



Democratic Deficits in the Philippines: What is to be Done?

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AND
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WITH
DIANNE C. DESPI & PORTIA R. CARLOS**

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KONRAD ADENAUER STIFTUNG

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Clarita R. Carlos, Ph.D., Dennis M. Lalata, Dianne C. Despi and Portia R. Carlos

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Foreword

When this book is published, many voices will be heard from civil society, the academe, the media and foreign observers in the Philippines expressing their hopes and great expectations for the strengthening of democratic good governance and a more successful socio-economic development under the new administration of President Benigno Aquino III. His campaign, built on the credible promise of bringing down corruption and wrongdoings in the State Institutions, has opened perspectives for a better life for the ordinary people in the eyes of many Filipinos.

There is no doubt that the importance of a good person, with the right intentions and with character, imbued in the highest office of the country, cannot be overestimated. With the extraordinary powers the 1987 Philippine Constitution bestowed upon the President, he will be able to change things and move the country forward – even with the limitation of only one six-year term in office. However, the example of the Ramos Administration in the nineties, during which democracy seemed to have stabilized and a fresh wind of socio-economic development pushed the country for some years into the mainstream of the booming Southeast-Asian region bears remembering how the country can fall back into political turmoil and socio-economic deadlock after a change of administration.

It is of great benefit from this study of Prof. Clarita Carlos that she is analysing the deep causes behind the problems which plague the Philippine Democracy from its restoration in 1986, nearly 25 years ago. Many people are blaming the Philippine culture for the flaws and weaknesses of the democratic processes; for the lack of progress in poverty alleviation – as opposed to neighbouring countries like Malaysia or Vietnam. But Prof. Carlos shows, that it is mainly the institutional set up of the Philippine brand of Democracy which, in spite of the good principles and intentions of the 1987 Constitution, perpetuated the patronage system inherited from the Spanish colonial period. It likewise prevented effective participation of the ordinary people in the political system that led to lack of control of executive powers and subsequently to overwhelming corruption.

In order to create sustainable progress, the new administration has to correct the wrong incentives in the electoral system and democratic procedures which do not leave room for the development of a structure of authentic member-based and program-oriented political parties – the backbone of a functioning democracy.

It has to level the economic playing field by opening up and encouraging competition in local and national markets which are presently dominated by powerful cartels or family clans. This will create a liberal framework in which job creation and poverty alleviation can take place.

It finally has to provide much better competences and share much more substantial budget from the central government to the local and regional government units along the principle of subsidiarity; thus setting free the dynamic forces of the masses fighting to improve their lives and bring real democracy to the country.

Clarita Carlos, further to the analysis of many democratic deficits of the country, presents in this book a great number of well assessed and oftentimes innovative suggestions for the solution of the problems.

We, the Centrist Democratic Movement(CDM) of the Philippines and the Konrad-Adenauer-Stiftung, hope that we can contribute, with the publishing of this study, toward a broad and honest cooperation of Centrist Democrats from different political background for a fundamental and well targeted reform policy in the coming years.

Manila, August 18, 2010

Peter Koepfinger

MESSAGE

The last few months of 2009 saw the fruition of an initiative by THE TECHNICAL ASSISTANCE CENTER FOR THE DEVELOPMENT OF THE RURAL & URBAN POOR (TACDRUP) and KONRAD ADENAUER STIFTUNG (KAS) on a political education program that transcends a generational divide - The SUCCESSOR GENERATION. KAS has been in the country for the greater part of four decades advancing the philosophy of Christian Democracy (CD) as practiced in Germany and some European countries. They did not enforce upon the body politic their concepts of governance. Instead they planted seeds, nurtured them and waited for them to bear fruits.

In the decades since then, the Philosophy behind Christian Democracy in the Philippines underwent substantial changes reflecting local political realities. Political stalwarts of the era, Raul Manglapus, Manuel Manahan, Ramon Magsaysay and the early adherents, the Christian Social Movement (CSM) and their youth groups Young Christian Socialist (YCSP) began to formulate their own version that encompassed an important segment of our society – the Muslim community. Thus in the early 70s emerged the Christian-Muslim Democrats – which over time dropped the religious/cultural undertones to be known simply as CENTRIST DEMOCRATS.

Organized as the CENTRIST DEMOCRATIC MOVEMENT (CDM), the SUCCESSOR GENERATION will now take center stage in assuming the responsibility for reforms in the Philippine Society. Guided by its core belief – respect for Human Dignity – political, economic and social order must be so logically designed that the dignity of each person is protected and promoted.

Mostly composed of Young Professionals and youth, the SUCCESSOR GENERATION, must begin to understand that it is now their turn at the helm. But running a country is a complex system that requires the comprehension and appreciation of power, authority and responsibility – their use, misuse, abuse and even non-use. What is required is clarity of beliefs and approaches for governance – which in political mature countries are lodged in political parties. This, the CDM must set out to do.

The Centrist Democratic Movement Federation of the Philippines collectively supports the notion to abolish the deficits in democracy that continually negate the development of all sectors of the Philippine Society.

The themes underlying the CDM's philosophy of good governance and truly functioning rule of law are focused on electoral reforms and building sustainable political parties, the introduction and strengthening of a social market economy and the restructuring of the state decision making process through a decentralized system of governance following the concepts of subsidiarity.

With the help of specialists in particular issues, we seek to enlighten ourselves with the principles behind good governance – with a greater priority toward political party formations. This bias towards creation of sustainable political parties is elementary. As repositories of political theories, beliefs and strategies of governance, political parties encompass an array of positions in a spectrum – from the extreme left to the extreme right. What are needed therefore are two or three distinguishable political parties that must precipitate a clash of ideas and principles – the better to present the optimum alternatives to the electorate.

Clarita Carlos' study on *Democratic Deficits* is a timely piece of work that can provide the SUCCESSOR GENERATION a general guide towards the strengthening of democracy.

To the SUCCESSOR GENERATION, in your political journey ahead - be focused – live straight and learn well.

Lito Monico C. Lorenzana
CDM Convenor

ACKNOWLEDGMENT

In November, 2009, Dr. Peter Koeppinger had barely warmed his seat as the new Resident Representative of the Konrad Adenauer Foundation when we met for a welcome and getting to know you lunch. Little did we both realize that that lunch will result in this book where we both agreed that there should be a comprehensive and non-partisan reckoning of where we have been as a nation, where we want to go, what our democratic deficits are and most importantly, what is to be done to address those deficits.

Always, when a work is finished, we look back and discover rather pleasantly how much the collective efforts of individuals can result in a very involved examination of an issue area, in this case, the many promises of democracy which have been compromised by our system of governance. We also discover, not too pleasantly, that the work of filling up these deficits, these democratic gaps, would require some very genuine efforts on all our parts to change and be part of that change. It is not an accident that this book is directed to the new leadership of our country which has promised us change and to them is this book dedicated.

This book would not have seen the light of day were it not for the indefatigable research team I had led by Mr. Dennis Lalata. Dennis, a former star student of mine and a cum laude from our university, has shown over the years a remarkable development of his critical faculties as well as of his writing. His infinite patience and attention to details had served us well as we went into the final activities of putting this book into print. My heartfelt gratitude also goes to Ms. Dianne Despi and Ms. Portia Carlos, the other members of the research team, who enthusiastically rowed along side us as we questioned assumptions, counter checked data and argued and challenged the validity of the many diagnoses found in extant literature. Happily, we were not just writing a book, we were learning so much in the process...

This book will not come into being were it not for the continuing support and trust of the Konrad Adenauer Foundation under the helm of Dr. Peter Koeppinger. Thank you, Dr. Koeppinger, for helping us discover the path of how our democracy can be better by addressing our democratic deficits so the lives of 100 million Filipinos will also be better...

Clarita R. Carlos

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EXECUTIVE SUMMARY

The purpose of this study is to identify areas where democracy in the Philippines has failed us—the *democratic deficits* that confront us today. We shall describe the basic features of those deficits, enumerate the major challenges, and outline what is to be done as culled from previous studies, including our own recommendations, which we think will reduce, if not totally abolish our democratic deficits. While these deficits are presented as segments, they are interrelated and are linked to each other. In the end, what is crucial in overcoming these *democratic deficits* is strong political leadership from the top among the three branches of government, and collective political will that can be harnessed from the citizenry.

The democratic deficits and our recommendations in the area of **Democratic Institutions** are the following:

Political Parties/Electoral Reform. Lack of accountability and responsibility and political turncoatism are democratic deficits that can be addressed in the short- to medium-term by linking the political life of party members with party membership so that their advance in politics must rely on the decisions made by their party leaders. Political parties must be required to have clear ways by which they finance their campaign and other activities and where government financing is absent, the support for the candidate forthcoming from the political party should be clear. Clear rules of accounting and auditing of party funds within party must be instituted so that no one person dictates who will get what and how much. The Political Party Reform Bill must be passed into law for better accounting, matching government support for recognized and registered political parties, and limiting election expenses. The election campaign period must be radically shortened to 60 days for the national positions and 30 days for the local positions.

There is a need to reform the party list system in the Philippines along the German way of the party list which is a two-vote system for an individual party candidate and a political party. This will reflect the real intent of giving representation to the marginalized sectors of our society. There is a need to change the system of government from the presidential form to a parliamentary one which is expected to bring about many changes in the party system because the party or a coalition of parties obtaining the highest number of votes in the legislature gets to form the government of the day; by shifting to a parliamentary system, we will be able to overcome the many complications present in a presidential form of government, compel party loyalty, reduce the campaign period and even reform campaign financing where government shares in the campaign finance as a proportion of the votes received by the political party in the previous election.

Political Dynasties. Leveling the playing field is required to address this democratic deficit. Reform of campaign finance must be carried out by reallocating resources and giving

opportunities to less financially endowed but capable candidates to enter the political arena. Reform of the political party must be undertaken in order to change the election campaign period, the procedure for vetting of candidates, the manner of electing through the two ballot system and others which are all designed not to favor incumbents who have access to and indiscriminately use public resources. There is a need to pass more strict laws sanctioning corruption and misuse of public resources (taken up in the chapter on Corruption).

Rule of Law and Justice Reform. The Philippines faces many challenges to the rule of law and its justice system. Reforms and other measures dealing with deficits in the justice system must be undertaken for the entire justice sector which will require cooperation among the three branches of government. Reform efforts must cover all areas of governance within the sector while paying special attention to access to justice by the poor and disadvantaged.

In enhancing rationalized and coordinated law enforcement, there is a need to: (a) decriminalize certain offenses under the Revised Penal Code and special laws and codify criminal law; (b) design and adopt an integrated criminal justice information system and develop crime classification and crime indicators; (c) adopt a holistic approach to the improvement of the crime investigation system of the police; and (d) remove duplication, overlapping, proliferation and fragmentation of law enforcement functions, reintegrate police functions, and remove institutionalized politicization of the police.

In strengthening the prosecution agencies and reengineering the public defense system, there is a need to establish the independence of crime investigation and prosecution agencies together with a meaningful operationalization of judicial autonomy, as well as undertake detailed review and reengineering of the entire public defense system to improve its capacity to provide services, improve access and efficiency, and strengthen its independence.

Efforts must be undertaken to reengineer the institutional framework of the corrections system, devolve delivery while maintaining strong oversight, and amend the Probation Law to expand its coverage. The laws of the land must be popularized towards better community capacity to demand justice remedies and improve community contribution in providing justice remedies.

There is a need to provide greater access to justice by the poor and disadvantaged through the following: (a) formation of a joint committee of the Supreme Court, the executive branch, IBP and alternative law organizations to coordinate the various legal aid providers in the country; (b) provide regular training for the members of the *Lupong Tagapamayapa* or peace council and strengthen the coordination between the Department of Interior and Local Government and the Department of Justice in order to enhance the Barangay Justice System with the possibility of including respected members or elders from the community in the peace council; (c) improve

services of Court Annexed Mediation (CAM) and Judicial Dispute Resolution (JDR) as components of Alternative Dispute Resolution (ADR) mechanisms being pursued by the Supreme Court in the lower courts; coverage may be expanded to include other types of cases that have not yet been included that do not involve physical violence; (d) assess possibilities for mainstreaming customary modes of adjudication in the criminal justice system; and (e) expand the “Justice on Wheels” program of the Supreme Court to address the problem of jail congestion through the disposition of cases involving inmates, including minors.

Continuing judicial education must be improved to enhance judicial competence. Various options to enhance judicial independence and fiscal autonomy must be studied. Complaints mechanisms and enhanced record-keeping systems for improved judicial transparency and accountability must be designed. A comprehensive study of the implications of the power of judicial review must be conducted.

There is a need to act on undue delays in the conduct of trials and large backlogs in the handling of cases by: (a) adopting mechanisms for enforcing strict compliance to mandatory continuous trial and pre-trial; (b) reviewing and improving the rules of court; (c) reviewing the jurisdictional structure of the courts; (d) removing duplication and overlap and clearly defining the operational delineation among pre-trial system, *barangay* justice system and the court-annexed mediation system; and (e) promoting the use of Alternative Dispute Resolution (ADR) mechanisms in various agencies in the justice sector.

The various challenges in the Shari’a Courts must be addressed by: (a) creating a societal environment that is based on a unified rule of law; (b) strengthening the Shari’a Legal Education System (both academic and continuing education); (c) improving the system for ensuring the qualification and training of Shari’a lawyers and judges; (d) improving the jurisdictional scope and structure of the Shari’a court system and its rules; (e) developing a Shari’a Code of Ethics; (f) formulating a career development program for Shari’a judges; (g) improving case management capacities and operations; and (h) structuring of Shari’a legal fees and charges.

Other measures for overall justice system reform must be carried out: (a) comprehensive review and codification of laws; (b) assess and evaluate the Medium-Term Development Plan for the Criminal Justice System (2007-2010); (c) follow-through of the implementation of the Court Management Information System (CMIS); (d) follow-through on the objectives of the Judicial Reform Network in the 21st Century (JRN21); and (e) follow-through of the recommendations made in the Asia Pacific Judicial Reform (APJR) Forum 1st Round Table Discussion (RTD) held on March 16 – 17, 2006 held in Australia.

Corruption. Corruption and inefficiency are a lethal combination of deficits that is robbing future generations of Filipinos many opportunities for development while benefiting

vested interests. A multi-pronged strategy is required in order to address this grave ill of society which may have already become systemic. In the political arena, there is a need to reform campaign finance and end or prohibit political dynasties. In the government bureaucracy itself, there is a need to target selected “problem” agencies for government reform by enhancing transparency based on the public’s priority concerns, as well as to strengthen the Office of the Ombudsman and study alternative ways of appointing the Ombudsman other than by the President. The proposals of the various presidential aspirants in the last May 2010 elections in relation to bureaucratic reform must be considered.

There is a need to strengthen third party enforcement in order to reduce or check ineligible, political appointments. Efforts must be undertaken to reform the pay incentive system to make it more competitive and reduce temptations for corruption, as well as strictly adhere to the merit system of promotion and selection of officers/officials/managers. Opportunities must be opened to enhance civil society and private sector participation by increasing transparency through public oversight and by preventing corruption through collective action. Government employees themselves must be encouraged to be at the forefront of fighting corruption and inefficiency such as the innovative approach taken by PSLINK, the confederation of public sector unions of Philippine government employees.

In the fiscal area, a major overhaul of the Philippine tax system must be carried out because exemptions given have created windows of opportunity for taxpayers in the higher income bracket to avoid paying taxes. In terms of financial controls, there is a need to minimize technical jargon and make the language of the government budget more simple in order to make it more understandable to the people. The bill on the Freedom of Information Act must be passed to pave the way for the full disclosure of all government transactions involving public interest. There is a need to simplify procurement and limit the boundary exchange processes to the front line levels in order to totally insulate offices mandated to perform review and inspection functions. Budget processes must be reformed in order to achieve discipline, allocative efficiency and operational efficiency.

Legal-judicial reforms must also be implemented. These include undertaking specific procedural/penal reforms such as: (a) imposition of strict penalties; (b) increasing penalties for certain offenses; (c) termination and resolution of preliminary investigation proceedings within 30 days; (d) warrant of arrest to be accompanied by writ of attachment of property; (e) conduct of speedy trials or fast-tracking of high profile cases; and (f) no issuance of temporary restraining orders except by the Supreme Court. There is a need to carry out substantive reforms such as: (a) enactment of an additional law with whistle blower protection provisions; (b) amendments of certain provisions of existing laws that provide opportunities for graft and updating of the archaic or vintage provisions; (c) codification of the fragmented anti-graft laws; and (d) the integration of the anti-graft provisions of the widely scattered special laws. The possibility of merging the Presidential Commission Against Graft and Corruption with the office of the Ombudsman must

be studied. The functions of the Inter-Agency Anti-Graft Coordinating Council to harmonize rules and joint activities must be strengthened.

Local Government-National Government Relations. The need for capacity building in the face of various challenges on the ground is a major democratic deficit that can be addressed in the short- to medium-term by reevaluating how resources are allocated and institutional strengthening is coordinated. There is a need to reexamine the Internal Revenue Allotment (IRA) formula such that performance measures and poverty indicators should be included in the bases of the allocation. Alternative ways of raising revenues by local government units (LGUs) must be explored while more efficient ways of collecting local taxes must be adopted.

There is a need to develop an Integrated Master Plan for capacity building and training for Local governments at various levels; the Local Government Academy can coordinate all other education and training agencies. There is a need to professionalize the secretariats of the various leagues of *barangay* chairmen, municipal mayors, city mayors, and provincial governors; exchange programs with other countries which have already experienced the enhancement of their leagues may be carried out. There is a need to identify ways to enable local governments to cooperate and collaborate with one another and with other cities in other parts of the world in many aspects of governance, particularly in the areas of disaster management and environmental protection and preservation. There must be efforts to document and replicate best practices in public sector–private sector collaboration in various local government jurisdictions. Lastly, there is a need to develop, enhance and periodically reevaluate performance indicators for LGUs.

Armed Forces of the Philippines (AFP)/Philippine National Police (PNP) Reform. The politicization of the AFP has been manifested in the more than a dozen coup attempts that have occurred in the past 24 years. The politicization of the PNP has been brought about by the influence of local government units through financial support and recruitment recommendations. With these persistent democratic deficits, selected recommendations from the Davide Commission and Feliciano Commission are presented which have not been implemented but remain relevant to our times.

The following key recommendations contained in the Davide Commission report, among others, must be implemented in order to prevent or when dealing with coup attempts when they happen: (a) administer a justice and rehabilitation program to military participants; (b) strengthen security measures on those under detention; (c) carry out speedy action on appeals over decision on AFP courts-martial; (d) implement a comprehensive program to provide timely rescue and medical assistance to troops wounded in combat; (e) remove or reassign officers of less than 100 percent loyalty from sensitive positions in the military hierarchy, i.e., intelligence, operations, logistics, and training functions; (f) disband organizations not authorized by the military; (g) observe a systematic selection process for the new Chief of Staff that generates the least controversy about the choice; (h) crackdown by the military on some "big fish" corrupt officers;

(i) stop unfair and/or humiliating treatment and criticism of military officers by Congress and other public officials, especially those before the Commission on Appointments; (j) conduct of speedy and firm disciplinary action and/or prosecution against members of the military involved in human rights violations as well as of civilian law enforcement personnel involved in victimizing military personnel; (k) encourage the purchase or charter by Congress of its own transportation facilities and prohibition on the use of military equipment and aircraft; (l) provision of sufficient resources and support to the Deputy Ombudsman for the Military; (m) institutionalize necessary improvements in the military in the areas of promotion and assignments, purchasing and auditing, educational benefits abroad, and compulsory attendance at military command schools (similar improvements may be done for the PNP); and (n) work out a system between the President and the Commission on Appointments by which recommendations for promotions for the AFP can be categorized in practice to avoid the exploitation of the confirmation process for political purposes (this may also be applied to the PNP).

The following key recommendations of the Feliciano Commission report must be implemented: (a) liquidate the AFP Retirement and Separation Benefit System (RSBS) in an orderly manner and return the soldiers' contributions; (b) establish an AFP Service and Insurance System; (c) simplify AFP procurement procedures; (d) strike a balance between the commanders' discretionary powers over the centrally managed funds (CMF) and the amount of CMF in GHQ/service HQ hands; (e) strictly implement control measures over supplies; (f) set tenure limits for AFP finance and procurement officers; (g) establish an autonomous Internal Affairs Office (IAO); (h) reinforce the Office of the Ombudsman by increasing funding and other support; (i) implement full computerization of data on soldiers and their dependents to facilitate processing of death benefits and other benefits; (j) provide for increased allocation of funds for the AFP On-Base Housing Program as well as its Off-Base Housing Program; and (k) ensure the strict implementation of existing criteria for the awarding of government quarters to officers and enlisted personnel in the active service.

To improve the state of AFP medical services, there is a need to: (a) ensure that part of the funding of the AFP Modernization Program should be dedicated to modernize and upgrade medical services; (b) review the geographic distribution of hospitals; and (c) study the scheme of hiring of doctors as doctors and compensating them according to their level of expertise and experience and not according to rank.

For the PNP, the following must be seriously considered: (a) remove negotiable and highly discretionary support from LGUs; (b) reintegrate authority to the PNP Chief to recruit, appoint and promote and discipline the police force without prejudice to an appropriate civilian review system; and (c) remove LGU authority over the internal administration of the police force.

The democratic deficits and our recommendations in the area of **Social and Economic Systems** are the following:

Education System. With a fast growing population, there is no alternative but to equip our citizenry with the necessary skills and know-how in order to become productive citizens. With the entire world as our workplace, raising the quality of education and addressing the many deficits therein is imperative. There is a need to synchronize the curricula between and among basic education and higher education sectors in order to produce college-ready and work-ready graduates. There is a need to increase the budget for education to make it at par with other countries (20 percent of the national budget or 4-4.5 percent of the Gross Domestic Product). Existing budget policies and governance must be changed from budgeting without accountability to outcome-based budgeting, from annual budgeting to multi-year budgeting allowing for a spending plan that is realistic and can be planned and programmed, from “structure before strategy” to “strategy driving structure,” focus on standards not standard operating procedures, from “security of tenure” to merit-based performance evaluation and rewards, among others.

There is a need to fully implement the Basic Education Sector Reform Agenda (BESRA) with some amendments, including mother tongue-based multi-lingual education in appropriate areas in the Philippines. The Adopt-a-School Program of the Department of Education must be widely promoted among the private sector, focusing on feeding programs and financial assistance, in order to address the problem of poor families not being able to send their children to school. There is a need to seriously consider adding two more years to basic education (one additional year for elementary school and one additional year for high school) or alternatively lengthen the number of school days and school hours, thereby shortening summer vacation. A national master plan must be adopted in order to establish a new typology of Higher Education Institutions (HEIs) and a rational system of national, regional, provincial and municipal/city universities and colleges, and the regulation of the entry of foreign education institutions into the Philippines. The designation of additional universities must be halted and instead the quality of education in existing and universities and colleges, including specializations, must be improved. One selected university department in every academic discipline must be upgraded into an honest-to-goodness world-class national center of excellence. Entrepreneurship courses must be integrated in all tertiary degree programs to reorient students from an employment focus to an entrepreneurial mind-set. The quality of teachers must be developed by revising bachelor’s education—reversing it from two-thirds teaching methodology and one-third content to two-thirds content and one-third methodology. The salaries of public school teachers at the basic education level must be trebled, while those of faculty at state universities must be doubled, provided they meet certain criteria of qualifications and performance.

Health. The Philippines will be hard-pressed to achieve the Millenium Development Goals for Health if present trends and deficits in the health care system continue. Reforms must be carried out in financing the health care system through multiple fund sourcing. National

government spending can be financed through borrowing (including re-financing of existing debts), additional tax sources, and reallocation from non-social service sectors. For local government units, there can be mandatory increases in the proportion of IRA to be spent for health. PhilHealth support value for identified services in the basic package may be increased. This can be financed from the present PhilHealth reserves and increasing premiums collection.

There is a need to integrate and strengthen health workforce regulatory functions under one body in order to unify standards and regulations of the production, practice, and deployment of the various health professions. The practice laws of the different health professions must be updated and rationalized premised on health care being a team effort. Health services (basic/secondary/tertiary) must be organized by revisiting the Local Government Code and its implementation, and integrating and organizing government facilities in accordance with the principles of primary health care based on an updated version of the Alma Ata Declaration. Health regulations (including regulation of pharmaceuticals and other health care goods) must be reviewed and strengthened.

Efforts must be made to improve health governance through the Department of Health (DOH) as lead institution in implementing reforms leading to universal health care, improving provincial-level coordination of local health service delivery, establishing autonomous and authoritative hospital authority or hospital boards, and harnessing community participation at all levels of the management cycle. There is a need to manage and organize health information to maximize its value in reforming the health system. It is imperative to increase access to essential public health services including but not limited to family planning, tetanus toxoid immunization, and condom use for the prevention of HIV/AIDS and sexually transmitted diseases (STD). Related to this, there is a need to improve access to public health commodities including but not limited to contraceptives, micronutrient supplements and essential drugs by strengthening sourcing strategies, wholesaling and distribution strategies and retailing strategies. The Health Sector Expenditure Framework must be linked with the medium-term expenditure framework of the rest of the social sector agencies. Finally, there is a need to promote partnerships with civil society and the private sector in order to ensure full blown implementation of health sector reforms in pursuit of the overall harmonization effort.

Environment. Considered a biodiversity hotspot, the Philippines is facing various threats to its environment. The people's right to a clean and safe environment and other related rights have been undermined by environmental degradation. The country is also at the center of the adverse effects of climate change. The environmental development goals contained in Philippine Agenda 21 must be pursued. Measures must be taken to build sustainable cities and undertake renewal of rural areas. These include the implementation of Republic Act 9003 or The Ecological Solid Waste Management Act up to the *barangay* level, facilitating exchange of knowledge and experiences with Asia-Pacific Economic Cooperation (APEC) economies in order to build sustainable cities, and prioritizing the following concerns in the rural areas:

(a) areas that may be reserved for small-scale mining; (b) defensive measures in dealing with forest fires; and (c) the impacts and effects of aerial spraying.

Clean technology must be promoted while addressing pollution and environmental damage. The provisions of the Clean Air Act must be strictly implemented. “Green chemistry” and other clean technologies must be promoted through incentive systems. There is a need to protect the rights of indigenous peoples in order to ensure the integrity and capability of ancestral lands that serve as “environmental havens” and “carbon sinks.” A workable criminal and civil liability framework must be put in place that will serve as a deterrent to and facilitate claims for environmental damage.

A host of climate adaptation and disaster mitigation measures is recommended: (a) passage of a comprehensive disaster management bill; (b) geo-hazard mapping of all regions in the country and the implementation of soil stability measures for landslide-vulnerable areas; (c) crafting a National Adaptation Plan for Climate Change; (d) exploring more effective options for financing disaster risk and relieving the burden of disasters from the public sector, including the idea of a catastrophe insurance pool, and/or contingent credit facilities; (e) pursuing the promotion and undertaking the widespread use of renewable energy and promote energy efficiency to cut carbon dioxide emission; (f) making information campaigns on disaster risk management more systematic and well coordinated in all locational areas concerned; (g) integrating Disaster Risk Reduction concepts in the curricula of both public and private schools; (h) setting up a system for evaluating the utilization and impact of the Local Calamity Fund (LCF) of local government units; (i) strongly enforcing zone regulations, building codes and related laws in support of disaster risk reduction; and (j) implementing disaster mitigation measures recommended by previous studies for countries in similarly situated areas.

Population. Overpopulation and the increasing number of elderly persons are challenges because of the strain on limited resources for health care, housing and other basic services. Overpopulation can be addressed through a combination of population management, out-migration, and reform of the pension system. Population growth may be controlled by lowering the incidence of unplanned pregnancies through the provision of information on reproductive health to the public, and by allowing people to determine their family size by providing them with information on the use of natural and artificial contraceptives. Depopulation may also be achieved by promoting regulated out-migration of families which is in fact already being done.

There is a need to put measures in place in anticipation of the increased ageing population, such as by possibly merging the Government Service Insurance System (GSIS) and the Social Security System (SSS) and instituting a sustainable pension mechanism for an ageing population. There is a need to rationalize the cost of these two programs and provide a common standard of old age protection to all workers, regardless of sector of employment. The China model may be worth studying in this respect.

Public-Private Sector Partnership. The absence of a strong partnership between the government and the business/private sector as the engine of growth is a deficit that must be addressed if we would like development to trickle down to the grassroots. The government should prioritize the creation of jobs. This will give stability to employment through a ‘sustained rise of output and productivity’ which creates an assurance in the people of improving welfare standards in the country.

This can be done through the following: (a) expand opportunities in agriculture and tourism to address the unemployment issue; (b) strengthen the poor physical infrastructure of the country; improving the physical environment and the telecommunications sector would help in the quality of product transportation and develop more efficient business transactions; (c) review laws which have been set for the economy, and revise those which seem to be outdated, especially those which deal with tariff and trade, and investments, including investment incentives; (d) properly implement set rules and regulations for the business sector and removing special treatment for a particular set of businessmen or companies; (e) prioritize drafting policies and programs ‘geared toward facilitating the exit of inefficient firms and entry of new ones;’ (f) push for agricultural and natural resource research and development programs jointly pursued by both the government and the private sector to increase productivity in these two major sectors; and (g) create and maintain a better finance environment for small and medium enterprises (SMEs).

The democratic deficits and our recommendations on **Special Concerns** are the following:

Insurgencies. The Communist insurgency and the Moro issue have derailed development in the rural areas, particularly in areas in Mindanao where these challenges are rife. Measures must be undertaken in various sectors in order to address these democratic deficits. In the political sector, there is a need to: (a) improve on governance and efficiency in delivering social services to the people; proper implementation of rules and programs to render the best service possible; (b) study the pros and cons of federalism—will it be a better solution to the Mindanao issues, or will it exacerbate differences and problems between the central government and local units?; (c) revise and strengthen loophole-riddled laws to decrease so-called ‘structural weaknesses’ brought about by outdated and compromised legal and justice system; this includes constitutional reforms and further definition and clarification of rules of engagement; (d) implement the complete disarmament of warlords and remove private armies from service to political families in Mindanao and across the country; and (e) enhance connections within the government agencies involved in delivering goods and services to the public, and develop an orderly, more efficient system of networks between the government, civil society and the private sector.

In the economic sector, the following may be carried out immediately: (a) deliver food aid; (b) construct core shelters for displaced individuals and families; (c) provide farm and fishery materials and equipment; (d) rehabilitate damaged health and educational facilities; and (e) develop health programs dedicated to the care of infants and children. The following may be implemented in the short-term: (a) provide educational assistance to out-of-school youth; (b) rehabilitate access tracks, small bridges and irrigation facilities; (c) develop projects for capacity-building for various local institutions; and (d) implement farm and non-farm livelihood projects. The following may be implemented in the medium-term: (a) draft feasibility studies for agricultural development and agribusiness prospects; and (b) make and strengthen partnerships between the government and private sector to push for the development of small and large-scale agricultural businesses.

In the social sector, there is a need to: (a) develop inter-faith dialogues as confidence-building measures to further discuss and understand issues which plague both the Muslim and Christian peoples in Mindanao; (b) enhance the Madrasah educational system to cater to the intellectual and social needs of Muslim children; and (c) decrease and eventually abolish the presence of children involved in conflicts by safeguarding their rights to life and education, and providing rehabilitation services for children who had gone through episodes of being involved in conflict areas.

Food Security. The country has experienced food shortages from time to time which are a manifestation of how fragile our state of food security is in the Philippines. Food production and agricultural productivity programs must be put in place in order to deal with this deficit. Mindanao should be developed as the country's food basket. However, the other traditional areas for food production should not be neglected.

The following may be undertaken immediately: (a) enhance emergency food assistance nutrition interventions and safety nets, and make them more accessible to all; (b) increase smallholder farmer food production; (c) adjust trade and tax policies; (d) manage macro-economic implications; and (e) provide immediate supply of seeds, fertilizer, feeds, veterinary drugs/services and small pumps to those in need. For the short-term, the following may be implemented: (a) study the proposal to transform the National Food Authority into a postharvest service institution; coupled with the proposal to impose a ceiling on the retail price of rice (for example PhP33.00) instead of on the farm gate price (which is a lot lower) and help farmers to sell rice directly to consumers at that retail price; (b) remove barriers to domestic trade; (c) rehabilitate small-scale irrigation, storage facilities, farm-to-market roads, soil conservation by cash or food for work; (d) reduce post-harvest crop losses and community-based food stocks; and (e) remove constraints to domestic trade in order to link small farmers to markets.

For the medium- to long-term, the following may be carried out: (a) improve enabling policy framework; (b) stimulate public-private investment in agriculture; (c) ensure secure access to and better management of natural resources, including land, water and biodiversity; (d) invest in agricultural research; (e) improve rural infrastructure; (f) ensure sustained access to competitive, transparent and private-sector led markets for food produce and quality inputs; (g) support development of producer organizations; (h) strengthen access of smallholders and other food chain actors to financial and risk management instruments; (i) implement genuine agrarian reform programs which do not patronize selected sectors of society; (j) provide farmers in rural communities with better access to equipment, facilities and other agricultural supplies until they achieve self-sufficiency in producing their own crops for their own families; (k) speed up peace-building processes in Mindanao, which will further ensure food security, not only in that particular region, but also for the whole Philippines; (l) secure public sector partnerships with the private sector and NGOs in research in order to help in the promotion of agricultural development; (m) manage population and improve education; (n) strengthen physical infrastructure, i.e. building more quality farm-to-market roads and better irrigation systems; (o) improve on agricultural technology—this includes finding ways to prolong shelf-life of products while not using expensive and harmful fertilizers and pesticides, increasing nutrient content of products, and optimizing soil usage through alternate cropping; and (p) improve on aquaculture technology—higher yield from the fisheries sector would lower prices for protein-rich fish which could be used as substitutes for meat and poultry products.

