49	0	1	1	3	0	145
Relative to Opium and Other Prohibited Drugs	2,669	918	0	126	587	96	131	86	4,613
Against Public Morals	0	0	0	0	1	0	4	0	5
Committed by Public Officers	5	12	2,243	1	21	0	0	0	2,282
Against Persons	12,905	128	0	43	3,055	550	852	1,073	18,606
Against Personal Liberty and Security	34	54	548	10	77	2	9	7	741
Against Property	1,432	635	399	36	848	121	323	139	3,933
Against Chastity	753	17	0	3	1,014	65	312	215	2,379
Against the Civil Status of Persons	753	0	0	0	0	1	0	1	755
Against Honor	0	0	0	0	1	0	0	0	1
Others	1,024	10	524	0	43	447	0	0	2,048
TOTAL	19,843	1,779	3,788	219	5,650	1,283	1,690	1,541	35,793

TABLE 5.31: BUREAU OF CORRECTIONS
INMATES STATISTICS ACCORDING TO AGE AS OF JUNE 2010²⁶⁶

According to Age	NBP	CIW	IPPF	DPPF (F)	DPPF (M)	SRPPF	SPPF	LRP	TOTAL
18 years old and below	12	2	0	0	12	4	0	1	31
19 – 21	591	18	4	9	197	18	0	187	1,024
22 – 39	13,271	659	2,704	109	3,209	754	1,048	897	22,651
40 – 59	5,196	1,016	1,070	97	2,090	470	624	415	10,978
60 and above	687	72	10	4	109	25	4	37	948
Unknown	86	12	0	0	33	12	14	4	161
TOTAL	19,843	1,779	3,788	219	5,650	1,283	1,690	1,541	35,793

²⁶⁵ Taken from the Bureau of Corrections.

²⁶⁶ *Id.*

TABLE 5.32: BUREAU OF CORRECTIONS
INMATES STATISTICS AS TO EDUCATIONAL PROFILE AS OF JUNE 2010²⁶⁷

AS TO EDUCATIONAL PROFILE	NBP	CIW	IPPF	DPPF (F)	DPPF (M)	SRPPF	SPPF	LRP	TOTAL
Illiterate	1,007	34	261	7	383	107	103	188	2,090
Elementary Level	6,849	264	1,661	50	2,619	665	783	867	13,758
Elementary Graduate	2,542	149	658	18	760	125	291	88	4,631
High School Level	4,124	415	710	63	1,133	206	291	290	7,232
High School Graduate	2,452	277	375	23	394	84	153	70	3,828
College Level	1,838	279	97	31	280	68	57	13	2,663
College Graduate	586	318	26	23	65	17	10	12	1,057
Vocational Course	445	43	0	4	16	11	2	13	534
Others	0	0	0	0	0	0	0	0	0
TOTAL	19,843	1,779	3,788	219	5,650	1,283	1,690	1,541	35,793

TABLE 5.33: BUREAU OF CORRECTIONS
INMATES STATISTICS AS TO OCCUPATION AS OF JUNE 2010²⁶⁸

AS TO OCCUPATION	NBP	CIW	IPPF	DPPF (F)	DPPF (M)	SRPPF	SPPF	LRP	TOTAL
Agricultural	5,404	25	1,457	7	2,873	112	632	1,128	11,638
Trade and Industry	2,390	849	375	126	941	636	539	40	5,896
Defense and Security	935	154	168	5	278	129	60	47	1,776
Administrative	378	122	97	10	201	204	47	35	1,094
Transportation, Communication and Public Utility	1,786	187	587	5	515	87	169	79	3,415
Crafts and Trade	3,670	84	224	12	266	86	28	29	4,399
Information, Arts and Recreation	517	205	27	12	185	22	85	85	1,138
Others	4,763	153	853	42	391	7	130	98	6,437
TOTAL	19,843	1,779	3,788	219	5,650	1,283	1,690	1,541	35,793

The Bureau undertakes to re-engineer its organization to allow for a paradigm shift from the punitive to restorative and rehabilitative correctional system for those who are confined in the country's eight penitentiaries.

²⁶⁷ *Id.*

²⁶⁸ *Id.*

During the Validation Workshop, Mr. Rollo Alarcon of the BUCOR identified the key problems leading to the difficulties of the Bureau:

1. Lack of BUCOR personnel. The number of personnel has remained constant at 2,362 from 1989 until 2009. Within the same 20-year-period, however, the number of inmates has more than doubled from 12,970 to 34,547. This results in a severe disparity between the number of personnel and the inmates.
2. BUCOR personnel salary grades. Not considered as uniformed personnel, BUCOR personnel are not covered by salary increases pertaining to uniformed personnel such as the Bureau of Immigration.

While it has dedicated personnel, the development of their capabilities focuses mainly on communication skills development, moral recovery, and prison guard basic courses. But because of the rationalization program, the personnel will be decreased by 12 percent. With the re-engineering program of the Bureau, however, they plan to increase their plantilla. The Bureau sees the need to establish an agenda for the purpose of redirecting its personnel towards effectively inspiring and guiding inmates towards reformation. This may be achieved through proper training.²⁶⁹

To inform the public of the basic services delivered by the Bureau, the Bureau published a “Citizen’s Charter” pursuant to the Anti-Red Tape Act of 2007. However, the Bureau admits that it does not have any advocacy campaign aimed at harnessing support from the civil society and other organizations. Furthermore, there is a need for the Bureau to regularly update the information on its website.²⁷⁰

The Bureau says that it coordinates with the other pillars of the Criminal Justice System. They make data readily available to the other pillars when requested. However, the Bureau observed that the real threat with respect to coordination with other pillars is the red tape problem. This slows down the transfer of needed documents and services. Also, not all sectors of the pillars are fully computerized. This consequently hinders quick communication and coordination among them.²⁷¹

The Bureau prides itself for being ranked sixth as most compliant with the Integrity Development Action Plan of the Presidential Anti-Graft Commission. However, it admits that corruption is still present within the Bureau. There are currently 80 administrative cases pending as of June 2010. The disposition rate of these cases is only at 45 percent because the Bureau lacks legal officers.²⁷²

Bureau of Jail Management and Penology²⁷³

The Bureau of Jail Management and Penology was created in 1991 to address the growing concern of jail management and penology problem. Primarily, its clients are detainees accused before a court who are temporarily confined in such jails while undergoing investigation, awaiting final judgment,

²⁶⁹ Based on the SWOT Analysis submitted by the Bureau of Corrections.

²⁷⁰ *Id.*

²⁷¹ *Id.*

²⁷² Based on the Accomplishment Report of the Bureau of Corrections as of June 2010.

²⁷³ Bureau of Jail Management and Penology <<http://www.bj.mp.gov.ph>> (last accessed, Dec. 5, 2010).

and serving sentence promulgated by the court of imprisonment for three years and below. As provided for under RA No. 6975,²⁷⁴ the Jail Bureau is mandated to take operational and administrative control over all city, district and municipal jails.

The Bureau has four major areas of rehabilitation programs, namely: Livelihood Projects; Educational and Vocational Training; Recreation and Sports; and Religious/Spiritual Activities. These were continuously implemented to eliminate the offenders' pattern of criminal behavior and to reform them to become law-abiding and productive citizens.

The BJMP has custody of 62,556 inmates. Table 5.34 shows the number of inmates with the BJMP as of September 2010.

TABLE 5.34: BUREAU OF JAIL MANAGEMENT AND PENOLOGY
TOTAL NUMBER OF INMATES DETAINED IN BJMP NATIONWIDE AS OF SEPTEMBER 2010²⁷⁵

Region	Sentenced		Total	Detained				Total	PNP – Manned Jail	Grand Total
	Adult			Adult		Minor				
	M	F		M	F	M	F			
NCR	535	65	600	15,343	2,229	73	0	17,645	0	18,245
1	98	13	111	1,563	169	15	0	1,747	0	1,858
2	61	7	68	1,156	61	3	0	1,220	0	1,288
3	10	2	12	4,280	485	2	1	4,768	3	4,783
4A	50	6	56	6,757	721	11	1	7,490	361	7,907
4B	20	1	21	634	70	4	0	708	108	837
5	138	2	140	1,775	57	23	1	1,856	0	1,996
6	356	22	378	3,466	207	3	0	3,676	159	4,213
7	659	55	714	5,536	508	178	8	6,230	319	7,263
8	61	1	62	1,285	79	10	0	1,374	0	1,436
9	29	4	33	2,525	245	25	0	2,795	83	2,911
10	263	8	271	2,183	157	34	5	2,379	1	2,651
11	75	3	78	2,012	175	0	0	2,187	0	2,265
12	70	5	75	2,237	188	12	0	2,437	0	2,512
13	95	0	95	802	74	17	0	893	0	988
CAR	12	6	18	876	86	18	0	980	0	998
ARMM	0	0	0	303	2	6	0	311	94	405
TOTAL	2,532	200	2,732	52,733	5,513	434	16	58,696	1,128	62,556

²⁷⁴ An Act Establishing the Philippine National Police Under a Reorganized Department of the Interior and Local Government, and for Other Purposes, Republic Act No. 6975, Ch. V (1990).

²⁷⁵ Data provided by the Bureau of Jail Management and Penology.

The Bureau also has custody of 450 children in conflict with the law:

**TABLE 5.35: BUREAU OF JAIL MANAGEMENT AND PENOLOGY
CICL JAIL POPULATION DATA AS OF SEPTEMBER 2010²⁷⁶**

Region	Detained		Total
	Male	Female	
NCR	73	0	73
1	15	0	15
2	3	0	3
3	2	1	3
4A	11	1	12
4B	4	0	4
5	23	1	24
6	3	0	3
7	178	8	186
8	10	0	10
9	25	0	25
10	34	5	39
11	0	0	0
12	12	0	12
13	17	0	17
CAR	18	0	18
ARMM	6	0	6
Total	434	16	450

**TABLE 5.36: BUREAU OF JAIL MANAGEMENT AND PENOLOGY
TOTAL AVERAGE NUMBER OF INMATES FROM JANUARY-SEPTEMBER 2010²⁷⁷**

Month	Jail Population
January	58,543
February	58,766
March	58,803
April	58,460
May	58,771
June	59,729
July	60,483
August	61,578
September	62,556

While the number of inmates decreased in 2009 as compared to the previous year, the BJMP anticipates an increase in the number of inmates in the coming years. Based on their computation, they expect the number of inmates to reach 79,000 in 2014.

²⁷⁶ *Id.*

²⁷⁷ *Id.*

TABLE 5.37: BUREAU OF JAIL MANAGEMENT AND PENOLOGY
ANNUAL RATE OF INCREASE IN JAIL POPULATION²⁷⁸

Year	Actual Jail Population
2000	34,998
2001	37,158
2002	40,903
2003	48,907
2004	55,919
2005	61,331
2006	60,732
2007	60,205
2008	61,370
2009	58,711
Projected Jail Population @ 6.17% Annual Increase	
2010	62,333
2011	66,179
2012	70,263
2013	74,598
2014	79,201

The personnel complement of the BJMP is 8,981: 771 are jail-commissioned officers, 8,128 are jail-non-commissioned officers, and 82 are non-uniformed personnel. These personnel are distributed to the different jail stations and BJMP offices nationwide. According to the BJMP, the number of inmates requires more uniformed personnel. And the ideal number, according to the Bureau, is 40,349 because the ideal custodial ratio should be one jail office for every seven inmates per shift. At present, a jail officer handles 46 inmates per shift.

The insufficient number of jail officers also affects the security of the inmates. The ideal escort-inmate ratio is 1:1, plus one over-all jail supervisor. A jail officer currently escorts three inmates. The BJMP also needs to improve its logistic resources to safeguard the inmates.

The steady increase in the number of inmates would mean that the congestion rate would worsen over the years. According to the BJMP, it needs P4.069 billion in order to address this problem.

TABLE 5.38: BUREAU OF JAIL MANAGEMENT AND PENOLOGY
NATIONWIDE PERCENTAGE OF CONGESTION FOR THE MONTH OF SEPTEMBER 2010²⁷⁹

Region	Number of Congested Jails	Lot Area (sqm)	Floor Area (sqm)	Cell Area (sqm)	Ideal Capacity @3sqm	Jail Population	Variance	Percentage of Congestion
NCR	20	70,191	27,180	16,283	5,428	18,245	12,817	410
1	17	18,827	3,150	1,756	374	1,858	1,484	222
2	13	16,280	2,882	1,530	510	1,288	778	186
3	27	13,889	4,479	3,105	1,035	3,878	2,843	259
4A	36	44,663	12,458	4,424	1,473	7,546	6,073	533
4B	4	14,679	3,598	1,564	522	729	207	157

²⁷⁸ *Id.*

²⁷⁹ *Id.*

5	26	38,703	4,108	2,096	700	1,996	1,296	366
6	29	36,831	10,341	4,685	1,561	4,051	2,490	301
7	27	96,397	8,413	7,740	2,580	6,944	4,364	231
8	12	7,726	1,862	1,499	500	1,436	936	299
9	18	91,815	5,626	3,314	1,103	2,728	1,625	141
10	15	38,732	3,416	2,076	692	2,650	1,958	621
11	9	42,445	2,832	1,836	613	2,265	1,652	522
12	10	59,544	4,403	2,679	897	2,512	1,615	171
13	4	14,263	2,230	1,643	554	988	434	86
CAR	9	13,098	2,636	1,429	477	998	521	218
ARMM	1	24,145	3,431	1,416	473	311	(162)	237
Total	280	642,228	103,045	59,075	20,072	60,423	40,351	
Average Congestion Rate								292

Furthermore, Congress has failed to act upon proposed bills for the integration of jails. Jail congestion leads to other concerns. Inmates are susceptible to communicable diseases such as Severe Acute Respiratory Syndrome (SARS), Tuberculosis (TB) and Influenza A (H1N1) Virus.²⁸⁰

The Bureau lauded the efforts of the Supreme Court to help decongest jails. The Enhanced Justice on Wheels Program has decreased jail population. The Bureau also reported that it is also engaged in activities aimed at reducing jail population. The Bureau said because of its Paralegal Services, many inmates were released. However, the Bureau observed that the paralegals need more training and support. It noted that travel expenses of the paralegals are usually not reimbursed, with the Bureau pointing out that the BJMP has jurisdiction over jails nationwide.²⁸¹ Moreover, the paralegals are not limited to rendering legal services. The Bureau said that other tasks are assigned to them so there were times when they were not focused on the inmate's case.²⁸²

The Bureau prides itself on having dedicated personnel. It posits that its recruitment process is effective. However, the Bureau recognizes that the recruitment process is susceptible to "political interference." In addition, the Bureau laments that it cannot increase its personnel to reach the ideal number of the limited quota of additional personnel that can be recruited each year. The Bureau plans to increase the number of the jail officers to attain the ideal escort-to-detainee ratio of 1:1. However, the Bureau was limited to recruiting only 500 additional personnel yearly while they proposed to recruit 3,145 jail officers.²⁸³

The capacity of the Bureau will further be improved with the procurement of additional equipment and construction of facilities. As stated previously, not all jails maintained by the Bureau have perimeter fences. This increases the risk of inmates escaping. To address this problem, the Bureau included in its plan the construction of perimeter fences to 25 percent of the city, district, and municipal jails for 2010-2012; another 25 percent from 2013-2015; and the remaining 50 percent to be constructed from 2016-2020. In addition, to ensure the security of the facilities which house 300 to 1,000 inmate population, security towers need to be constructed. Moreover, the dilapidated

²⁸⁰ Based on the SWOT Analysis submitted by the Bureau of Jail Management and Penology.

²⁸¹ *Id.*

²⁸² *Id.*

²⁸³ *Id.*

jail facilities need to be repaired. However, the Bureau admits that unless the DBM approves a higher capital outlay for the Bureau, this will have to take a backseat.²⁸⁴

To further compound the problem, there are threats from terrorist groups that have comrades in jail, such as the Moro National Liberation Front (MNLF), Moro Islamic Liberation Front (MILF), Abu Sayyaf Group, New People's Army (NPA), etc. Moreover, some jails are located in rebel-infested areas. To make matters worse, relatives and affiliates of inmates are willing to help them escape. With the help of some jail officers and personnel, the family members are able to bring in contraband materials.²⁸⁵ The Bureau, however, assures that erring personnel are administratively, if not criminally, held liable.

With respect to the safekeeping and management of inmates, the Bureau reported that its custodial personnel are well-motivated. Most inmates are submissive to jail authorities and some are even employed to act as informers for the custodial guards. However, some of the detainees are "high-profile" people and there are times that its personnel are susceptible to bribery. Moreover, while STAR teams have been created to keep jails safe, the STAR teams only assist in the safekeeping of jails with high-risk and high-profile inmates.²⁸⁶

The Bureau considers as problematic the securing of inmates in situations where they are confined in hospitals. The Bureau considers this as one of the riskiest assignments for BJMP escorts because only a single jail officer is deployed for a confined inmate.²⁸⁷

The Bureau also introduced livelihood projects for the inmates. This has become a source of income for some of the inmates. However, the Bureau admits that it currently does not impose any quality control standards with respect to the products. This sometimes renders the products unmarketable. The Bureau's personnel also do not have adequate technical knowledge in preparing feasibility studies. The Bureau should also provide an area where inmates can do their crafts. The Bureau said that while it does not promote the products produced by the inmates, it seeks assistance from NGOs to market them. The Bureau also notes that some LGUs are actually willing to fund some of the jail's programs and projects. NGOs also have expressed interest in supporting these programs.²⁸⁸

The Bureau also has plans of educating the inmates. However, as with other projects, their capability is limited by budget constraints. The Bureau continues to conduct classes, this notwithstanding.