While most of the recommendations presented herein per issue area can actually be carried out by the concerned Cabinet secretaries and their respective departments, within the next five years, the new leadership needs to focus on certain urgent tasks that correspond to the most critical democratic deficits. We believe that the most urgent tasks for the new leadership that in order to lay down the groundwork for economic development are as follows, in the following order of priority:

1. **Corruption/Rule of Law and Justice Reform.** Good housekeeping should be the first priority for the new leadership to be effective in implementing all other reforms. Achieving respect for the rule of law and undertaking reforms in the justice system are very much closely related to eradicating corruption and inefficiency in the three branches of government.
2. **Insurgencies.** Peace is a pre-requisite to development. Unless there is peace in the various regions, especially in Mindanao, it is very difficult, if not impossible to bring development to those areas, and to the country as a whole, where vast potentials for development remain untapped.
3. **Public-Private Sector Partnership.** Development can only be pursued if there is a sound working relationship between the government and the private sector.

4. Local-National Government Relations. Implementing policy for development and basic services must be carried out consistently at various levels of governance down to the smallest political unit which is the *barangay*.
5. Political Parties/Electoral Reform. The new leadership must ensure that a reconfiguration of the political party system as well as the pursuit of electoral reform will be carried out to pave the way for principled and party-based leadership, in contrast to purely personality-based leadership that we have now.

Only by dealing with each of these democratic deficits in a holistic manner do we have any hope of rising above our own failures as a people. Only by ensuring that our democratic institutions are capable and up to par in coping with our democratic deficits can we be assured of an opportunity to reduce or abolish these deficits.

I. INTRODUCTION

Post-independence in 1946, the Philippines was known as the “showcase of democracy” in the Asia Pacific. Having been under the tutelage of the United States for nearly 50 years, the Philippines not only copied many features of the US political structures, it was also socialized by the American colonizers to the ways of democracy.

In the 1960s, the Philippines was second to none except Japan. Five decades later, the Philippines finds itself at the bottom of every list measuring the quality of life and various human development indicators. It only ranks among the first in two lists: the list of the countries perceived to be most corrupt and the list of countries most hit by disasters.

Why are we where we are now?

What has happened to the promise of democracy that political and economic freedoms will lead to the good life? What happened to the promises of our elected representatives that they are going to represent our interests? What happened to the political party members who sought our votes but who later on changed their political colors? What happened to the promise of the rule of law? Of predictability of outcomes? Of the value of hard work? Of integrity?

Why are we now the Sick Man of Asia?

The purpose of this study is to identify areas where democracy has failed us. We call this phenomenon as *democratic deficits*. They are deficits in governance. They are deficits in transparency, accountability and predictability. They are deficits in representation. They are deficits in the high number of Filipinos who are not able to obtain education and who are not given an opportunity to improve their lot. They are deficits in the economy which exports a lot but does not produce employment. They are deficits in the way we treat our minority communities.

They are deficits in the relationship between the local government and the national government. They are deficits in the way we degrade our environment paying little attention to the next generation. Finally, they are deficits in the way health, food, water, shelter and the many other fundamentals of living are neither provided for nor are the opportunities to reach them given. These are the many, many deficits of our democracy.

Each one of the aforementioned deficits will be tackled, their basic features described, the major challenges identified and most importantly, recommendations on how we proceed to reduce if not altogether abolish these deficits altogether. The “what is to be done” shall, as far as practicable, be categorized into immediately doables, short-term, medium-term and long-term. We shall also attempt to identify, to the extent possible, the agency(ies) that will be responsible for the changes recommended. Finally, we aver that while these deficits are presented as segments, they are interrelated and are linked to each other.

At the time of writing, we are preparing to elect new leadership for our country with a presidential election and election of the new Congress all intended to bring about new politics.

Or, will it be old politics with new faces? It is hoped that this study may provide some guidelines for the new leadership in the three branches of government to be able to discern where we shall start mending and reengineering and streamlining as we tortuously and collectively decide that we no longer wish to be labeled the Sick Man of Asia.

II. DEMOCRATIC INSTITUTIONS

This chapter will present the democratic deficits in the area of democratic institutions. This will include the challenges of political parties/electoral reform, political dynasties, rule of law and justice reform, corruption, local government-national government relations and the increasing politicization of the AFP and PNP.

A. Political Parties/Electoral Reform

Role of Political Parties in a Democracy

Political parties are so central to the life of any democracy.¹ Political parties differ from other groups in their goal to get into positions of power and contest elections.² It is the political party which aggregates all the articulated interest of the citizenry, puts it along some form that can be translated into policies. It is the political party which brokers all the demands of the citizenry as they make known what they need in order to obtain the good life. Absent the political parties, then, the many demands of the citizenry will remain unarticulated and will find no voice in any of the instrumentalities of government. Political parties, therefore, are the main vehicles of democracy.

Democracy is underpinned by the principle of periodic changes of leadership. It is through political parties that such changes of leadership and policies may occur. The citizenry also signals to the elected leadership that sovereignty resides in the people and all government authority emanates from the people. The power of recall, referendum, initiative, and impeachment are all enshrined in our fundamental law which gives every citizen not only the right to vote but also the right to oust its elected leader.

Political parties through their party platforms promise the electorate a certain way of governing. Political parties provide the crucial choices that democratic elections are supposed to engender. Thus, if one political party promises that eradication of poverty is the keystone of its government program once elected, then, the citizenry assumes that this promise will find realization in the legislators elected in Congress who will legislate along the promised “eradication of poverty” of this political party. No one politician can promise to the electorate anything sans a political group/party backing him up.

In the 24-member Senate and the 248-member House of Representatives, for example, no ordinary law may pass without a majority of votes of its members. Important committee chairmanships and memberships are distributed along party strengths. Parliamentary procedures on delivering speeches, initiating legislation, committee participation and the like all require the backing of a political group or a coalition thereof. In some important cases like the declaration of a state of war, impeachment cases, ratification of treaties, the number required will be either

two-thirds or three-fourths of the entire membership of the legislature. Thus, no one lone candidate running as an “independent” can ever succeed in delivering on any of his electoral promises unless there is a political group/party or coalition backing him up. This is how important political parties are in the life of our democracy.³

Nature of Political Parties in the Philippines

Given all the foregoing, what is the nature of political parties in the Philippines? Luzviminda Tangcangco, a Filipino scholar, has classified parties into five types, as follows:

- according to political subdivisions and structures: national, regional, territorial or inter-territorial, local, sometimes, even ethnic or tribal;
- according to adherence to set of beliefs or principles: nationalist, reformist, communist, confessional or religious, ideological;
- according to membership: elite, cadre, mass;
- according to type of leadership style: charismatic or personality, dictatorial, pluralist;
- according to orientation and goals of group and group activities: power oriented and policy oriented parties and parties of action or parties of expression.⁴

Perhaps, no one can best describe Philippine political parties than noted sociologist Prof. Randolph David who describes the nature of political parties in the Philippines as follows:

Our political parties are incoherent and unstable. They have no enduring organizational identities and no clear constituencies. They promote no distinctive visions or programs. Their hold on their leaders and members is weak. They are dormant much of the time, coming alive only during elections. They have no sustained programs for recruiting and nurturing new leaders. The leader of the party is usually the one who can fund its electoral participation. A leader with no funds of his own to dispense will be unable to hold the party together. Party members do not pay regular dues to fund party operations. They expect the party to financially support them. Philippine political parties are really brand names whose current owners trade on a bit of history to give themselves a touch of stature.⁵

A brief note on history. Since the 16th century, the Philippines experienced three waves of colonization, namely, under Spain for nearly 400 years, under United States for nearly 50 years and a brief 4 years of Japanese Occupation during the US Commonwealth period prior to independence in 1946. Both Spain and America took advantage of the existing local administration at the time of occupation and both coopted the local leaders through vast

landholdings grants and power sharing in the local realms. The political parties which emerged prior to the grant of independence in 1946 were largely composed of landed elites which the United States encouraged as most of these colonial administrators believed that the masses were “ignorant, credulous and childlike.”⁶

In a later section, we shall see how this historical antecedent coupled with the electoral system will contribute to the emergence of many political dynasties. Thus, the oligarchy which Spain and America cultivated and nurtured eventually became the kernel of the present political parties.

Democratic Deficits of Political Parties in the Philippines

What are the democratic deficits of Philippine political parties?⁷

The first deficit that we can identify is the deficit in accountability. Political parties in the Philippines are largely undifferentiated, their platforms merely a recitation of general principles, little differing from each other and their programs of government often unarticulated in a comprehensive national strategy. In fact, the clear absence of a national strategy of all the present political parties is a major democratic deficit as it immediately defines the lacunae of sets of policies that the party will be guided by if and when it gets into position or power.

The deleterious consequence of undifferentiated political platforms and programs is clear. After elections, the voting citizens who have perceived certain promises of the candidates during the campaign period to be aligned with their demands will now expect these elected representatives to realize their promises in Congress or in the Executive positions to which they have been elected.

In the absence of a national strategy and program of government as guidelines to action, the political party members who have been elected will be hard pressed to follow a “party line” because there is no defined “party line.” Thus, come voting time for legislation, one may not expect a party vote in many cases. Why is this so? Why are the elected representatives not compelled to follow a party line?

The answer lies in the nature of the campaign dynamics. Political parties are not continuing entities as they should be. They do not have dues-paying members and as noted earlier, the candidate who decides to be a member of a political party expects the party to finance his campaign and support him during the campaign period by financing his TV, radio and other media exposures. Thus, a political party leader usually banks on his own funds or relies on some business or other supporters for the campaign requirements of the party.

Loyalty is engendered to the party leader, not to the party. In a study by Carlos on the dynamics of political parties, it was reported that campaign financing is mostly *sub rosa*. Most times, campaign contributions from business or even sometimes from foreign sources are directly given to the political party leader. There is neither accounting nor auditing of campaign contributions. Despite the campaign laws on campaign finance, the reporting of election related expenditures are *pro forma* where the Commission on Elections (COMELEC) has neither the capability to question nor to check the reports of each party on campaign spending.⁸

What is the consequence of this kind of non-accountability in campaign finance? Clearly, this affects both party discipline as well as accountability of the elected representative to the electorate who voted him to power. Since the candidate is beholden only to the party leader, then, when the time comes for crucial votes on major legislation, the elected party member is not compelled to vote according to a party line. The party leader, in turn, may depart from the promised party program of government as the citizenry has little opportunity to compel compliance thereof, until next elections, of course.

When this happens, then, we break the promise of democracy where the political party is supposed to be responsible for translating the demands of the electorate into decisions or policies. Earlier, we noted that all the platforms of political parties and their programs of government are not differentiated. Thus, come crunch time, even the citizenry is hard pressed to make the parties accountable for the vague promises they made during the campaign period. So, where is accountability and responsibility here? Clearly, there is a huge democratic deficit here.

Then, what about the frequent changing of party colors of the candidates? This has been labeled “turncoatism” and has been a fixture of the Philippine political landscape since independence. We recall that since independence, three candidates for President, for the highest position of the land, have changed their political parties and became “guest candidates” of the other party.

Alas, changing political parties or crossing the aisle as in the British tradition does not lead to political suicide in the Philippine context. In some cases, the turncoat even gains political capital and support when he changes parties.

Why is political turncoatism so rampant?

Recall the campaign finance we discussed earlier and the undifferentiated party platforms and programs. The political party member easily transfers to another party where he thinks he will be more advantaged in many ways because there is no sanction linked to his changing party color. For one, because political parties are not continuing organizations, the party members do not “grow” into the party. Also, while there may be on paper a procedure for vetting candidates,

determining who will run in what constituencies, for most parts, these decisions are made only by few party “big guns” if not made by the paymaster who is the party leader who controls all the funds. As they say, whoever has the gold, sets the rules...

No one in the history of Philippine political parties has been made to pay for changing party color. The implications for party accountability and responsibility are crucial to any democracy. Where the political party member/candidate cannot be made accountable for the promises he made in behalf of his political party, then, democracy is seriously compromised.

What about party organization? What about party recruitment? What about party membership? What about continuing education and training of its members? All these are basically absent or merely *pro forma* as political parties become moribund as soon as elections are finished. They will be revived or resurrected only when election comes. Meanwhile, there is no opportunity for serious and active recruitment of younger members who will grow into the organization. There is no loyalty engendered by paying dues by members. Whatever passes of continuing education and training of its members are few, far between and half-hearted at best.

What is to be done?

Clearly, there is a need for several approaches to change the way political parties behave by changing the landscape within which they operate within the short- to medium-term. How do we stop political turncoatism?

Party loyalty can only be engendered by making the political life of the party member linked with his party membership. The political party must be the only lifeline of the party member so that his advance in politics must rely on the decisions made by his party leaders. This also has links with party finances.

Political parties must have clear ways by which they finance their campaign and other activities and where government financing is absent, the support for the candidate forthcoming from the political party should be clear. This way, when the political party asks the party member to vote according to what the party dictates, then, the accountability is clear. Because party finance right now is basically controlled by the party leader, then, there must be clear rules of accounting and auditing of party funds within party so that no one person dictates who will get what and how much.

Party finance reform can also be legislated upon as it is being done at the time of this writing. There is a political party reform bill which failed to be legislated upon in the last Congress and which really needs to pass soon. (See Annex A for Political Party Reform Bill.) What it may stipulate is better accounting of party funds as well as matching government support

for recognized and registered political parties. This is also one way of limiting election expenses during campaign, a major source of corruption later. This will be discussed at length in a later section of this chapter.

And, what about the election campaign period? Under present election rules, the campaign period is an excruciating 90 days for the President, Vice President and the members of Congress and 30 days for local positions. The requirements of having to campaign all over the 7,107 islands of our archipelago is a gargantuan task not only requiring tremendous funding but huge logistical challenges. The period for campaign should be radically shortened to 60 days for the national positions and 30 days for the local positions.

And, then, we should also consider changing the system of government from the presidential form to a parliamentary one. This is expected to bring about many, many changes in the party system. Note that in a parliamentary system, the party or a coalition of parties obtaining the highest number of votes in the legislature gets to form the government of the day. Thus, the parliamentary system is definitely party government. Given this stricture, a political party member who has not been disciplined before will more likely be disciplined by his party members because the life of the political party relies on the continuing loyalty of the party members.

In a parliamentary set-up, elections may happen anytime the government of the day gets a vote of “no confidence” and is thrown out of office. New elections may bring about new majorities or new coalitions. The election period need not be 90 days as it is presently because no one will run for a national position. The one who will become Prime Minister under a parliamentary system runs as a regular member of parliament in his electoral constituency. And, as in the case of Great Britain, the election period can easily be truncated to three weeks which is just enough time for the candidate to go around his electoral district which consists of about 250,000 inhabitants, on the average.

As we can see, when we shift to a parliamentary system, we may be able to compel party loyalty and we reduce the campaign period and even reform campaign financing. Concomitant electoral and legislative rules may also compel party members to stick not only to party lines but also not to cross the aisle or change political parties.

What about the present party list system?

In the 2010 election as of this writing, there were 187 party list groups which were registered with the COMELEC. This accounted for the nearly two feet of ballot that will be used for the election on May 10, 2010. How did this huge number of party list groups come about?

Some historical background is in order. During the martial law regime in the administration of President Ferdinand Marcos, there was a clamor for the representation of “marginal” groups for sectors which were perceived as not adequately represented by the then *Batasang Pambansa* or National Assembly. This became the seed of what eventually became the Party List law which allowed so called marginalized groups to be represented in the Philippine Congress if they obtain two percent (2%) of the total votes cast so long as they do not exceed 30 percent of the total number of seats in Congress. (See Annex B for Party List Law.)

The party list system has wreaked havoc in our elections as so many, many groups claiming to be “marginalized” sought accreditation with the COMELEC. Since the COMELEC officials themselves were not guided by clear rules or definitions about who are “marginalized,” the number of groups included in the final ballot ballooned to 187 as it is now.

Evidently, the party list as practiced elsewhere like in Germany was intended to prevent the democratic deficit arising from political parties losing seats yet getting votes disproportionate to the votes cast for its candidates. In a single member district system using the first past the post system of plurality, it is easy to see how many times, parties getting so many thousands of votes for their candidates lose out in the number of seats they obtain. Thus, the party list was adopted which was a two-vote system for an individual party candidate and a political party.

As it is practiced in Germany, the voter casts two votes, one for the individual and another for the political party. Thus, the system is a mixed single member district and proportional representation system. Each political party submits to the federal election body the party list containing an ordinal list of party members in advance of the elections. For a party to be eligible to sit through the party list, it must elect at least 3 candidates through the single member district system by plurality. Then, the votes for the political party are added. If the political party garners 40 percent of the total votes cast, then, it should get 40 percent of the seats in the legislature. The mixed single member district and the proportional representation system reduces the misrepresentation that occurs when only the single member district is used.

The party list system in the Philippines should be reformed along the German way of the party list. If this is not done before the next election, then, the COMELEC may again be confronted with the conundrum of having to go through so many groups who deem themselves marginalized and getting them accredited.

Note that, even with 20 percent of the seats granted to the party list groups under the present election laws, it will be quite difficult for even these groups voting collectively to vote in or vote out any bill for consideration in the house. Also, if we amend the present party list law to reflect its real intent as seen in the German experience, then, we would have less problems to grapple with come election time.

Since we have noted the possibility of considering the parliamentary system, this may be the appropriate time to consider the various institutional challenges of our democracy altogether.

First, in regard to the tenure of the President vis-à-vis the tenure of the members of the House of Representatives, here we have a President with a fixed 6-year term without re-election having to work with a lower house which has a term only of 3 years .

Given the rampant turncoatism among the party members, it is not surprising that many of the minority party members will now do a collective swearing in to the party in power so they can gain in the largesse of a majority party who is able to make decisions on the allocation/release of the pork barrel and committee chairmanships and memberships. So, what happened to the party line? What happened to the election promises which now have been buried in the *Realpolitik* of the numbers in the House?

Then, too, because of this power configuration, the members of the House of Representatives could not but kowtow to the President since the latter has a 6-year term and the former have to be re-elected for another 3-year term. This situation becomes a compelling reason for the adoption of a parliamentary system.

Second, consider further the demands on the presidency which has only 6 years or about 2,100 days which demands will certainly go beyond 6 years in its implementation. Because the President cannot be re-elected, it is possible for one to just sail along since there is no more incentive to perform because of the no re-election rule. The empirical evidence, however, is mixed in regard to long terms of the Chief Executive.

Third, we have a system where the Vice President is elected separately from the President. We have seen the deleterious effect of this where the Vice President belongs to another political party and is left simply as a “spare tire” and effectively sidetracked while waiting for the President to be incapacitated or to die. Think of the wastage both of expertise of the Vice President as well as the allocation of a big budget of his office only to be a waiting post. Either we change to an election system where the two top executives are elected as a team or we altogether remove the Vice Presidential position. Indeed, in a parliamentary system, the Vice Presidency will not be necessary.

Fourth, the requirement for the election of the members of the Senate nationwide continues the onerous need for tremendous amount of money for campaign funds and for special interests to be catered to as a result of such “obligations” for payback after elections. The abolition of the Senate may be seriously considered and the reversion to a one-chamber legislature should be considered.

Fifth, we have noted elsewhere the party list anomaly where the number of marginalized groups has become so many and the COMELEC is hard pressed to define who the marginalized groups are. Further, we have noted that the party list as it is practiced today has departed quite far from what it should be as part of a proportional representation solution to the under-representation in the legislature.

Sixth, in regard to campaign finance, there should also be a change here where the government shares in the campaign finance as a proportion of the votes received by the political party in the previous election. This can be part of the electoral reform that has been noted in another section in this chapter.

Finally, within the House of Representatives, where there is no party majority and where coalitions at best are resorted to, many bills which should be the subject of legislation are not able to pass because the political party system is broken and there is no party line and there is no concomitant party accountability. Committee chairmanships and members, House rules and procedures become hostage to the numerical configuration in the House never mind the election promises and never mind the bigger challenge of changing things through legislation. Again, in a parliamentary system, governments will flourish or be forced to resign on a vote of confidence dependent on whether they respond to the needs of their constituency. Alas, in the present system, there is no way such accountability can happen because political party members change political color depending on expediencies.

Recap of “What is to be done?”

- Link the political life of the party member with his party membership so that his advance in politics must rely on the decisions made by his party leaders
- Require political parties to have clear ways by which they finance their campaign and other activities and where government financing is absent, the support for the candidate forthcoming from the political party should be clear
- Institute clear rules of accounting and auditing of party funds within party so that no one person dictates who will get what and how much
- Pass the Political Party Reform Bill into law for better accounting, matching government support for recognized and registered political parties, and limiting election expenses
- Radically shorten the election campaign period to 60 days for the national positions and 30 days for the local positions

- Reform the party list system in the Philippines along the German way of the party list which is a two-vote system for an individual party candidate and a political party as part of a proportional representation solution
- Change the system of government from the presidential form to a parliamentary one which is expected to bring about many changes in the party system because the party or a coalition of parties obtaining the highest number of votes in the legislature gets to form the government of the day; by shifting to a parliamentary system, we will be able to overcome the many complications present in a presidential form of government, compel party loyalty, reduce the campaign period and even reform campaign financing where government shares in the campaign finance as a proportion of the votes received by the political party in the previous election

B. Political Dynasties

Prohibition on Political Dynasties

Article II, section 26 of our constitution states that “The state shall guarantee equal access to opportunities for public service and prohibit political dynasties....”

Given this constitutional stipulation, no one Congress has been successful in passing an anti-dynasty law to put flesh to this constitutional right to equal opportunity to serve. Indeed, the major bane of democracy is that each one of us votes to benefit and not to deliberately harm ourselves. Unfortunately, not enough of us can go beyond our self-interest and vote for the interest of the bigger whole.

Many sessions in Congress reportedly failed to take up any anti-dynasty bill as it is invariably referred to the Committee on Electoral Reform which effectively kills it.⁹ The problem is that many of the members of congress will directly be affected by the passage of this anti-dynasty bill as many are brothers, sisters, sons, daughters, wives, husbands of other elected officials.

In principle, an anti-dynasty law may be considered antithetical to democracy which enshrines the right of every one to vote and to be voted upon. However, given the many economic, cultural and legal environments of our elections, the requirement for a level playing field for any one candidate is violated many times. As noted in the previous section, election requires tremendous resources which resources become the advantage of the incumbent. Despite the term limits of three terms for members of the House of Representatives and two terms for the members of the Senate, the relatives of those earlier elected clearly have an advantage when they replace the incumbents.

What is to be done?

Because of the difficulty of passing an anti-dynasty law, it may be better if we level the playing field giving everyone the opportunity to render public service in the area of electoral reform within the short- to medium-term. We have given some recommendations on reform of campaign finance which is now crucial to ensuring that not only the more endowed financially can contest our elections.

Then, the reform of the political party is also in order to change the election campaign period, the procedure for vetting of candidates, the manner of electing through the two-ballot system and others which are all designed not to favor incumbents who have access to and indiscriminately use public resources. More strict laws sanctioning corruption and misuse of public resources are taken up in a later section on corruption.

Then, too, the notion of “good dynasties,” which is an oxymoron, goes against the need for periodic changes of leadership and not simply periodic changes of faces with the same names. This clearly is a democratic deficit.

Alfred McCoy who wrote a monumental study on elite politics in the Philippines has correctly diagnosed the challenge thus:

...the Philippine executive has, as an institution, compromised the integrity of the bureaucracy and allowed the privatization of public resources. Over the long term, then, we can conclude that such policies weaken the state and empower elite families, ultimately limiting the capacity of the bureaucracy to direct entrepreneurs and lead the country's development. Through this particular interaction between strong families and weak state, the Philippine economy has declined markedly compared with its neighbors in eastern Asia. In South Korea, Singapore and Thailand, the state has played an active role in national development, avoiding the arbitrary and ultimately destructive partisanship rampant in the Philippines.

Such a system leaves an ambiguous legacy. By fusing politics and business, elite Filipino families have proved adept and aggressive at rent seeking, subverting public institutions to promote private accumulation. After a century, these political families have accumulated sufficient power, prestige, skill and wealth to perpetuate a system that serves its interests. Indeed, any attempt to use the state to restrain these elites may, as it did in the Marcos era, merely mask a partisan attack by new, even more avaricious families. **This subversion of the public wealth in the service of private, familial wealth may be a corruption under the law but it is also the dominant feature of politics as practiced in the Philippines. (emphasis ours)**¹⁰

Recap of “What is to be done?”

- Level the playing field through reform of campaign finance by reallocating resources and giving opportunities to less financially endowed but capable candidates to enter the political arena
- Reform of the political party in order to change the election campaign period, the procedure for vetting of candidates, the manner of electing through the two ballot system and others which are all designed not to favor incumbents who have access to and indiscriminately use public resources
- Pass more strict laws sanctioning corruption and misuse of public resources (taken up in the chapter on corruption)

C. Rule of Law and Justice Reform

Rule of Law in the Philippine Context

Retired Chief Justice Hilario G. Davide, Jr. (who later became Permanent Representative to the United Nations) defined the scope of the rule of law based on the United Nations definition:

From the United Nations definition of the Rule of Law, which includes, *inter alia*, these universal principles of: laws publicly promulgated, equally enforced and independently adjudicated and which are consistent with international human rights norms and standards; supremacy of law; equality before the law; accountability to the law; fairness in the application of the law; legal certainty; avoidance of arbitrariness, and procedural and legal transparency, it is abundantly clear that an independent, effective and efficient judiciary is indispensable to the protection, promotion and enhancement of the Rule of Law.¹¹

Then Justice Artemio Panganiban (who later became Chief Justice) clearly explains the context of rule of law in the Philippines:

The 1987 Philippine Constitution guarantees the independence and integrity of the Philippine Judiciary by placing it on equal footing as our law-making body (Congress) and law-executing official (the President). Our fundamental law has given our Supreme Court not only the final authority to review and correct errors of all courts in the country, but has also mandated this Court to nullify any act of any branch or official of the government -- including that of the legislative or executive department -- when that act has been done with “grave abuse of discretion.”

The security of tenure of all judges, from the lowest to the highest courts, is guaranteed by our Constitution. On condition of good behavior, all our magistrates serve until they reach the age of 70, without any extension. Only by the tedious process of impeachment may the members of the Supreme Court be removed; while only for cause duly proven -- and only by the Supreme Court, not by the President or Congress -- may all other lower court judges be removed from office or otherwise disciplined.

Moreover, the judiciary is constitutionally granted fiscal independence in two ways: (a) the salaries of members of the bench cannot be decreased during their terms of office, and (b) the appropriation for the entire judiciary cannot be decreased by Congress below that for the previous year. Once approved, the judiciary budget shall be “automatically and regularly released” to the Supreme Court.

The Supreme Court, not Congress, prepares and promulgates rules of procedure and evidence in all courts in our country. Also, the Court decrees rules “concerning the protection and enforcement of constitutional rights,” a prerogative that is quasi-legislative in character. Moreover, it controls admission to the practice of law; for this reason, it conducts the annual bar examinations. It is also empowered to discipline, suspend or disbar lawyers.¹²

Rule of law is the basis for achieving justice and can be effectively used to advance national development through effective public administration.¹³ However, it should be noted that the rule of law is upheld and supported by the complex justice system in the country, not solely by the judicial branch:

The judiciary is the branch of government tasked with interpreting laws and determining their application in actual disputes. As such, it is the branch most visibly engaged in justice administration. This is why the justice system is sometimes thought to be synonymous with the judiciary, even if it is not the only government branch engaged in the administration of justice.¹⁴

The latest study of the Asian Development Bank captures how the justice system in the Philippines is configured (See also Table 1):

The justice system of the Philippines is a sophisticated network of government branches, agencies, and offices for dispute resolution, investigation, prosecution, police action, and correction and rehabilitation of offenders. No one government branch or office performs all of the above functions....

The legislative, judicial, and executive branches of government, as well as independent justice sector agencies created by the Constitution or other laws, all participate in the administration of justice.

Since it is not the province of a single government branch, justice administration requires cooperation and coordination among government branches to proceed effectively and efficiently. However, achieving cooperation and coordination is a challenge. The country adopted a government that operates under a system of checks and balances, so that each branch ensures that the others do not abuse their powers. In addition, commissions and agencies independent of all government branches have been set up as further checks on government abuse. Such a system comes with the risk that justice administration agencies will relate to each other in an adversarial—rather than a cooperative—fashion.¹⁵

Table 1
The Philippine Justice Sector¹⁶

Function	Office	Branch of Government
Dispute Resolution	<ul style="list-style-type: none"> ▪ Courts ▪ Quasi-judicial bodies (including National Labor Relations Commission) and administrative agencies with quasi-judicial functions (such as Presidential Anti-Graft Commission) ▪ Barangay Justice System ▪ National Commission on Indigenous Peoples ▪ Commercial arbitration and other alternative dispute resolution mechanisms ▪ Juvenile Justice System on Diversion (local social welfare and development departments, barangays, law enforcement officers, prosecutors) 	Judicial Branch Executive Branch Executive Branch (Department of the Interior and Local Government) Executive Branch (Office of the President) Framework set by legislature, implementing rules to be set by Department of Justice, corresponding rules to be adopted by judiciary Executive Branch
Prosecution	<ul style="list-style-type: none"> ▪ National Prosecution Service ▪ Office of the Solicitor General ▪ Ombudsman ▪ Commission on Elections ▪ Commission on Human Rights 	Executive Branch (Department of Justice) Executive Branch (Department of Justice) Independent Constitutional Commission Independent Constitutional Commission Independent Constitutional Commission
Law Enforcement: Investigation	<ul style="list-style-type: none"> ▪ Commission on Human Rights ▪ Ombudsman ▪ Anti-Money Laundering Council ▪ Presidential Anti-Graft 	Independent Constitutional Commission Independent Constitutional Commission Independent financial intelligence unit Executive Branch

	<p>Commission</p> <ul style="list-style-type: none"> ▪ Various executive and administrative agencies 	Executive Branch
Law Enforcement: Police Action	<ul style="list-style-type: none"> ▪ Philippine National Police ▪ National Bureau of Investigation ▪ Philippine Drug Enforcement Agency ▪ Other law enforcement agencies and agencies with power to arrest and effect searches and seizures 	<p>Executive Branch (National Police Commission and Department of the Interior and Local Government)</p> <p>Executive Branch (Department of Justice)</p> <p>Executive Branch (Office of the President)</p> <p>Executive Branch</p>
Public Defense	<ul style="list-style-type: none"> ▪ Public Attorney's Office 	Executive Branch (Department of Justice)
Corrections	<ul style="list-style-type: none"> ▪ Bureau of Corrections ▪ Parole and Probation Administration ▪ Bureau of Jail Management and Penology and Philippine National Police-supervised jails ▪ Provincial Jails ▪ Department of Social Welfare and Development ▪ Local government units 	<p>Executive Branch (Department of Justice)</p> <p>Executive Branch (Department of Justice)</p> <p>Executive Branch (Department of the Interior and Local Government)</p> <p>Executive Branch (local government units)</p> <p>Executive Branch (Department of Social Welfare and Development)</p> <p>Executive Branch (local government unit)</p>
Law Enactment	<ul style="list-style-type: none"> ▪ Senate ▪ House of Representatives 	<p>Legislative Branch</p> <p>Legislative Branch</p>

Source: Christine V. Lao. 2007. Background Note on the Justice Sector.

Challenges to the Rule of Law

Respect for the rule of law has been a growing issue in developing and under developed countries where human rights issues and the need for dispute resolution mechanisms are the main concerns of the judiciary in those countries.

In the Philippines, there are many examples from the local level to the national level of how the rule of law has been simply challenged, disregarded or even disrespected—politics in the province of Abra, the Maguindanao massacre and the ongoing trial of the Ampatuans, former President Joseph Estrada's trial for plunder, the power of the President to appoint the next Chief

Justice of the Supreme Court, and the various factors impinging on the decision-making processes in the Supreme Court as well as the Judicial and Bar Council. (See Annex C for a detailed discussion of these various examples of Challenges to the Rule of Law.) These examples show that the rule of law is circumvented when one or more institutions fail to implement and enforce appropriate laws, or when the system of checks and balances is undermined. The triggers may either be internal or external to the government and socio-cultural or political in nature.

Challenges to the Philippine Justice System

Closely related to the rule of law is the justice system. The Philippine legal system is a melting pot of three legal systems in the world:

The Philippine legal system bears significant influences of three major legal systems: the Roman system, common law system, and Islamic system. Philippine substantive law traces its origins to the substantive law of Spain, which in turn was shaped by Roman law. The new Civil Code and Revised Penal Code are basically of Spanish origin. The procedural laws and commercial laws, however, are influenced by and/or are copied from American law that, in turn, is based on the common law system. The Code of Muslim Personal Laws is influenced by the Islamic legal system.¹⁷

In terms of resources at its disposal, the Philippine Judiciary does not have much compared to the other agencies of the executive branch—in 2008, it had a PhP10,274,798,000.00 that represents 0.81% of government spending.¹⁸ This means inadequate pay incentives, outdated equipment, lack of courtrooms and other unanswered infrastructure needs.

Case disposition is a major indicator of the efficiency of the dispensation of justice. Under the Rules of Court, the lower courts must decide a case in 90 days after submission for decision. While there have been some improvements in the disposition of cases, the load of the courts is still overwhelming. The vacancies in the judiciary, population increase with accompanying socio-economic problems, complexity of procedural rules, varying degrees of incompetence due to lack of information flow and training, inadequacies of trial lawyers, piecemeal trial system, the lack of legal aid for poor litigants, and absence of limits in other government agencies to act on cases filed further compound the problem of heavy caseload.¹⁹ The Shari'a justice system has its share of unique challenges. (See Annex D for a detailed discussion of the Challenges to the Philippine Justice System.)