One of the more important projects of the Bureau is its "After Care" program. The Bureau is confident that there will be lesser cases of recidivism if the inmates are properly given "after care" services. The Bureau, however, admits that it encounters negative perception/discrimination from the community towards their clients.²⁸⁹ According to J/SSupt. Dennis Rocamora, there is a general

²⁸⁴ *Id.*

²⁸⁵ *Id.*

²⁸⁶ Based on the SWOT Analysis submitted by the Bureau of Jail Management and Penology.

²⁸⁷ *Id.*

²⁸⁸ *Id.*

²⁸⁹ *Id.*

public apathy towards inmates. The Bureau works towards changing this negative public perception.²⁹⁰

Board of Pardons and Parole²⁹¹

Pursuant to Act No. 4103 dated December 5, 1933, and EO No. 83 dated January 11, 1937, the Board of Pardons and Parole is mandated to grant parole to prisoners, recommend to the President the grant of Absolute Pardon, Conditional Pardon, and Commutation of Sentence, and take part in the rehabilitation of the parolees/pardonees through the Technical Service of Parole and Probation Administration which acts as the service arm of the BPP.

In the evaluation and review of petitions for parole and executive clemency, the Board relies mainly on two basic documents: the Prison Records and the Prison Jackets or “*carpetas*” of qualified prisoners. The BPP’s output therefore depends on the availability of these records which originate from the BUCOR and local jails.²⁹² The output in terms of grant of parole, and recommendations for commutation of sentence, conditional pardon, and absolute pardon depends on the completeness of the documents contained in the *carpeta*, such as, court decision and fiscal’s information; certificate of no pending case; certificate from the courts on the finality of the decision on the case; pre-parole/executive clemency investigation reports; psychological/psychiatric reports on prisoners convicted of serious or heinous crimes and sentenced to reclusion perpetua/life sentence.²⁹³

For the year 2009, the BPP acted upon 5,056 *carpetas* and resolved 4,894 cases either for parole, commutation of sentence, or pardon. This also included cases of seriously ill and old-age prisoners transmitted to the Office of the President. Disposition rate was 96.79 percent.

The BPP also tackled infraction reports and acted on requests such as transfer of residence, death reports, lifting of Orders of Arrest and Recommitment, requests for authority to travel abroad, and cancellation of parole.

In carrying out its mandate, the BPP conducted interviews of prison inmates in the eight national penitentiaries and penal colonies. The jail visits included the PMA stockade, PMA, Fort del Pilar, Baguio City; Baguio City Jail; Benguet Provincial Jail. It is an active party in the implementation of the DOJ Jail Decongestion Program and the DOJ Outreach Program in giving legal advice and assistance concerning parole/executive clemency matters. The BPP’s regular operations are supported by an automated document tracking system and a performance monitoring system.

²⁹⁰ Interview with J/SSupt. Dennis Rocamora, Program Development Office, Bureau of Jail Management and Penology in Quezon City on Sept. 7, 2010.

²⁹¹ Annual Accomplishment Report of the Department of Justice (2009).

²⁹² Plans of the Board of Pardons and Parole for the First 100 Days (2001).

²⁹³ *Id.*

TABLE 5.39: BOARD OF PARDONS AND PAROLE²⁹⁴

	2005	2006	2007	2008	2009	Total	Jan-April 2010
<i>1. Cases for Parole</i>							
Granted	2,640	2,260	1,623	1,698	1,880	10,101	678
Denied/Deferred/Others	1,045	1,405	1,059	829	739	5,077	211
Total	3,685	3,665	2,682	2,527	2,619	15,178	889
<i>2. Commutation of Sentence</i>							
Recommended	0	3	195	308	282	788	166
Denied/Deferred/Others	46	320	1,529	1,655	1,734	5,284	348
Total	46	323	1,724	1,963	2,016	6,072	514
<i>3. Conditional Pardon</i>							
Recommended	1	11	26	23	25	86	10
Denied/Deferred/Others	4	24	1	0	0	29	0
Total	5	35	27	23	25	115	10
<i>4. Absolute Pardon</i>							
Recommended	0	1	3	5	9	18	1
Denied/Deferred/Others	5	14	14	10	11	54	4
Total	5	15	17	15	20	72	5
<i>5. Final Release and Discharge</i>							
Granted	2,236	1,908	1,699	1,522	1,413	8,778	428
Denied/Deferred/Others	45	6	6	12	10	79	3
Total	2,281	1,914	1,705	1,534	1,423	8,857	431
<i>6. Order of Arrest and Recommitment/Recommitment Order</i>							
Issued	538	497	290	346	290	1,961	88
Deferred/Others	44	12	7	8	8	79	2
Total	582	509	297	354	298	2,040	90
<i>7. Transfer of Residence</i>							
Confirmed/Approved	511	411	328	234	424	1,908	151
Denied/Deferred/Others	26	1	2	6	2	37	2
Total	537	412	330	240	426	1,945	153

Because the Board is under the Office of the Secretary of Justice, it relies upon the discretion of the Office of the Secretary for the release, procurement and availability of the logistics vital to efficient operations. In addition, the funds allocated for the Board's outreach program, which is intended to bring its services closer to the people, are inadequate. The BPP also has a centralized operation, where the Manila office operates the parole system nationwide.

The Board operates with a small number of personnel. With the rationalization program of the government, the Board expects that the number of personnel will further be decreased. The Board is concerned over the training of its personnel. Also, there is a need for the Board to train its personnel with new technology. The Board is one of the agencies which does not have a website.²⁹⁵

²⁹⁴ Taken from the Board of Pardons and Parole Accomplishment Report (2009).

²⁹⁵ Based on the SWOT Analysis submitted by the Board of Pardons and Parole.

The Board coordinates with other agencies in the performance of their functions. Before the Board can issue a *carpeta*, it has to be satisfied that the client has already been sentenced and that there are no pending appeals. Moreover, the Board has to ensure that the records of the client are complete. This requires the Board to coordinate with other agencies. However, the Board says that they encounter problems when other agencies do not notify them immediately of a pending appeal.

Parole and Probation Administration²⁹⁶

The Parole and Probation Administration, previously called the Probation Administration, was created by virtue of PD No. 968, "The Probation Law of 1976," to administer the probation system. Under EO No. 292, the PPA was given the additional function of supervising prisoners who, after serving a part of their sentence, are released on parole or are granted pardon with parole conditions. In 2005, the investigation and supervision of First Time Minor Drug Offenders (FTMDO) placed under suspended sentence became an added function pursuant to Sections 66, 68, and 81(b) of RA No. 9165 or the "Comprehensive Dangerous Drugs Act of 2002" and as per Dangerous Drugs Board Resolution No. 2, and the Memorandum of Agreement between the DDB and the PPA. Also in 2005, EO No. 468 mandated the revitalization of the Volunteer Probation Aide (VPA) Program. This placed the PPA in the forefront in relation to crime prevention, treatment of offenders in the community-based setting, and in the overall administration of criminal justice.

The PPA currently has 1,048 personnel even though it is authorized to fill 1,447 positions. The table below shows the distribution of personnel of the PPA nationwide.

**TABLE 5.40: PAROLE AND PROBATION ADMINISTRATION
DISTRIBUTION OF PERSONNEL COMPLEMENT AS OF DECEMBER 2009²⁹⁷**

Station	Number of Personnel	
	Authorized	Filled
CENTRAL OFFICE		
Office of the Administrator	36	28
Administrative Division	61	38
Case Management and Records Division	21	17
Community Services Division	19	19
Clinical Services Division	13	9
Financial and Management Division	29	19
Legal and Inspection Division	17	7
Training Division	17	13
Sub-total	213	150
REGIONAL OFFICES		
Region I	87	55
Region II	48	39
Region III	95	71

²⁹⁶ Based on the PPA-DOJ 2009 Report.

²⁹⁷ Taken from the Case Management and Records Division of the Parole and Probation Administration.

Region IV-A	163	104
Region IV-B	4	0
Region V	67	43
Region VI	92	66
Region VII	122	95
Region VIII	68	55
Region IX	52	36
Region X	70	56
Region XI	59	48
Region XII	40	31
NCR	187	132
CAR	42	34
CARAGA	38	33
Sub-total	1,234	898
GRAND TOTAL	1,447	1,048

Consultations with the PPA officials reveal that the number of personnel is still insufficient compared to the number of clients they serve. According to RD/OIC Manuel G. Co, their personnel are tasked to supervise clients who are on probation, parole, or granted conditional pardon. Their task does not end with supervision; they have to help with their client's re-integration to the community. This is the reason why they actively promote the VPA Program. While the number of VPA has increased over the years, RD/OIC Co states that they plan to recruit more. In 2009, there are 10,065 VPAs nationwide who have served 9,877 clients. There is still a need to strengthen and support this program. The safeguards and welfare benefits of the field officers and VPAs are still inadequate. Moreover, the number of VPA associations is still unstable. Ideally, the number of VPA associations should correspond to the number of field offices.²⁹⁸

**TABLE 5.41: PAROLE AND PROBATION ADMINISTRATION
STATUS REPORT ON THE VPA PROGRAM²⁹⁹**

Region	VPA Appointed		Number of Clients Served
	Number	Percentage	
NCR	822	8.17	776
CAR	393	3.90	316
I	436	4.33	238
II	315	3.13	319
III	1,156	11.49	514
IV	1,631	16.20	1,399
V	255	2.53	338
VI	1,005	9.99	1,102
VII	983	9.77	738
VIII	571	5.67	329
IX	663	6.59	581
X	588	5.84	1,151
XI	394	3.91	867
XII	324	3.22	802
CARAGA	529	5.26	407
TOTAL	10,065	100	9,877

²⁹⁸ Based on the SWOT Analysis submitted by the Parole and Probation Administration.

²⁹⁹ *Id.*

TABLE 5.42: PAROLE AND PROBATION ADMINISTRATION PERFORMANCE HIGHLIGHTS (2009)³⁰⁰

A. Probation Investigation		
National Disposition Rate		91.10% (Agency Target: 90%)
Carry-over from 2008	579	6.02%
Referral Received in 2009	9,045	93.98%
Total Cases Handled	9,624	100.00%
Total Completed/Submitted Cases	8,760	91.02%
1. Recommended for Grant	7,768	88.68%
2. Recommended for Denial	438	5.00%
3. Manifestations and Others	554	6.32%
Carry-over for 2010	857	8.9%
B. Pre-parole and Executive Clemency		
National Disposition Rate		93.16% (Agency Target: 90%)
Carry-over from 2008	67	5.88%
Referral Received in 2009	1,073	94.12%
Total Cases Handled	1,140	100.00%
Total Completed/Submitted Cases	1,062	93.16%
1. Recommended for Grant of Parole	715	67.32%
2. Recommended for Commutation of Sentence	283	26.65%
3. Recommended for Conditional Pardon	23	2.17%
4. Recommended for Absolute Pardon	3	.28%
5. Recommended for Transfer/Others	38	3.58%
Carry-over for 2010	78	6.84%
C. Probation Supervision		
Total Supervision Cases Handled	34,050	100.00%
Carry-over (2008)	24,657	72.41%
Supervision Cases Received in 2009	9,393	27.59%
Total Supervision Dropped Cases	6,716	19.72%
Successful Completion of Probation	4,324	
Revoked	316	
Transferred	514	
Others	1,562	
Sustained Recommendation Rate		99.98%
Carry-over Supervision for 2010	27,334	80.28%
D. Parole/Pardon Supervision		
Total Supervision Cases Handled	18,164	
Carry-over from 2008	12,509	
Referrals Received in 2009	5,655	
Parole Supervision Cases	17,108	94.19%
Carry-over (2008)	11,735	
Referrals Received (2009)	5,373	
Conditional Pardon Supervision:	1,056	5.81%
Carry-over (2008)	774	
Referrals Received (2009)	282	
Parole/Pardon Supervision Cases Dropped	1,475	8.12%
Granted Final Release and Discharged	1,092	
Arrested and Recommitted	143	
Died/Dropped for Cause	240	
Carry-over Supervision for 2010	16,689	91.88%

³⁰⁰ Data from the Parole and Probation Administration.

RD/OIC Co said that the PPA needs support for its programs (Therapeutic Community, Restorative Justice, and Volunteer Probation Aide) for the rehabilitation of the administration's clients. He further stated that the government should consider the amount that it will save if offenders are rehabilitated and reintegrated properly into society.

The Administration also attempts to change public perception toward their clients. The administration admits that they are confronted by intense criticism from the public. They are considered as being "soft on crimes" because they pursue programs for offenders. This consequently results in the difficulty that they encounter in rallying public and political support for their programs.³⁰¹

2. Response to Summit Issues

Forum on Access to Justice

The issue primarily plaguing the corrections pillar is the congestion of jails. The different agencies composing the corrections pillar are steadily becoming unable to cope with the increasing number of inmates and convicts. Considering the limited personnel and facilities available, which remains constant despite the steady rise in inmate population, they are unable to meet the increase. The result is an atmosphere which is hardly conducive for reformation, rendering the correction and rehabilitation even more daunting tasks.

To address this issue, one of the proposed solutions is rather straightforward: the improvement of the infrastructure of the jails. Increasing jail capacities and improving the conditions within would effectively create a less congested and more habitable environment. Another proposed plan of action is the investigation of the records of those eligible for pardon or parole. By doing this, and thereafter making the proper recommendations, inmates who qualify may be released or may be granted provisional release, reducing inmate population. For such purposes, legal aid is also enlisted to help the inmates gain access to lawyers, enabling the pursuit of meritorious cases.

Related to the infrastructure solution is the maximization of land assets. Additional land will allow the BUCOR to construct additional security facilities and implement the proposed prison regionalization. The BUCOR is seeking a review of all proclamations regarding prison lands in order to secure legal titles to such.

Along with the conditions of the detention environment, the corrections pillar is also concerned with the welfare and well-being of the inmates. As regards to health, the BUCOR intends to implement health and welfare programs which will satisfy the basic medical needs of inmates, to say the least. The BUCOR and the BJMP plan to address the needs of female inmates, such as: separating the facilities for women, increased protection of women in detention, catering to special needs of pregnant women, and procuring of more female wardresses.

Concerning the rehabilitation of inmates in general, the different agencies composing the corrections pillar undertake to create programs on livelihood skills training, education, sport and recreation for the general well-being of the inmates. Among the benefits of such programs is that it allows the inmates to find livelihood and create a source of income for themselves.

The PPA is particularly concerned with its poor image as hampering its ability to acquire personnel. The PPA intends to create a more positive image by utilizing the media, the internet and its networks with other agencies.

³⁰¹ Based on the SWOT Analysis submitted by the Parole and Probation Administration.

Coordination among different jails can also be streamlined by creating a database containing all inmates from the different levels of jails. By having a centralized database, it becomes easier for the different jails to communicate with each other. Red tape among the different jails will be eliminated, if not significantly reduced.

3. Analysis

All the institutions comprising the corrections pillar share the same sentiment: that the correction system plays an important role in the CJS. They are responsible for the reformation of offenders and the preparation, in certain cases, of these offenders for reintegration into the community. Despite the important role that they play, the corrections pillar has been neglected by the government. Among the pillars in the CJS, the corrections pillar has the smallest budget allocation.

It must be pointed out that the apprehended offenders, those undergoing trial, and those convicted are all in the custody and care of the corrections pillar. It is within this pillar that these persons stay the longest. Thus, the more people are apprehended by the law enforcers, the more crowded jails become, and the more costs it entails the government.

As observed by Mr. Rollo Alarcon of the BUCOR during the Validation Workshop, “the [correction system] is the x x x last step in the x x x criminal justice process. Unfortunately, [the correction system] is unable to cope with the process x x x.” He aptly noted that the efforts of the other departments prior to conviction – law enforcement, prosecution, the courts – might go to waste because of the increasing incapability of the Bureau to cope with the increasing volume of convicted persons. The Bureau’s limited personnel capacity and budget constraints make it the “weakest link” in the Criminal Justice System.

The corrections pillar also deals with the stigma associated with being suspected or convicted of an offense. The institutions are slowly changing this perception by launching programs which are aimed at restorative justice. Previously, the correction system is oriented towards a punitive approach. Thus, one can see that the rehabilitation programs of the institutions include moral recovery by the therapeutic community as well. The institutions are actively involving the community in the reformation of the offenders and inmates.

4. Recommendations

The initiatives undertaken by the institutions of the corrections pillar must gain support from the government. As stated by the PPA, the government must realize that it will actually save more money if it invests in the reformation and rehabilitation of the offenders/inmates. An effective implementation of these programs will lower the rate of recidivism. An effective monitoring system must, thus, be put into place.

While, admittedly, the institutions suffer from budgetary constraints, they can tap into the resources of the community to effectively implement their programs. The BUCOR, BJMP, and the PPA have a “therapeutic community” program/modality. They can use this to actively engage the community in the rehabilitation of offenders. Furthermore, the VPA Program of the PPA and the Paralegal Program of the BJMP must be strengthened to help ease the congestion problem of jails. The institutions must also work closely with the courts especially with the EJOW program.

Records management must also be improved. The BPP is reliant on the records submitted by institutions in the processing of *carpetas*. If records are in order, this would make the processing faster benefitting those who are qualified with meritorious cases.

Awareness of the restorative approach must also be brought to the level of the community. This will address the problem of negative perception.

The programs which allow the continued education of inmates and providing them with means of livelihood should be encouraged and continued. Such programs are in line with the thrust that corrections is not the final step in the process of criminal justice but rather a means of allowing inmates to return to society.

E. Community Pillar

The administration of the Criminal Justice System is not the exclusive responsibility of the police, prosecutors, judges, and corrections personnel. Without the active participation of the members of the community, the processes of the Criminal Justice System cannot work. The police rely on the citizens to report crimes and to assist them in the conduct of investigations. The prosecution and the judges depend upon citizens as witnesses in the prosecution of the offender. The corrections pillar also needs their support in their respective community-based corrections programs.³⁰² The institutional agencies under the community pillar include the Department of Social Welfare and Development, the Department of the Interior and Local Government, the Commission on Human Rights, and the National Commission on Indigenous Peoples.