Marites Danguilan Vitug summarizes statistics on the Philippine judiciary, particularly the long delays in resolving cases, this way:

The statistics are dire:

- The judiciary's share of the total budget, in 2008, was .81% or less than 1% of the whole pie.
- There are 2.7 judges for every 100,000 persons.
- The total number of judges and Justices as of 2008 was 1,770.
- The vacancy rate of judges and Justices in the first and second-level courts as of April 2009 was 23.88%. It was highest in the Shari'a district and circuit courts, followed by municipal circuit trial courts and metropolitan trial courts.
- As of August 2009, there were 642,213 cases pending in the courts (except the Supreme Court), with most (356,998) lodged in the regional trial courts.
- The backlogs were tremendous: 695,286 cases (excluding the Supreme Court) as of 2007.
- As of December 2007, pending cases before the Supreme Court numbered 6,693; this fell slightly to 6,455 in December 2008.

All these show that there is no match between the number of judges and Justices and the pending cases. The figures would translate to something roughly like this: every judge wrestles with more or less 30,000 cases. Thus the courts are inundated with work and backlogs are overwhelming.²⁰

Overall, the development of the Philippine judiciary has not kept abreast of the growth of the Philippine population, as well as of the more complex and increasing number of human activities that result in legal cases. But, we note that concrete steps are being taken to address this challenge.

Considering the many challenges to the Philippine Judiciary, reforms were initiated and vigorously pursued under the leadership of then Chief Justice Hilario G. Davide, Jr. and the seeds of such reform were contained in document entitled, "The Davide Watch: *Leading The Philippine Judiciary and the Legal Profession Towards the Third Millennium.*"

According to Davide, the document "envisions a judiciary that is independent, effective and efficient and worthy of public trust and confidence and a legal profession that provides quality, ethical, accessible and cost-effective legal service to the people and is willing and able to answer the call to public service. It declares that the administration of justice must be geared to achieve the goal of delivering fair, impartial and swift justice. Hence, the core values of the rule of law, equal justice, judicial independence, and the pursuit of excellence should be preserved and at all times be predominant."²¹

Davide further explained:

I have always maintained that the judiciary is the protector of the rights and freedoms of the people, the last bulwark of democracy, and the guardian of the Rule of Law. Hence, at all times it must be truly independent, discharge its duties effectively and efficiently, and maintain public confidence. Pursuit of excellence demands that judges and court personnel are not only qualified,

competent, and men of honesty and integrity; they must perform their duties with passion and dedication to fulfill the public trust character of their office.²²

Justice Davide initiated what has been dubbed as the most comprehensive reform package for the Philippine Judiciary—the Action Program for Judicial Reform (APJR). It has essentially been continued by the succeeding Chief Justices Artemio Panganiban and Reynato Puno.

The APJR is composed of six major components, namely: (1) Judicial Systems and Procedures component, (2) Institutions Development component, (3) Human Resource Development component, (4) Institutional Integrity Development component, (5) Access to Justice by the Poor component, (6) Reform Support Systems component.

The APJR has had some measure of success which may be attributed to the substantial support it has received from various countries and international aid agencies. Justice Panganiban notes that the APJR “has become a model for developing countries” and “has earned the support of all major multilateral developmental institutions:

...like the United Nations Development Program (UNDP), the World Bank (WB), the European Union (EU) and the Asian Development Bank (ADB); funding grants from national aid agencies of several countries including Australia, Canada, Great Britain, Japan, the Netherlands, and the United States; as well as assistance from private donor organizations like The Asia Foundation, the American Bar Association-Asia Law Initiative, and the Rule of Law Effectiveness (or ROLE). I do not know of any other country in the world that has enjoyed similar global assistance for the modernization of its judicial system.²³

During the tenure of Chief Justice Reynato Puno from 2006 to 2010, the Supreme Court has promulgated several writs in support of the rule of law, consisting of the Writ of Amparo, Writ of Habeas Data, Writ of Kalikasan (discussed in the section on Environment, chapter on Social and Economic Systems), Writ of Continuing Mandamus and landmark decisions on landmark decisions on the Ancestral Domain Agreement on the Bangsamoro Juridical Entity and the clean-up of Manila Bay by the government (discussed in the section on Environment, chapter on Social and Economic Systems):

As Chief Justice, I thought that the Supreme Court, with all its expanded powers, could not remain passive vis-à-vis these continuing assaults on the human rights of our people. Thus, in 2007, I initiated an unprecedented summit, in which we called on all the significant stakeholders of the justice system to find solutions to the embarrassing extrajudicial killings and enforced disappearances. I underscore unprecedented because, in its more than 100 years of its existence, the High Court had not taken this step forward.

The call raised eyebrows, knitted foreheads, and gave rise to a lot of question marks. But I am glad that my colleagues in the High Court supported the summit, which some suspected would just be another idle talkfest. The summit gave birth to the Writ of Amparo and the Writ of Habeas Data. These two remedial writs have given a substantial shield to our people whose right to life, liberty or security is violated, or threatened with violation, by an unlawful act or omission of a public official or employee or of a private individual or entity. The success of these two writs cannot be gainsaid. Statistics show that today our people make use of the Writ of Amparo more than the Writ of Habeas Corpus.

...to help the poor who are involved in petty civil cases, in which the amount in question is not more than P100,000, the Supreme Court launched the Small Claims Courts with special rules to govern them. The rules governing these claims are simple, informal, inexpensive and fast. From its experimental launch in October 2008, some 4,000 cases have been resolved by these Small Claims Courts. Spurred by their success, we have launched the Small Claims Courts nationwide. If they continue to succeed — and there is no reason they will not — these Small Claims Courts could completely unclog the dockets in our first and second Level Courts in two or three years time.

...our Decision annulling the controversial Memorandum of Agreement – Ancestral Domain Agreement between the Republic and the Moro Islamic Liberation Front, a ponencia of Madam Justice Conchita Carpio Morales. Without that Decision, the Philippines would have been dismembered.

...I am glad that after more than one hundred years of its existence, the Supreme Court was able to promulgate its Internal Rules before the end of my term. These Internal Rules are important, if only because they will lend greater transparency to the inner workings of the High Court. Hopefully, the shroud of mystery that veils its processes will be no more, and no more will be the public misunderstandings of its procedure.²⁴

What is to be done?

Ongoing reform efforts in the Philippine justice system must be holistic and comprehensive if we would like the entire justice system to perform in concert. There are common threads of justice reform in previous studies that we recommend that the government should consider as it undertakes such a herculean task (See also Annex E for Asian Development Bank and World Bank Perspectives on Justice Reform):

Justice reform should be participatory. It should involve the entire justice sector, including agencies in the executive and legislative branches of government, and even the larger society, international aid agencies and the international community.

Justice reform should cover the various aspects of governance—a consistent legal framework, competitive compensation for human resources, resource generation and management, a disciplinary regime, sustainability and flexibility.

Justice reform should always take cognizance of access to justice by the poor whose only recourse is the government.

Justice reform requires inspired leadership by the Chief Justice in order to follow-through the various reform measures in the long-term.

We advance and support the following recommendations covering the various aspects of reform in the justice sector, including the so-called five pillars of the justice system.²⁵

Need for rationalized and coordinated law enforcement

We support the recommendation of CPRM Consultants, Inc. to decriminalize certain offenses under the Revised Penal Code and special laws and codification of criminal law. This can be carried out in the medium-term:

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

The amendment of Batas Pambansa Blg. 22 (Bouncing Checks Law) must likewise be studied, and so is the adjustment in the threshold amounts with regard to crimes against property under the Revised Penal Code. If the Code is amended, many crimes against property would no longer be brought before the regional trial courts as they would already be resolved at the level of metropolitan and municipal trial courts.

The codification of criminal law is also proposed.²⁶

We support the recommendation to design and adopt an integrated criminal justice information system which may be carried out in the medium-term:

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

a) Crime management information system of PNP, NBI and other police agencies which will store data on crime offenders, crimes, and other crime indicators. The

system will also support police operations by allowing information sharing to facilitate tracking of suspects and cases, crime mapping, and crime analysis.

b) Prosecution system which will contain a case management information system that will support the management of specific cases and overall caseload.

c) Court case management system which will provide information and management support required in the management of caseload and case management by judges and clerks of courts.

d) Jail management information system which will provide information and management tools in tracking prisoners, their conditions, status and activities and other relevant information.

e) Criminal justice information sharing system which will allow exchange of information across the pillars within the bounds of disclosure policies.

The development of crime classification and crime indicators will be necessary in establishing the criminal justice information system.²⁷

We support the recommendation to adopt a holistic approach to the improvement of the crime investigation system of the police which may be implemented in the medium-term:

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

a) Improving and integrating police manuals into one manual for police operations, including among others specific improvements on investigation procedures, eyewitness identification procedures, interrogation procedures, arrest, and rules on evidence.

b) Modernizing the crime laboratory, improving its capacity for scientific analysis of crime case evidence.

c) Strengthening the independence of crime investigations and the analysis of evidence and providing institutional mechanisms for insulating these. The outsourcing of scientific analysis of evidence should be considered to improve efficiency and strengthen independence of the process.

d) Establishing mechanisms to ensure that prosecutors get all the evidence.

e) Improving case documentation procedures and skills in police report preparation.

f) Strengthening the curricula and teaching technologies in PPSC on crime scene investigation, interrogation and field investigation, case documentation and

reporting, and witnessing in courts. Mastery of the police manual should be a pre-condition for completion of the training and education program.

g) Improving the remuneration of the police force as a way of strengthening their insulation from undue politicization and corruption.

h) Improving the resources and facilities of court stations and their services to vulnerable groups.

i) Developing peer to peer and office dialogue mechanisms for regular and collective analyses of crime cases and for information and experience sharing.

j) Focusing policemen on just doing police work and not deploying them as body guards of important people.

k) Piloting these and other institutional reforms at the police station level and creating pilot model police stations²⁸.

We support the recommendation to remove duplication, overlapping, proliferation and fragmentation of law enforcement functions, reintegrate police functions, and remove institutionalized politicization of the police which can all be done in the long-term because of the high degree of difficulty of this endeavor:

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

a) Removing duplication of functions and jurisdictions between the National Bureau of Investigation (NBI) and the Philippine National Police (PNP);

b) Reintegrating specialized crime agencies into the regular police force, thus removing duplicative overhead expenditures and conflicting jurisdictions;

c) Reintegrating police powers and functions now assigned to more than 30 national government agencies to a reorganized PNP/NBI; and

d) Defining the role of local governments in policing.²⁹

Need to strengthen the prosecution agencies

We support the recommendation to establish the independence of crime investigation and prosecution agencies together with a meaningful operationalization of judicial autonomy which may be done in the long-term:

Consider establishing an independent National Prosecution Service, and PNP/NBI, together with the operationalization of reforms in judicial

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

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

These will require legislation and long-term development of institutional capacities as well as considerable political will.

We also support the recommendation to strengthen the capacities of prosecution agencies—National Prosecution Service (NPS) and the Office of the Ombudsman:

The government must strengthen the core capacities of prosecution agencies simply by providing more prosecutors to the National Prosecution Service (NPS) and the Office of the Ombudsman (OMB).

The criteria for the determination of the appropriate number of prosecutors should be established based on caseload. Caseload fluctuations can be addressed by adopting some flexible prosecutor deployment and tenure mechanisms which may include outsourcing prosecutors and providing legal research staff to prosecutors, for example, through deployment of law students as practicum.³⁰

With the enactment of the Act Strengthening and Rationalizing the National Prosecution Service in April 2010, we are hopeful that concrete steps can be taken. This can be carried out in the short-term.

Need to reengineer the public defense system

We support the recommendation to undertake detailed review and reengineering of the entire public defense system to improve its capacity to provide services, improve access and efficiency, and strengthen its independence. This may be implemented in the medium-term:

Within severely limited budgetary resources, the government must improve the efficiency of expenditures for public defense by adopting among others good

governance framework and practices. A detailed review and reengineering of the social defense system is needed considering the following:

- a) Integrating all legal services of the national government into the Public Attorney's Office (PAO);
- b) Refocusing the role of PAO from directly providing legal services to mobilizing and managing the country's resources for public defense;
- c) Establishing PAO as an independent agency with some corporate powers, allowing it to mobilize private sector resources;
- d) Assigning public defense functions to LGUs (starting with high income LGUs) with PAO performing oversight roles and functions (e.g., providing and enforcing service standards and providing technical assistance);
- e) Enacting a law, requiring all law firms, law students and law practitioners to render free legal assistance to the poor and remote barangays; and
- f) Strengthening partnership mechanisms among the PAO, the courts, IBP and alternative law groups to improve geographical access of public defense services particularly in remote areas.³¹

Need to reengineer the corrections system

We support the recommendation to reengineer the institutional framework of the corrections pillar, devolve delivery while maintaining strong oversight. This may be implemented in the long-term:

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

- a) Transferring to provinces, cities and municipalities the responsibility for the provision and maintenance of local jails.
- b) Streamlining the oversight agencies of national government by removing their delivery functions and strengthening their role in providing and enforcing standards.
- c) Providing mechanisms for private sector participation in restorative justice and providing half way houses particularly for women and youth offenders.³²

We also support the recommendation to amend the Probation Law to expand its coverage. This may be done in the short-term:

The coverage of the Probation Law could be expanded to include sentences of *prison mayor medium*, except in drug cases. This will ease the severely congested penal facilities in the country and thereby contribute to the efficiency of the Bureau of Corrections in processing papers of inmates and its effectiveness in providing restorative justice programs. This will also lessen the caseload of the Bureau of Jail and Management and Penology, as well as the provincial and sub-provincial jails which manage their respective jail facilities. With decongested local jails, limited resources can be used to improve prison conditions and put in place mechanisms for restorative justice in local jails in partnership with LGUs, national government agencies, civil society organizations and the communities.

Moreover, if more offenders could benefit from probation, they could be persuaded to enter a guilty plea with the prospect of being put under probation instead of being imprisoned, resulting in more criminal cases speedily disposed by the courts. This would also not only prevent but minimize appeals.³³

Need to educate communities

We support the recommendation to popularize the law towards better community capacity to demand justice remedies and improve community contribution in providing justice remedies. These may be carried out in the medium-term:

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

- a) Integrating criminal justice teaching exemplars or subjects into the formal education system, building on the gains of the CHR's teaching exemplars on human rights.
- b) Integrating law popularization procedures in the legal assistance services of the government and private sector and in the Barangay Justice System.³⁴

Need to provide greater access to justice by the poor and disadvantaged

We recommend that a joint committee of the Supreme Court, the executive branch, IBP and alternative law organizations be formed immediately to coordinate the various legal aid providers in the country, including the following:

- a. Government agencies that provide legal aid to beneficiaries of a government program such as the Department of Agrarian Reform which has a special unit that helps farmers in land reform cases, the Philippine Overseas Employment Agency which provides legal aid to overseas Filipino workers, and the Commission on Human

Rights mandated by the Constitution of the Republic of the Philippines to extend legal assistance to the underprivileged whose rights have been violated or need protection (Section 18, Article XIII, 1987 Constitution).

- b. The Integrated Bar of the Philippines (IBP) which is composed of about 40,000 lawyers and has chapters in various parts of the country. The IBP receives funding from the judiciary and each IBP chapter has a legal aid office for indigent litigants.
- c. Alternative law organizations which are non-government organizations that provide legal assistance, research and advocacy for the defense and empowerment of disadvantaged sectors such as the urban poor, workers, women and children, prisoners, peasants, indigenous peoples, and victims of human rights violations. These organizations address issues that are of public interest affecting communities or groups such as environment issues, human rights, and sector issues. Some alternative law organizations have internship programs for law student volunteers.
- d. Law schools that provide legal assistance to poor litigants such as the University of the Philippines College of Law which maintains the Office of Legal Aid catering to indigent clients. Senior students of the College of Law dispense legal advice, draft legal documents, and represent litigants in legal proceedings.³⁵

With the enactment of the Free Legal Assistance Act in 2010, we hope that lawyers will indeed be encouraged to provide pro bono services to poor clients. (See Annex F for complete text of the Free Legal Assistance Act of 2010.)

We support the recommendation of the ADB to provide a regular training for the members of the *Lupong Tagapamayapa* or peace council and strengthen the coordination between the Department of Interior and Local Government and the Department of Justice in order to enhance the Barangay Justice System.³⁶ The possibility of including respected members or elders from the community in the peace council should be studied. While the elected *barangay* officials who serve as its members may be trained but the turnover on every election affects continuity. This can be implemented in the short-term.

We support the improvement and expansion of Court Annexed Mediation (CAM) and Judicial Dispute Resolution (JDR) as components of Alternative Dispute Resolution (ADR) mechanisms being pursued by the Supreme Court in the lower courts which are effective in decongesting court dockets and assisting poor litigants in resolving their cases. The coverage of ADR may also be expanded to include other types of cases that have not yet been included that do not involve physical violence.³⁷

We support the recommendation to assess possibilities for mainstreaming customary modes of adjudication in the criminal justice system which may be carried out in the medium-term:

The Indigenous Peoples' Rights Act (RA 8371) gives due recognition to the indigenous peoples' justice system and the use of their own traditional methodologies and practices for conflict resolution. While the justice system among the indigenous peoples varies in approaches and methodologies, common to these traditional practices is the participation of the community members in settling disputes. These traditional forms of justice should be reconciled with the national legal systems and internationally recognized human rights processes and with the penal code. There is therefore a need to provide clear parameters on how these may be integrated and made compatible with the current legal system of government.³⁸

We support the expansion of the "Justice on Wheels" program of the Supreme Court which aims to "address the problem of jail congestion through the disposition of cases involving inmates, including minors"³⁹ which may be carried out in the long-term. In the initial implementation of the program, then Associate Justice Adolfo S. Azcuna noted that:

As part of the pilot implementation of the Justice on Wheels Project, the Mobile Court was initially assigned to hear cases involving juveniles in conflict with the law. The main purpose was to hear cases involving juveniles who wanted to plead guilty, or who wanted to be diverted or released on recognizance. More importantly, the Mobile Court prioritized the hearing of cases of those who have been in detention for more than the maximum penalty for their particular cases.

This strategy was intended to help decongest the various youth reception and detention centers within the Metro Manila area, which were holding up to five times their designed capacities. This was also aimed at decongesting the heavy caseloads of the designated Family Courts in Metro Manila.

...in its 66 days of operation within the period December 20, 2004 to November 11, 2005, the Justice on Wheels was able to visit several youth reception centers, juvenile detention facilities and jails in eight municipalities and cities in Metro Manila. Within the same period, the Justice on Wheels was able to hear a total of 1,126 cases and secure the release of 391 detainees, or around 35 per cent of the total number of cases heard.⁴⁰

The program has achieved the following as reported by Chief Justice Reynato Puno in his retirement speech:

...to help the poor involved in criminal cases, we re-launched the Enhanced Justice on Wheels Program. These are mobile courts that go to the different jails in our country, in fair or foul weather, to expedite the trial of criminal cases in

which the accused are too poor to post bail for their liberty. This enhanced Justice on Wheels has resulted in the following: the release of 3,545 inmates; the giving of free medical and dental assistance to 9,056 detainees; the successful mediation of some 5,006 of their cases; the giving of free legal aid to 2,270 of them, and the delivery of free lectures to some 15,000 barangay officials and indigenous people on laws affecting them...⁴¹

Need for sustained judicial competence

There is a need to rationalize the designation of certain courts as specialized tribunals because numerous courts have already been designated as such (i.e., as commercial courts, intellectual property courts, family courts, and others).⁴² In such as context, judicial competence can only be ensured through continuing judicial education main performed by the Philippine Judicial Academy (PhilJA). However, the institutional capacity of the PhilJA remains a foremost concern in sustaining current efforts at judicial education because it taken on several assignments in addition to its mandated function, without any increase in its human and financial resources since 1996. This may be carried out in the long-term.

Need for judicial independence and fiscal autonomy

We support recommendations to shield the Judicial and Bar Council from political manipulation which may be implemented in the medium-term. We support the proposal of the Supreme Court Appointments Watch (SCAW), a civil society watchdog, to have single terms for regular members of the Judicial and Bar Council (JBC) in order to reduce political manipulation.⁴³

To further shield the JBC from political manipulation, two differing proposals are worth considering and studying.

On one hand, former Chief Justice Artemio Panganiban suggested that the JBC members should be evenly appointed by the various government institutions—“the Supreme Court should appoint the three regular members while the President will appoint the private sector representative. Thus the President will have two representatives, Congress will have two, and the Supreme Court, four.”⁴⁴

On the other hand, Constitutional expert and Jesuit priest Joaquin Bernas proposed that the Senate, as a whole, perform the role of the Commission on Appointments such that “Members of the confirming body would not be the privilege of a few but the prerogative of all senators...Giving the power to the Senate could assuage the discontent of many with the performance of the JBC.”⁴⁵

We support calls to implement the constitutional mandate for fiscal autonomy of the Philippine judiciary immediately:

The implementation of the constitutional mandate for judicial fiscal autonomy must also be pursued. No sufficient and lawful justification can be made for the

president's insistence on retaining control over the Judiciary's fiscal affairs and budgetary resources. For the president to persist in doing so is tantamount to usurping a power constitutionally vested in the Judiciary.⁴⁶

Need for judicial transparency and accountability

There are several recommendations addressing judicial transparency and accountability that may be implemented immediately.

The Supreme Court has been active in disciplining judges but many cases of bribery and other illegal activities still go unreported because of fears of possible retribution. Reporting mechanisms and processes may be designed to encourage lawyers and litigants to report erring judges and justices, without having to worry about repercussions. Allowing anonymous complaints to encourage victims of judicial corruption must be considered, while at the same time filtering complaints intended only to harass judges and justices.⁴⁷

The crisis that besieged the Supreme Court in 2002 to 2003 in relation to the Judicial Development Fund, which put the legislature and the judiciary on a collision course, has shown some lessons to be learned about accounting and record-keeping systems that should be put in place in order to pass scrutiny by external entities.⁴⁸

Judicial reform projects should be conducted through a participatory approach. Among the benefits of having a more participative approach are the early buy-in of stakeholders, improved performance and sustainability of programs, and enhanced capacity and skills of stakeholders.⁴⁹

Need to evaluate the power of judicial review

We support the recommendation of the ADB to conduct a comprehensive study of the implications of the power of judicial review. This may be done in the short-term:

There is need for a comprehensive study of the implications of the power of judicial review on the ability of the Government to pursue national development goals in the context of recent Supreme Court rulings affecting national economic policies. At the same time, the policy formulation capability of Congress must be strengthened and the ability of the Government to defend its economic agenda must be enhanced. This may include appropriate training for legislative staff members of Congress in drafting economic legislation and upgrading the capability of the Office of the Solicitor General in defending major policies and programs of the Government, especially economic laws.⁵⁰

Recent judicial decisions and actions have also been widely criticized for creating a climate of unpredictability and uncertainty in the policy environment and commercial transactions. Among these, the liberal issuance by the courts of temporary restraining orders and other injunctive relief measures drew the most attention. While intended to minimize the possible adverse effects of one party's

action on another's pending resolution of the legal controversy between them, the abuse in the issuance thereof has destroyed the reliability of contracts and predictability in the enforcement of obligations. Even government projects and programs are not spared from the pernicious effects of unrestrained issuance of temporary restraining orders, despite the passage of a law (Republic Act No. 8975) in 2000 that explicitly prohibits trial courts from issuing these orders against national government projects.⁵¹ Projects were delayed or altogether scrapped because of injunctive writs issued by trial courts. This has discouraged many investors, both local and foreign, from partnering with the Government in development projects.⁵²

Need to act on undue delays and large backlogs in the handling of cases

This can be addressed in the short-term by adopting mechanisms for enforcing strict compliance to mandatory continuous trial and pre-trial:

This will require that a case management support tool be provided to judges in lower courts in order to manage their caseloads and the programming of trial hearings on the basis of continuous trials. A pre-trial conference which is efficiently and effectively administered by the judge should yield to a shorter trial period, if not altogether avert the need for trial through alternative modes of settlement that may be reached by the parties during the pre-trial period.

The pre-trial conference provides for extensive use of discovery modes, which will eventually be helpful in the trial stage. In criminal cases, the pre-trial conference is used to consider plea bargaining, stipulation of facts, marking for identification of evidence of the parties, waiver of objections to admissibility of evidence, and such matters that will promote fair and expeditious trial of the criminal and civil aspects of the case.

It is recommended that the Supreme Court adopt mechanisms for the monitoring of the implementation of pre-trial and the imposition of sanctions for non-compliance. It is also recommended that extensive practical training on procedures and case management tools within the context of continuous trials and the use of pre-trial be conducted by the Philippine Judicial Academy (PHILJA) together with an accompanying video presentation that should be produced as a teaching tool.⁵³

We support the recommendation to review and improve the rules of court. This may be undertaken immediately by the judiciary:

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

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- a) Limiting the period within which Judges of Municipal Trial Courts have to terminate the preliminary investigation of criminal cases;
- b) Returning to decisions by the Supreme Court *en banc* in order to avoid conflicting decisions on same issue;
- c) Setting of fixed amounts of time for the presentation of evidence and cross examinations; using of affidavits in lieu of direct testimony of witnesses; prohibiting postponements; and submitting draft orders and resolutions;
- d) Deputizing barangay officials to act as process servers because the cause of delay in preliminary investigation is the lack of adequate process servers;
- e) Implementing electronic payment of legal fees, electronic case filing, and electronic delivery of summons, orders and notices;
- f) Adopting teleconferencing as substitute to personal appearances of accused and witnesses;
- g) Authorizing law enforcement agents to file cases directly with the Metropolitan Trial Courts and/or Municipal Trial Courts in chartered cities, so that warrant of arrest may be issued immediately for the detention of prime suspects of heinous crimes;
- h) Reducing the grounds for motion to quash (presently, there are eight grounds for motion to quash – Section 3, Rule 117, Rules of Criminal Procedure);
- i) Amending Section 5(b), Rule 113, on warrantless arrest, which requires personal knowledge of facts on the part of the peace officers or private persons that the person to be arrested has committed the offense, inasmuch as it is very seldom that the peace officer is present during the commission of the crime which is the only instance when he could be considered to have personal knowledge thereof;
- j) Finding probable cause by the prosecutors to be binding on the courts for purposes of proceeding with trial;
- k) Carving out more exemptions from the filing of bonds;
- l) Relaxing the Constitutional requirements for a judge to repeat all facts of a case in a decision, to shorten the time necessary to pen decisions;
- m) Shortening the filing period for several pleadings and abbreviating court processes by reducing direct testimonies;

- n) Looking into the problems of language in court proceedings by studying the use of local dialects instead of English;
- o) Reviewing the time standards provided in the rules of court and speedy trial act, identifying appropriate criteria to be used in the determination of time standards for specific types of cases, and establishing time standards for case types; and
- p) Reviewing procedures for the litigation process for specific types of cases.⁵⁴

We support the recommendation to review the jurisdictional structure of the courts. This may be undertaken immediately:

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

- (1) Reassigning jurisdiction on less complex corruption cases from Sandiganbayan to the lower courts
- (2) Reorganizing the distribution of case assignments in the Sandiganbayan by allowing individual justices to handle specific cases and selectively assigning cases to divisions and to the En Banc⁵⁵

We support the recommendation to remove duplication and overlap and clearly define the operational delineation among pre-trial system, barangay justice system and the court-annexed mediation system. This may be done in the short-term:

Judges argue that cases that have passed through the Barangay Justice System do not require pre-trial. Relatedly, a mandatory court-annexed mediation is being implemented in the lower courts and in the Court of Appeals, although the experience of the pilot court annexed mediation units indicated that while case settlement rates are high, referral rates of cases by judges are very low. Similarly, during pre-trial, an attempt to arrive at an amicable settlement could be made. In view of this similarity of purpose and objective, there is a need to study these discrete systems and clearly define their jurisdictions and operational delineation so that they can meaningfully contribute to case decongestion and delay reduction.

Within the context of established jurisdictional delineations and operational processes, the strengthening of the Barangay Justice System and full implementation of the court-annexed mediation system must be undertaken as necessary measures for case decongestion and early dispute resolution.

Mechanisms at the barangay level must be installed in order to protect poor and vulnerable parties from the abuse of more politically and economically powerful opponents to the case.⁵⁶

We support the proposal to promote the use of Alternative Dispute Resolution mechanisms in various agencies in the justice sector. This may be implemented within the short-term:

...the use of ADR systems by government agencies legally tasked to do so should be enhanced and maximized. More cases that are settled at the level of these agencies—such as the Department of Agrarian Reform Adjudication Board, Intellectual Property Office, National Labor Relations Commission, and others—mean less cases that will be brought to the courts on appeal or petition for review. Assistance that may be provided includes training of mediators and arbitrators, rationalization of ADR procedures, and implantation of campaigns to make ADR the preferred mode of dispute resolution among litigants.⁵⁷

Need to address challenges in the Shari’a Courts

An effective Shari’a justice system is one that has the trust and confidence of the Muslim Filipinos, and one that they will use as the only forum for resolving justiciable conflicts. Reform should be driven by rule of law that is based on a unified set of laws, rather than one that is driven by diverse customs and traditions, and can address the overarching goal of facilitating the realization of peace and development in Mindanao. The following proposed reforms contained in a study by CPRM Consultants, Inc. entitled “Institutional Strengthening of the Shari’a Justice System” are should be undertaken in the long-term based on the guiding principles of rule of law, integration, equal protection and gender equality, and human rights.⁵⁸

- Need to create an environment based on the rule of law

This will involve a set of coordinated initiatives towards creating a societal environment that is based on a unified rule of law and will include the following:

- (1) Baseline Surveys (demography, awareness, culture, customary laws and dispute resolution practices, other sociological studies and comparative studies)
- (2) Design and implementation of public awareness and education program (on the Islamic justice, on women’s rights, on access to and procedures of the Shari’a courts, on legal services, etc), including public assistance/referral programs and networks
- (3) Strengthening of the Shari’a Legal Framework (comprehensive studies on customary laws, feasibility studies on integration and codification, preparation of an integrated Muslim Code, other studies on improving jurisprudence)

(4) There is a need to resolve the duplication of functions between the Barangay Justice System and the Agama Arbitration Council which adds to the confusion and inefficiency of the Shari'a justice system

There are two options in addressing this issue. One is to delineate functions. Either maximize the use of the Barangay Justice System in Muslim areas or adopt the Agama Arbitration Council (AAC) in case of conflict with that of the Barangay Justice System. The Supreme Court must specify what cases are to be brought before the BJS and the AAC. The local government units should also be informed regarding the Shari'a court procedures vis-à-vis the BJS. But the other is to simply remove the duplication and streamline the system. Delineation would only maintain user confusion. Only one must exist.⁵⁹

- Strengthening of the Shari'a legal education system

This will involve an overall strengthening of the Shari'a Legal Education System both academic and continuing education and will include the following:

(1) Establishment of an Islamic Justice Institute to serve as research and academic institution for the formal education leading to law degrees in Islamic justice. The institute should be funded by the national government.

(2) Establishment of cross-country scholarship programs for Shari'a lawyers and judges

(3) Strengthening of the PhilJA training program for Shari'a lawyers, judges and court personnel

(4) Institution of Bar Reforms on Shari'a

We also support the following recommendations related to the qualification and training of Shari'a lawyers and judges:⁶⁰

(1) It is recommended that there should be a policy for those who are allowed to take the special bar examinations should at least be a degree holder in law whether English or Islamic.

(2) One added qualification that is needed for a Muslim lawyer or a lawyer admitted to the Bar to be appointed to a judgeship is to be learned in Islamic law and jurisprudence. The opportunities to get such a degree are limited by their duties in court as well as the availability of such a course offering here and abroad. The Supreme Court should look into this issue and define the term "learned in Islamic law and jurisprudence." Moreover, qualifications of all Shari'a judges should be clearly defined.

(3) While lack of qualified Shari'a lawyers is pervasive, the Philippine Shari'a Institute would be reactivated to provide training on Islamic law and jurisprudence. Since there is a lack of Shari'a lawyers in areas where there are Shari'a courts, the Philippine Judicial Academy should provide adequate and appropriate training for Shari'a lawyers.

(4) A person who passed the Shari'a Special Bar Examinations should also be civil service eligible just like lawyers who passed the bar examinations. A legislation to amend RA 1080 is recommended.

(5) There must be continuous training by PHILJA to Shari'a judges and court personnel. Intensive training on computer operations must also be made. Likewise, intensive training in English must be given.

The continuing judicial education of Shari'a judges is plagued with the problem of dearth in legal materials in Islamic law and jurisprudence. The Philippine Judicial Academy should provide adequate legal materials for them. Initially, a compilation of Supreme Court decisions specially for Shari'a cases and distribute it to all Shari'a courts.

(6) The issue of limited opportunity for judges to be promoted should be looked at since career progression is mainly vertical. Shari'a judges would rather be transferred to RTC courts and Shari'a circuit court judges cannot be promoted to Shari'a district courts because they have to be members of the Philippine Bar.

(7) Also gender bias in appointments should be addressed by policy. Appointments to the Shari'a District and Circuit Courts have been mainly given to male judges. There are qualified women applicants to the position and the JBC should at least nominate them to the President for appointment. This is in accordance with the fundamental equality before the law principle of the Constitution as well as fulfilling our international commitment with the U.N. Convention on the Elimination on All Forms of Discrimination Against Women.

- Streamlining of the institutional framework for Shari'a justice

This will involve improvements in the jurisdictional scope and structure of the Shari'a court system and its rules and will include the following:

- (1) Review of the jurisdiction of Shari'a circuit and district courts
- (2) Improving the rules of court of Shari'a courts

- Strengthening of the Shari'a justice system's capacity and integrity

This will involve strengthening the organizational capacity and integrity of the Shari'a courts and will include the following:

- (1) Development of Shari'a Code of Ethics
- (2) Formulation of a career development program for Shari'a judges
- (3) Improving case management capacities and operations
- (4) Structuring of Shari'a legal fees and charges

Need to carry out other measures for overall justice system reform

We support the ADB recommendation on the review and codification of laws in the medium-term:

A comprehensive evaluation and inventory of major laws that have been passed by Congress in the past decade to determine whether or not they are being implemented effectively can be pursued. Laws pertaining to a particular sphere of human activity or relations can be reviewed toward the repeal or amendment of outdated provisions and laws and their systematic codification to facilitate their efficient application by the courts in appropriate cases.⁶¹

It is also an opportune time to immediately assess and evaluate the Medium-Term Development Plan for the Criminal Justice System (2007-2010) released in December 2006 as the tool to synchronize justice system reform efforts among the various pillars of the justice system.