1. Existing Capacities

Department of Social Welfare and Development

The Department of Social Welfare and Development (DSWD) aims to provide social protection and the promotion of the rights and welfare of the poor, vulnerable and disadvantaged individuals, families and communities, that will contribute to poverty alleviation and empowerment through social welfare and development policies, programs, projects and services implemented with or through local government units, non-governmental organizations, people's organizations, government organizations and other members of civil society.³⁰³ One of the goals of the Department is to provide preventive, protective, and rehabilitative and developmental programs and services.³⁰⁴

The services rendered by the DSWD may be grouped into four: center-based services; community-based services; residential care services; and social welfare and development technologies.

Center-based services are services rendered in facilities referred to as "centers" on a daily basis or during part of the day. Clients of these facilities have families to return to after treatment or after undergoing developmental activities. These facilities may also accommodate clients who need to undergo thorough assessment and diagnosis for a maximum of three weeks.³⁰⁵

³⁰² J.R. Zuño, Community Involvement in the Prosecution of Crimes, 54 <http://www.unafei.or.jp/english/pdf/philippines_pdf/topic2.pdf> (last accessed Dec. 5, 2010) citing Puno, *Contemporary Problems in the Administration of the Criminal Justice*, CJ Journal, 1982, Vol. 2.

³⁰³ Annual Report for 2009 of the Department of Social Welfare and Development.

³⁰⁴ *Id.*

³⁰⁵ Department of Social Welfare and Development <<http://www.dswd.gov.ph>> (last accessed Dec. 5, 2010).

Community-based services are preventive, rehabilitative and developmental programs and initiatives that mobilize/utilize the family and community to respond to a problem, need, issue or concern of children, youth, women, person with disabilities, older persons and families who are in need and at-risk.³⁰⁶

Residential care services include centers and facilities that provide 24-hour alternative family care to poor, vulnerable, and disadvantaged individuals and families in crisis whose need cannot be met by their families and relatives or by any other form of alternative family care for a period of time.³⁰⁷

Under Social Welfare and Development Technologies, the DSWD continues to implement pilot projects which will be marketed to local government units that need the projects.³⁰⁸

The table below shows the number of clients served by the DSWD under community and center-based services:

**TABLE 5.43: DEPARTMENT OF SOCIAL WELFARE AND DEVELOPMENT
TOTAL NUMBER OF CLIENTS SERVED IN DSWD COMMUNITY AND CENTER-BASED (CY 2009)³⁰⁹**

Region	Children	Youth	Women	Persons with Disabilities	Senior Citizens	Other needy adults	Families ^a
Total	43,898	6,479	15,441	2,259	7,970	8,337	1,853,989
NCR	10,555	45	1,205	1,276	4,311	1,681	236,720
CAR	1,044	0	247	9	37	60	73,931
I	2,375	381	281	108	55	13	393,648
II	1,207	108	473	21	67	27	150,359
III	4,371	72	469	4	52	1	185,773
IV-A	5,337	192	27	61	537	0	328,975
IV-B	5,496	217	156	12	166	123	20,582
V	886	29	226	3	252	64	138,567
VI	1,988	47	3,473	0	0	4,149	7,971
VII	3,641	592	546	548	991	0	8,722
VIII	704	54	242	4	34	119	23,870
IX	2,063	4,449	1,475	110	309	1,986	13,172
X	1,511	38	1,645	0	266	0	22,180
XI	1,727	90	4,908	4	800	107	20,847
XII	711	111	46	97	51	0	102,197
CARAGA	282	54	22	2	42	7	57,741
ARMM							68,734

^a Note: KALAHi-CIDSS Beneficiaries are not yet included in the consolidation.

³⁰⁶ *Id.*

³⁰⁷ *Id.*

³⁰⁸ *Id.*

³⁰⁹ Department of Social Welfare and Development <<http://www.dswd.gov.ph/index.php/downloads>> (last accessed Nov. 13, 2010).

The DSWD has also recorded the number of child abuse cases shown in the table below:

**TABLE 5.44: DEPARTMENT OF SOCIAL WELFARE AND DEVELOPMENT
NUMBER OF CHILD ABUSE CASES SERVED, BY TYPE OF ABUSE, BY SEX, BY AGE
(CY 2009, PRELIMINARY REPORT)³¹⁰**

	Number of Child Abuse Cases	Sexually Abused		Sexually Exploited		Physically Abused		Victims of Child Labor		Victims of Illegal Recruitment		Victims of Illegal Trafficking		Victims of Armed Conflict		Others	
		M	F	M	F	M	F	M	F	M	F	M	F	M	F	M	F
Age group	6,524	31	1,898	23	107	291	296	28	55	0	7	23	198	8	16	14	26
0 to below 1	550	0	19	0	1	4	3	0	0	0	0	8	9	0	0	3	0
1 to below 5	1,061	0	65	0	3	33	21	0	0	0	0	5	2	0	0	2	5
5 to below 10	1,417	12	305	5	11	79	73	1	4	0	0	0	4	3	2	1	8
10 to below 14	1,585	7	627	12	25	114	107	10	24	0	1	2	9	2	5	5	2
14 to below 18	1,862	12	882	6	67	61	85	17	27	0	6	1	170	3	9	3	10
No age bracket	49	0	0	0	0	0	7	0	0	0	0	7	4	0	0	0	1

In 2009, the DSWD served 2,959 children in conflict with the law (CICL) as shown in the table below:

**TABLE 5.45: DEPARTMENT OF SOCIAL WELFARE AND DEVELOPMENT
NUMBER OF CICL SERVED, BY PROGRAM, BY AGE (CY 2009)³¹¹**

	Total Number of CICL Served	Community-based Program	Center-based Services
Age Group	2,959	1,901	1,058
9 to below 10	8	0	8
10 to below 14	36	0	36
14 to below 18	569	0	569
No age bracket	2,346	1,901	445

³¹⁰ Source: Policy Development and Planning Bureau, Department of Social Welfare and Development.

³¹¹ Source: Department of Social Welfare and Development.

The DSWD also served Women in Especially Difficult Circumstances (WEDC). In 2009, they served a total of 14,040 cases of WEDC.

**TABLE 5.46: DEPARTMENT OF SOCIAL WELFARE AND DEVELOPMENT
NUMBER OF WEDCs SERVED BY REGION (CY 2009)³¹²**

REGION	Total WEDC Served
NCR	475
CAR	241
I	281
II	472
III	445
IV-A	27
IV-B	156
V	226
VI	3,473
VII	546
VIII	242
IX	839
X	1,645
XI	4,908
XII	42
CARAGA	22
TOTAL	14,040

Some of the major problems encountered by the DSWD in implementing their programs and services include the inadequacy of budget appropriation, lack of training of personnel, and non-monitoring of some plans and programs.³¹³

Director Gemma Gabuya of the Social Technology Bureau also noted that the DSWD cannot extend legal services to their clients. This is because the Department's Legal Department is for administrative purposes only. Their lawyers do not represent their clients. The Department has a Memorandum of Agreement with the Child Justice League but this is utilized for high-profile cases only. She suggested that there should be a pool of lawyers appointed to the DSWD who will render legal services to their clients.³¹⁴

Director Gabuya also said that the DILG should orient the barangay officials on the circulars and guidelines they issue. She observed that the DILG does not always provide the LGU or the barangay with the necessary technical skills needed to implement their programs, such as the BCPC (Barangay Council for the Protection of Children).³¹⁵

³¹² *Id.*

³¹³ Based on the interview with Ms. Alma Infante, Policy Development and Planning Bureau, Department of Social Welfare and Development (Sept. 8, 2010).

³¹⁴ Interview with Dir. Gemma Gabuya, Social Technology Bureau of the Department of Social Welfare and Development, Quezon City (Oct. 15, 2010).

³¹⁵ *Id.*

Department of the Interior and Local Government

The Department of the Interior and Local Government (DILG) is mandated under the law to promote peace and order, ensure public safety, and further strengthen local government capability aimed towards the effective delivery of basic services to the citizenry.³¹⁶ The DILG–Local Government Sector (DILG-LGS), as part of the community pillar, plays an essential part in the development of the Criminal Justice System. One of its goals is to improve the performance of local governments in governance, administration, social and economic development which contributes to providing access to justice by the poor, especially women and children.³¹⁷

Specifically, the DILG develops advocacy materials on laws concerning women (RA No. 9262 or the VAWC Law) and children (Juvenile Justice and Welfare Act). It likewise issues guidelines on how local governments draft local legislation compatible with such laws. The DILG also monitors compliance of the LGUs, especially with respect to the establishment of Local Council for the Protection of Children (LCPC) and compliance with JJWA.

Because of the devolution of functions of the national government to the local governments, the task of monitoring compliance by the latter falls on the DILG field personnel. Thus, the DILG faces the problem of orienting, training, and reproducing advocacy materials for these personnel and barangay officials. Furthermore, the DILG admits that it does not have sufficient funds to validate reports/data submitted to it by their field officers. They just rely on the data given to them. Thus, it is difficult for them to evaluate and assess the impact of a program or project.³¹⁸

The DILG plans to continue monitoring the LGUs' compliance with RA No. 9344 and the LCPC. It will also validate the reports on the functionality of LCPC. It also plans to document good/best practices of LCPCs. In line with the Magna Carta for Women,³¹⁹ the DILG intends to establish VAW Desks as mandated by law. It will also endeavor to establish baseline data. It will also continue monitoring reports on VAWC cases.

The table below will show LGU compliance with RA No. 9344.

TABLE 5.47: SUMMARY OF LGU COMPLIANCE WITH SECTIONS 15, 16 AND 49 OF RA No. 9344 PER REPORT SUBMITTED BY THE REGIONS AS OF JUNE 16, 2010³²⁰

REGIONS	WITH IRA ALLOCATION (Sec. 15)						WITH LICENSED LSWDO (Sec. 16)				WITH YOUTH HOMES (Sec. 49)				NGO
	CITY		MUNICIPAL		BARANGAY		PROV.	CITY	MUN.	BGY.	PROV.	CITY	MUN.	BRGY.	
	1%	More than 1%	1%	More than 1%	1%	More than 1%									
I	1	1	13	9	779	218	2	2	32		0	0			
II	2	0	28	10	474	151	1	3	61		0	1			
III	3	2	34	7	0		1	5	55	0	0	0	1	0	1

³¹⁶ Department of the Interior and Local Government Act of 1990, § 2.

³¹⁷ Based on the Presentation of Assistant Director Frank Cruz during the Validation Workshop on Oct. 28, 2010.

³¹⁸ Based on the SWOT Analysis submitted by the DILG-NBOO.

³¹⁹ An Act Providing for the Magna Carta for Women [The Magna Carta for Women], Republic Act No. 9710 (2009).

³²⁰ Taken from the National Barangay Office Operations of the Department of the Interior and Local Government.

IV-A	2	0	38	15	1,040	193	2	3	78	53	1	3	12	0	4	
IV-B		0	3	3	3		2	0	25	0	0	0	2	0		
V	0	0	4	5	3	48	0	0	8	0	0	0	0	0		
VI	8	3	44	27	915	299	6	13	63	200	2	8	5	0	2	
VII	3	5	49	26	955	365	4	11	76	30	0	6	2		1	
VIII	3	1	28	24	888	349	5	2	38	0	0	2	1			
IX	1		15	1	397	3	0		10	1	0	0	0			
X	3	2	31	17	856	24	0	6	52	16	0	0	3			
XI	2		19	2	382	16	2	51	24	0	0	3	3			
XII	2		5		176	38	1	2	10	4	0	2	0			
XIII	1	0	7	3	21	26	2	2	46	2	0	0	0	2		
NCR	7	1			967			21		2	0	8	0			
CAR	0	1	28	11			6	1	38	0	0	1	0			
ARMM							NO REPORT									
TOTAL	38	16	346	160	7,856	1,730	34	122	616	308	3	34	29	2	8	

TABLE 5.48: NATIONAL SUMMARY OF LGU COMPLIANCE WITH SECTIONS 15, 16 AND 49 OF RA No. 9344 PER REPORT SUBMITTED BY THE REGIONS AS OF JULY 13, 2010³²¹

REGIONS	WITH IRA ALLOCATION (Sec. 15)						WITH LICENSED LSWDO (Sec. 16)				WITH YOUTH HOMES (Sec. 49)				NGO	
	CITY		MUNICIPAL		BARANGAY		PROV.	CITY	MUN.	BGY.	PROV.	CITY	MUN.	BGY.		
	1%	More than 1%	1%	More than 1%	1%	More than 1%										
I	3	3	24	32	957	319	2	6	62			2	1		2	
II	2		28	10	474	151	1	3	61			1	2			
III	3	1	34	7			1	5	55				1		1	
IV-A	2		38	15	1,040	193	2	3	78	53	1	3	12		4	
IV-B			3	3	3		2		25				2	2		
V			4	5	3	48			8							
VI	8	3	44	27	915	299	6	13	63	200	2	8	5		2	
VII	3	5	49	26	955	365	4	11	76	30		6	2		1	
VIII	3	1	28	24	888	349	5	2	38			2	1			
IX	1		15	1	397	3			10	1						
X	3	2	31	17	856	24		6	52	16			3			
XI	2		19	2	382	16	2	51	24			3	3			
XII	2	0	5		176	38	1	2	10	4		2			1	
XIII	1	0	7	3	21	26	2	2	46	2						
NCR	7	1			967		NA	21		2	NA	8			2	
CAR		1	28	11			6	1	38			1				
ARMM							NO REPORT									
TOTAL	40	17	357	183	8,034	1,831	34	126	646	308	3	36	32	2	13	

³²¹ Taken from the National Barangay Operations Office of the Department of the Interior and Local Government.

The National Barangay Operations Office (NBOO), however, reports that while all levels of the LGUs have LCPCs, not all are functional. Furthermore, not all members of the *lupon pambarangay* are knowledgeable in recognizing and handling VAWC cases and cases involving CICL.³²²

The NBOO likewise admits that despite their issuance of manuals to guide the barangays on how to draft child-friendly and gender-sensitive local legislation, they are hindered by the lack of funds for the reproduction of these manuals. Moreover, the office admits that they are still trying to determine the baseline data which the office can later on use as standard for compliance.³²³

Commission on Human Rights³²⁴

Under the Constitution, the Commission on Human Rights (CHR) has the following powers and functions, among others: (1) investigate, on its own or on complaint by private party, all forms of human rights violations involving civil and political rights; (2) provide appropriate legal measures for the protection of human rights of all human beings within the Philippines, and to provide for preventive measures and legal aid services to the underprivileged whose human rights have been violated or who need protection; (3) exercise visitorial powers over jails, persons, or detention facilities; (4) recommend to Congress effective measures to promote human rights and to provide for compensation to victims; (5) monitor the Philippine government's compliance with its treaty obligations on human rights; (6) request assistance of any department, bureau, office, or agency in the performance of its functions.³²⁵

To achieve its mandate, the CHR has four programs: 1) human rights protection program; 2) human rights promotion program; 3) human rights linkages development and strategic planning; and 4) special projects on human rights.

On human rights protection, the CHR renders investigation and forensic services; legal services, which include legal aid and counseling, conciliation and mediation; human rights assistance; and visitorial services.

Its human rights promotion program includes education and training; human rights information and public advocacy; human rights research and development; compliance monitoring of international human rights standards in governance; and web services.

For human rights linkages development and strategic planning, the CHR has promoted rights-based planning in governance; human rights performance system in governance; harnessing competence in government and non-state actors for good human rights practices; executive cooperation program; and legislative and judicial cooperation program.

The special programs of the CHR includes: rights-based approach application; Barangay Human Rights Action Center; Human Rights Teaching Exemplars; Child Rights Center; and Women's Rights Program Center; and Asia-Pacific Institute of Human Rights.

³²² Based on the SWOT Analysis submitted by the DILG-NBOO.

³²³ Interview with Dr. Reinalda Raffinan, Ms. Amie Pombuena and Asst. Director Frank Cruz of the NBOO, Quezon City (Sept. 22, 2010).

³²⁴ Information <<http://www.chr.gov.ph>> (last accessed Nov. 13, 2010).

³²⁵ PHILIPPINE CONSTITUTION, Art. XIII, § 18.

As of 2009, the CHR has recorded a decrease in the incidence of human rights violations as shown in Table 5.49:

**TABLE 5.49: COMMISSION ON HUMAN RIGHTS
INCIDENCE OF ALLEGED HUMAN RIGHTS VIOLATIONS BY REGION (2004-2009)³²⁶**

REGION	2004	2005	2006	2007	2008	2009 ^a
Philippines	1,120	1,333	1,159	886	800	324
NCR	146	146	163	96	138	55
CAR	12	7	5	5	8	4
I Ilocos Region	12	24	8	7	15	–
II Cagayan Valley	26	32	43	69	38	14
III Central Luzon	63	103	133	55	46	5
IV Southern Tagalog	97	112	70	71	40	11
V Bicol Region	34	60	68	44	40	22
VI Western Visayas	69	119	123	136	78	46
VII Central Visayas	56	95	52	52	52	14
VIII Eastern Visayas	81	85	102	107	56	21
IX Western Mindanao	90	95	99	93	96	37
X Northern Mindanao	32	21	21	18	20	4
XI Southern Mindanao	287	302	187	77	136	36
XII Central Mindanao	53	99	51	38	8	30
XIII CARAGA	62	33	34	18	29	25
Child Rights Center (CRC)	–	–	–	–	–	–

^a Data as of July 2009.

Note: The Child Rights Center is a special unit under the CHR mandated to protect and promote children's rights. Data refer to the number of human rights violations against children.

Source: Commission on Human Rights

To make it more accessible to the public, the CHR maintains a hotline which can be used by the public to make known to the Commission their human rights complaints.³²⁷ It also maintains a website where the public can send their feedback on the services rendered. Noticeably, however, the CHR website is not updated.