There should be a follow-through of the implementation of the Court Management Information System (CMIS).⁶² We support the recommendations of the ADB on justice system support improvements consisting of the following which may be carried out in the long-term:

Improving institutional capability requires supporting improvements to the justice sector's information and case management systems and the procurement and maintenance of equipment, technology, and facilities. Information systems are essential to provide timely and accurate assessments of performance regarding service to the public, management of work, and implementation of reforms. Computerized systems need to reflect decisions already made on information that should be collected and shared, appropriate data standards, and what business processes should be linked among institutions. It is particularly important that justice sector agencies be able to communicate through compatible systems between headquarters and field offices and between organizations that need to work together. The development of an information system for the justice sector will facilitate more effective information sharing.

Efficient case management not only helps track individual cases, it improves the efficiency of all the concerned organizations and helps them

rationalize their priorities and workload distribution. While a pilot case management system has been launched for the courts and one is under study by NPS,⁶³ case management has not been developed for other organizations.

Inadequacies in facilities and equipment also impede efficient performance throughout the justice system. Many people working in the justice sector lack the most basic tools needed to perform efficiently. Investment in information and case management systems is directly relevant here. Agencies that lack computers and internet access will have obvious difficulties contributing to information and case management systems.

Inadequate storage facilities can result in evidence, files, and other essential information being lost. The decentralization of financial and administrative management in the courts, approved in 2004 but not yet operational on a nationwide basis, can help the judiciary address this situation. However, comparable and even more pressing needs exist in other justice sector institutions, which also need to be addressed.⁶⁴

A similar recommendation was made by CPRM Consultants, Inc. to modernize case management technology and information system in the lower courts:

Systems functional specifications and user requirements definition have been developed under a project on an enterprise-wide case management information system in the lower courts which was funded by the World Bank PHRD Grant. The system will provide a unique case identification mechanism; allow tracking of case location and status; and provide mechanism for detecting forum shopping, delay and violation of statutory time limits, and detained parties whose stay in jail have exceeded the maximum penalty prescribed by law for their offenses. The system will likewise provide tools for judges to manage case prioritization and scheduling, as well as manage courtrooms utilization. It will provide functions for e-payment and e-issuance of court orders and notices. At the analytic level it will allow court administrators and justices to track the performance of judges, locate specific cases of interest, and provide information which is useful in monitoring and evaluating institutional performance.

The adoption of transcription technology, teleconferencing, and electronic case-filing, electronic issuance of summons, orders and notices has been planned. These application systems will require substantial one-time public investments in installing the necessary infrastructure, in designing the systems, and in implementing them. Funding for these is available under a Judicial Reform Support Program Loan from the World Bank. The implementation of the case management information system must however be undertaken within the context of an integrated criminal justice information system.

A change management program is essential particularly since these will revolutionize court processes and the way the courts communicate and relate to

court users. User training, technology competency training, thematic training in specific work areas, and public information and advocacy would be essential components of the change management strategy.⁶⁵

There is also a need to immediately follow-through on the objectives of the Judicial Reform Network in the 21st Century (JRN21):

- a. Dissemination of best practices on court reform and management
- b. Promotion of regional and sub-regional exchanges
- c. Fostering comparative e-studies
- d. Promotion of the use of technology
- e. Long-term capacity building

There is a need for follow-through in the medium-term of the recommendations made in the Asia Pacific Judicial Reform (APJR) Forum 1st Round Table Discussion (RTD) held on March 16 – 17, 2006, at The Westin Sydney, No. 1 Martin Place, Sydney, Australia, as follows:

- a. Learning from the experience of the Federal Court of Australia, the Court may consider appointing a full time Building Administrator for each Hall of Justice or cluster of Halls of Justice.
- b. The Court to require MISO to study the set up of the Technology of Registry of the Federal Court of Australia.
- c. The Court may consider setting up a Video Conference Facility in the National Bureau of Penitentiary in taking the testimonies of convicts.
- d. The Court to require OCA to submit a report on the backlog of trial courts as discussed above for submission to the Forum on or before the end of May 2006.
- e. The PMO⁶⁶ to document the judicial reform projects like Justice on Wheels, E-Library, ELearning, Code of Judicial Conduct, ADR, setting up of PMO, PIO, MISO, and the like for submission to the Forum for the Handbook on Judicial Reform on or before the end of July 2006.
- f. The Court E-Library be required to set up links with the E-Libraries of the Supreme Courts of other countries.
- g. The PHILJA to explore with the judicial academies of other countries in the region the possibility of adopting common curricula.
- h. The PMO be directed to consider possible assistance to Timor Leste on judicial reforms, Thailand and China on justice on wheels, and Moscow on ICT in the courts as requested by the members of the Forum.

Recap of “What is to be done?”

- The following principles should underlie overall justice reform:
 - Justice reform should be participatory involving the entire justice sector, including agencies in the executive and legislative branches of government, and even the larger society, international aid agencies and the international community.
 - Justice reform should cover the various aspects of governance—a consistent legal framework, competitive compensation for human resources, resource generation and management, a disciplinary regime, sustainability and flexibility.
 - Justice reform should always take cognizance of access to justice by the poor whose only recourse is the government.
 - Justice reform requires inspired leadership by the Chief Justice in order to follow-through the various reform measures in the long-term.
- Enhance rationalized and coordinated law enforcement
 - Decriminalize certain offenses under the Revised Penal Code and special laws and codify criminal law
 - Design and adopt an integrated criminal justice information system and develop crime classification and crime indicators
 - Adopt a holistic approach to the improvement of the crime investigation system of the police
 - Remove duplication, overlapping, proliferation and fragmentation of law enforcement functions, reintegrate police functions, and remove institutionalized politicization of the police
- Strengthen the prosecution agencies and reengineer the public defense system
 - Establish the independence of crime investigation and prosecution agencies together with a meaningful operationalization of judicial autonomy
 - Undertake detailed review and reengineering of the entire public defense system to improve its capacity to provide services, improve access and efficiency, and strengthen its independence
- Reengineer the institutional framework of the corrections system, devolve delivery while maintaining strong oversight, and amend the Probation Law to expand its coverage
- Popularize the laws of the land towards better community capacity to demand justice remedies and improve community contribution in providing justice remedies
- Provide greater access to justice by the poor and disadvantaged through the following:
 - Formation of a joint committee of the Supreme Court, the executive branch, IBP and alternative law organizations to coordinate the various legal aid providers in the country

- Provide regular training for the members of the *Lupong Tagapamayapa* or peace council and strengthen the coordination between the Department of Interior and Local Government and the Department of Justice in order to enhance the Barangay Justice System with the possibility of including respected members or elders from the community in the peace council
- Improve services of Court Annexed Mediation (CAM) and Judicial Dispute Resolution (JDR) as components of Alternative Dispute Resolution (ADR) mechanisms being pursued by the Supreme Court in the lower courts; coverage may be expanded to include other types of cases that have not yet been included that do not involve physical violence
- Assess possibilities for mainstreaming customary modes of adjudication in the criminal justice system
- Expand the “Justice on Wheels” program of the Supreme Court to address the problem of jail congestion through the disposition of cases involving inmates, including minors
- Improve continuing judicial education to enhance judicial competence
- Study various options to enhance judicial independence and fiscal autonomy
- Design complaints mechanisms and enhance record-keeping systems for improved judicial transparency and accountability
- Conduct a comprehensive study of the implications of the power of judicial review
- Act on undue delays in the conduct of trials and large backlogs in the handling of cases by: adopting mechanisms for enforcing strict compliance to mandatory continuous trial and pre-trial; reviewing and improving the rules of court; reviewing the jurisdictional structure of the courts; removing duplication and overlap and clearly defining the operational delineation among pre-trial system; *barangay* justice system and the court-annexed mediation system, promoting the use of Alternative Dispute Resolution mechanisms in various agencies in the justice sector
- Address the various challenges in the Shari’a Courts by: creating a societal environment that is based on a unified rule of law, strengthening the Shari’a Legal Education System (both academic and continuing education), improving the system for ensuring the qualification and training of Shari’a lawyers and judges, improving the jurisdictional scope and structure of the Shari’a court system and its rules, developing a Shari’a Code of Ethics, formulating a career development program for Shari’a judges, improving case management capacities and operations, and structuring of Shari’a legal fees and charges
- Carry out other measures for overall justice system reform:
 - Comprehensive review and codification of laws

- Assess and evaluate the Medium-Term Development Plan for the Criminal Justice System (2007-2010)
- Follow-through of the implementation of the Court Management Information System (CMIS)
- Follow-through on the objectives of the Judicial Reform Network in the 21st Century (JRN21)
- Follow-through of the recommendations made in the Asia Pacific Judicial Reform (APJR) Forum 1st Round Table Discussion (RTD) held on March 16 – 17, 2006 held in Australia

D. Corruption

This section shall focus on corruption and inefficiency in the government bureaucracy as it cuts across the various functional areas of governance. While corruption occurs in government, it is the government in the long-run that is the main player in combating corruption.⁶⁷

The Philippine Government Bureaucracy

The Philippine government is the largest employer in the country with 96 percent of employees working in the executive branch (based on the latest available inventory). Among the government agencies, the Department of Education is the top employer. (Table 2 and Table 3)

Table 2
Dimensions of the Philippine Civil Service (as of 2004)

	Career	Non-career	Total
Executive (National)	966160	50185	1016345
Executive (Local)	304951	104028	408979
Legislative	2317	3521	5838
Judiciary	25734	1197	26931
Constitutional	17004	602	17606
Total	1316166	159533	1475699

Source: Civil Service Commission [2004]

Table 3
Top Employers by Sector (as of 2004)

Sector	Number of Personnel
Education	500,951
Interior and Local Government	149,292
State Universities/colleges	59,913
Public Works and Highways	27,270
Judiciary	26,931
Health	26,730
Autonomous Region of Muslim Mindanao	25,480

Source: CSC [2004]

Corruption and Inefficiency as a Phenomenon

With such a large bureaucracy, corruption appears to be an imminent problem. It has been estimated that “the Philippines is losing tens of billions of pesos every year to corruption—an amount that could have been spent for building schools and hospitals, for providing other services and for raising salaries of state workers.”⁶⁸

Some of the most profound consequences of corruption and inefficiency include the following: (a) social dislocation caused by distorted economic growth, poverty and income inequality, (b) shattered political credibility and demoralized bureaucracy, and (c) endangered public order and safety.⁶⁹ It is widely perceived that corruption and inefficiency only serve to aggravate the country’s debt burden. Latest estimates show that as of January 2010, the total national government outstanding debt has reached PhP5.063 trillion.⁷⁰

Way back in the year 2000, the World Bank estimated that corruption was costing the Philippines government US\$47 million every year which when translated to a 20-year period up to 1997 means a massive US\$48 billion.⁷¹

According to the Philippine Center on Transnational Crimes, corruption is usually committed or exists through:⁷²

1. Tax evasion;
2. Ghost projects and payrolls;
3. Evasion of public bidding in public contracts;
4. Sub-contracting;
5. Nepotism and favoritism;

6. Extortion or giving of protection money (*tong*, in Pilipino); and
7. Bribery (*lagay*, in Pilipino).

The above “avenues” of corruption demonstrate that corruption is a product of incentives. Campos explains:

...does the (expected) benefit of engaging in a corrupt transaction exceed the (expected) cost of doing so? Hence, to reduce the risk and incidence of corruption, one needs to shrink the potential benefits and amplify the potential costs of a corrupt act. The following heuristic formula (again due to Klitgaard) is a useful guide for applying the theory to identify and address corruption vulnerabilities: *corruption = monopoly power + discretion – accountability* where each variable is a function of the degree of transparency, i.e., the greater the transparency, the less the potential for illegitimate manipulation of the variables. De facto monopoly over a decision gives the decision maker ample room to extract bribes from those who might be affected by the decision and for the latter to easily focus on a single target to corrupt. Wide discretion of decision makers generates similar opportunities. Establishing clear accountabilities of decision makers, including monitoring of decisions and actions, helps counter these tendencies. Moreover, increasing transparency of all aspects of the decision-making process strengthens accountability, weakens monopoly power, and restrains discretion.⁷³

The so-called “pork barrel system” technically known as Priority Development Assistance Fund (PDAF)⁷⁴ has particularly been known to be a major source of corruption. According to former Budget Secretary Emilia Boncodin, similar fund mechanisms are adopted by other countries as an effective tool to cover contingencies and provides flexibility in operations but the case of the Philippines is such that it “suffers from general lack of transparency and abuse of discretion.” Boncodin, who resigned as Budget Secretary along with nine other Cabinet-ranked officials in 2005 in protest of the Arroyo administration’s leadership style, has accused President Gloria Macapagal-Arroyo of practicing the selective release of lump sum funds and PDAF such that only those close to Malacañang gain access to PDAF funds.⁷⁵

The minority bloc in the Philippine Senate led by Senate Minority Leader Aquilino Q. Pimentel, Jr. has criticized President Arroyo for “her selective releases of pork barrel funds which totals about P7 billion, with each congressman supposedly getting P70 million per year and each senator getting P200 million annually.”⁷⁶ Time and again, there have been accusations from various sectors that some legislators have profited financially from the “pork barrel system” supposedly through commissions or cuts from contractors or suppliers.

A study released in 2008 tracked anti-corruption initiatives and strategic focus as perceived and experienced by four government agencies in Region XI (Southern Mindanao).⁷⁷ The study showed that:

...the government remains to be the main player in combating graft and corruption in the country. Political leadership and political will of leadership play crucial roles in combating corruption. The customs service was identified on top of the highly important institutional reforms and high importance was placed on transparency and a review on pay and incentives. Also high expectations were placed upon civil society participation, including corporate responsibility, community involvement, empirical surveys and scorecard. Tax simplification and fiscal discipline were also deemed highly important, while in terms of financial controls, emphasis were focused on procurement audit and financial reforms, budgetary control and treasury development. In legal reforms, ranked highly important were judicial independence and enforcement of visible grand corruption cases.⁷⁸

The same study cited the inventory of initiatives on good governance and anti-corruption in the Philippines documented by Transparency International (TI) in 1991 as follows:

Table 4
Number of Programs on Good Governance and Anti-Corruption

Players	Number of Programs
Philippine Government	103
Civil Society	67
Multilateral and Development Funding Agencies	25
Business and Labor	12
TOTAL	207

Source: *Hills Governance Center. TI-Philippines (2001), Directory of Institutions, Organizations & Agencies Involved in Combating Corruption in the Philippines.*

Programs and initiatives on good governance and anti-corruption totaled 207 with the government contributing 103 anti-corruption initiatives, followed by civil society organizations with 67 programs and initiatives, multilateral and development funding agencies contributing 25 programs and initiatives, while business and labor contributing 12 programs. (Table 4)

International Perceptions of Corruption in the Philippines

Despite the prevalence of such programs, the Philippines has consistently ranked low in the Corruption Perception Index (CPI) released annually by Transparency International. Country comparisons in terms of corruption do not augur well for the Philippines considering that such comparisons influence investment decisions which are vital to economic growth. In the 2009 CPI, the Philippines ranked 139th to the bottom with a score of 2.4, alongside Pakistan and

Bangladesh.⁷⁹ The 2009 CPI includes 180 countries, the same as the 2008 CPI. The Philippines ranked better than three of its Southeast Asian neighbors—Timor-Leste (2.2), Cambodia (2.0) and Myanmar (1.4)—and mildly improved from 141st with a score of 2.3 in the 2008 CPI.⁸⁰ (See Annex G for Corruptions Perception Index Table for 2009 and Annex H for CPI 2009 Methodology.)

However, the Philippines lagged behind Singapore, which ranked third in the 2009 CPI with a score of 9.2. Brunei ranked 39th with 5.5. Malaysia ranked 56th with 4.5. Thailand ranked 84th with 3.4. Indonesia ranked 111th with 2.8. Vietnam ranked 120th with 2.7.⁸¹

According to Transparency International:

Overall results in the 2009 index are of great concern because corruption continues to lurk where opacity rules, where institutions still need strengthening, and where governments have not implemented anticorruption legal frameworks... With the vast majority of countries in the 2009 index scoring below 5, the corruption challenge is undeniable.⁸²

TI chairman Huguette Labelle underscores the importance of curbing corruption by strengthening the institutions of low-ranked countries: “At a time when massive stimulus packages, fast-track disbursements of public funds and attempts to secure peace are being implemented around the world, it is essential to identify where corruption blocks good governance and accountability, in order to break its corrosive cycle.”⁸³

TI also released its 2009 Global Corruption Barometer in June 2009 (which is on its 6th edition). According to the survey, 77 percent of Filipinos deem their government’s efforts ineffective in the fight against corruption, registering the highest percentage points in Southeast Asia and the second highest in Asia. The survey also reveals that respondents from the Philippines do not file formal complaints against requests for bribes because of the following reasons (Table 5).⁸⁴

Table 5
Reasons for not filing formal complaints against requests for bribes
(Respondents from the Philippines)
2009 Global Corruption Barometer

Reason	Percentage of Respondents
they did not know how to do it	21%
it would have taken too much time	59%
it would not have helped at all	36%

Source: Transparency International

In the 2010 annual survey of the Political and Economic Risk Consultancy (PERC) where it polled 2,174 respondents, expatriate business executives doing business in the Asia-Pacific region, the Philippines—with a score of 8.06—fell two rungs down compared to the previous

year and became the fourth most corrupt economy. Ranked worse than the Philippines in the opinion of the expatriate respondents are Vietnam (score: 8.07), Cambodia (score 9.10) and Indonesia (score 9.27).⁸⁵ (Table 6)

Table 6
Political and Economic Risk Consultancy 2010 Annual Survey

Economy	Score
1. Singapore	1.42
2. Australia	2.28
3. Hong Kong	2.67
4. United States	3.42
5. Japan	3.49
6. Macau	4.96
7. South Korea	5.98
8. Taiwan	6.28
9. Malaysia	6.47
10. China	6.52
11. India	7.18
12. Thailand	7.6
13. Philippines	8.06
14. Vietnam	8.07
15. Cambodia	9.10
16. Indonesia	9.27

Source: Political and Economic Risk Consultancy (PERC)

Note: The opinions about corruption indicators in 16 Asia-Pacific economies were gathered, based on which each of the 16 economies was graded. On a scale of zero to 10, zero is the best possible score which means that the respondents saw that particular economy as having the lowest level of corruption among politicians and civil servants.

The economies that were perceived least corrupt are Singapore (score 1.42, No. 1 on the PERC list), Australia (score 2.28), Hong Kong, 2.67, the United States (score 3.42), Japan (score 3.49), Macau (score 4.96), South Korea (score 5.98), Taiwan (score 6.28), Malaysia (score 6.47), China (score 6.52), India (score 7.18), and Thailand, (score 7.60), which is directly above the Philippines and therefore fifth most corrupt.⁸⁶

The issue of corruption in the Philippines is a glaring factor that pulled down the ranking of the country in The Heritage Foundation's 2010 Economic Freedom Index⁸⁷ from a score of 56.8 in 2009 to 56.3 in 2010. The decline has been attributed to "small reductions in monetary freedom and freedom from corruption" which are two of the ten criteria used in the ranking. The other eight criteria relate to freedom in business, trade, fiscal, government spending, investment, financial, property rights and labor. Of the ten criteria, the Philippines has the worst score in "freedom from corruption" at 23 points, way below the global average of 40.5 points.⁸⁸

The Philippines ranked 109th out of 179 countries/economies. Hong Kong topped the list with a score of 89.7. Since the index was launched in 1995, the Philippines consistently placed within the range of “mostly unfree” economies.⁸⁹

Local Perceptions of Corruption in the Philippines

The following Highlights of the 2009 SWS Surveys of Enterprises on Corruption reinforce the perception of widespread corruption in the Philippines:

1. Managers consider public sector corruption to be high and stagnant. The farther from the local level, the more that corruption happens.
2. Sincerity in *fighting corruption* varies across agencies. It was notably up in trial courts, Armed Forces of the Philippines (AFP), Department of Justice (DOJ), Government Service Insurance System (GSIS), Commission on Elections (Comelec), and Presidential Commission on Good Government (PCGG). On the other hand, it was notably down in Commission on Audit (COA), Department of Finance (DOF), Department of Budget and Management (DBM), Department of Transportation and Communication (DOTC), Presidential Anti-Graft and Corruption (PAGC), Department of Environment and Natural Resources (DENR), and Office of the President.
3. On government efforts to fight corruption, half of managers see improvement in transparency in bidding for a government contract.
4. The proportion of enterprises solicited for a bribe was below the 2008 peak, but still a high 60%.
5. Majority of managers find transparency in local government procedures. At least two-thirds do not use intermediaries in local business permit renewals.
6. Two-fifths of managers sense improvement in public access to information; three-fourths support passage of a strong law on right to information.
7. Managers consider private sector corruption to be less than public corruption. However, the trend is flat.
8. Willingness of enterprises to fund an anti-corruption program is back to 5% of net income, similar to 2005 and 2006 after a slump in 2007.
9. Managers reporting honest business practices in their sector remain few.
10. In voting for President, "*fighting corruption*" and "*creating jobs*" are first and second priorities of both managers and the public. Third priority is "*promoting a*

good business environment" for managers, but *"eradicating poverty"* for the public.

11. Managers consider the business climate to be better than 2008.⁹⁰

Among the national government agencies, the Bureau of Customs (BoC) is considered as one of the most corrupt. It has been subjected to large-scale waves of purging since the 1970s. According to Parayno, the anti-corruption strategies adopted during the 1970s and 1980s to minimize the Philippine Customs Service proved to be ineffective and added that many environmental factors predispose the Custom Service to a high incidence of corruption, which include the following (Table 7).⁹¹

Table 7
Factors that Predispose the Customs Service to Corruption

Predisposing Factors to Corruption
Abundance of opportunities
Irresistible rewards
Low-risk endeavours
Damaged values system and culture
Weak controls and justice system
Lack of means and support
Insincere and opportunistic media

If “wasteful fund management” is a major indicator of inefficiency, the Department of Agriculture (DA) would be a prime example in terms of “bungled project implementation or missing and diverted funds.”⁹² The DA wasted some P7.14 billion in terms of bungled or incomplete projects in a report submitted by the Commission on Audit (COA) to the Office of the President for the year 2008. A newspaper report presents the following details, among others:

COA said the biggest “bungle” was the P5.19 billion farm-to-market road project of the DA, which remained incomplete as of December 31, 2008 with only P1.58 billion or 38.99 percent of the project implemented due to squabbles between the main office and regional offices.

Another bungle was the P1.3 billion-fertilizer fund project under the GMA Rice Program. Local government units (LGUs), perhaps wary of another “fertilizer scam,” refused to participate in the implementation.

Fertilizer suppliers likewise refused to accept “fertilizer discount coupons” or FDCs as form of payment, which further stalled the project.

Some P2.2 million was spent on printing the useless FDCs.

Mini-dams for irrigation in Regions VIII, IX and XI, built at a cost of P7.35 million, were rendered useless due to inferior construction.

The DA also sought to construct 11 Barangay Food Terminals (BFT) worth P1.55 million but succeeded in building only one “operational” terminal. The rest were condemned as having “operational deficiencies.”⁹³

A study conducted by LTSG. Anthonio F. Trillanes IV (now Senator) in 2002 had the following findings:⁹⁴

1. *There is corruption in the Philippine Navy procurement system.* However, the levels of corruption of the different units of the PN varied and are dependent on the corruptive or non-corruptive behavior of their respective Commanders.
2. There are several forms of corruption being practiced. These are; *lagay*, negotiated canvass, rigged bidding, “ghost delivery”, overpricing, *tong*, substitution and under delivery.
3. The main reason why corruption is being resorted to is to expedite the processing of documents. Also, the corruptive behavior is not initiated by the dealer nor the procurement official instead, the practice had become a routine that both parties readily and mutually agree on the terms.
4. All offices involved in the procurement system had corruption incidences. However, some offices were perceived to be more corrupt than the others. Ironically, the COA, which is supposed to be the watchdog of the government against corruption, got a 100% response in corruption perception.
5. There is a prevailing fixed rate of *lagay*. However, this is dependent on the amount of transaction except for the COA, where the consistent response yielded the amount of *lagay* at 1-2% of the amount of the transaction.
6. The data gathered *validated* the hypothesis inferred from the theoretical framework that boundary exchange processes between the procurement officials and accredited dealers, which work within the milieu of the procurement process, will result to bureaucratic corruption. However, this is not applicable to offices, which have no discretionary powers, as in the case of the Deputy Commander’s office and to offices, which are already part of the largesse as in the case of the BAC.

The Office of the Ombudsman is the primary anti-corruption agency in the Philippines. However, observers note that the agency falls short of fulfilling its mandate:

Critics of the OMB highlight its focus on petty corruption at the expense of larger more senior-level cases. Its long history of inefficiency has also tainted its reputation (there were 14,652 cases awaiting OMB action in 1994 – Freedom House Countries at the Crossroads: Philippines 2007) and analysts were disappointed in 2006 about the body's withdrawal of charges against the Commission on Elections for an automation contract in 2004. Independence is further compromised by the fact that the Ombudsman is politically appointed by the president. The current head of the OMB is a former law-school classmate of the president's husband. She, Merceditas Gutierrez, is now facing calls to resign by locals and CSOs alike. The Coalition against Corruption, which includes members such as the Makati Business Club (MBC), described her as a "liability in the fight to stamp out corruption" given her alleged inactivity as the principal anti-corruption agent.⁹⁵

With the challenge of corruption facing the Philippine judiciary in the face, the Supreme Court has dealt with the problem to some extent:

The push for ethical and clean judges has been a continuing campaign. Many do file complaints against judges and a number of these lead to sanctions. From 1986 to 2005, the Supreme Court punished more than a thousand regional trial court judges by dismissing, suspending, or fining them.

...from January 2006 to March 2009, the Court dismissed thirteen trial court judges and one Court of Appeals Justice, suspended sixteen trial court judges and one appellate court justice, and fined more than 100 trial court judges. That was a pretty large number for three years—about fifty are sanctioned a year—showing the seriousness of the Court. At the same time, these numbers reflected the loose screening process in the judiciary.⁹⁶

Factors Breeding Corruption and Inefficiency

A study on the civil service focusing on incentive systems in the bureaucracy⁹⁷, particularly the Department of Education, show the following findings:

It was observed that incentives, both monetary and non-monetary have affected the quality of the bureaucracy in the Philippines, especially over the last several years. External and internal distortions now weigh down the 20-year-old government compensation system. The increasing number of ad-hoc bodies,

presidential consultants/advisers and political appointees is also a source of demoralization. The latter, which pertains to non-monetary disincentives, is far more critical in government than in the private sector because the link between money wages and agent performance in government is, by definition, relatively weak.

On the whole, trends in the profile of personnel across all levels of the corps indicate a deteriorating quality, especially at the 3rd level comprising executive and policy/highly technical personnel. This seems to be accompanied by an increased vulnerability to rent seeking. Positive correlations observed between shares of CESO eligible people occupying executive posts in human services agencies and corresponding agency public approval ratings, also provide some evidence that better bureaucracy quality is associated with better agency performance in the Philippines.

What does this imply? If country shortcomings in human development are to be addressed, then institutions (incentives) impinging on the civil service and on the performance of the bureaucracy need to be reformed or, at the very least, contained.⁹⁸

In a public forum on “The Powers of the Presidency: Preventing Misuse and Abuse,” the views of former Civil Service Commission Chairman Karina Constantino David on appointments to key positions in government should be noted as a factor that breeds corruption and inefficiency. According to media coverage of the forum:

On the presidential appointment issue, David said the present appointment system is warped in that the basis of some current appointments is loyalty above qualifications, political spoils over competence, and appointment as a reward.

David said that there is an excess of 81 undersecretaries and assistant secretaries which led to the politicization of the bureaucracy and undermining professionalization.

She tagged as “calling card” secretaries and other designations (presidential advisers, consultants and assistants) because they have the rank of secretary, have vague [functions with]...Duplicating and even comical titles “blurring the lines of accountability.”

She also described as “monobloc” secretaries appointed by Malacañang to various positions because the bureaucracy is bloated they have no official looking chairs but monobloc chairs.⁹⁹

From a socio-cultural and psychological perspective, some factors in the Filipino psyche account for the spiritual or moral deficit that fuels corruption and inefficiency in the Philippine government.

Sociologists and historians have noted the lingering, if not lasting, effects of colonial policies during the Spanish and United States occupations such as political coercion and cooptation of native leaders into the colonial government service which is referred to in modern times as patronage politics.

Filipinos have also become a people with many contradictions or traits that act as “double-edged swords” which may account for the so-called manifestations of lack of civility, having no sense of shame, the so-called crab mentality, and the phenomenon of apathy that help breed corruption within the civil service, and in transactions between the government agencies and the entities in the private sector that deal with the government.

Filipinos are “person-oriented” allowing them to be capable of much caring and concern for others, but this can be taken to the extreme where they can be excessively affected emotionally by interpersonal issues. Filipinos are “family-oriented” giving them a deep sense of their roots but this can also prevent them from reaching out beyond the family to the larger community and to the nation. Filipinos are flexible, adaptable and creative and this allows them to adjust to any set of circumstances and to make the best of the situation but these also lead them to compromise on the precision and discipline necessary to accomplish many work-oriented goals.¹⁰⁰

Filipinos have a sense of joy and humor which serves them well in difficult times but serious problems need serious analysis and humor can be distracting and unconstructive. The religiosity of the Filipinos as a people is a source of strength and courage but may keep them passive and dependent on forces outside ourselves. Other “combinations” of contradicting values include *pakikipagkapwa-tao* and *kanya-kanya*; being “other-oriented” and capable of great empathy and yet at the same time also self-serving, envious of others and unconstructively critical of one another; also being hardworking and lazy.¹⁰¹

With the interplay of these traits within an environment predisposed to corruption, some observers have argued that corruption has become systemic. One analyst even asserts that “Corruption has corroded our spiritual life to the core...We have ‘normalized’ corruption and accepted it as part of our daily lives. It is no longer the aberration but the routine.”¹⁰² He illustrates the vicious cycle of corruption:

...Corruption goes into the heart of why our democracy doesn’t work. Corruption’s hidden costs are just as deadly as its seen costs.

We can count or at least estimate the billions of taxpayer’s money that is diverted to private pockets. Just look at our congressmen’s and senators’ pork barrel, and you can roughly compute how many school buildings, how many feeding programs, how many hospitals, or how many scholarships all that money could have supported. Surely, that is a loss. But we cannot count all the bribes entailed for each building permit, each condominium construction, each business permit, or each franchise—and then multiply that bribe by how many vote were needed at the Sanggunian or in Congress, not to mention the grease money needed to keep the petty bureaucrats happy in the regulatory agencies.

Because corruption has made public office so lucrative, it has upped the ante in our elections. The stakes are higher and purely pecuniary. It is impossible to aim for what Confucian societies call “rule by virtue,” for a kind of public service that beckons forth men and women of character. Rather our corrupted democracy attracts the mercenary who see public office as merely a rent-seeking post. Worse, by raising the stakes, it has made campaigns more costly and thus excludes ordinary citizens from the contest or forces them into the waiting arms of political patrons and warlords. Worst of all, it has made elections deadly, in that the stakes being so high, it has become—for the mercenary—worth killing and maiming the innocent.¹⁰³

Leaders in the private sector have acknowledged that corruption is often a conspiracy between entities in the government and the private business sector. A retired business executive asserts that there is a:

...widespread misconception that business is a victim of political corruption. The truth is business is the main source of political corruption.

Publicly, business has successfully laid the blame for corruption at the feet of government officials. But it is actually wealthy people outside government, competing for rent-generating privileges and concessions, who corrupt public officials and the political system.¹⁰⁴

An examination of the existing legal framework dealing with graft and inefficiency will show that there are already many laws and other legal instruments and institutions in place. Anti-corruption provisions are found in the Constitution and various legislations on anti-graft and corrupt practices with stiffer penalties, amending and expanding the prohibited acts of public officers prescribed in the Revised Penal Code. There are laws that have streamlined the functions and strengthened the anti-graft institutions, such as the Sandiganbayan and the Office of the Ombudsman. The Philippine government has officially recognized and ratified the United Nations Convention against Corruption (UNCAC). (See Annex I for Overview of the Legal Framework for Dealing with Corruption in the Philippines and Annex J for Rules Implementing The Code of Conduct and Ethical Standards for Public Officials and Employees.)

What is to be done?

In a developing country like the Philippines with anti-corruption laws already in place, it makes sense to focus on making those laws effective through determined implementation or political will, coupled with complementary efforts by the private sector and civil society.

The following recommendations are based on the multi-pronged strategy formulated by Thomas, et. al.¹⁰⁵ which covers six areas: political reforms; institutional reforms; civil liberties, public oversight and civil society; fiscal policy; financial controls; and legal-judicial reforms.

Political Reforms

There is a need to reform campaign finance in the medium-term. The World Bank has noted that:

The dynamics of electoral politics as practiced in the Philippines—particularly, the financial requirements to obtain and retain office and placate core constituencies—create dysfunctional incentives that degrade the performance of the public sector as a whole. In its issues, nature, and institutional origins, issues of corruption in politics are bigger than campaign finance reform and different from petty corruption in procurement and bribery in the civil service. Although these issues have been acknowledged in the Philippines and demand due consideration, the World Bank’s recommendations do not address them for lack of expertise and jurisdiction in this area. Nevertheless, reforms of political processes and systems should be an integral part of the government’s overall anticorruption program.¹⁰⁶

Then presidential aspirant JSC de los Reyes of Ang Kapatiran even asserts that “ending and prohibiting political dynasties as enshrined in the Constitution” will help curb corruption.¹⁰⁷ Indeed, the wide influence of a family or clan will have the tendency to create a climate conducive to acts of conspiracy that may lead to corruption.

Institutional Reforms

Institutional reforms consist of government reform and civil service measures.

Government reform

The World Bank’s recommendation to target selected agencies may be implemented in the long-term.¹⁰⁸

Many corrupt behaviors are unique to specific government units and functions. At this level, it is easier to make progress in the Philippines since: agencies and departments are relatively small; their mandates are narrow, well-defined, and can easily be subjected to scrutiny and reform; ambiguous legislation and administrative orders can be clarified or rescinded, and business processes can be broken down into discrete components and evaluated. Examples of suggested actions in this area are:

- Selecting priority department and agencies, based on the public’s priority concerns
- Identifying areas for a few quick wins that would give momentum to further reforms.

We suggest that the various recommendations of presidential aspirants to reform government institutions or to implement existing laws in the medium-term to the long-term be seriously studied.

Then presidential aspirant Benigno Simeon Aquino, III said that there is a need to focus on strengthening the Office of the Ombudsman:

We will assign people who will focus solely on monitoring these activities. We will strengthen the Ombudsman. We don't want a 20-percent success rate in our anticorruption cases. Once charges are filed, it must be ensured that someone will be found guilty and punished. It shouldn't be enough that the police arrest suspects. There should be a strong conviction rate because success breeds success.¹⁰⁹

Presidential aspirant Richard Gordon of Bagumbayan volunteered to be highly accessible to the people and to remove his power to appoint the Ombudsman if he became President:

We can eliminate corruption when our people can report to a man they can believe in. I will be available 24/7. I will encourage people to text me every day so I will be able to monitor allegations of stealing from the government and right away we can investigate. I will remove my power to appoint the Ombudsman and ask that the Constitution be amended to allow people to vote for an Ombudsman in a quick election based on track record.¹¹⁰

Another presidential aspirant advanced the following plan:

Adhering to the constitutional mandate of passing the law on full public disclosure of all government transactions;

Abolishing the pork barrel system;

Abolishing laws, rules and regulations that give government personnel, like those in the Bureau of Internal Revenue (BIR), the discretion to allow or disallow certain deductions or exemptions; and

Making representations before the Supreme Court and Congress to bring about the speedy administration of justice.¹¹¹

Presidential aspirant Maria Ana Consuelo "Jamby" Madrigal said that:

Whistle-blowers and anticorruption watchdogs should be adequately protected. Antigraft and corruption measures should focus on the big fish.

Moreover, it should include the exposé and punishment of politicians for promoting and upholding free-market and free-trade policies that back up the foreign plunder and underdevelopment of the Philippine economy.¹¹²

Presidential aspirant Nicanor Perlas believed in focusing on the government agencies which are the greatest sources of corruption while creating a Cabinet position for civil society affairs:

I will appoint a whole new set of people, especially in the BIR, Customs, Department of Public Works and Highways, Department of Education and Department of Environment and Natural Resources—the sources of high corruption.

Once they're appointed, I'll set deadlines, especially in the BIR and Customs, to end corruption there within 100 days.

All of these programs will not be implemented without the support of civil society. So I will create a Cabinet position on civil society affairs. I will mobilize the millions of people in civil society to participate in a massive anticorruption drive.¹¹³

Civil service (pay and incentive reform, restructuring of agencies, meritocracy, transparency)

The following general recommendations are proposed to be implemented in the short-term, as presented in a study by Monsod:¹¹⁴

- Strengthen 3rd party enforcement as regards personnel hiring in order to reduce or check ineligible, political appointments. This would require clarifying the extent of the Presidential prerogative – identifying which positions are subject to it and which should be based solely on merit and fitness - as well as clarifying the role of the Civil Service Commission in enforcing the same. Provisions to this effect are currently proposed under House Bill No. 3956 or Senate Bill No. 270 which seek to establish a *Career Executive System*. Third party enforcement as regards the creation of new agencies – which is currently the jurisdiction of the Department of Budget and Management and Congress – also needs to be clarified and strengthened.
- Reform of monetary incentives, which is long overdue. The framework of the current Salary Standardization Law (of 1987) is more than 20 years old and there lessons in the field of human resource management should be integrated in order to better link government compensation to agent contribution. The proposed *Government Classification and Compensation Act* designed by the CSC in 2006 tries to innovate in this regard.

- Formulate an official policy of *transparency* as regards the role and authorities of presidential consultants/advisers. While any president is entitled to his or her advisers, the question is who they are, what their terms of reference are, and whether and how they are held accountable to entities other than the president. Currently, regular Cabinet officials undergo a Congressional confirmation process in order to officially assume office. They are also subject to public scrutiny not to mention administrative laws that (theoretically) help ensure that power is not abused. Presidential consultants/advisers -who are considered “cabinet-level” positions – however undergo no such confirmation process, yet enjoy a great deal of authority.

The related recommendations of Vinay Bhargaya of the World Bank may be implemented immediately and in the medium-term:¹¹⁵

- Limiting the scope for patronage in public employment by depoliticizing the civil service and strictly regulating the use of casual and other contractual workers
- Decompressing the government pay scale to provide competitive salaries up to senior levels
- Strengthening performance evaluation, implementing related awards and sanctions, and enhancing meritocracy in appointments and promotions.

Even then presidential aspirant Benigno Simeon Aquino III supports the provision of competitive salaries: “We give them salaries and packages that would practically guarantee that they will not be corrupt. I believe that the majority of those going to government are *matino* but we don’t give them a chance to be one and we force them to go into these situations.”¹¹⁶

Presidential aspirant Gilbert Teodoro, Jr. likewise said that “We have to work for restructuring in terms of pay scales and bonus schemes for public service. Yes, that will be my policy. You have to reduce temptations.”¹¹⁷

To encourage more lawyers to join the Public Prosecution in the fight against graft and corruption, it is recommended that the number of the plantilla positions of government prosecutors, both in the Office of the Ombudsman and the National Prosecution Service, and their corresponding salaries be increased.¹¹⁸ This may be carried out in the medium-term.

For the military, the following recommendation should be implemented immediately:

- Strictly adhere to the merit system of promotion and selection of officers to be designated as commanders of its different units. The primary criterion for qualification should be an officer who possesses technical competence and vision to

effectively formulate reforms and, more importantly, has the moral integrity and political will to implement reforms.¹¹⁹

Civil liberties, public oversight and civil society

Civil society participation can be enhanced immediately by increasing transparency through public oversight. The World Bank explains that:

Measures to increase significantly the information made available to the general public have special importance because they let citizens know what officials are accountable for and how to judge their performance against those standards. Active efforts to engage civil society to advance accountability and integrity are also needed. Actions that could enhance transparency and public oversight include:

- Establishing a citizen charter, requiring an agency to specify and publish: each step of procedures to obtain a particular service; maximum length of time to conclude the process; and procedures to file complaints on agency failure to follow required procedures
- Using government officials' statement of assets and liabilities proactively to identify possible cases of corruption
- Conducting client surveys to get regular feedback on access and quality of government services
- Establishing advisory boards made up of prominent Filipino citizens to assist the Office of the Ombudsman as well as each department and agency targeted for anticorruption effort
- Limiting the role of advisers in the government, who are not governed by public accountability and parliamentary processes, and enhancing the role of cabinet officials who are
- Strengthening the ongoing initiatives for governance-appraisal systems for cities and municipalities and publishing results annually.

Government employees themselves should be at the forefront of fighting corruption and inefficiency. An innovative approach has been taken by PSLINK, the confederation of public sector unions of Philippine government employees, by initiating several programs in the fight against corruption. These may be replicated immediately by government employees in government agencies where PSLINK is not yet present.¹²⁰

Participation in anti-corruption committees

PSLINK sends members to participate in inter-agency anti-corruption meetings.

Integrity Circles

PSLINK is trying to form workplace-based 'Integrity Circles' (IC's). The idea is to create groups at the level of the smallest unit to discuss and implement ways to improve the workplace and increase productivity and efficiency and to serve as monitors and advocacy groups. The name is specifically designed to attract members and the concept mirrors the campaign to popularize quality through the creation of "Quality Circles".

Procurement

In the area of procurement PSLINK has provided training to members of the Committee for Bids and Awards.

Procurement Watch

PSLINK is also establishing a regional procurement watch to scrutinise the results of public bidding. These members receive training from an organisation called Transparency and Accountability Network (TAN) which has been accredited by the government to provide training on the new procurement law established in the Philippines. These members are there to scrutinise the bidding process when results of bids are announced to ensure the proper process is followed. Members also participate in the deliberation and monitoring of the profits of companies bidding for public projects and ensure that terms and conditions contained in contracts are not disadvantageous for the government.

Procurement of text books – counting away corruption

One successful campaign involving the delivery of textbooks to primary school students demonstrates the success such monitoring processes can have in cutting down on corruption. Corruption in the delivery of primary school text books resulted in up to 55 percent of the books not being delivered so PSLINK worked with TAN, Procurement Watch and other NGOs to mobilise union members and boy and girl scouts to physically count the books during the delivery process and compare this to the number which were supposed to be delivered. This reduced the number of missing text books from 55 percent to 5 percent.

Procurement of medicine – a healthy alternative to corruption

The union is also involved with other civil society groups in monitoring the procurement of medical drugs and identifying any discrepancy between the listed purchase price and the actual money paid. Often there are large discrepancies. They also monitor the quality of medicines to ensure there is no substitution with inferior medicines during the delivery process. They promote the purchase of generic brands over expensive brand-name medicines and closely monitor the expiry dates of medicines delivered to ensure that medicines which are almost out-of-date are not being off-loaded onto Filipino people.

The private business sector also has a crucial role in ensuring that corruption is prevented through collective action or even as a national movement. Mr. Adrian Wood, former President

and Chief Executive Officer of Siemens, Inc. Philippines, explains the essential elements for Collective Action:

Neutral third party

- Due to the antitrust law the pact should be sponsored by a neutral third party. Trade associations and NGOs can host the necessary meetings with the appropriate antitrust protections. It is important to determine the sharing of the work at the onset. This will ensure that operational issues are addressed immediately which is critical to the continuity of the program.

CEOs' commitment to the project

- Within the format of a trade association meeting with the third party sponsor(s) present, obtain the commitment of all of the CEOs of participating companies. During the meeting it is important to determine the program of activities, assignment of duties and responsibilities, allocation of personnel and other resources.

Plain language Code of Conduct for participating companies

- International and local organizations which are actively campaigning against corruption can provide the basic templates for the Code of Conduct. From these industry-specific templates, a detailed but plain language code can be drafted by the lawyers from the participating companies once the project commences. Admonishing against the engaging in corrupt practices is not enough. Apart from that, specific rules and guidelines for relevant employee groups must be drafted. Prevalent abusive practices in various business environments should be described in detail.

Approval and support from relevant government agencies

- Sharing the proposed code with relevant government agencies gives them an opportunity to identify illegal and unethical practices which otherwise might not be known to the participating companies. It also promotes more transparency among the various sectors involved in Collective Action.

Self Regulatory Monitoring of participating companies

- Critical to the success of Collective Action is the participating companies' commitment to transparency. There should be a formal agreement among the CEOs or General Counsel or Compliance Officers of the participating companies that suspicious behavior from any of their respective representatives or employees will be reported and mutually dealt with. If Company A learns about suspicious behavior by representatives of Company B, then the CEO, lawyers or compliance officers at Company A must be able to inform Company B confidentially, and Company B must be obliged to investigate, correct and if necessary penalize the personnel and company who engaged in improper behavior.¹²¹

Vicente T. Vilegas, a retired business executive has proposed the formation of a national movement:

...led by courageous business leaders willing to put their names, reputations, companies and lawyers on the line and, more importantly, willing to make personal and financial sacrifices.

Regardless of the form and substance, the movement should be determined and highly organized to fight “the establishment.” The leaders and member must trust one another and not hold back on their commitment or else the whole effort will easily break down. For sure, there will be attempts to sabotage the movement not necessarily from outside but from even inside the membership.¹²²

For the short-term, a project-based agreement may be formulated. According to Tordecillas:

This is an open declaration of commitment to clean business practices from various industries, chambers of commerce and organizations. The enforcement is founded on peer pressure and an honor system dependent on the participating companies’ internal corporate governance program.

External enforcement can be initiated by customers or bidding companies through formal written agreements commonly referred to as ‘Integrity Pacts’. This approach requires the participation of an independent and a reputable third party, usually a non-government organization responsible for monitoring the integrity of the bidding process. This also requires establishment of sanctions on companies caught violating the agreement.¹²³

For the long-term, the following initiatives, which usually involve government institutions, are recommended: roundtable discussions, best practices sharing, information campaign and anti-corruption training. Tordecillas explains:

These are principle-based initiatives that serve to strengthen the signatories’ commitment to eliminate corrupt practices in their business activities. Compliance to the initiative is based on honor and public commitment.

External enforcement under this approach is done via a structured audit and certification process. Of primary importance is the establishment of compliance-related pre-requisites for memberships. This method requires a third party or an auditing firm that can independently evaluate applications of interested companies as well as assess continuing membership based on the extent of conformance to the established standards. The certification process institutionalizes the members’ commitment to curtail corrupt activities within their sphere of influence. This

approach is the best route for ushering cultural change paving the way for a level-playing field and an equitable business environment.¹²⁴

Corporate responsibility (international agencies and FDI)

The World Bank's recommendation to develop partnerships with the private sector may be implemented immediately.¹²⁵

The private sector, as a major source of funds used for corrupt purposes, has to be mobilized to combat corruption. Involving the private sector will not only allow more sophisticated and sensitive policy responses to corruption to be developed but will also put pressure on the private sector to raise its own standards of behavior. The following actions could be part of a government-private sector partnership against corruption:

- Involving representatives of the private sector in designing anticorruption strategies in vulnerable departments such as customs, taxation, industrial policy, infrastructure, and investment.
- Engaging in a dialogue about how to solve the collective action problem associated with bribery: how to prevent some firms from continuing to bribe when others stop, thereby creating incentives for the others to revert to bribery again. The model antibribery legislation sponsored by the Organization for Economic Cooperation and Development (OECD) is an example in that it promises significant penalties for those who continue to pay bribes. Another example is the Integrity Pact concept being piloted in Indonesia, requiring a formal no-bribery commitment from all bidders for government contracts.
- Encouraging higher standards of corporate governance. The OECD Principles of Corporate Governance (April 1999) provide a useful model for a local initiative.
- Developing and implementing company codes of conduct and ensuring their effectiveness through internal control mechanisms, personnel training, and sanctions.
- Adopting accounting and auditing rules and standards to ensure transparency in business transactions.

Fiscal Policy

We support the recommendation of former Finance Secretary Ernest Leung for a major overhaul of the Philippine tax system in the long-term. Leung observes that Philippine tax laws and systems are very complex and this allows the rich or the favored few to pay taxes below the scheduled or appropriate amounts. He notes that on a per capita basis, the average common man

pays more taxes through the automatic income tax regime than larger entities that pay corporate taxes. He points out that exemptions given have created windows of opportunity for taxpayers in the higher income bracket to avoid paying taxes.¹²⁶

Financial Controls

Transparency should be foremost in instituting financial controls. We support the recommendation of former Budget Secretary Emila Boncodin to minimize technical jargon and make the language of the government budget more simple so as to make it more understandable to the people.¹²⁷

We also support the passage of a bill on the Freedom of Information Act supported by the Catholic Bishops' Conference of the Philippines (CBCP)¹²⁸ and presidential aspirant Eddie Villanueva. Villanueva stated that: "In the first 12 days, I'll certify as urgent a bill on the proposed Access to Information Act or the proposed Freedom of Information Act which my son Joel as Cibac representative fought for in Congress. This law provides anyone with copies of all documents in all transactions."¹²⁹ The bill will pave the way for the full disclosure of all government transactions involving public interest.

Presidential aspirant Manuel Villar of the Nacionalista Party has likewise proposed that "I would work for increased transparency in government dealings, especially in awarding big-ticket contracts and large procurement activities. For instance, I would push for televised public bidding. Everyone who is interested can come to inspect the terms of reference of government contracts."¹³⁰

On Procurement reform

For immediate implementation, limit the boundary exchange processes to the front line levels in order to totally insulate offices mandated to perform review and inspection functions and thus discharge their duties with a more independent and dispassionate perspective.¹³¹

The World Bank also recommends "Simplifying public procurement, eliminating noncompetitive aspects, actively rooting out cartels, and opening up tenders to international competition."¹³² This may be carried out in the medium-term.

On Budget Control and Treasury Development

For the long-term, a recommendation by the World Bank is worth considering:¹³³

Reforming *budget processes* to achieve discipline, allocative efficiency and operational efficiency is a promising area to address corruption issues. Key potential actions to reform the budget process are:

- Enhancing the integrity and effectiveness of government wide and agency-level financial management systems
- Improving program performance monitoring and evaluation
- Limiting congressional discretion over detailed line-items and strictly enforcing public finance rules in remaining cases

Legal-Judicial Reforms

The recommendations presented here are for the short-term to medium-term, consisting of procedural/penal reforms and substantive reforms:¹³⁴

On Procedural/Penal Reforms

Procedural/penal reforms may be undertaken within the short-term. Former Presiding Justice of the Sandiganbayan Manuel R. Pamaran, who is also a former public prosecutor and a trial judge, has proposed several solutions in the fight against graft and corruption in an article entitled “Fighting Graft and Corruption”, which appeared in a fraternal publication:¹³⁵

First. Any case of graft and corruption or crime involving betrayal of public office must be treated as a crime against public order like rebellion, subversion or sedition, hence, the Indeterminate Sentence Law shall not apply. The penalty shall always be a straight one. No minimum and maximum period. It must always be a straight penalty of ten years or twenty years. On Probation Law, persons convicted of government-related cases should likewise be not covered like those convicted of crimes against national security or public order who are disqualified from the benefits of the probation law.

Second. Revision of penalties of government-related crimes. In malversation, if the amount defalcated exceeds PHP22,000,200, the penalty is only reclusion temporal in its maximum period to reclusion perpetua. It is believed that the law should be amended in such a way that if the amount malversed exceeds PHP100,000.00, it should be punishable by a single penalty of *reclusion perpetua*. Also, in Republic Act No. 3019 as amended, the commission of any graft or corrupt practice as defined therein is uniformly penalized with imprisonment of not less than six years and one month nor more than 15 years regardless of the amount or value of the property involved. The uniformity of the impossible penalties is not in keeping with realities. As in malversation cases, the law should provide graduated penalties based upon the amount or damages sustained and in cases where the government is the injured party and the amount involved is PHP100,000,00 or more, the penalty should be the single penalty or reclusion perpetua.

Third. In preliminary investigation of government related cases, the proceedings must be terminated and resolved within a period of 30 days from filing thereof. The present rules are too long, affording the culprit to delay the proceedings to their advantage for as they still hold office during the proceedings, they can adapt ways and means to favor them to the disadvantage of the prosecution and the public dealing with them.

Also, where the graft cases involve recovery of sum of money or property, the warrant of arrest issued, should always be accompanied by a writ of attachment of property of the accused to avoid concealment or disposition to satisfy the civil liability or fine.

Fourth. Government-related cases should be set for trial within a period of two months from filing to five for allowance to motion to quash, arraignment or other related matters. Trial should be finished within a period of ten months from first setting and decision rendered within a period of two months from termination thereof. We had tried this before with success when the Sandiganbayan first functioned. There can be no reason why we cannot have it now. Consequently, because of the number of cases pending before the Sandiganbayan the number of division of the Sandiganbayan should really be increased to 15 but they should always be based in Metro Manila to insulate the proceedings from external influence.

Fifth. In order that compliance with the aforesaid periods will be observed, there should be no issuance of temporary restraining orders or injunctions except those issued by the Supreme Court.

This is similar to Section 14 of the Ombudsman Act of 1989. which provides, “no writ of injunction shall be issued by any court to delay an investigation; P.D. 605, which prohibits issuance of any restraining order, preliminary injunction or preliminary mandatory injunction in any case involving or growing out of the issuance, approval of disapproval, revocation or suspension of, or any action whatsoever by the proper administrative official or body on concessions, licenses, permits, patents, or public grants of any kind or in connection with the disposition, exploitation, utilization, exploration and/or development of the natural resources of the Philippines; P.D. No. 385, which prohibits injunction against financial institution regarding collection of debts from borrower and Articles 213 and 214 of the Labor Code which prohibits any court to issue “temporary or permanent injunction, or restraining order in any case involving or growing out of labor disputes”.

On Substantive Reforms

The following substantive reforms are recommended to be carried out in the medium-term:¹³⁶

1. Enactment of an additional law, with whistle blower protection provisions, to strengthen the prevention, investigation and prosecution of graft;
2. Amendments of certain provisions of existing laws that provide opportunities for graft and updating of the archaic or vintage provisions to keep up with developments in governance; and
3. Codification of the fragmented anti-graft laws and the integration of the anti-graft provisions of the widely scattered special laws.

The World Bank's similar and other recommendations may also be implemented in the medium-term and long-term:¹³⁷

Anticorruption efforts should focus on preventing and eliminating root causes of corruption, but government's capacity to detect corruption and sanction corrupt practices should also be strengthened. The goal is to change the current perception of corruption in the Philippines—from a “low-risk, high-reward” activity to a “high-risk, low-reward activity.” The following actions would strengthen the anticorruption institutions:

- Fast-tracking—for successful prosecution—a few high profile pending cases of alleged graft and corruption
- Merging the Presidential Commission Against Graft and Corruption with the Ombudsman's Office and strengthen the latter's capacity
- Strengthening capacity of the *Sandiganbayan*
- Supporting capacity building in forensic audit at Commission on Audit and corruption prevention at the Civil Service Commission
- Streamlining and simplifying the legislative and regulatory framework involving corruption and civil service codes of conduct
- Strengthening the functions of the Inter-Agency Anti-Graft Coordinating Council to harmonize rules and joint activities.

Recap of “What is to be done?”

Political Reforms

- Reform campaign finance and end or prohibit political dynasties

Institutional Reforms

- Target selected “problem” agencies for government reform enhancing transparency based on the public’s priority concerns
- Strengthen the Office of the Ombudsman and study alternative ways of appointing the Ombudsman other than by the President
- Seriously consider the proposals of the various presidential aspirants in the last May 2010 elections in relation to bureaucratic reform
- Strengthen third party enforcement in order to reduce or check ineligible, political appointments
- Reform the pay incentive system to make it more competitive and reduce temptations for corruption
- Strictly adhere to the merit system of promotion and selection of officers/officials/managers

Civil liberties, public oversight and civil society

- Enhance civil society participation by increasing transparency through public oversight and by preventing corruption through collective action
- Encourage government employees themselves to be at the forefront of fighting corruption and inefficiency such as the innovative approach taken by PSLINK, the confederation of public sector unions of Philippine government employees

Corporate responsibility (international agencies and FDI)

- Develop government-private sector partnerships in combating corruption

Fiscal Policy

- Conduct a major overhaul of the Philippine tax system because exemptions given have created windows of opportunity for taxpayers in the higher income bracket to avoid paying taxes

Financial Controls

- Minimize technical jargon and make the language of the government budget more simple so as to make it more understandable to the people

- Pass the bill on the Freedom of Information Act to pave the way for the full disclosure of all government transactions involving public interest
- Simplify procurement and limit the boundary exchange processes to the front line levels in order to totally insulate offices mandated to perform review and inspection functions
- Reform budget processes to achieve discipline, allocative efficiency and operational efficiency

Legal-Judicial Reforms

- Undertake specific procedural/penal reforms such as imposition of straight penalties, increasing penalties for certain offenses, termination and resolution of preliminary investigation proceedings within 30 days, warrant of arrest to be accompanied by writ of attachment of property, conduct of speedy trials or fast-tracking of high profile cases, and no issuance of temporary restraining orders except by the Supreme Court
- Carry out substantive reforms such as enactment of an additional law with whistle blower protection provisions, amendments of certain provisions of existing laws that provide opportunities for graft and updating of the archaic or vintage provisions, codification of the fragmented anti-graft laws and the integration of the anti-graft provisions of the widely scattered special laws
- Study the possible merging of the Presidential Commission Against Graft and Corruption with the office of the Ombudsman
- Strengthening the functions of the Inter-Agency Anti-Graft Coordinating Council to harmonize rules and joint activities.

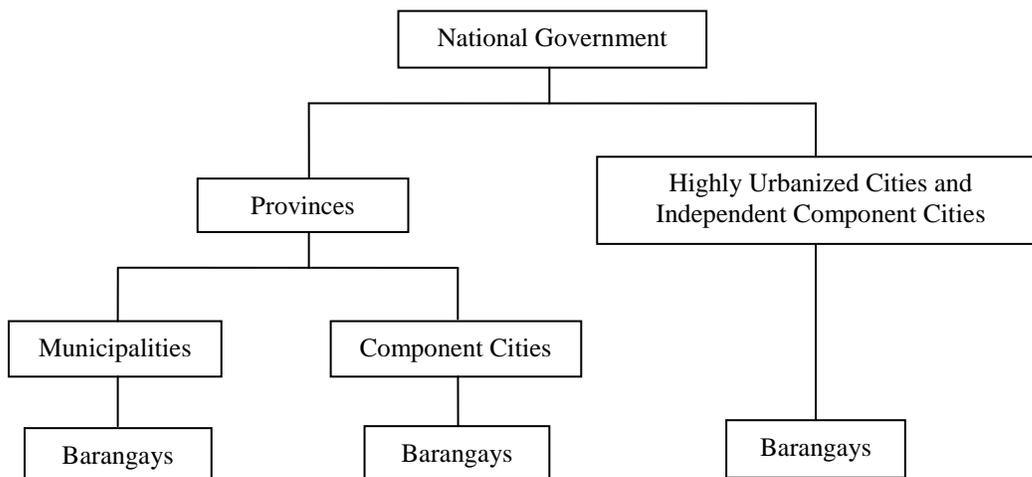
E. Local Government–National Government Relations

Local Governments

Local governments are anterior to national government. Local governments were the “natural” ways of life before “national” was created for consolidation during periods of occupation, colonization. Thus, the overcentralized structure of our political system which has been permeating our politics for so many centuries many times goes against the many democratic principles that underpin our political system.

The Philippines is divided into 17 administrative regions, 81 provinces, 136 cities, 1,495 municipalities and 42,008 *barangays*.¹³⁸ (See Figure 1) For over six decades of its existence, the Philippines has seen many, many attempts to move away from the centralized administration of the past centuries of colonial rule to restoring to its local units the governance of the citizenry. The 1991 Local Government Code was a monumental devolution of powers from the national government. This law devolved authorities in health, agriculture, social welfare and environmental protection.

Figure 1: Structure of Local Governments in the Philippines



Source: Based on Romeo B. Ocampo and Elena M. Panganiban, *The Philippine Local Government System: History, Politics and Finance*, (Manila: Local Government Center, 1985); and Department of the Interior and Local Government (DILG).

1991 Local Government Code

The 1991 Local Government Code was seen as the most radical and the most comprehensive, thus far, in addressing the decades old supremacy of Manila pejoratively labeled “Imperial Manila,” and the politico-economic stranglehold of the center that has resulted in the paralysis of the extremities. Nineteen years hence, where are we now?

In brief, the Local Government Code of 1991 has the following basic features:

- It devolved to the local governments the responsibility for the delivery of various aspects of basic services which used to be within the jurisdiction of the national government. These basic services are in the field of health, to include field and hospital services and other tertiary services, social services including social welfare services, environment to include community based forestry services, agriculture to include agricultural extension and on-site research, public works funded by local funds, education through the school

building program, tourism in terms of facilities, promotion and development, telecommunications services, housing projects and other services;

- It also devolved to local governments enforcement of regulatory powers like reclassification of agricultural lands, enforcement of environmental laws, inspection of food products and quarantine, enforcement of national building codes, operation of tricycles, approval and processing of subdivision plans and establishment of cockpits and holding of cockfights.
- The Code also provided for the participation of civil society in local governance as it mandates participation of NGOs and PO or people's organizations local bodies like the local development council, the local health board, and the local school board.
- The Code also increased the financial resources available to the local governments by broadening its taxing powers, providing them with specific share from the national wealth exploited in their area through mining, forestry and fishery, increasing their share from the national taxes, the Internal Revenue Allotment (IRA) and given them additional tax power for local fees and other charges.
- The Code also provided the local governments the power to enter into build-operate-transfer arrangements with the private sector, float bonds and obtain loans from private institutions.¹³⁹

Major Challenges of Local Government-National Government Governance

19 years hence, what are the major challenges of local government-national government governance viewed through the implementation of the 1991 Local government Code?

Capacity building is the constant battle cry of the local governments on whom so many erstwhile national government functions were devolved but so little finances to support them given. Many studies have advocated an urgent need to review the Internal Revenue Allotment (IRA) of the local governments particularly in the light of the creation of more cities following the Supreme Court decision.

In 2005, the Asian Development Bank came out with a comprehensive report on Philippine governance. It included, in broad strokes, an identification of the many issues and challenges of local governance in the Philippines as well as recommendations on how the intergovernmental relations between the national and the sub-national units may be enhanced.¹⁴⁰

No other extant study has covered all the bases as did this report so we are quoting it at length below.

Major challenges identified:

- Lack of financial support for the devolved personnel. It was noted that close to 65,000 erstwhile national government personnel were transferred to the local units after the Code. The Local governments were mandated to pay for their salaries. Given their limited resources, the local governments found themselves hard pressed to pay salaries of these devolved personnel. The problem is exacerbated where the devolved employee has a salary higher than the chief executive of the local unit to which he has been transferred. This has disturbed the ecology of the local government employees.
- Capacity and skills building noted earlier was also identified as a major challenge. As the devolved functions required more knowledge, skills and competencies, the local governments manning these devolved agencies needed a major education and training program to keep them up to speed with the requirements of the devolved agencies.
- For the past ten years, the local governments have organized themselves into leagues to more effectively articulate their interests and realize their goals. The organizational aspects of these leagues as well as communication and coordination among them present a challenge for more effective articulation of their demands.
- The many disasters and environmental challenges that the local governments experienced have brought them to the realization of the need to restructure themselves and establish collaborative institutions as avenues for cooperation and coordination of activities for optimum use of resources and optimum results. The new desired structures still have yet to be reconfigured.
- Partnerships with NGOs and people's organizations through the various local government agencies and other decision making entities have yet to be enhanced and effectively enforced.
- Performance indicators and benchmarks and good practices for many areas of local governance have yet to be adopted and consensually agreed upon by the local units.

What is to be done?

There are several things that can be done within the short- to medium-term. At the top of the list is the need for an urgent review of the Internal Revenue Allotment (IRA) formula which has been the bane for many local governments as they struggle to support the many devolved services. Many studies have identified the need to reexamine the formula for the reckoning of how much IRA each local government unit will get. We recommended that performance measures and poverty indicators should be included in the bases of the allocation. Alternative

ways of raising revenues by the local units also need to be explored as well as more efficient ways of collecting local taxes to be adopted.

The need to develop an Integrated Master Plan for capacity building and training for Local governments at various levels has been identified by the ADB report. With the Local Government Academy at the helm, there is a need to coordinate all other education and training agencies to more efficiently deliver these services as well as to avoid overlaps and duplications of activities.

The call for professionalization of the secretariats of the various leagues has also been made by many quarters. The ADB report recommended exchange programs with other countries which have already experienced the enhancement of their leagues.

There is also a need for the identification of ways to enable the local governments to cooperate and collaborate in many aspects of governance particularly in the areas of disaster management and environmental protection and preservation. Experiences of other cities elsewhere in the world may be instructive for this purpose.

The Code has provided for public sector–private sector collaboration but these relationships still have to be enhanced so public services will be more efficiently and effectively delivered. Documenting and replicating best practices in other local governments in the country will be very useful.

The performance indicators should be developed, enhanced and periodically reevaluated so there is a consensually accepted measure of local governments not only for purpose of the IRA but more importantly for its citizenry to be confident that the democratic deficits are indeed being addressed.

Local governments are at the forefront of governance. If their effectiveness is enhanced, then, we create islands of effective governance which will only redound to the increased credit to our democracy.

Recap of “What is to be done?”

- Reexamine the IRA formula such that performance measures and poverty indicators should be included in the bases of the allocation
- Explore alternative ways of raising revenues by LGUs
- Adopt more efficient ways of collecting local taxes

- Develop an Integrated Master Plan for capacity building and training for Local governments at various levels; the Local Government Academy can coordinate all other education and training agencies
- Professionalize the secretariats of the various leagues (*barangay* chairmen, municipal mayors, city mayors, provincial governors); exchange programs with other countries which have already experienced the enhancement of their leagues may be carried out
- Identify ways to enable local governments to cooperate and collaborate with one another and with other cities in other parts of the world in many aspects of governance, particularly in the areas of disaster management and environmental protection and preservation
- Document and replicate best practices in public sector–private sector collaboration in various local government jurisdictions
- Develop, enhance and periodically reevaluate performance indicators for LGUs

F. Armed Forces of the Philippines (AFP)/Philippine National Police (PNP) Reform

The Armed Forces of the Philippines and Military Interventionism

There have been at least thirteen aborted coup attempts since 1986--nine against President Corazon Aquino from 1986 to 1989 and four against President Gloria Macapagal-Arroyo since 2001, including the last one by marine officers on November 29, 2007. The most serious one was that of December 1989 which nearly toppled Aquino. It involved the military occupation of several hotels in Makati City, the country's premier financial district. It was led by Col. Gregorio "Gringo" Honasan, who has been involved in virtually every coup attempt against the government. The 2007 coup attempt also included then Major (now General) Danilo Lim.¹⁴¹

According to Anamdo Doronila, a political analyst, the various coup attempts in the past 24 years have:

...unmasked an alarming political reality -- the hijacking of Philippine democracy and sidelining of constitutional authorities when the police and military responded to the crisis provoked by a rebellious segment of the Armed Forces...