Furthermore, with the implementation of the National Monitoring Mechanism (NMM) for human rights, the CHR is expected “to devote as much of its energies as it can allocate, especially in the continuing challenge to overcome crimes of impunity, future ones; and more importantly, in finding resolution of all the past crimes of extralegal killings, enforced disappearances, and torture incidents.”³²⁸ However, it must be noted that the Commission's power is merely investigative – it has no prosecutorial power.³²⁹ In addition, it may not issue writs of injunction or restraining orders

³²⁶ NSCB, 2010 Yearbook, *supra* note 91, at 17-10.

³²⁷ The hotline of the CHR is 377-2477.

³²⁸ Speech delivered by Chairperson Leila M. De Lima, *On the Occasion of the Human Rights National Monitoring Mechanism (NMM) Public Forum*, on June 10, 2010.

³²⁹ Fr. Joaquin Bernas. S.J., *The 1987 Philippine Constitution: A Reviewer-Primer* 550 (2002).

against supposed violators of human rights to compel them to cease and desist from continuing the complained acts.³³⁰

For instance, after the incident at the Bataan Provincial Jail, the CHR issued a statement calling on the DILG and the BJMP to immediately conduct an in-depth investigation on the incident. This is because, based on its investigation, excessive force was used on the rioting prisoners. The CHR only called on the concerned agencies (the DILG, BJMP, DOJ, BUCOR, PNP, and the DSWD) and the local governments to review “policies, systems and processes, and align them to internationally accepted minimum standards of treatment of prisoners.”³³¹

National Commission on Indigenous Peoples³³²

The National Commission on Indigenous Peoples (NCIP) is the primary government agency that formulates and implements policies, plans and programs for the recognition, promotion, and protection of the rights and well-being of Indigenous Peoples (IPs), and the recognition of their ancestral domains and their rights to those domains. The mandate of the organization is to protect and promote the interest and well-being of the Indigenous Cultural Communities/Indigenous Peoples (ICCs/IPs) with due regard to their beliefs, customs, traditions, and institutions.

The NCIP was created in 1997 under RA No. 8371.³³³ It was at first an attached agency of the Department of Land Reform (renamed Department of Agrarian Reform); however, EO No. 726 (2008), placed the NCIP under the Department of Environment and Natural Resources.

The NCIP works to achieve technically sound and authentic titles, sustainable and culture-sensitive plans, responsive and culture-sensitive programs and projects, feasible and mission-driven regulations, and expeditious and fair legal services. Whenever possible, it promotes IP consultative mechanisms and bodies at the provincial, regional, and national level.

The NCIP has three major programs:

- *Land Tenure Security*, covering cultural mapping of all IP communities, survey and delineation of ancestral domains, and issuance of CADT/CALT;
- *Establishing Model IP Communities through Development and Peace*, which includes the development of ancestral domains through the Ancestral Domain Sustainable, Development Protection Plan (ADSDPP), and development of people and communities, through delivery of basic services, especially livelihood support, educational assistance, health care, shelter and quick response to address critical situations; and the protection and enhancement of the cultural heritage of Indigenous Peoples; and

³³⁰ *Cariño v. Commission on Human Rights*, G.R. No. 96681, Dec. 2, 1992.

³³¹ Statement issued by the CHR on Oct. 29, 2010.

³³² National Commission on Indigenous Peoples <<http://www.dbm.gov.ph/opif2009/denr-ncip.pdf>> (last accessed Dec. 5, 2010).

³³³ An Act to Recognize, Protect and Promote the Rights of Indigenous Communities/Indigenous Peoples, Creating a National Commission on Indigenous Peoples, Establishing Implementing Mechanisms, Appropriating Funds Therefor, and for Other Purposes [The Indigenous Peoples Rights Act of 1997], Republic Act No. 8371.

- *Enforcement and Enhancement of the Human Rights of IPs*, referring to adjudication of conflicts through customary laws and tradition and NCIP adjudicatory processes, procedures for the free and prior informed consent of IPs where needed, and legal assistance.

For 2009, the NCIP sought to achieve social justice and human development towards poverty alleviation. It aimed to empower ICCs/IPs by recognizing their rights and protecting and promoting their welfare. The major output of the NCIP, pertinent to the Criminal Justice System, involves the adjudication and rendering of legal services. The table below shows the achievement of the NCIP with respect to this matter.

**TABLE 5.50: NATIONAL COMMISSION ON INDIGENOUS PEOPLES
ADJUDICATION AND LEGAL SERVICES**

	2007	2008	2009
Legal services provided:			
– ICCs/IPs advised/assisted (non-litigious)	490	600	600
– Cases accepted, filed, or defended (before regular courts, RHOs and other quasi-judicial bodies)	60	90	120
– Investigations conducted	50	70	90
Quasi-judicial services rendered:			
– judgments rendered by the RHO (E & O jurisdiction)	15	85	50
– judgments rendered by the CEB10 (appellate jurisdiction)	15	8	10
National law and customary law interface:			
– customary law documentation supported			
– customary law documentation training conducted	5 (docs.)	1	2 (docs.)

2. Response to Summit Issues

Forum on Increasing Access to Justice

Increasing awareness on VAWC and other human rights concerns is the primary program of the community pillar to increase access to justice. The DILG-NBOO sets to conduct gender and development seminars, workshops and conferences. This is in line with its plan to promote gender-sensitive legislation at the local level. It also plans to establish VAW desks in every barangay pursuant to RA No. 9710. It further intends to closely monitor the functionality of the Barangay VAW desks and compliance with the provisions of RA No. 9262. The CHR likewise campaigns for the creation of Barangay Human Rights Action Centers (BHRAC) in all barangays nationwide.

To develop the sensitivities of the local government officials, the NBOO has developed IEC materials such as handbooks and primers on national laws on child protection, guidebooks on child-friendly legislation, and a compendium of good practices on child-friendly local governance. The CHR, DILG and NCIP have also created their respective websites.

While it does not have prosecutorial powers, the Legal and Investigation Office of the CHR assists in the handling of human rights cases. The NCIP intends to increase free legal counseling and

assistance to the barangays and their constituents. It will also utilize the council of elders to act as mediators to provide an alternative mode of dispute resolution.

National Summit on Family Courts

The DILG-NBOO aims to enhance the ability of the LGUs to deal with CICL. The Department has issued guidelines on how to comply with RA No. 9344. They have issued model ordinances from which local governments can pattern local legislations. It has also monitored the implementation of the provisions of the law. It will also continue the monitoring of the functionality of the Local Councils for the Protection of Children.

The DSWD will establish *Bahay Pag-asa* or transition homes for children in conflict with the law.

National Consultative Summit on Extrajudicial Killings and Enforced Disappearances

To augment the number of PAO lawyers, the CHR, through its Legal and Investigation Office, intends to handle human rights cases.

3. Analysis and Recommendation

A number of issues raised during the four summits are not addressed by the current MTDP of the community pillar.

The discussion above shows how the function of the community pillar cuts across all other pillars of the CJS. The law enforcement pillar engages the help of the community to ensure that crimes will be reported. For the initial stages of preliminary investigation, as well as during the prosecution of the accused, the prosecution and the courts pillars need the cooperation of witnesses from the community. The corrections pillar also needs their support in their respective community-based corrections programs.³³⁴ Taking into account the various roles played by agencies within the community pillar, it is necessary that community awareness is heightened.

The DILG-NBOO contributes to increasing public awareness by disseminating information at the barangay level. Many laws, such as VAWC and the Juvenile Justice Act, have been reduced by the DILG-NBOO into manuals and guidelines which would direct the local government units to the effective implementation of such laws. However, the DILG-NBOO admits that it finds it difficult to monitor the effectiveness of certain programs. Similarly, the DSWD, while actively promoting VAWC and CICL programs, has recognized that the agency does not have an effective monitoring mechanism. The NCIP, for its part, must increase awareness of IP rights.

The main problem of the CHR is the limitation in its power. As highlighted earlier, the CHR can only investigate violations of human rights it relies on the prosecution pillar for the prosecution of such offenses.

³³⁴ Zuño, *supra* note 300.

PART VI

CONCLUSION AND RECOMMENDATIONS

A. Conclusion

As mentioned earlier, any capacity development approach should promote activities that build on these strengths.³³⁵ The discussion in the previous sections showed the strengths of the institutions comprising the pillars of the Philippine CJS. The discussion also identified the challenges to full access to justice. Having identified the inherent strength and weaknesses in the system, it is now up to the individual institutions to start developing their capacities.

The common problem plaguing the pillars of the CJS is the lack of funding to pursue their programs. However, this should not be used as an excuse not to deliver basic services. Given the limited resources, the institutions must learn how to work with the resources available to them. Significantly, the Social Contract of the current administration advocates change from within. The government must realize, however, that a simple directive in a document such as the Social Contract will not automatically translate into good governance. Support is necessary to strengthen institutions and instrumentalities.