They highlight the fragility of democracy and the ever-present danger of military intervention as the arbiter of political crisis lurking just underneath the surface of our unstable democracy.¹⁴²

He also noted that the:

Two regime changes in which the Armed Forces intervened (those of EDSA 1 in 1986 and EDSA 2 in 2001) were a porous mix of the participation by the military and civil society. In the February 1986 coup, the military was deeply split, followed by massive civilian participation behind the mutinous faction, and the defection of military units to the rebel side.

In 2003, the Estrada administration collapsed after the AFP general staff pulled out its support. As a result of this benign type of military intervention Filipino-style, the constitutionally mandated supremacy of civilian authority over the military has never been firmly established.¹⁴³

The Davide Commission, tasked to investigate and present a report in relation to the 1989 coup attempt, presented a set of recommendations to then President Fidel V. Ramos. However, the Ramos administration devised its own strategy for dealing with "military rebels." The Philippine Center for Investigative Journalism reports:

But the Ramos government apparently deemed the recommendations inappropriate for its peace agenda. It did not even invite any of the commissioners to the peace negotiations with RAM.

For in truth, both sides went to the negotiating table with organizational interests at heart: on the part of government, to cease hostilities; on the part of RAM, for its members to return to the status quo.

Prof. [Felipe] Miranda likened this to a tactic of balancing terror. "The basic rule there is you don't annihilate the enemy," he said. "(You) probably just have to exact penalties like what they have done to (Lt. Col.) Victor Corpus, who joined the communist movement but was accepted back."

"Corpus," he pointed out, "lagged behind all his batch mates in promotion." Yet in the case of the RAM leaders, their promotions have been fast-tracked partly as a result of the peace process.

After the signing of the pact, Ramos justified his amnesty program. "Amnesty," he said, "tempers the retribution of the state against (rebels), erases culpability and opens the way for reintegration into the community." He also described it as "a tool for national reconciliation and empowerment."

Many who agree to this strategy insist it was the best choice under the circumstances. It was better to put these soldiers under military control, said a senior defense official, than let them out of the system and risk their involvement in criminal or rebel activities.¹⁴⁴

A news report presenting an update on the careers the military officers and personnel involved in the 1989 coup attempt bears this:

Almost all of them are back in service, including four who have been promoted to general like Victor Batac, now deputy director for logistics of the Philippine National Police. Four others are working in the different line agencies of government, like former PC Lt. Col. Billy Bibit, newly appointed commissioner for the Caraga region of the Economic Intelligence and Investigation Bureau.

Batac led troops in seizing TV stations during the 1989 coup, while Turingan led the attack at Sangley Point in Cavite, then home to the military's T-28 planes.

A total of 153 military officers who had been jailed or charged for the 1989 coup have been reinstated, according to military records. This number excludes 55 military officers who remained in active service because they had not been formally charged in court.

Some 1,675 soldiers who had been previously charged have also returned to the military.

Following the peace agreement it signed in 1995 with the Rebolusyonaryong Alyansang Makabansa (RAM), the Ramos government granted unconditional amnesty to 3,731 military officers and soldiers involved in the 1989 and 1987 coup attempts.¹⁴⁵

Military officers have since entered the civilian bureaucracy occupying key positions in government. Journalist Glenda Gloria documented the presence of soldiers in post-EDSA governments and had these findings:

...the appointment of officers in the civilian posts is reflective of the rent-seeking character of the country's influential sectors, which include the officer corps of the Armed Forces. In various departments and agencies, we see not only "military dynasties" but also blocks and turfs controlled by various elite groups such as fraternity organizations, a group of university alumni, or a law firm.

.....

...the military's access to arms has affected the way administrations have treated it vis-à-vis appointment to government posts.

For so long as the military brokers political transitions, for so long as there are insurgencies and rebellions that make the nation dependent on its armed forces, and for so long as weak civilian institutions remain vulnerable to destabilizing forces, this pattern of military appointments to the bureaucracy shall continue.

Regimes will choose this path rather than risk an armed confrontation with their politicized soldiers.¹⁴⁶

According to Prof. Roland Simbulan, there were many concessions given by the government to military rebels which do not augur well for Philippine democracy:

Embroiled in a nationwide anti-insurgency war and a Muslim rebellion in the island of Mindanao since the late '60s, the Armed Forces of the Philippines has also been factionalized by enemies from within, coming from the ranks of its most elite units and most respected combat-tested field commanders.

Samuel P. Huntington, the Harvard professor who wrote *The Soldier and the State* as well as other books on the role of the military in Third World countries, suggests that the propensity for military intervention increases when government institutions are weak, when strong political parties are absent and when a government's legitimacy is put into question.

The role of the military in political transitions has always put this institution in a crucial role as either the embodiment of the apparatus of repression, or as a liberator that turns the tide in political standoffs. Misused to impose the Marcos dictatorship in 1972 that lasted for 14 years, the military's foiled rebellion in 1986 is also what led to a people-power uprising that deposed that dictatorship. But its image nevertheless was tarnished during the dictatorship as a hatchet institution for repressive dictatorship.

Since that time, the military has become—dangerously—a highly politicized institution. This was not a healthy direction for this institution which now began to look at itself as a sector that could compete for its sectoral interests in Philippine politics and society. Military officers were assigned to manage civilian institutions in exchange for their loyalty to the dictatorship, and were given a free hand in coercing civilian agencies, including the once-independent judicial system.¹⁴⁷

Prof. Simbulan further adds:

Many officers who figured in tortures and disappearances and played god in summary executions as documented by Amnesty International were not only left unpunished but were even promoted. This was also the case in officers involved in corruption and unexplained wealth who were left untouched. Meanwhile, soldiers who figured in the nine coup attempts against former President Cory Aquino or were implicated in the assassinations of labor leader Rolando Olalia and Bayan leader Lean Alejandro were not only pardoned but were even reintegrated and promoted.

Military organizations or factions since the Reform the Armed Forces Movement (RAM), the Young Officers Union (YOU), Soldiers of the Filipino

People (a spin-off of the Nationalist Army of the People of Marcos loyalists), and now the Magdalo, are today a threat to the constitutional stability of a non-partisan military.¹⁴⁸

(For a brief history of the AFP and the PNP, see Annex K.)

The Philippine National Police and Political Pressures

Compensation scale in the PNP remains a major concern in relation to raising the morale of personnel in the force, curbing corruption and making it independent of political interests. While salaries of the PNP personnel have increased, the relatively low compensation scheme for PNP personnel remains an obstacle to attracting highly qualified candidates. It has been estimated that up to 60 percent “of all police officers live below the poverty line and most live in squalid slums.”¹⁴⁹

A study of the Asian Development Bank (ADB) explains that:

More than 95% of the national government’s appropriations for PNP are centrally managed, including salaries for police in the field. Less than one-fourth of amounts supporting police operations in the field (investigation, intelligence, and maintaining police–community relations) is allocated to the field offices. As in the case of the courts, highly centralized administration is a source of inefficiency.¹⁵⁰

The increased role of local government units in relation to local police stations and to the PNP in general have made the PNP vulnerable to pressures and influence from local political leaders. A study of the ADB has shown that:

Other factors—such as LGUs contributing resources to the local police and playing a recommendatory role in the recruitment of police officers, and the Local Government Code authorizing LGUs to supervise the day-to-day operations of the police—make the police vulnerable to the control of local officials.¹⁵¹

The study elaborates:

The local police receive resources from LGUs and are tasked to maintain peace and order within their jurisdiction. LGUs justify these contributions on the grounds that they rely on PNP officers to perform peace and order functions. The contributions may be in cash or in kind, may vary in amount from place to place, and might not be documented in a transparent manner.

Candidates enter PNP on the recommendation of local authorities. They advance by promotion from within, based on length of service, completion of training, examinations, and a clean record with regard to complaints. Mandatory retirement is at age 56 years, a limitation that results in rapid turnover and lack of continuity in leadership positions.¹⁵²

Other government agencies and institutions further add to the pressure:

PNP is also adversely affected by unclear lines of authority. PNP, together with NAPOLCOM (the national commission to which the PNP reports in accordance with the Constitution) are placed under DILG. It is NAPOLCOM, and not DILG, which monitors PNP performance and serves as a forum for appeals from disciplinary actions. However, as explained in Section A.3.f., at the same time PNP field officers are under “operational supervision and control” of city and municipal mayors, and governors and mayors have the authority to choose PNP provincial directors and chiefs of police. A Supreme Court decision on the matter notwithstanding, there remains some confusion regarding the roles of DILG, NAPOLCOM, and LGU officials in relation to PNP. Such confusion is compounded by the fact that PNP officers may be subject to disciplinary proceedings before a number of agencies, all of which have their own sets of requirements and procedures, and all of which hold hearings.¹⁵³

Apparently, the above mentioned conditions have brought about “institutionalized politicization” of the PNP.

Election season is a particularly sensitive situation for the PNP. The Commission on Elections (COMELEC) deputizes the PNP and the AFP for the orderly conduct of elections with the primary role of maintaining peace and order in the polling places. In election hotspots, the AFP is deputized to secure and protect the Board of Election Inspectors (BEI), the polling precincts, the voters, and ballot boxes.¹⁵⁴

In the recent May 2010 elections, measures are taken to minimize, if not eliminate the influence of local politicians on the PNP:

Incumbent mayors and other elected local executives are not allowed to exercise control and supervision over police deployed in their respective areas all throughout the election period for the May 10 automated polls.

The Philippine National Police (PNP), in a press release, said it was issuing the reminder to further their moves to insulate the police from partisan politics.

At a conference in Camp Crame with regional, district, provincial, and city police directors, PNP director-general Jesus A. Versoza explained that while Republic Act (RA) 6975 gives city and municipal chief executives the authority to “employ and deploy” territorial police forces, this authority is suspended during the election period.

Citing specifically Section 51 of RA 6975, Versoza said the local government’s exercise of operational supervision and control over PNP units cannot be invoked 30 days immediately preceding and 30 days following national, local, and barangay elections.

He added that during this period, the local police forces shall be under the supervision and control of the Commission on Elections (Comelec).

“This specific provision of the law guarantees that our policemen will not be utilized by local government executives in partisan political activity,” Verzosa said.¹⁵⁵

Police chiefs were also reshuffled to derail any attempts by local politicians to use police personnel for political ends:

A panel tasked to disband politicians’ armed groups on Tuesday asked the Commission on Elections (Comelec) to allow the reshuffling of police chiefs to avoid tie-ups with local executives suspected of harboring private armies.

The Independent Commission Against Private Armies (ICAP) also known as the Zeñarosa Commission asked Comelec chairman Jose Melo in a letter to direct Philippine National Police (PNP) chief Director General Jesus Verzosa to immediately “rotate” their provincial directors in Region 9 during the election period.

The ICAP said the PNP should monitor the actions of the provincial directors to “ensure” that they will not be “ beholden” to any political figure in their provinces, thus helping ensure honest, peaceful, and orderly elections.

The ICAP likewise asked Melo to order Verzosa to transfer Porac, Pampanga municipal police chief Senior Superintendent Abel Lingat to a different police station during the election period.

“The same police (officer) got involved in partisan politics, favoring one mayoralty candidate in Pampanga,” ICAP commissioner Herman Basbano told reporters after he submitted their request to the office of Melo.¹⁵⁶

But such efforts by the PNP were criticized by some quarters as being intended for the Arroyo administration’s political ends:

Senator Mar Roxas emphasized that if the DILG must reshuffle its local police directors, it should focus on areas where the local police are likely to be used for partisan political purposes.

The Liberal Party earlier decried the arbitrary replacement of local police directors in areas where the administration is perceived to be weak, such as LP strongholds Cavite, Alaminos City and Capiz.

“Ang mga provincial police director na dapat tamaan ng rigodon, yung mga overstaying na dahil may kapit sa itaas, yung mga talagang kumakampi sa mga lokal na pulitiko, yung mga nagpapagamit sa pulitika (The provincial police

directors who should be affected by the rigodon are those who are already overstaying because of connections upstairs, those who obviously side with some local politicians, those allowing themselves to be used in partisan politics)," Roxas stressed.¹⁵⁷

To further insulate the police force from partisan politics, PNP Director General Jesus Verzosa ordered all unit commanders who are set to retire from April 15 to June 30 to relinquish their posts. The order affected senior officers assigned as chiefs of police offices in the regional, provincial, city and station levels. However, Verzosa clarified that the memorandum was "not mandatory but voluntary."¹⁵⁸

The PNP has been tasked to monitor private armies or Partisan Armed Groups:

The PNP has monitored a total of 112 Partisan Armed Groups operating in the country with an estimated 4,040 armed members. Sixty-six (66) active PAGs operating in 12 regions have been monitored to be undertaking legal and illegal activities that benefit a particular political interest. Case intelligence build-up operations are now underway for the launching of appropriate police or legal actions against these groups, Verzosa said.

Twenty-two (22) other PAGs have been monitored to be dormant or inactive, but continuous monitoring is ongoing to preclude all possibility that these groups will be employed for violent partisan activities related to the elections.¹⁵⁹

However, dealing with private armed groups has been complicated by the ties of such groups to the PNP structure itself. An account of a native of the province of Abra illustrates this:

The last I heard, the Philippine National Police (PNP) was monitoring seven private armies, although the warring political groups in the province could be narrowed down to two. The PNP did not name names. I suspect not only that the silence of police officers has been bought, but also that they are afraid to be transferred or be placed in "floating status" because the warlords' networks reach well within their organization.¹⁶⁰

From within the ranks of the PNP, there are widespread complaints about the so-called "monopolized promotion system" allegedly controlled by police officials with the "mistah mentality":

...It was noted that juicy positions and questionable promotions were only delegated to the remaining 500 Philippine Military Academy (PMA) graduates, a remnant of post Philippine Constabulary-Integrated National Police (PC-INP) force dissolved in the 1990's after the enactment of the PNP Law.

Police officers who graduated from PMA hold important positions and ranks higher than their Philippine National Police Academy (PNPA) counterpart.

PNPA graduates claimed that they are not being treated equal by the PMA police officials. They had raised the issue many times but nothing comes out of it.¹⁶¹

The image of a politicized AFP and PNP can be summed up in a statement made by Senate President Juan Ponce Enrile before the May 2010 elections that:

...it would be the AFP and the PNP that would choose the nation's transition leader in case President Arroyo's successor and those who are in the line of succession to the presidency are not proclaimed before June 30, 2010.

Under the Constitution, those who can succeed the president are the vice president, Senate president and Speaker of the House of Representatives, in that order.

Enrile said not even former President Fidel Ramos and other former presidents can take charge if there is an election failure.

“Not even Ramos. Not even former presidents. Whoever is followed by these institutions (AFP and PNP), that will be the one to run the country,” he said.¹⁶²

What is to be done?

The challenge to remove political pressure from the AFP and the PNP appears to be a simple problem but has become a deeply ingrained one. It will take determined political will to address this challenge by implementing the key recommendations contained in the Davide Commission and the Feliciano Commission reports which have not yet been implemented, and to follow-through on those that have been implemented. The somewhat “radical” recommendation previously proposed by CPRM Consultants, Inc. that will insulate the PNP from partisan politics is also presented.

The Davide Commission was formed in December 1989 by Presidential Administrative Order (AO 146) and later, by Republic Act No. 6832, to conduct a thorough fact-finding investigation of the failed coup d'état of December 1989 and to recommend measures that would prevent the occurrence of similar attempts in the future. It was headed by Hilario G. Davide, Jr. with distinguished personalities from academe and the private sector as members: Carolina G. Hernandez, Ricardo J. Romulo, Delfin L. Lazaro and Christian S. Monsod.

The following selected short-term recommendations of the Davide Commission are still relevant today in order to prevent or in dealing with actual coup attempts (See Annex L for details of the Selected Recommendations of the Davide Commission.):¹⁶³

1. Administering a justice and rehabilitation program to military participants
2. The strengthening of security measures on those under detention, especially where there may be sympathetic guards

3. Speedy action on appeals over decisions of AFP courts-martial
4. The immediate implementation of a comprehensive program to provide timely rescue and medical assistance to troops wounded in combat
5. An immediate audit of the value formation program of the military and, with the help of civilian experts, the formulation of an intensive program (essentially constructive indoctrination), and the training of field commanders to carry it out.
6. The immediate removal or reassignment of officers of less than 100 percent loyalty from sensitive positions in the military hierarchy, i.e., intelligence, operations, logistics, and training functions.
7. The immediate disbandment of organizations not authorized by the military.
8. The observance of a systematic selection process for the new Chief of Staff that generates the least controversy about the choice.
9. Just as in the civilian government, a crackdown by the military on some "big fish" corrupt officers.
10. An immediate stop to unfair and/or humiliating treatment and criticism of military officers by Congress and other public officials, especially those before the Commission on Appointments.
11. Speedy and firm disciplinary action and/or prosecution against members of the military involved in human rights violations as well as of civilian law enforcement personnel involved in victimizing military personnel.
12. The purchase or charter by Congress of its own transportation facilities and prohibition on their use of military equipment and aircraft.
13. The expansion of the government's information program which has considerably and commendably improved since December 1989, with more participation by local government officials.
14. The provision of sufficient resources and support to the Deputy Ombudsman for the Military.

In addition, the following recommendations for the long-term made to then President Fidel V. Ramos are still relevant (See Annex L for details of the Selected Recommendations of the Davide Commission.):

1. The institutionalization of necessary improvements in the military in the areas of promotion and assignments, purchasing and auditing, educational benefits abroad, and compulsory attendance at military command schools.

- 2.. The President and the Commission on Appointments must work out a system by which recommendations for promotions can be categorized in practice to avoid the exploitation of the confirmation process for political purposes.

We propose that the above two recommendation may also be applied similarly to the PNP.

The Feliciano Commission completed its work on the 2003 Oakwood mutiny on October 17, 2003. The commission was composed of Florentino P. Feliciano as Chairman, Minerva P. G. Reyes as Vice Chairman, and the following as members: Carolina G. Hernandez, Joaquin G. Bernas, S.J., Commodore Rex C. Robles, AFP (Ret.), and Capt. Roland A. Narciso. It made the following recommendations which are still relevant today and may be implemented in the medium-term (See Annex M for Selected Recommendations of the Feliciano Commission.):¹⁶⁴

A. The RSBS Problem

1. Liquidate present RSBS in an orderly manner
2. Return the soldiers' RSBS contributions
3. Initiate an AFP Service and Insurance System

B. The AFP Procurement System: Conversion and Other Problems

1. Simplify AFP procurement procedures
2. Control commanders' discretionary powers over the CMF
3. Reduce the amount of CMF in GHQ/service HQ hands
4. Strictly implement control measures over supplies
5. Set tenure limits for AFP finance and procurement officers
6. Establish an autonomous Internal Affairs office (IAO)

C. Modernizing the AFP: Funding and Consequential Problems

Reinforce the Office of the Ombudsman by increasing funding and other support

D. The State of the AFP Medical Services

On the financial side, part of the funding of the AFP Modernization Program generated from the sale of Fort Bonifacio land should be dedicated to the modernization and upgrading of medical services, in accordance with the original statutory intent.

On the management side, geographic distribution of hospitals should be reviewed. Consolidating existing hospitals into fewer units could probably result in better medical services.

The suggestion that doctors be hired as doctors and compensated according to their level of expertise and experience and not according to rank, probably merits consideration and trial and validation.

A government counterpart to the premium paid by soldiers to PHILHEALTH insurance should enhance the benefits which the military can receive.

The close relationship between the prompt availability of adequate medical services when needed by troops engaged in encounters with hostile forces, and the fighting efficiency and morale of such troops, needs no documentation. What is needed is, after realization thereof, dedication of more efforts and funds to the improvement of the AFP medical services.

E. The Problem of Benefits for Soldiers Killed in Action

...What is needed is the strengthening of the record system of the personal data of soldiers and their dependents. The data should not only be accurate and up to date but also immediately accessible. Clearly, computerized information systems are called for.

G. The Inadequacies of AFP Housing for Officers and Enlisted Personnel

(1) The AFP budget should provide for increased allocation of funds for the AFP On-Base Housing Program as well as its Off-Base Housing Program;

(2) The “overstaying” of retired military personnel in AFP housing should be stopped and rectified;

(3) The number of privately owned quarters in all military bases should be reduced, if not totally eliminated; and

(4) Strict implementation of existing criteria for the awarding of government quarters to officers and enlisted personnel in the active service must be ensured.

Finally, we support the following recommendation of CPRM Consultants, Inc.:

Removing negotiable and highly discretionary support from LGUs; reintegrating authority to the PNP Chief to recruit, appoint and promote and discipline the police force without prejudice to an appropriate civilian review system; removing LGU authority over the internal administration of the police force...¹⁶⁵

Recap of “What is to be done?”

- Implement the key recommendations contained in the Davide Commission report in order to prevent or when dealing with coup attempts when they happen, among others:
 - Administer a justice and rehabilitation program to military participants
 - Strengthen security measures on those under detention
 - Carry out speedy action on appeals over decision on AFP courts-martial
 - Implement a comprehensive program to provide timely rescue and medical assistance to troops wounded in combat
 - Remove or reassign officers of less than 100 percent loyalty from sensitive positions in the military hierarchy, i.e., intelligence, operations, logistics, and training functions
 - Disband organizations not authorized by the military
 - Observe a systematic selection process for the new Chief of Staff that generates the least controversy about the choice
 - Crackdown by the military on some "big fish" corrupt officers
 - Stop unfair and/or humiliating treatment and criticism of military officers by Congress and other public officials, especially those before the Commission on Appointments
 - Conduct of speedy and firm disciplinary action and/or prosecution against members of the military involved in human rights violations as well as of civilian law enforcement personnel involved in victimizing military personnel
 - Encourage the purchase or charter by Congress of its own transportation facilities and prohibition on the use of military equipment and aircraft
 - Provision of sufficient resources and support to the Deputy Ombudsman for the Military
 - Institutionalize necessary improvements in the military in the areas of promotion and assignments, purchasing and auditing, educational benefits abroad, and compulsory attendance at military command schools (similar improvements may be done for the PNP)
 - Work out a system between the President and the Commission on Appointments by which recommendations for promotions for the AFP can be categorized in practice to avoid the exploitation of the confirmation process for political purposes (this may also be applied to the PNP)

- Implement the relevant key recommendations of the Feliciano Commission report
 - Liquidate the AFP Retirement and Separation Benefit System in an orderly manner and return the soldiers' contributions
 - Establish an AFP Service and Insurance System

- Simplify AFP procurement procedures
- Strike a balance between the commanders' discretionary powers over the centrally managed funds (CMF) and the amount of CMF in GHQ/service HQ hands
- Strictly implement control measures over supplies
- Set tenure limits for AFP finance and procurement officers
- Establish an autonomous Internal Affairs office (IAO)
- Reinforce the Office of the Ombudsman by increasing funding and other support
- Improve the state of AFP medical services:
 - Ensure that part of the funding of the AFP Modernization Program should be dedicated to modernize and upgrade medical services
 - Review the geographic distribution of hospitals
 - Study the scheme of hiring of doctors as doctors and compensating them according to their level of expertise and experience and not according to rank
- Implement full computerization of data on soldiers and their dependents to facilitate processing of death benefits and other benefits
- Provide for increased allocation of funds for the AFP On-Base Housing Program as well as its Off-Base Housing Program
- Ensure the strict implementation of existing criteria for the awarding of government quarters to officers and enlisted personnel in the active service
- Remove negotiable and highly discretionary support from LGUs; reintegrate authority to the PNP Chief to recruit, appoint and promote and discipline the police force without prejudice to an appropriate civilian review system; and remove LGU authority over the internal administration of the police force

III. SOCIAL AND ECONOMIC SYSTEMS

This chapter will present the democratic deficits in the social and economic systems of the country. It shall include the areas of education, health, environment, population and public-private sector partnership.

A. Education System

State of Philippine Education

Pointing to a few improved figures in recent years, the Arroyo administration claimed that progress has been made in education. Although some performance indicators may have increased in absolute terms, the fact remains that they are still way below international standards. And that the figures pale in comparison to those of other nations is, in this age of global competitiveness, a serious sign that Philippine education is lagging behind. Moreover, these few improved figures are quite outnumbered by the mostly poor marks that the Philippines obtained in many education areas.

The following facts and figures depict the state of the Philippine education system:

- The government allocates only about 12 percent of its national budget to education. World Bank notes that developing countries spend 20 percent of its national outlay on education.¹⁶⁶
- Only 2.53 percent of the Gross Domestic Product (GDP) is set aside for education. UNESCO estimates that 6 percent of a country's GDP should be allotted to education.¹⁶⁷
- The budget for every student is only PhP6,354. Thailand spends an equivalent of PhP47,700 per student, Malaysia PhP56,846, United States PhP123,200 and Japan PhP293,440.¹⁶⁸
- The ideal student-to-classroom ratio being used by the Department of Education (DepED) is 45:1. The average student-to-classroom ratios in neighboring countries are as follows: Malaysia 31.7:1, Thailand 22.9:1, Japan 28.6:1 and India 40:1.¹⁶⁹
- In 2009, three years after the government began its classroom-building program, there is still a shortage of 27,124 classrooms.¹⁷⁰
- Year after year, the education system is mired in the lack of teachers, textbooks, computers, chairs and desks and other educational materials for the large public school population.¹⁷¹

- Double or sometimes even triple-shifting of classes in public schools has been adopted to address the classroom shortage.
- For every 40 village primary schools, there are only 8 municipal secondary schools. There are not enough public secondary schools to take in the large number of elementary graduates.¹⁷²
- There are over a million out-of-primary-school children. Almost two decades after making a commitment to the Education for All (EFA) initiative, UNESCO reported in 2009 that there were 1,002,800 children of primary school age who were not enrolled.¹⁷³
- Many young children do not undergo preschool education due to lack of access and low importance given to early childhood education. Access of 3-5 year-old children to early childhood education remains at a low 34 percent. For every ten 5-year-old children, only 6 have access to preschool education.¹⁷⁴
- Students spend only 10 years in primary and secondary school. The Philippines and Mongolia are the only remaining countries worldwide where students spend less than 12 years in primary and secondary education.¹⁷⁵
- For every 100 children who enter Grade 1, only 65 will move on to high school. Of the 65 who finish elementary, only 42 will graduate from high school.¹⁷⁶
- Of 638 elementary graduates, only 7 mastered all minimum competencies for elementary level.¹⁷⁷
- Among high school graduates, 44 percent have not mastered English, 52 percent have not mastered Math, and 74 percent have not mastered Science competencies.¹⁷⁸
- Among the 10-64 year-old population, only 41 percent are high school graduates or higher; 65 percent can read, write, compute and comprehend; 84 percent can read, write, compute but not comprehend, 89 percent can only read and write.¹⁷⁹
- 9.16 million or 16 percent of the population are functionally illiterate: 98 percent of unschooled, 35 percent of elementary drop-outs, 29 percent of elementary graduates are illiterate youths and adults.¹⁸⁰
- More children who do not finish school or fail targeted competencies are boys, from poorest families, or with least educated parents, or from poorest regions, or from rural areas.¹⁸¹
- 1/5 of poor families have children 7-14 years old who never attended school or dropped out early compared to only 1/10 of non-poor families.¹⁸²

- 25 years old or more adults who are poor have 3 years less schooling than non-poor counterparts.¹⁸³
- The DepED's present mantra of school-based management (SBM) is contradicted by its highly-centralized structure.¹⁸⁴

(See Annex N for a detailed discussion of the Major Issues and Challenges in the Philippine Education System.)

What is to be done?

Much of the problems besetting the Philippine education system have been attributed to lack of funding. The government in turn has maintained that despite scarce resources, education has continually been given top priority and great efforts have been put out to improve the system. But the fact that countries such as Tanzania and Zambia, whose income is only a fourth of that of the Philippines are doing better, says otherwise. It proves that with the kind of resources the country has, the education system should be in a much better position than it is now. A UN report noted that "the absence of political leadership in the country contributed to the deterioration of education...."¹⁸⁵

Various groups have in fact come up with several recommendations to improve the education system. This section presents the suggested measures that have been advanced.

The Basic Education Sector Reform Agenda, more commonly known as BESRA was drafted in 2006. A product of in-depth discussions and consultations among stakeholders and interest groups, as well as intensive research, BESRA seeks to create an education system that is capable of attaining the EFA goals by 2015. Toward this, BESRA sets the following objectives which we support:¹⁸⁶

1. Universal Coverage of Out-of-School Youths and Adults in the Provision of Basic Learning Needs: All persons beyond school-age, regardless of their levels of schooling should acquire the essential competence to be considered functionally literate in their native tongue, in Filipino or in English.
2. Universal School Participation and Elimination of Dropouts and Repetition in First Three Grades: All children aged six should enter school ready to learn and prepared to achieve the required competencies from Grades 1 to 3 instruction.
3. Universal Completion of the Full Cycle of Basic Education Schooling with Satisfactory Achievement Levels by All at Every Grade or Year: All children aged six to eleven should be on track to completing elementary schooling with satisfactory achievement levels at every grade, and all children aged twelve to

fifteen should be on track to completing secondary schooling with similarly satisfactory achievement levels at every year.

4. Total Community Commitment to Attainment of Basic Education Competencies for All: Every community should mobilize all its social, political, cultural, and economic resources and capabilities to support the universal attainment of basic education competencies in Filipino and English.

In order for the basic education sector to achieve the above listed desired educational outcomes for all Filipinos, the BESRA focuses on specific policy actions within five key reform thrusts (KRT) as follows:

KRT 1: Get all schools to continuously improve;

KRT 2: Enable teachers to further enhance their contribution to learning outcomes;

KRT 3: Increase social support to attainment of desired learning outcomes;

KRT 4: Improve impact on outcomes from complementary early childhood education, alternative learning systems, and private sector participation; and

KRT 5: Change institutional culture of DepED to better support these key reform thrusts.

EDUCATION NATION, a coalition of education experts and concerned citizens has come up with the “10-Point Education Reform Agenda” which offers the following “10 doable things” envisioned to reform the education system:¹⁸⁷

1. Increasing the education budget to 4 percent of the gross national product to make it at par with other countries.
2. Enhancing basic education by adding two more years to it.
3. Promoting academic excellence by developing globally benchmarked standards of excellence.
4. Developing community ownership of schools.
5. Ensuring universal access to education.
6. Strengthening higher education.
7. Empowering teachers.

8. Building transparency and accountability.
9. Supporting private education.
10. Maximizing alternative learning.

Dr. Roger Posadas, a professor from the Technology Management Center of the University of the Philippines suggested that the 10-Point Education Agenda be amended to include the following which we support:¹⁸⁸

1. Raising the budget for education to at least 20 percent of the national budget and 4.5 percent of GDP to make it comparable to those of Malaysia and Thailand.
2. Trebling the salaries of public school teachers at the basic education level, and doubling those of faculty at state universities and colleges, provided they meet certain criteria of qualifications and performance.
3. Integrating the Commission on Higher Education (CHED) and the Technical Education and Skills Development Authority (Tesda) into the Department of Education to ensure unity of educational policies.
4. Adopting a “National Master Plan for Public Higher Education,” similar to the California master Plan, in order to establish a rational system of national, regional, provincial and municipal/ city universities and colleges.
5. Upgrading the competence of elementary and secondary school teachers by revising their bachelor’s education and reversing it from one consisting of two-thirds teaching methodology and one-third content to two-thirds content and one-third methodology.
6. Increasing the length of pre-university education from 10 to 13 years by adding a compulsory kindergarten and a two-year senior high school.
7. Upgrading all curricula at all levels and in all major to world-class standards in terms of subject requirements, faculty competence and educational resources.
8. Ensuring conformity by public and private schools at the basic levels to at least the Thai and Malaysian standards in terms of teacher competence, classroom facilities, student-teacher ratios, computers, Internet access, etc.
9. Upgrading at least one selected university department in every academic discipline into an honest-to-goodness, world-class national center of

excellence in terms of research and teaching facilities, doctoral programs, research productivity, etc.

10. Upgrading the training of technicians to world-class standards and developing an educational career path for technicians similar to the German system.
11. Instituting entrepreneurship courses in all tertiary degree programs in order to reorient students from an employment focus to an entrepreneurial mind-set.
12. Overhauling the system of commissioning reviewing and publishing textbooks to avoid the printing and distribution of erroneous books.

To address governance issues in the education system, former DepED Undersecretary Miguel Luis Luz made the following recommendations which we support:¹⁸⁹

1. Change from “structure before strategy” to “strategy driving structure”

The start of governance must be clear outcomes and goals. Focus on *Education for All* goals as the means to keeping policy on track despite frequent changes in leadership.

The education system must break away from the current government practice of “one-size-fits all”. DepED would be wise not to prescribe a single structure for all cases. As an organization of highly dispersed parts, DepED has to learn to apply different strategies for different schooling contexts. These strategies would differ given different realities as in the following:

(1) School divisions

- Small divisions (under 50 public elementary and secondary schools)
- Medium-size divisions (from 51 to 250 public elementary and secondary schools)
- Large divisions (from 251 to 750 public elementary and secondary schools)
- Extra-large divisions (over 750 public elementary and secondary schools)

The staffing and organizational pattern of school divisions should vary depending on size. The practice of a single division staffing pattern prescribed by the Department of Budget and Management should be thrown out. At the same time, there should be no extra-large divisions in the country. These are simply too large, unwieldy, and therefore unmanageable as far as quality results are concerned. All the indicators show that these are poor performing divisions because Management cannot devote enough time or resources to improve on such situations. All

extra-large divisions should be split up into two large divisions, at the minimum.

(2) Schools

Elementary level

- Large urban central school
- Small urban primary school (incomplete elementary)
- Small urban school (complete elementary)
- Large rural central school
- Small rural primary school (incomplete elementary)
- Small rural school (complete elementary)
- Multi-grade rural school (complete)
- Multi-grade rural school (incomplete)
- Madaris school (for Muslim Filipino children)
- Alternative learning center (for children not able to attend regular schools)

Secondary level

- Large urban school
- Small urban school
- HS annex of a mother school
- Large rural school
- Small rural school
- Science high school
- Technical high school

There are as many variants as there are community situations. To prescribe a single schooling arrangement and even a single curriculum is to assume that all school settings are equal and similar. The Department must be more flexible in allowing for local schools to be differently organized and managed. Thus, a greater role for local school boards and school governing councils, *where these are ready*.

In terms of school size, it is a recommendation that no high school should have more than 2000 students. This entails a faculty of no more than 63-65 teachers. By the same token, elementary schools should be limited in size to no more than 1200 pupils for the six-grade cycle. At average class sizes of 40, this would mean around 30 teachers for a maximum size school.

A school with a larger teaching complement will have difficulty in terms of management of results given a single principal. Smaller, more manageable school sizes will result in better performance overall measured in EFA terms.

(3) School heads

There is need to de-link principal rank from school size. Under the current DBM rules, Principal IV rank (the highest in the service) requires large school sizes and a faculty that may run up to 100 teachers. This runs counter to the global experience that smaller schools perform better in all indicators. As such, this DBM rule favors mediocrity, albeit unknowingly or unwittingly.

Principal positions, like teacher positions, should be professionally-regulated. A PRC¹⁹⁰ rating could be introduced at two levels:

- Principal (for ranks I, II and III)
- Master Principal (for rank IV and a new rank, V)

Under this proposal, entry into the rank of Principal I, II and III would be subject to a PRC examination that would ensure managerial and pedagogic standards. Once recognized as a “principal”, movement from ranks I to III would be based on performance and merit. Entry to the Master principal rank (Principal IV and V) would be through an advanced licensure exam similar to the second-level examinations given by the PRC (as in the case for master engineers).

Principal rank would not be linked to school size. Even small schools could be run by master principals. This would remove the bias by ambitious principals to aspire for large urban central schools and provide small rural schools with the opportunity for qualified principals.

(4) Geographic and sociological considerations

Language and culture are important attributes of geographic areas. The “mother tongue” policy of DepED should be encouraged and promoted at the lower elementary levels as the way by which children learn the basics.

DepED should continue to support this as well as the promotion of local history as a way to keep local children and their parents engaged in formal schooling. This is particularly important for Muslim Filipino children and those of indigenous people (IP). *Madrash* schools for the former and alternative learning centers for the latter should be consciously and progressively pursued by DepED. Other geographic area considerations include: schooling for nomadic or wandering communities and different academic schedules/calendars for farm-based communities.

2. From “security of tenure” to merit-based performance evaluation and rewards

Civil service rules provide that a government worker (i.e. a teacher or administrator) has security of tenure once hired. For a good teacher, this is an incentive. For a poor or under-performing teacher, however, the system is stuck with that individual for an average of over 30 years. This becomes a long-term system problem.

The *Magna Carta for Teachers* enacted into law in 1966 provides all teachers, good or bad, with security of tenure *starting from the date of hiring*. A simple proposal requiring an amendment of law would be to provide for a one-year probationary period for newly-hired teachers to determine whether or not they possess the qualities of a good teacher worthy of being retained in the system.

Safeguards would have to be introduced to ensure that corruption in teacher hiring is not repeated twice as far as the individual teacher is concerned. But these reforms are necessary if the system is to be assured that once hired, a teacher will be an asset rather than a liability in the system.

3. From budgeting without accountability to outcome-based budgeting

A multi-year budget for education will allow for inputs to be matched up against outputs from previous spending. Multi-year budgeting will also allow for DepED to lay out a trajectory towards realizing *Education for All* targets with a spending plan that is realistic and can be planned and programmed.

While DepED budgets will continue to be approved annually by Congress, the Department together with DBM and the Development Budget Coordinating Committee of NEDA can lay out multi-year budget ceilings to guide planning.

Consistent with the drive for accountability, the DBM has a new framework—Organizational Performance Indicators Framework (OPIF)—which lays out the annual targets, both budgetary and performance, of all government agencies including DepED.

4. Focus on standards not standard operating procedures

Short term leadership and planning horizons tend to focus on the immediate. For DepED, this means procedures and inputs as opposed to outputs. With multi-year budgeting, this can be shifted to outcomes and by extension, standards.

Focusing on standards will have two effects on governance in DepED:

One, it will downplay the importance of short-term leadership and highlight longer-term outcomes as the focus of attention of the bureaucracy.

Two, it will shift the center of gravity from central office to a collaboration between central office and the field (particularly school divisions).

5. Focus on policy not politics

The Department of Education is a plum political post. The recent pattern of politicians alternating with academicians as secretaries of education reflects this reality. And this will continue to be the reality for as long as teachers remain in charge of election counting.

The long-term and permanent solution to this situation is to take teachers out of election counting, if not election duty overall. In order to do this, the national government must be serious about modernizing the election system through automated voting. Teachers can continue to man the individual election precincts and schools can still be used as polling stations provided their duties end with the closing of precincts and voting. With automated voting, teachers will be relieved of having to manually count votes. Once this onerous task is removed from teachers, political interest in the hiring of teachers, principals, supervisors, superintendents and even regional directors should be minimized if not eliminated altogether.

Once eliminated, decisions on schooling and education matters at the local and national levels should be based on policy considerations and community demand and not on politics, national or local.

The governance structure of the Philippine education system is still a long way from this reality. But if stakeholders in the system do not begin to start articulating that such politics undermines the quality of education and schooling in the country, then no change for good will occur.

There is a need to fully implement the BESRA, with some amendments. Considering the ethnic diversity of the Philippines, there is a need to institutionalize a Mother Tongue-Based Multilingual Education in the basic education sector.¹⁹¹ The Adopt-a-School Program of the DepED must be widely promoted among the private sector and focus on feeding programs and financial assistance that will address the problem of poor families not having enough means to send their children to school.

There is also a growing consensus among educators that at least two years of education—one year for basic education and one year for high school—should be added.¹⁹² The premise is that more time spent by the student in school with emphasis on effort and hard work will lead to higher educational achievement.

We also recommend increasing the number of school days per school year and providing the full school hours per school day for each student, particularly in the elementary and high school levels. Alternatively, the number of school days per year, as well as the number of school hours per day, may be increased. In the Philippines, 203 to 205 school or instructional days are required per school year which appears to be sufficient when compared to other countries like the United States which has 180 days, and Australia which has 196 days. However, China has 221 days, Japan has 223 days and South Korea has 225 days as of 2003. (See Annex O for Trends in International Mathematics and Science Study [TIMSS] comparison of instructional days in selected countries as of 2003.) As of 2009, Japan reportedly has 243 school days.¹⁹³ Malcolm Gladwell, in his book “Outliers: The Story of Success,” explains “You have the time to learn everything that needs to be learned—and you have less time to unlearn it.”¹⁹⁴

In reality, with the lack of public school classrooms in some areas in the Philippines, some schools implement 2-3 class shifts per school day which results in decreased number of school hours per day for the student. The learning process is further interrupted by typhoons that lead to school day cancellations, although make-up classes are supposedly required for the student to catch up with the lesson plan.

Another growing consensus among educators is that high schools must be able to produce college-ready graduates, and in turn, Higher Education Institutions (HEIs) must be able to produce work-ready graduates. Thus, there must be a feedback system between and among the curricula of elementary schools, high schools and HEIs so that learning is cumulatively linked and synchronized through the various levels of schooling.¹⁹⁵

As to higher education, we support the recommendation of several educators and experts that instead of adding more and more state universities and colleges, the quality of education in the existing ones should be improved. Industry should be actively involved. Certain universities and colleges or other knowledge centers outside the universities must be able to specialize in research and development or specific fields of professional endeavor based on inputs from business and industry. However, there is a need to regulate the entry of foreign education institutions into the country in order to set standards for higher education.¹⁹⁶

In relation to this, there is a need to formulate a new official typology of HEIs that may consist of the following: junior or community colleges; vocational/technical/trade schools or institutes; undergraduate universities, graduate institutions, and research universities.¹⁹⁷

We hope that all these concerns will be discussed in the agenda of the strengthened Literacy Coordinating Council (See Annex P for complete text of the Act Strengthening the Literacy Coordinating Council or RA 10122.)

Recap of “What is to be done?”

- Increase budget for education and change existing budget policies
 - Increase the budget for education to make it at par with other countries (20 percent of the national budget or 4-4.5 percent of the GDP)
 - From budgeting without accountability to outcome-based budgeting
 - From annual budgeting to multi-year budgeting, allowing for a spending plan that is realistic and can be planned and programmed.

- Improve governance of the public school system
 - Change from “structure before strategy” to “strategy driving structure”
 - Focus on standards not standard operating procedures
 - Provide policy continuity
 - Focus on policy not politics
 - Break away from current practice of “one-size-fits-all”, prescribing a single structure for all cases
 - Build transparency and accountability

- Enhance basic education
 - Fully implement the Basic Education Sector Reform Agenda (BESRA) with some amendments, including mother tongue-based multi-lingual education in appropriate areas in the Philippines
 - Promote the Adopt-a-School Program of the DepED among the private sector, focusing on feeding programs and financial assistance, in order to address the problem of poor families not being able to send their children to school
 - Ensure universal school participation and eliminate/ reduce dropouts and repeaters
 - Add two more years to basic education (one additional year for elementary and one additional year for high school) or alternatively lengthen the number of school days and school hours, thereby shortening summer vacation
 - Promote academic excellence by developing globally benchmarked standards of excellence

- Enhance higher education
 - Adopt a national master plan in order to establish a new typology of HEIs and a rational system of national, regional, provincial and municipal/city universities and colleges and the regulation of the entry of foreign education institutions
 - Upgrade one selected university department in every academic discipline into an honest-to-goodness world-class national center of excellence
 - Integrate entrepreneurship courses in all tertiary degree programs to reorient students from an employment focus to an entrepreneurial mind-set.

- Develop quality of teachers
 - Revise bachelor's education reversing it from 2/3 teaching methodology and 1/3 content to 2/3 content and 1/3 methodology
 - From "security of tenure" to merit-based performance evaluation and rewards
 - Treble the salaries of public school teachers at the basic education level, and double those of faculty at state universities, provided they meet certain criteria of qualifications and performance
- Increase participation of stakeholders
 - Develop community ownership of schools
 - Get parents to be more involved
- Enhance managerial skills of DepED Administrators and School heads and enable them to address local situations and poor outcomes
- Synchronize the curricula between and among basic education and higher education sectors in order to produce college-ready and work-ready graduates
- Halt the designation of additional universities and improve the quality of education in existing and universities and colleges, including specializations

B. Health

Like any other third-world country, the Philippines continues to struggle with many health issues. Though a number of programs have been launched to address health issues and concerns, the poor health outcomes show that there is a need for improvement in the system.

Based on current trends, the Philippines is under pressure to achieve its Millennium Development Goals on Health. (See Annex for a detailed discussion of RP Millennium Development Goals on Health.) The arduous effort to achieve these goals is affected by various issues in the health sector presented in this chapter.

Disparities in Access to and Use of Health Care

Section 11 of Article XIII of the 1987 Philippine Constitution states that:

The State shall adopt an integrated and comprehensive approach to health development which shall endeavor to make essential goods, health and other social services available to all the people at affordable cost. There shall be priority for the needs of the under-privileged sick, elderly, disabled, women, and children. The State shall endeavor to provide free medical care to paupers.

Health is a basic human right guaranteed by the constitution. Disaggregating health status indicators according to income and geographic location, however, reveal that there are significant differences in health status. These gaps are attributed to inequities in access to and use of health care. Table 8 presents the disparities in health outcomes among groups.¹⁹⁸

Table 8
Conventional Health Status Indicators
Rich Urban Communities versus Poor Rural Communities

	Rich Urban Communities	Poor Rural Communities
Life Expectancy at Birth	Over 80 years	Under 60 years
Infant and Child Mortality	Less than 10	Over 90
Maternal Mortality Ratio	Less than 15	Over 150

A group of professors and experts, led by Dr. Ernesto Domingo, former Chancellor of UP Manila, and Dr. Alberto Romualdez, former Dean of the UP College of Medicine and former Secretary of Health, have put together the “Blueprint for Universal Health Care 2010-2015 and Beyond.” According to the document, the disparities in access to and use of health care in the Philippines are the result of the following deficiencies:¹⁹⁹

- Basic health services as well as tertiary care for the majority of Filipinos are inadequate, fragmented, inefficient, and incomplete. At least in part due to this, for lowest income groups these services are largely inaccessible and unaffordable.
- The Philippines’ health sector is dominated by commercial interests of a segment of the system that is not really about health outcomes but is primarily about bottom-line profits.
- Human resources for health are insufficiently educated, inappropriately trained, and poorly motivated to address the health care concerns of most Filipinos in the setting in which they live. As a result, poorly compensated government health workers are unable to influence behaviors of their high earning private sector counterparts within the change-resistant environments of their respective professional organizations.
- Much of this commercial dominance of our health care system is the result of a failure, so gross as to constitute a default, of public financing for health. The combined weight of the uncoordinated spending for health by the national government, local governments and our national social health insurance program has been so low and so weak that it has driven our health system into a debilitating dependence on out-of-pocket payments by patients.

Malnutrition

Twenty-five (25) percent of Filipino children under ten years old are underweight or stunted, telling signs of nutrition problems. This translates to 4 million children who are undernourished. This high figure however, is already an improvement. Based on reports in the early 1990s, 30 to 40 percent of the same age group was undernourished. But, with the rising food prices and incidence of poverty in the country, this nutrition gain is considered to be at risk unless proper measures are put into place.²⁰⁰

The most common malnutrition problems in the country are:²⁰¹

1. Protein-Energy Malnutrition (PEM) – A lack of energy and protein which results in growth retardation.
2. Iron Deficiency Anemia (IDA) – A deficiency in iron wherein hemoglobin concentration is below the normal level which results in short attention span, reduced ability to learn and irritability.
3. Vitamin A Deficiency (VAD) – Lack of vitamin A that may result to xerophthalmia (dryness of the eye), nightblindness (inability to see in dim light) eyes sensitive to bright light, rough dry skin and membranes of nose and throat , low body resistance to disease, poor growth, and blindness in severe cases.
4. Iodine deficiency Disorders (IDD) – Lack of iodine in the body which results in goiter, mental retardation, deaf-mutism, difficulty in standing or walking normally, and stunting of the limbs.

The “Blueprint for Universal Health Care 2010-2015 and Beyond” is made up of health reform strategies to address the following issues and challenges that they identified:²⁰²

1. Public Spending on Health

Public spending on health is so low that it has resulted in an over-dependence on out-of-pocket expenses. This has penalized the poorer majority of the population. Although total health care spending in the country amounted to close to P 200 B in 2005, more than half of this is accounted for by out-of-pocket spending which is highly regressive for the poor, who do not have pockets to begin with. When compared across income groups, the richest groups are spending more (average of P 23,815) compared to the poorest (average of P 1,915).

In real terms, over-all government spending in health has been decreasing, owing largely to reductions in national government spending with minimal growth in local government spending. In addition, the share of social health insurance

spending remains at a dismal 11% of total health expenditure more than 14 years after the establishment of PhilHealth.

2. Human Resources for Health

In the Philippines, a country that produces some of the world's best doctors, nurses and other health workers, 60% of Filipinos who die do so without the benefit of health professional attention. The Philippines' health human resource problems are the result of its dysfunctional health workforce structure. The output of a workforce production system that is de-linked from the actual needs of the Philippine system are health providers for whom service is a lower priority than personal professional advancement. At the policy level, there is no evident effort to coordinate workforce production with real health needs. As a result, a commercial market philosophy pervades all programs of teaching and training institutions—including the best of government-supported agencies such as the University of the Philippines Manila.

3. Organization of Health Services (basic/secondary/tertiary services)

Health services at all levels for the majority of Filipinos are inadequate, fragmented, inefficient, and incomplete. For many in the lowest income groups these services are also inaccessible and unaffordable. Moreover, fragmentation is a main feature of the Philippine health care delivery system from several perspectives: public/private segregation, over-specialization, discontinuities between levels of care, as well as geographic disparities in quality and quantity of services. This fragmented system has to contend with a population that has doubled since the 1980s while total resources allocated for health have not kept pace with this rapid population growth.

4. Health Regulations (including regulation of pharmaceuticals and other health care goods)

The system for health regulations has been chronically weak, ineffective and has not been used as an effective policy instrument. It suffers from regulatory capture being primarily driven by the interests of the enterprises trading in health care goods. Pricing and marketing of pharmaceuticals and other health care products have distorted national expenditures on these items in such a way that essential, life-saving goods are either too expensive or absent from the market while items of dubious value dominate trade and commerce.

As a result, the investment climate for developing the industrial production of health products and supplies is uncertain. For example, there is no local pharmaceutical industry that can address the need for affordable medicines for the Filipinos.

5. Health Governance (national and local responsibilities)

The structure of DOH remains the same as it was in the pre-devolution period. The functions of Centers for Health Development and the role of DOH in local health service development remains unclear and unfocused. In addition, DOH continues to exercise direct supervision and control of nationalized hospitals whose roles and relationships within the health system are not yet clearly defined.

Communities tend to be passive recipients of health services rather than active participants in its determination. Although the Local Government Code provides for the establishment of Local Health Boards, there are no explicit provisions for community participation. In fact, only a few Local Health Boards actually function as a governing body.

6. Health Information

Health information management in the Philippines is at best rudimentary and ministerial, but poses greatest strategic value in reforming the health system. The country suffers from lack of leadership and organization. Most of the existing information programs are not guided by a strategic framework creating disintegrated silos of data. Despite a relatively mature communications network, it is not optimally used as a resource. Capability-building on basic health information management is direly needed at all levels of the hierarchy.

Health Programs

The Health Sector Reform Agenda (HSRA)

In 1999, the Department of Health launched the HSRA program which is a comprehensive set of reforms aimed to improve the health sector through: a) expanding effective coverage of national and local public health programs; b) increasing access, especially by the poor, to personal health services delivered by both public and private providers; and c) reducing the financial burden on individual families through universal coverage of the National Health Insurance Program (NHIP).²⁰³ (See Annex R for Specific Health Programs of the DOH.)

It consists of five interrelated health reform areas:²⁰⁴

1. Local health systems development – Promote the development of local health systems where networking among municipal and provincial health facilities are functional and sustained by cooperation and cost sharing among local government units (LGUs) in the catchment area.

2. Hospital reforms – Provide fiscal and managerial autonomy to government hospitals, which involves improving the way hospitals are governed and financed so that quality of care is improved, hospital operations are cost efficient, revenues

are enhanced and retained, and dependence on direct budget subsidies are reduced.

3. Public health program reforms – Strengthen the capacity of the DOH to exercise technical leadership in disease prevention and control; enhance the effectiveness of local public health delivery systems; and sustain funding for priority public health programs over a period required to remove them as public health threats.

4. Health regulatory reforms – Strengthen capacities of DOH to exercise its regulatory functions to ensure that health products (particularly pharmaceuticals), devices, and facilities are safe, affordable, and of good quality.

5. Social health insurance reforms – Expand the coverage and enhance the benefit package of NHIP so as to effectively reduce the financial burden to individual families through effective risk pooling, and provide the NHIP greater leverage to ensure value for money in benefit spending.

What is to be done?

As is true in many political, social and economic issues in the country, there are already many laws that are in place as well as many programs that have been launched to address them. (See Annex S for list of Philippine Laws Governing Health Care.) It is important that a thorough and comprehensive analysis and study of these existing laws and programs be conducted so as to get a better picture of what really needs to be done. More importantly, it is crucial to determine whether these laws and programs have produced the desired outcomes.

Before any reform is instituted, it is imperative that up-to-date, cohesive and complete data be made available. Many times, government programs' mandates overlap resulting in the lack of actual figures, as data is scattered. Although there are government agencies that are tasked to put them together, the information that is put out is more often than not outdated. Thus, prime importance should be given to creating and managing a database that will aid in the crafting of new laws and programs.

The following sections are proposals crafted by two groups which are perceived as an answer to almost all major issues in health care in the Philippines which we support.

The “Blueprint for Universal Health Care 2010-2015 and Beyond” recommends the following to address the issues and challenges they identified that was discussed in a previous section:²⁰⁵

Health Care Financing Reforms as the key to Universal Health Care

Reform approaches (Proposals)

1. Financing the health system reforms can be done through multiple funding sources with the goal of significantly reducing out-of-pocket spending especially by those in the poorest income deciles within the next three years. These can be achieved by:

a. Quantum increases in tax-based government spending at both national and local levels to a combined level approximately equal to 5% of total government expenditures (at least 75 billion pesos per annum).

i. National government spending to be financed through borrowing (including re-financing of existing debts), additional tax sources, and reallocation from non-social service sectors; and

ii. for local government units, mandatory increases in the proportion of IRA to be spent for health.

b. Significant increases in the PhilHealth support value for identified services in the basic package. This can be financed from the present PhilHealth reserves and increasing premiums collection through:

i. mandatory membership to PhilHealth for residents of the Philippines;

ii. the development of an initial package of basic health services to be made available to every Filipino given the present resources available to the health system. This basic package which should address the most critical health needs of the population in terms of disease burden, especially among the poor, will be expanded to include increasingly sophisticated services as further resources for health are identified and allocated over time.

2. Implementing this spending and financing plan shall be divided into two phases: securing buy-in the first three years of the new government in 2010 and implementing financing strategies in the latter half of the six-year term. Increased benefits of the system should be in place first while measures to increase revenues are being worked out.

Human resources for health

Reform approaches (proposals)

1. Integrate and strengthen health workforce regulatory functions under one body (i.e. commission) attached to the Department of Health (initially by executive mandates but eventually through legislation) to unify standards and regulations of the production, practice, and deployment of the various health professions.

a. Mandate government health workforce teaching and training institutions to tailor production for service to underserved communities either as government (national or local) or civil society professionals

2. Update and rationalize practice laws of the different health professions premised on health care being a team effort. It should define and update the practice of each health profession, allowing for greater flexibility and cooperation to include continuing education and trainings for these professions. Rationalize the system for health workforce remuneration across the professions to take into account the principles of primary health care.

Organization of Health Services (basic/secondary/tertiary services)

Reform approaches (Proposals)

1. A revisiting of the Local Government Code and its implementation with the view of enabling government facilities to be more integrated, efficient and effective.

2. The integration and organization of government facilities in accordance with the principles of primary health care based on an updated version of the Alma Ata Declaration. (See Annex T for complete text of Alma Ata Declaration.) They should provide integrated health services either directly or through a unified and formalized referral system. The Department of Health should have the responsibility for developing and negotiating terms and conditions for installing such a system with the local government units.

Health Regulations (including regulation of pharmaceuticals and other health care goods)

Reform Strategies (Proposals)

1. Full implementation of the BFAD Strengthening Law based on the principle that health concerns take precedence over business interests. Registration and other regulatory requirements for health goods should be re-designed to ensure not only safety and effectiveness of health products but also affordability especially for government agencies.

2. Strict regulation of marketing and other promotional activities for health products including advertising prohibitions for certain goods.

3. Further strengthening of other regulatory functions of DOH, other government agencies and local governments to promote compliance with the equity and other objectives of health sector reform, including creating an efficiency coordinating mechanism in drug and technology regulation.

Health governance (national and local responsibilities)

Reform approaches (Proposals)

1. The DOH is envisioned as the national institution tasked to ensure the implementation of the reforms leading to universal health care. Its envisioned mandate is centered on regulation, policy-making, standards setting and supervision of PhilHealth.
2. Local health service delivery should be coordinated at the provincial level to ensure more coordinated and responsive local health care system.
3. Autonomous and authoritative hospital authority or hospital boards should be established, including the cross-integration between government and private hospital systems to enable sharing of resources, rational acquisition and better utilization of technology, especially in areas with limited access to public hospital facilities, and guarantee better regulation of hospitals and other health facilities
4. Community participation at all levels of the management cycle should be strengthened: situational analysis, planning, implementation and monitoring and evaluation of health programs.

Health information

Reform approaches (Proposals)

1. Create a national council to provide leadership on the design and implementation of eHealth strategies in the country. The council will be mandated to craft a national eHealth masterplan anchored on the principles of primary health care and designed to maximize the use of information technology for health service delivery. This initiative should be led and facilitated by the DOH with the PhilHealth Information Network as its backbone. This council should also include the private sector.
2. Create a national health data dictionary available for use by stakeholders.
3. Identify, collect and analyze major health data necessary for implementation of Universal Health Care, including burden of disease, actual costs of health services, historical utilization and budget for health services: national, regional, provincial and municipal. This includes requiring health providers and facilities to submit mandated health reports electronically using standard formats as well as developing the capacity to analyze routine data [from mandated reports] for decision making [local/program]
4. Transparency should be the norm for all institutions involved in health care. All information concerning the operations of any component of the health system should be available to all stakeholders.
5. Empower citizens as data generators and as information users.

6. Strengthen health research through the establishment of the Philippine National Health Research System (PNHRS). Stronger research should inform all stakeholders, including the community.

During the Philippine Development Forum in 8 March 2005, the Joint Health Sector Sub Working Group prepared a paper that was presented by then DOH Secretary Manuel Dayrit. The paper identified the gaps and weaknesses in health care and gave the following recommendations:²⁰⁶

- On Nutrition, there is need for a comprehensive multisectoral strategy for child and mother. Need for immediate approval of the amendment of the IRR of EO 51²⁰⁷.
- Need to urgently address limited access to essential public health services including but not limited to family planning, tetanus toxoid immunization, and condom use for the prevention of HIV/AIDS and STD.²⁰⁸
- Need for policy makers and LGU²⁰⁹ partners commitment toward full provision of HHR²¹⁰ benefits provided by law (Magna Carta for Health Workers)
- Need to improve access to public health commodities including but not limited to contraceptives, micronutrient supplements and essential drugs by strengthening sourcing strategies, wholesaling and distribution strategies and retailing strategies.
- Need to link the HSEF²¹¹ with the medium term expenditure framework of the rest of the social sector agencies.
- Need to continually address HIV/AIDS – as ‘hidden but growing’ specifically because zero positivity has increased among IDUs²¹² and commercial sex workers.
- Better partnerships with civil society and private sector in pursuit to the overall harmonization to ensure full blown implementation of health sector reforms in pursuit of the overall harmonization effort.
- Gap of PhP2 billion for field level surveillance for Avian and Human Influenza.
- Need to strengthen health promotion strategy by
 - Sin Taxes Implementing Rules and Regulations
 - Capacitate LGU to behavior change

- Get PHIC²¹³ commitment to expanding benefit package for the poor and improving payment mechanism from PHIC.
- Proposed support for 70/30 on granting to LGU.
- Proposal to commit to the benchmark/measurements.

Recap of “What is to be done?”

- Reduce out-of-pocket spending on health by financing health reforms through multiple-funding sources
 - National government spending to be financed through borrowing (including re-financing of existing debts), additional tax sources, and reallocation from non-social service sectors
 - For local government units, mandatory increases in the proportion of IRA to be spent for health.
 - Increase PhilHealth support value for identified services in the basic package. This can be financed from the present PhilHealth reserves and increasing premiums collection.
- Integrate and strengthen health workforce regulatory functions under one body to unify standards and regulations of the production, practice, and deployment of the various health professions.
- Update and rationalize practice laws of the different health professions premised on health care being a team effort.
- Organize health services (basic/secondary/tertiary) by revisiting the Local Government Code and its implementation, and integrating and organizing government facilities in accordance with the principles of primary health care based on an updated version of the Alma Ata Declaration
- Review and Strengthen Health Regulations (including regulation of pharmaceuticals and other health care goods)
- Improve health governance through DOH as lead institution in implementing reforms leading to universal health care, improving provincial-level coordination of local health service delivery, establishing autonomous and authoritative hospital authority or hospital boards, and harnessing community participation at all levels of the management cycle

- Manage and organize health information to maximize its value in reforming the health system
- On nutrition, institute a comprehensive multi-sectoral strategy for child and mother
- Increase access to essential public health services including but not limited to family planning, tetanus toxoid immunization, and condom use for the prevention of HIV/AIDS and STD
- Improve access to public health commodities including but not limited to contraceptives, micronutrient supplements and essential drugs by strengthening sourcing strategies, wholesaling and distribution strategies and retailing strategies
- Link the Health Sector Expenditure Framework with the medium-term expenditure framework of the rest of the social sector agencies
- Continually address HIV/AIDS—as ‘hidden but growing’ specifically because zero positivity has increased among injecting drug users and commercial sex workers
- Promote partnerships with civil society and private sector to ensure full blown implementation of health sector reforms in pursuit of the overall harmonization effort.

C. Environment

Human Rights and the Environment

The issue of environmental degradation, environmental protection and other environmental matters are presently being addressed through human rights. Ecological and environmental human rights belong to the third “generation” of human rights. Various classifications of rights exist, but a classification that has become popular is what is referred to as “generations” of human rights. Civil and political rights (e.g., rights to life, liberty, privacy) are “first generation” rights, while economic, social and cultural rights (e.g., rights to health, education, work) are “second generation” rights, and ecological and environmental human rights are “third generation” rights.²¹⁴

The 1972 Stockholm Declaration on the Human Environment recognized the link between human rights and environmental protection stating that “[m]an has the fundamental right to freedom, equality and adequate conditions of life, in an environment of a quality that permits a life of dignity and well-being...”²¹⁵ However, apparently, the Stockholm Declaration “does not actually proclaim a right to the environment, but implies that the exercise of other human rights indispensably requires basic environmental health”.²¹⁶ (See Annex U for the 1972 Stockholm Convention.)

The creation of new environmental rights is warranted by the following:

- development projects and activities which consciously or wantonly degrade the environment, are usually accompanied by human rights denials and violations as well (e.g. certain large-scale dam-building and infrastructure projects).
- development project and activities undertaken through a process that violates rights of participation, transparency, and accountability, are usually accompanied by heavy environmental costs as well (e.g.. unsustainable exploitation of the tropical rain forests).
- development projects and activities which consciously strive to protect and rehabilitate the environment, create an enabling environment in which human beings can lead secure and creative lives-thus promoting realization of all human rights.
- development projects and activities undertaken through a process that respects human rights (including rights of participation and inclusion) are invariably environmentally-friendly as well.²¹⁷

In 1994, a Draft Declaration of Principles on Human Rights and the Environment was produced by a group of experts on human rights and international environmental law which was featured in the report of the Special Rapporteur on Human Rights and the Environment.²¹⁸ According to a scholar:

The Draft Declaration presents a comprehensive restatement of the essential components of environmental human rights. It is the most important prominent international instrument in the standard-setting process for environmental human rights and reflects the progression towards international recognition of a right to environment. The Draft Declaration represents a restatement and codification of principles already contained in national and international legal systems. The value of the Declaration lies in its use as a reference point for national and international systems and as a vehicle for the development of a formal, binding international legal instrument which would elaborate environmental human rights. But even in the absence of such an international legal instrument, the Draft Declaration can serve as the focal point for the development of institutions and procedure to enhance protection of the rights contained therein, which are also contained in existing international human rights instruments... The Draft Declaration has the potential to make significant contributions to protecting human rights and the environment by advancing a standard-setting process, by raising awareness of the public, national governments and international organizations; by advancing the process of creation of implementing monitoring and redress mechanisms; and by facilitating the mobilization of public pressure for the protection and promotion of human rights and the environment. After all, environmental human rights, like all human rights, do not function solely through formal international procedures, although such procedures, and their national counterparts, are indeed important.

The principles in the Draft Declaration do address the key issues implicated in the interrelationships between human rights and the environment. Widespread dissemination, discussion and action on the Draft Declaration will help promote and protect human rights and the environment through recognition, implementation and enforcement of environmental human rights.

The Draft Declaration consists of a Preamble and some 27 Principles set out in five "parts." According to Stand Up for Your Rights, "The principles set out in the Draft Declaration reflect and build upon the rights found in both national and international law. Although this instrument is non-binding legally, national courts have used the Draft Declaration as a basis for decisions on environment matters and have found legal support in the Draft Declaration in deciding in favour for the protection of the fundamental right to a healthy environment."²¹⁹ A scholar's annotation of the Declaration is found in Annex V which helps underscore the legal foundations of environmental human rights.²²⁰

To sum up, environmental human rights cover three broad areas which will be discussed in more detail in relation to the experience of the Philippines:

1. Right to a clean and safe environment
2. Right to act to protect the environment
3. Right to information, to participate in environmental decision-making, and to access to environmental justice

A discussion of each of these rights in the Philippine context as they are affected by human actions is on order.

Right to a clean and safe environment

Scientists today increasingly recognize that crops, soils, forests, water, and people are a complex life community—all ecologically linked and should therefore be viewed as an integrated whole. For instance, cutting forests or clearing new lands for farming in the headwaters of a watershed can have a negative impact on water flow and water quality downstream. The collapse of regional fish stocks may be triggered by the loss of habitat essential to the life cycle of commercial fish species. Resource degradation and over-exploitation is a phenomenon that adversely affects the poor who may be displaced by competition for vital resources such as falling water tables as a result of the action of other water users.

Various scholars have found that states with valuable natural resources are four times more likely to experience intra- and inter-state conflicts than countries that do not have comparable resource assets, and that governments often fight wars over national interests such as oil and water.²²¹ Experience has shown that conflict, which is often violent, results when resource users compete for declining supplies of resources such as forests, fish and water,

especially when the loss of these natural resources threatens the livelihood of communities.²²²
According to a scholar:

During coming decades, environmental scarcity could plausibly produce five general types of violent conflict affecting these countries moving from the most local to the most global type, these are:

1. Disputes arising directly from local environmental degradation caused, for instance, by factory emissions, logging or dam construction
2. Ethnic clashes arising from population migration and deepened social cleavages due to environmental scarcity
3. Civil strife (including insurgency, banditry, and coups d'état) caused by environmental scarcity that affects economic productivity and, in turn, people's livelihoods, the behavior of elite groups, and the ability of states to meet these changing demands
4. Scarcity-induced interstate war over, for example, water
5. North-South conflicts (i.e. conflicts between the developed and developing worlds) over mitigation of, adaptation to, and compensation for global environmental problems like global warming, ozone depletion, threats to biodiversity, and decreases in fishstocks²²³

Thus, there is a need for research-based solutions that reflect a commitment to the avoidance of potential conflicts over the use of resources that will adversely affect the poor and marginalized.