One of the goals of the MTPDP 2010-2016 is to provide an enabling environment where private sector investments may flourish. However, to realize this, peace and security must be ensured. Notably, this may only be achieved if the law enforcement pillar is strengthened. Currently, the crime rate has increased from the previous year (from 73.9 to 545.0 per 100,000 population).³³⁶ The highest increase was recorded in the National Capital Region. In 2009, the PNP has further reported 158,283 crimes against property.³³⁷ In addition, while PNP has endeavored to place human rights desks in each precinct, there is still a need to sensitize law enforcement personnel with respect to gender issues, IP concerns, and CICL.

For the prosecution pillar, the number of cases being handled by the lawyers affects their performance. The more cases a lawyer handles, the less attention is given to individual cases. This affects the prosecution of the cases itself and likewise affects the speedy disposition of cases. It affects congestion of court dockets and of jails. A study conducted on the DOJ states that “[a]ccess to justice is undermined if evidence is not gathered or properly preserved to support a case, if prosecution is delayed, and if legal assistance to pauper litigants is not available or the quality of legal services is not satisfactory to support the requirements of the concerned party.”³³⁸ Furthermore, success is also limited by lack of awareness by poor litigants of the services available to them, distant geographical proximity, unavailability of public attorneys and prosecutors, and inability of DOJ to defray the cost of these services considering severe funding limitations.³³⁹

³³⁵ UNDP, *Programming for Justice*, *supra* note 2, at 6.

³³⁶ NSCB, 2010 Yearbook, *supra* note 91, at 17-5.

³³⁷ NSCB, 2010 Yearbook, *supra* note 91, at 17-4.

³³⁸ Diagnostic Report, *Judicial Reform: Strengthening Access to Justice by the Disadvantaged Strengthening the Other Pillars of Justice through Reforms in the Department of Justice (DOJ)*, 2-4 (2003).

³³⁹ *Id.*

However, the problem is not simply solved by increasing the number of lawyers in the NPS, PAO or OMB. Strict monitoring of the progress of cases must be implemented and corresponding penalties must be imposed on erring lawyers. The Prosecution Pillar must, however, be commended for initial efforts aimed at facilitating access to justice by the poor.

At the heart of the Criminal Justice System is the courts pillar. Lack of facilities and insufficient number of judges and resources have always been common complaints while delays in the adjudication of cases are a regular malady of the pillar. To a point, the SC recognizes that de-clogging court dockets is one of the most effective ways to address access to justice. The SC should continue to spearhead innovative changes in the Rules and employ means to fast-track case disposition. This means the courts should not only strengthen further their disciplinary measures in case management but should also recognize that there are other means to resolve cases. Accessibility of the courts should also be continually improved. The EJOW is a prime example where the courts go to serve the people instead of the people going to the courts. Decentralization may likewise be a key to address issues that have commonly plagued the courts.

The corrections pillar is responsible for the reformation and rehabilitation of the offenders, yet, it has been neglected over the years. The concerned institutions insist that the government should invest in the modernization of the correctional system because if their programs are not effective due to lack of governmental support, then recidivism will possibly occur. Crime incidence becomes a cycle if the reformation and rehabilitation programs are ineffective. Moreover, the institutions are concerned with the prevailing negative perception towards their clients. Thus, there is a need to create awareness of the rehabilitation and reformation programs being implemented by these agencies. This will especially be beneficial in community-based corrections.

Furthermore, jail decongestion and visitation programs should be intensified. While the PAO, the paralegals of the BJMP, and the EJOW have contributed to facilitate the early release of a number of inmates, the decongestion rates of both the BUCOR and the BJMP still exceed 100 percent. The alternative solution would be to construct additional jails and detention facilities.

The community pillar is involved in the activities of the other pillars of the CJS. It is involved in policing activities, the prosecution of cases, and the reformation of offenders. The community pillar has to make the public aware of existing laws that specially affect them and remedies available to them at the barangay level. Public awareness will also lead to reporting of crimes, facilitate their acting as witnesses during prosecution, and aid in the rehabilitation of the offenders and their re-integration to the community.

In addition, since the community pillar is responsible for the implementation of activities at the LGU level, there is a need to monitor compliance with the same. However, for the DILG, baselines must first be established within which to determine compliance.

B. Recommendations

As discussed earlier, accessibility has different dimensions: physical accessibility; financial accessibility; sensitivity; access to informal systems; and the claimholder's awareness. To increase access to justice, therefore, it is necessary to improve and enhance these dimensions. To do this, the following are recommended:

Law Enforcement Pillar

1. The PNP's Integrated Transformation Program must be continued. However, the leaders should ensure that whatever changes will be implemented will reach the grassroots level.
2. The law enforcement agencies, particularly the PNP, must coordinate with local government units and set out a clear definition of its role in local law enforcement.
3. Politics among the ranks must be minimized if not completely removed. Independence of the police force, especially at the local level, must be maintained and a clear system of accountability be set in place.
4. Improvement of information channels to change public perception about the police should also be undertaken. If the community perceives the law enforcer as an ally rather than a possible enemy or cohort of a criminal, there will be more coordination and cooperation in the reporting and solving of crimes.
5. Integration of functions may be in order because of budget constraints. Although rationalization has been implemented or is being implemented in these agencies, a review of their functions is still necessary in order to conserve limited resources. Specialization of the agency's functions instead of further broadening is also recommended.
6. A creation of an integrated crime management information system to be shared by the law enforcement agencies would also be necessary to further improve the criminal justice system.

Prosecution Pillar

1. There is a need to strengthen the capability of the agencies by increasing the number of personnel. This is difficult considering the budgetary constraints and the current rationalization program of the government. However, the concerned agencies have already put in place mechanisms to ease the caseloads of prosecutors and PAO lawyers.
2. The cost of litigation at the prosecutor level should be further reduced.
3. The three agencies say that there is a need to raise the level of awareness with respect to VAWC and HR issues. Thus, the agencies must coordinate with the other agencies, particularly with the courts and community pillars, to update themselves with human rights concerns.
4. The use of ADR mechanisms should likewise be promoted. This would not only decrease the number of cases being filed at the prosecution level, but at the same time ease the case load of PAO lawyers.
5. Coordination of the prosecution pillar with private practitioners and other legal aid organizations must be also strengthened. This would help lighten the load of both prosecutors and PAO lawyers.
6. The current Jail Visitation, Decongestion, and Medical Program must be continued.

7. A system for the monitoring and evaluation of the effectiveness of programs must be adopted by the agencies.
8. The Witness Protection Program has to be further strengthened.

Courts Pillar

1. Changes in the procedures are still crucial. Review and improvement of the Rules of Court are necessary to find ways on how to speed up the disposition of cases. The Rules of Court has to be made more responsive to the current needs of the times. Mobility and opening new modes of communication must be integrated into the system.
2. The Court must push for full computerization. Although there are budget constraints, computerization of courts is necessary in order to ensure an efficient case management system. Pilot systems that have been successful should be slowly implemented in all courts and media relations should be further developed to improve awareness of the people.
3. Online payment of legal fees, e-documentation and e-filing must be pursued.
4. New modes of discovery must also be studied with possible integration into the system.
5. Enforcement of mandatory timelines must be set more strictly. The courts need to strengthen disciplinary measures to ensure speedier disposition.
6. Decentralization, especially in administrative matters, is also recommended in order to address the immediate need of local courts. As long as a clear and strong system of accountability is put in place, corruption concerns and lapses would be prevented.
7. The court must also continue its initiatives to further broaden access to justice by the poor and marginalized. Programs such as the EJOW should be continued and expanded, which is actually being carried out by the SC.

Corrections Pillar

1. The initiatives undertaken by the institutions of the corrections pillar, such as the Therapeutic Community Modality (BUCOR, PPA, BJMP), Volunteer Probation Aide Program (PPA), and the Paralegal Program (BJMP) must gain support from the government.
2. The BUCOR needs to be modernized to cope with the demands of the corrections system.
3. An effective monitoring system must be put in place.
4. The corrections pillar must tap into the resources of the community to effectively implement their programs.
5. The institutions must also work closely with the courts especially with the EJOW program.
6. Records management must also be improved. If records are in order, this would make the processing faster and benefit those who are qualified with meritorious cases.
7. Awareness of the restorative approach must also be brought to the level of the community. This will address the problem of negative perception.

8. The programs which allow the continued education of inmates and provide them with means of livelihood should be continued.

Community Pillar

1. Taking into account the various roles played by the agencies within the community pillar, it is necessary that community awareness is heightened. To do this, information must be disseminated at the barangay level.
2. The DILG-NBOO must come up with a monitoring system that will evaluate and assess the LGU's compliance with laws concerning VAWC and CICL.
3. The NCIP must increase awareness of IP rights.
4. Barangay officials must constantly be kept abreast of developments in law with respect to VAWC, CICL, and other human rights concerns. Regular trainings and seminars must be conducted to educate them in dealing with such cases.
5. Since most disputes are brought first before the *Lupon Pambarangay*, there is a need to expand its jurisdiction.
6. The NBOO must also regularly train barangay officials on developments in RA No. 9344 and RA No. 9262.
7. The CHR must push for the creation of Barangay Human Rights desks. It must closely coordinate with the DILG in educating barangay officials.

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