Indicators of Environmental Degradation

The country's supposed natural sources of economic wealth are rapidly being depleted or destroyed due to man-made and natural causes threatening the right of Filipinos to a clean and safe environment.

The Philippines is considered one of the most disaster-prone countries in the world considering that it lies on the western rim of the Pacific and along the circum-Pacific seismic belt, where there is a prevalence of storms, typhoons, earthquakes, floods, volcanic eruptions, droughts and other natural hazards.

According to the Global Facility for Disaster Reduction and Recovery, at least 60 percent of the total land area of the country is exposed to multiple hazards, and as a result 74 percent of its population is vulnerable.²²⁴ The massive flooding caused by tropical storm "Ondoy" in Metro Manila in September 2009 is being attributed by the government to climate change with the downpour of a month's equivalent of rain in just six hours. In addition, then DENR Secretary Lito Atienza explained that "The structures on the lake and the water lilies obstructed the free flow of water to the China Sea; instead it flowed to nearby communities. The Laguna de Bay, Pasig River, and Manila Bay weren't able to absorb the huge volume of rainfall."²²⁵

Based on the World Bank's Natural Disaster Hotspot list of countries most exposed to multiple hazards the Philippines ranks 8th with 268 recorded disaster events over the last three decades. (See Table 9)

Table 9
Countries Most Exposed To Natural Hazards
From Multiple Hazards

1. St. Kitts and Nevis
2. Macau, China
4. Hong Kong, China
6. Vanuatu
7. Costa Rica
8. Philippines
9. Nepal
10. Guatemala
12. Ecuador
15. Somalia
16. South Africa
17. Japan
19. Bangladesh
26. Solomon Islands

Source: World Bank²²⁶

Examining comparative country data, almost 30 percent of the disasters that occurred in Southeast Asia for the period 1990-2009 (Table 10) occurred in the Philippines indicating that the country is in the “path” of disasters.

Table 10
Total Number of Disasters in Southeast Asia
1990–2009*

Country	Number	Sample %
Timor-Leste	2	0.2
Singapore	3	0.4
Cambodia	15	1.9
East Timor	19	2.4
Myanmar	21	2.6
Lao PDR	22	2.7
Malaysia	52	6.4
Thailand	89	11.0
Vietnam	124	15.4
Indonesia	223	27.6
Philippines	237	29.4
Total	807	100.0

Source: EM-DAT : The OFDA /CRED International Disaster Database www.emdat.be – Université Catholique Louvain – Brussels – Belgium.

*as of data generated on April 2009.

The Asian Development Bank notes the Philippines vulnerability to natural disasters:

The Philippines is vulnerable to natural disasters, primarily volcanic eruptions and typhoons. Twenty-two volcanoes are active, and there have been several destructive eruptions in recent times. In addition, about 20–30 typhoons hit the country yearly, between June and November. These natural disasters damage crops and properties; they also take lives.²²⁷

These natural disasters have resulted in high death tolls and extraordinary damage to property and the environment. Flooding and landslides have reportedly been aggravated by excessive logging and cultivation of upland areas. Soil erosion has become prevalent:

Population pressure is stimulating cultivation of fragile upland areas, causing further soil erosion, with 21% of agricultural lands and 36% of non-agricultural lands throughout the country assessed as moderately or severely eroded. Agricultural yields in lowland areas are stagnating, increasingly beset by salinization and water logging. Improper land use in the uplands is reducing top soil layers. The accelerated loss of soil has several adverse impacts. For the farmer, it reduces soil fertility and crop yields (the loss of one centimetre can lower yields of corn by almost 100 kg per hectare). Sedimentation in coastal areas due to unsustainable land use in upland areas continues to be a severe threat to coastal eco-systems. Expanding inappropriate fertilizer and pesticide use foster nutrient imbalances and groundwater contamination.²²⁸

An economist has asserted that the country's high population growth rate together with weak urban planning, degradation of forests, poor disaster-preparedness and weather forecasting systems have made the environment problem worse. He said that "The consequence of unabated migration to urban areas is haphazard human settlement. Too many people are staying in areas that should not be a place for settlement, like riverbanks, bridge waterways, and *esteros* (urban waterways)."²²⁹

Often, disasters serve as a wake up call:

The great flood that killed over 4,000 in Ormoc in 1991 woke up many others. While environmental groups lobbied for a commercial ban, policy makers imposed a series of restrictions on the timber industry that slowed down the tree-cutting. A 1989 ban on lumber exports was followed by the outlawing in 1991 of logging in virgin forests. Gradually, timber licenses have been phased out or cancelled. In 1992, 140 of these licenses existed; by mid-1997, only 21 remained, and are concentrated in two forested regions: northern Mindanao and northeastern Luzon.²³⁰

However, there are many other forces at work that have adversely affected Philippine forests. A journalist observes:

But as the licensed commercial loggers fade from the scene, other forces are rushing into the uplands vacuum. Smugglers entice poor residents to cut and deliver rare hardwoods for illegal sawmill operations, a rampant practice even in so-called protected areas like the Palanan wilderness. Migrant settlers have moved into the uplands in large numbers, displacing indigenous occupants and introducing harmful farming practices. Tree plantation companies and even avowedly non-profit organizations have gained access to public land with promises of reforestation, but have been caught logging instead.²³¹

The destruction of the original forests, freshwater and marine ecosystems has resulted in an unprecedented biodiversity crisis such that coastal and marine resources are being degraded.

It has been estimated that forest cover in the Philippines in 1575 was almost 92 percent of the country's total land area.²³² By the 1900s, this declined to 70 percent.²³³ In 1978, forest lands composed about 56 percent (16.93 million hectares) of the total land area of 30 million hectares.²³⁴

According to Conservation International, only about seven percent of the country's "original, old-growth, closed-canopy forest" is left while "a mere three percent is estimated to remain in the lowland regions. About 14 percent of the original vegetation remains as secondary growth in various stages of degradation; these areas would probably be capable of regeneration if they are not disturbed further."²³⁵ (See Table 11)

The Philippines is considered by Conservation International as one of the 34 biodiversity hotspots²³⁶ in the world (See also Table 12):

Many endemic species are confined to forest fragments that cover only 7 percent of the original extent of the hotspot. This includes over 6,000 plant species and many birds species such as the Cebu flowerpecker, the Philippine cockatoo, the Visayan wrinkled hornbill, and the enormous Philippine eagle. Amphibian endemism is also unusually high and boosts unique species like the panther flying frog.

The Philippines is also one of the most endangered areas. Historically logged for timber products, today, the forests are also being cleared for farming needs and for developments to accommodate the nations growing population.

... The country is one of the few nations that is, in its entirety, both a hotspot and a megadiversity country, placing it among the top priority hotspots for global conservation.²³⁷

Table 11
Vital Signs (Philippines)

Hotspot Original Extent (km ²)	297,179
Hotspot Vegetation Remaining (km ²)	20,803
Endemic Plant Species	6,091
Endemic Threatened Birds	56
Endemic Threatened Mammals	47
Endemic Threatened Amphibians	48
Extinct Species†	2
Human Population Density (people/km ²)	273
Area Protected (km ²)	32,404
Area Protected (km ²) in Categories I-IV*	18,060

†Recorded extinctions since 1500. *Categories I-IV afford higher levels of protection.
Source: Conservation International²³⁸

Table 12
Diversity and Endemism²³⁹ (Philippines)

Taxonomic Group	Species	Endemic Species	Percent Endemism
Plants	9,253	6,091	65.8
Mammals	167	102	61.1
Birds	535	186	34.8
Reptiles	237	160	67.5
Amphibians	89	76	85.4
Freshwater Fishes	281	67	23.8

Source: Conservation International²⁴⁰

Air pollution, contamination of water and lack of effective solid waste management continue to be among the urgent concerns in urban centers. It has been assessed that:

As of 2008, roughly 30 million people throughout the country do not have access to potable water through water supply and distribution operations. Water demand nationwide is expected to grow from 43 million cubic meters per year in 2000 to 88 million cubic meters by the year by 2025. Access to clean water is becoming a recurrent seasonal problem in many areas. Water pollution, wasteful and inefficient use of water, saltwater intrusion pipe leaks and illegal connections, and

continued denudation of forest cover particularly in the watersheds are the main strains to water resources. With such threats and with growing population, it is becoming more difficult to provide basic water supply services. According to 2008 figures, 25% of Philippine watersheds are not performing at optimal levels due to different levels of degradation.

... In recent years coastal zone development has been particularly damaging to the Philippines' marine environment, especially to coral reefs, mangroves, and sea-grasses. As populations have increased, so have their needs for construction materials and living space. Excavation, dredging, and coastal conversion to accommodate coastal development have seen corals being extracted for reclamation and construction, especially in coastal villages. Mangroves have continued to suffer from coastal development, notably at the hands of the aquaculture industry.²⁴¹

The ability of the major ecosystems to provide and maintain a regular stream of economic goods and ecological services has been adversely affected due to unregulated utilization resulting in declining stocks and reduced coverage and quality.

A journalist notes how Philippine waters have been subjected to pillage:

The story of our seas is no less devastating, although Philippine waters are said to still contain a wealth of undiscovered benefits. In 1996, a Filipino scientist working in the United States reported that the huge array of toxins from about 500 species of Philippine cone snails could hold the key to developing a new generation of anti-pain drugs.

Yet these and other bounties from our seas are threatened by the underwater catastrophe visited on the country's coral reefs. Dynamite and cyanide fishing, trawling and other destructive methods have left only five percent of our reefs in excellent condition. The impact on fisherfolk's livelihood has been disastrous. Declining catch has been accompanied by increasingly smaller fish. The booming trade in live fish in Hong Kong and southern China has led to the widespread use of cyanide to catch food fish alive and has depleted local waters of prime species of reproductive age.

Overfishing worldwide has driven big foreign boats even into the Philippines' lightly guarded municipal waters, where they poach fish that would otherwise go to the local market. Large-scale commercial fishers have been pushing a bill through Congress that would legalize the incursion of heavy vessels into municipal waters, a move that would further marginalize the country's millions of fisherfolk.²⁴²

The Philippine coastal and marine environment has become a venue for competition for space:

In recent years coastal zone development has been particularly damaging to the Philippines' marine environment, especially to coral reefs, mangroves, and sea-grasses. As populations have increased, so have their needs for construction materials and living space. Excavation, dredging, and coastal conversion to accommodate coastal development have seen corals being extracted for reclamation and construction, especially in coastal villages. Mangroves have continued to suffer from coastal development, notably at the hands of the aquaculture industry.²⁴³

Recently, six Asia-Pacific nations including the Philippines signed the Coral Triangle Initiative (CTI) on Coral Reefs, Fisheries and Food Security "to address threats to the marine, coastal, and small island ecosystems within the Coral Triangle region through accelerated and collaborative action, taking into consideration multi-stakeholder participation in all of our six countries." The CTI Regional Plan of Action was also adopted "in an effort to conserve and sustainably manage coastal and marine resources within the CT region while taking into consideration the laws and policies of each country."²⁴⁴

On the other hand, vast tracts of productive agricultural land have been and continue to be converted to non-agricultural use. Such uses include the designation of industrial zones and residential subdivisions which have not only decreased the area for agricultural production but have also resulted in the decrease in the number of agricultural workers who have shifted to non-agricultural occupations.

The Philippines is considered a mineral-rich country and the Philippine government's policy to "revitalize the Philippine mining industry"²⁴⁵ has sparked renewed interest by large mining corporations in "mineralized areas" in the country, especially the establishment of nickel projects that "might be particularly active in 2010 as recovering prices of the metal signal good margins for miners."²⁴⁶ The ruling of the Supreme Court of the Philippines on the constitutionality of the Philippine Mining Act is significant. A non-government organization observes:

On December 1, 2004, the Supreme Court reversed its decision in the La Bugal mining case, declaring that the Philippine Mining Act of 1995, its Implementing Rules and Regulations and the Financial and Technical Assistance Agreement (FTAA) entered into by the government and Western Mining Corporation as constitutional. The Court voted 10 to 4 with one abstention. The Justices who voted in favor of the reversal are Chief Justice Hilario Davide and Justices Reynato Puno, Leonardo Quisumbing, Angelina Sandoval-Gutierrez, Alicia Austria-Martinez, Renato Corona, Dante Tinga, Minita Chico-Nazario and Cancio-Garcia. The Justices who dissented are Ynares-Santiago, Carpio, Morales and Callejo. Azcuna abstained.

It may be recalled that in its January 27, 2004 decision, the Court ruled that some provisions of the Mining Law and the FTAA in question were invalid and unconstitutional. In a dramatic reversal, 5 Justices who voted in favor of declaring the Mining Act, its implementing rules and regulations and the FTAA of Western Mining Corporation as unconstitutional, now voted to uphold their legality.

The December 1 decision caused outrage from different communities, environmental groups, indigenous peoples. In Mindanao, many groups are condemning the decision saying that the Court has allowed "the rape of our land and our natural resources." They pointed out that large-scale mining operations strip large areas of vegetation, dislocate peoples, endanger the country's rich biodiversity and sources of potable water.

The government and the mining industry has not answered to the "minerals curse" argument wherein studies showed that countries relying on natural mineral exports are bottom dwellers in terms of economic growth. With 100% foreign ownership allowed and all the fiscal incentives bestowed on the foreign investor, the communities will not reap part of the speculated potential value of precious metal computed by the mining consultants and industry.²⁴⁷

A journalist notes that "Only the Marcopper disaster in March 1996 and the resulting public outcry have delayed the exploration permits of some of the biggest mining companies in the world."²⁴⁸

Right to act to protect the environment

Communities and their citizens have become active in protecting the environment with the formation and active involvement of peoples' organizations and various local and international non-government organizations (NGOs) in environmental issues. A scholar notes that:

...NGOs fulfill an enormously important function in the application and enforcement of international environmental legal standards. They have become involved in the gathering and dissemination of environmental information, policy advocacy and the appraisal of failure or success of policies in the light of avowed public policy objectives. Most significant among their activities, is monitoring states' compliance with international environmental obligations.²⁴⁹

One sector that clearly has been affected by environmental issues and also has the potential to become a major actor in the resolution of those environmental issues is the indigenous peoples of the Philippines. The stewardship role of indigenous peoples is vital to humankind in the face of the challenge of climate change, the need to preserve bio-cultural diversity and the inevitability of creating a favorable environment for economic opportunities

where indigenous peoples are considered to be the core movers of development in their own ancestral domains and lands.

The 12-year-old Indigenous Peoples Rights Act (IPRA) of 1997²⁵⁰ which mandates the protection of the rights of indigenous peoples in the Philippines is said to be the only “one of its kind” in Southeast Asia. It aims to address needs of the country’s indigenous peoples with its 110 ethno linguistic groupings that comprise approximately 17 percent of the Philippine population. The Act commits the Philippines *inter alia*, to protect the rights of indigenous peoples to their ancestral domains, their culture, self-governance and empowerment, and social justice and human rights. (See Annex W for complete text of Indigenous Peoples Rights Act.)

IPRA guarantees the right of indigenous peoples to their ancestral lands through the exercise of priority rights.

Another mechanism that aims to safeguard indigenous peoples from illegal and undesired intrusions or incursions by “outsiders” is the Free and Prior Informed Consent (FPIC) mechanism. However, there has been a thrust within the National Commission on Indigenous Peoples (NCIP) to push for the exercise of priority rights rather than the FPIC mechanism because the FPIC mechanism is now being regarded as a subversion of the right to self-determination. Under the FPIC mechanism, an outside entity can dictate the manner of utilization of natural resources within the ancestral domain for 25 years. Furthermore, a community can only get around 1 percent to 5 percent of revenue share which is not sustainable for the community. According to the NCIP, by exercising their priority rights, indigenous cultural communities (ICCs) retain their right over the utilization of their natural resources. It should be noted, however, that several mining companies implemented projects in some ancestral land areas before the passage of the IPRA and the FPIC mechanism was not in place at the time. According to the NCIP, all large-scale mining companies are located within ancestral lands.²⁵¹

The NCIP has prioritized the delineation and titling of ancestral domains because the indigenous peoples’ struggle revolves around the right to ancestral domains. The life of the tribe depends on the ancestral land. For the years 2008, 2009 and 2010 as of January 31, 2010, the NCIP approved a total of 168 Certificates of Ancestral Domain Titles (CADTs) and Certificates of Ancestral Land Titles (CALTs) covering 3,004,758.7 hectares which is more than double the output of the previous 10 years from 1997 to 2007 which covered 1,205,827.16 hectares. The total area of approved CADTs and CALTs since 1997 is 4,210,585.9 hectares. There are still 95 CADTs in the pipeline covering 1,810,764.9 hectares. In addition, there are about 513 CALTs in the pipeline approximately covering a total of 12,762.27 hectares. Of particular significance are the CADTs issued to Clark, Subic, Calauit and Diwalwal where the NCIP has been able to secure a decent share of the revenues for the ICCs concerned.²⁵²

Right to information, to participate in environmental decision-making, and to access to environmental justice

Climate change is an area where the right to information, access to justice and to participate in environmental decision-making becomes highly significant.

The report of the United Nations Framework Convention on Climate Change (UNFCCC), Secretariat, illustrates the impact of climate change:

...climate change will have wide-ranging effects on the environment, and on socio-economic and related sectors, including water resources, agriculture and food security, human health, terrestrial ecosystems and biodiversity and coastal zones. Changes in rainfall pattern are likely to lead to severe water shortages and/or flooding. Melting of glaciers can cause flooding and soil erosion. Rising temperatures will cause shifts in crop growing seasons which affects food security and changes in the distribution of disease vectors/carrier putting more people at risk from diseases such as malaria and dengue fever.²⁵³

The Asian Development Bank has noted how it has been difficult for the Philippines to fulfill its commitments under the UNFCCC:

Many factors make it difficult for the Philippines to fulfill its UNFCCC commitments. In the national inventory of GHG emissions, the availability, reliability, and variability of activity data and local emission factors, coupled with institutionalization and links among government agencies involved in the inventory, are still major concerns. Another important issue is the affordability and availability of GHG mitigation technologies (e.g., use of renewable resources in power production). The country needs help in overcoming market barriers to the widespread use of renewable resources.²⁵⁴

The Intergovernmental Panel on Climate Change (IPCC) predicts the impact on Asia of future climate changes:

- By the 2050s, freshwater availability in Central, South, East and South-East Asia, particularly in large river basins, is projected to decrease.
- Coastal areas, especially heavily populated megadelta regions in South, East and South-East Asia, will be at greatest risk due to increased flooding from the sea and, in some megadeltas, flooding from the rivers.
- Climate change is projected to compound the pressures on natural resources and the environment associated with rapid urbanisation, industrialisation and economic development.

- Endemic morbidity and mortality due to diarrheal disease primarily associated with floods and droughts are expected to rise in East, South and South-East Asia due to projected changes in the hydrological cycle.²⁵⁵

In its, June 2009 Update on the Philippines, the European Commission reports that:

The Philippines is particularly vulnerable to the impacts of climate change. Increasing temperatures are already causing irregular monsoons and may also be responsible for the higher recurrence of extreme weather events such as “super typhoons.” According to the studies available, under a global “business-as-usual” scenario for CO² emissions, the temperature increase in the Philippines could be as much as 2.4° Celsius by 2080. Droughts will make the western side of the country drier (including the Metro Manila area), while more rain will inundate the eastern side of the country (Quezon, Samar, Leyte). Rising sea levels are also of course a matter of grave concern. Vulnerability is greatest among the poor.²⁵⁶

The international environmental group Greenpeace described the Philippines in one of its studies as a “climate hotspot” where 15 of the 16 regions, particularly 64 out of 81 provinces, of the Philippines are vulnerable to a one meter rise in sea level. Sea water would cover at least 703 of 1,610 towns and inundate almost 700 million square meters of land across the country by 2095-2100. According to the report, the top 20 provinces in the country which are vulnerable to a one-meter rise in sea level are the following: Sulu, Palawan, Zamboanga del Sur, Northern Samar, Zamboanga Sibugay, Basilan, Cebu, Davao del Norte, Bohol, Camarines Sur, Quezon, Tawi-Tawi, Masbate, Negros Occidental, Camarines Norte, Capiz, Catanduanes, Samar, Zamboanga del Norte, and Maguindanao.²⁵⁷

Climate change is expected aggravate socio-economic burdens such as hunger and water scarcity which could further increase the already huge disparity in the living standards between the rich and the poor. Scientists have warned that the Philippines could experience famine by 2020.²⁵⁸ It is also listed among the 46 countries with high risk of violent conflict as a consequence of climate change.²⁵⁹ As mentioned earlier, environmental degradation may affect accessibility to resources which could be a potential source of conflict among communities or groups competing for the use of resources.

Several initiatives have been undertaken by the Philippine government to boost efforts to mitigate the anticipated effects of climate change.

In compliance with its commitments to the Kyoto Protocol, the Clean Air Act became law in June 1999 with the following key features (See Annex X for complete text of the Kyoto Protocol and Annex Y for complete text of the Clean Air Act.):

- Identification and characterization of all airsheds in the country and establishment of multi-sectoral AQM Boards²⁶⁰ for each airshed

- Development of a national air quality management framework, and a fund to be earmarked for air quality management activities
- Imposition of air quality management charges
- Improvement in quality of gasoline and diesel and promotion of alternative, cleaner fuels²⁶¹

On January 17, 2007, President Arroyo signed into law the Biofuels Act of 2006 (Republic Act No. 9637), which provided for the mandatory use of biofuels and incentives for such use believed to help lessen emission of greenhouse gases (GHGs) that greatly contributes to global warming. (See Annex Z for complete text of the Biofuels Act.)

In February 2007, President Arroyo issued Administrative Order 171 creating a Presidential Task Force on Climate Change (PTFCC) mandated to conduct rapid assessment on the impact of climate change in the Philippine setting, especially on the most vulnerable sectors or areas such as water, agriculture, coastal areas, terrestrial and marine ecosystems. The PTFCC is also mandated to ensure strict compliance with air emission standards and combat deforestation and environmental degradation.²⁶²

In October 2008, the PTFCC came up with the Philippine Climate Change Response Action Plan (PCCRAP), which contains the task force's "preliminary substantive program elements."²⁶³ Department of Environment and Natural Resources (DENR) Special Order 2007-653 was subsequently issued creating the Advisory Council on Climate Change Mitigation, Adaptation and Communication.²⁶⁴

The Renewable Energy Act of 2008 was signed on December 16, 2008 to mitigate the problem of global climate change through the promotion of renewable forms of energy and make the Philippines 60 percent energy self-sufficient by 2010. However, this target has been affected by issues related to financing and supply of products and equipment harnessing renewable energy.²⁶⁵ The Climate Change Act of 2009, passed by Congress in September 2009, created the Climate Change Commission chaired by the President of the Republic of the Philippines. (See Annex ZA for complete text of the Climate Change Act of 2009)

There are also several science and technology (S&T) mitigation measures being pursued by the Department of Science and Technology (DOST) including Research and Development on biofuel that involves feedstocks, processing and vehicle-testing. The Department of Energy is also implementing a project on renewable energy at the—Capacity Building to Remove Barriers to Renewable Energy Development (CBRED)—jointly with the UN Development Program (UNDP) and Global Environment Facility (GEF), in partnership with non-government organizations.

The right to access to environmental justice has taken on an interesting direction in the Philippines:

In 1993, the Philippine Supreme Court promulgated a decision in the test case of *Oposa v. Factoran, Jr.*, G.R. No. 101083, July 30, 1993 (224 SCRA 792), on the legal standing of minors to sue in an environmental case. The children asserted their right to a balanced and healthful ecology under Article 2, Section 16 of the 1987 Philippine Constitution. They initially sought injunctive relief from the lower court against the issuance of timber license agreements by the Secretary of the Department of Environment and Natural Resources covering more areas for logging than what was available.

The Court, in an unprecedented ruling, declared that, “*the right to a balanced and healthful ecology...belongs to a different category of rights altogether for it concerns nothing less than self-preservation and self-perpetuation – the advancement of which may even be said to predate all governments and constitutions.*” It did not have difficulty in concluding that the petitioner minors had standing to sue even on behalf of succeeding generations based on the concept of intergenerational responsibility.

This decision led to increasing calls to strengthen environmental adjudication in the Philippines, including promoting environmental advocacy before judicial and quasi-judicial bodies.²⁶⁶

The Philippine judiciary has, in recent years, undertaken a series of initiatives to establish so-called “green benches” or courts that would handle environmental cases/disputes in the country:

Together with development partners and input from stakeholders, the Philippine Supreme Court considered options and defined strategies to address the challenges of environmental adjudication. In January 2008, the Supreme Court designated 117 municipal and regional trial courts across the country as environmental courts. Together with the planned capacity building of judges within these benches, the Philippines is moving toward a more environmentally-responsive judiciary, promoting improved environmental compliance and enforcement in the country and within the region.²⁶⁷

Experts recognize this as both a milestone and fraught with challenges:

Judges, however, continue to face challenges in adjudicating environmental cases. For example, on legal standing and establishment of a cause of action, a more liberalized framework could reinforce judicial interpretation. Prescription for filing of environmental actions in court may require special rules. Appreciation of highly technical and scientific evidence presented by experts is still limited and requires training and orientation on the part of judges. Some sanctions and penalties are not significant enough to deter

violators, and the numerous environmental laws in place need to be fully understood to promote consistency in rendering judgments. Finally, creative approaches to the handling or disposition of evidence, including the imposition of sanctions, could provide judges with new insights.²⁶⁸

Retired Chief Justice Reynato Puno considers new writs to protect the environment as some of the major accomplishments of the High Court under his leadership (See Annex ZB for Rules of Procedure for Environmental Cases.):

In 2009, my third and last year in office, I called for a summit to address the need to protect the right of our people to a balanced and healthy environment. This time, I asked our regional trial court judges to backstop the High Court. Again, after the Summit, we came out with new writs to protect our environment — the Writ of Kalikasan and the Writ of Continuing Mandamus, which can be filed by any natural or juridical person whose right to a balanced and healthful ecology has been violated or threatened with violation. We have converted all our trial courts into environmental courts to stop our environmental degradation; experts agree that the greatest threat to human existence today is not terrorism, but environmental degradation. For the record, the Philippines is the only country in the whole world with this kind of remedial writ to protect the environment. Indeed, many legal jurisdictions are now studying our Writ of Kalikasan for adoption in their soil.²⁶⁹

He also considers as one of the landmark decisions of the High Court the case on MMDA vs. Concerned Citizens of Manila Bay which was “a ponencia of Mr. Justice Presbitero Velasco where we ordered government to clean and maintain Manila Bay and to immediately act on its duties and obligation. Here for the first time, we wielded the writ of continuing mandamus to protect the environmental rights of our people. That Decision has earned the plaudits of environmentalists the world over.”²⁷⁰

The pronouncement of the Supreme Court of the Philippines to establish so-called Green Courts has received mixed reactions from various quarters but nevertheless underscores the importance of providing access by communities and citizens to environmental justice.

What is to be done?

We recommend that the environmental development goals contained in Philippine Agenda 21 be pursued. A Filipino economist underscores its importance:

The strategy and corresponding action agenda for reconciling the country’s economic, social and environmental development goals is already well laid out in Philippine Agenda 21, which has been described as the most widely-consulted planning document the country has had so far. Concrete programs, initiatives and mechanisms are in place for addressing the various green, blue and brown environment issues confronting the country. For maximum efficiency and

effectiveness, there is need to focus on approaches that promise greatest success. Community-based approaches have already demonstrated positive track records, particularly in the sustainable management of forest and coastal resources. Mechanisms based on multi-stakeholder partnerships have likewise proven effective when allowed to function fully and freely. The way forward, then, is to scale up and scale out such tested mechanisms that work well, and to strengthen them with the necessary policy and resource support.

Within government, the imperative is for close teamwork and coordination, given the multi-dimensional, inter-disciplinary and multi-sectoral nature of sustainable development challenges. Thus, bodies like the Inter-Agency Committee on Climate Change, Local Solid Waste Management Boards, and Local Development Councils need to be made to function actively and spearhead concrete initiatives to operationalize sustainable development at the national, local and community levels.

Good governance is the critical underlay that provides the vital foundation for all efforts to achieve sustainable development for the country. Until the current persistent governance weaknesses in the Philippines are overcome, and law enforcement failures, legal failures and coordination failures are transformed from current realities into things of the past, achievement of win-win outcomes for the economy and the environment will remain a distant dream.²⁷¹

The Philippine Council for Sustainable Development, which was created to coordinate the formulation of Philippine Agenda 21, is working on an “enhanced Philippine Agenda 21.”²⁷²

Need to Build Sustainable Communities

We recommend the adoption and implementation of a comprehensive waste management system for each town and city, immediately. In particular, Republic Act 9003 or The Ecological Solid Waste Management Act must be implemented up to the *barangay* level. (See Annex ZC for complete text of the Ecological Solid Waste Management Act.)

The APEC has also advanced the following proposals for building sustainable cities which we recommend should be pursued in engaging with other countries for the long-term.²⁷³

On Sustainable Cities

- Strengthen capacity building to facilitate the exchange of scientific and technical knowledge on sustainable cities by designating appropriate organizations in APEC economies to serve as contact and coordination centers.
- Encourage sharing of knowledge and experiences on the elements of a sustainable city including technologies and changes in production and

consumption patterns, and promote community level experiment model project with an aim to create eco-cycle communities.

- Enhance information exchange on policies, indicators and standards, building on ongoing activities in APEC and promoting dialogue among public and private sectors and with non-government organizations as appropriate.
- The Ministers also agreed to further develop their own mechanisms for communications with the private sector, non-government organizations and institutions and maximize public-private partnerships to leverage additional resources and capabilities and capitalize on opportunities.

For rural areas, we present the following recommendations:

- In the medium-term, small-scale mining should be rationalized such that the areas that may be exclusively reserved for small-scale miners can be identified.
- Immediately and in the short-term, defensive measures in dealing with forest fires should be undertaken such as the following: monitoring *kaingin* activities and unauthorized bush burning in pasture land by cattle raisers; construction of water impounding structures to trap and store water from rainfalls, creeks and rivers; planting of new grasses or brushes in existing two-to-three meter wide firebreaks or buffer fire lines inside tree plantations; inventory of all fire fighting tools; and regular holding of forest fire drills with forest-based communities.

Other measures include preparation of fire control maps and activation of fire protection communication systems, inventory of stocked emergency supplies needed for fire control operations such as first-aid kits and non-perishable food supplies, and installation of signboards in fire-prone forested areas warning people about forest fires.²⁷⁴

- Immediately conduct scientific and medical investigations into the impacts and effects of aerial spraying which is used in the banana industry to protect crops against pests and increase productivity in order to determine adverse effects on human health and the natural environment, if any.

Need for Clean Technology

Clean technology can be pursued through the following recommendations in the medium-term:

- The provisions of the Clean Air Act, supportive of the Kyoto Protocol, should be strictly implemented. The Kyoto Protocol is an international agreement linked to the United Nations Framework Convention on Climate Change which sets binding targets

for 37 industrialized countries and the European community for reducing greenhouse gas (GHG) emissions at an average of five per cent against 1990 levels over the five-year period 2008-2012. By the end of the first commitment period of the Kyoto Protocol in 2012, a new international framework needs to have been negotiated and ratified that can deliver the stringent emission reductions prescribe by the Intergovernmental Panel on Climate Change (IPCC).²⁷⁵

- Promotion of green chemistry through incentive systems. Green chemistry, also known as sustainable chemistry, is the design of chemical products and processes that reduce or eliminate the use or generation of hazardous substances. Green chemistry applies across the life cycle of a chemical product, including its design, manufacture, and use.²⁷⁶

The APEC has also advanced the following proposals for promoting clean technology which may be carried out immediately:²⁷⁷

- Formulation of specific strategies for industrial and agricultural sectors that promote dissemination of clean technologies and experiences
- Mobilization of public-private partnerships in major industry sectors to promote cleaner production
- Sponsoring of government-industry workshops, seminars and demonstration projects on cleaner production
- Sharing information on clean technologies and cleaner production policies through electronic means (e.g. Japan's Virtual Center for Environmental Technology Exchange and the APEC Centre for Technology Exchange and Training for Small and Medium Enterprises [ACTETSME])
- Strengthening of government capabilities through capacity building at both the national and local level, providing the tools needed to help achieve cleaner production goals
- Conducting cleaner production training through the "APEC Sustainable Development Training and Information Network," to be led by the Human Resources Development Working Group
- Improving APEC member economies' access to expert input and facilitating the exchange of expertise related to the implementation of cleaner production methods

- Promoting ISO 14000, which involves voluntary actions by industry to establish environmental management systems and committing to continuous improvements in environmental performance
- Focusing on the special needs of the small- and medium-sized enterprises (SMEs)
- Promoting cleaner production technologies that help minimize or eliminate greenhouse gas emissions.

Need to Protect the Rights of Indigenous Peoples

We recommend the following measures to be implemented immediately in ensuring the integrity and capability of ancestral lands that serve as “environmental havens” and “carbon sinks:”

- Various activities may be carried out immediately to facilitate the assimilation of the indigenous peoples’ struggle into the minds of men and women in the present generation and for generations to come by promoting a better understanding and appreciation of the indigenous peoples’ “ways.” Such activities include mandatory representation in local and national policy making bodies, thus leading to the general public’s greater acceptance of bio-cultural diversity in the country.
- In the medium-term, there is a need to ensure that programs for IPs are grounded on the rights-based approach, including the right to develop their own Ancestral Domain Sustainable Development and Protection Plans or ADSDPPs as the blueprint of the IP community for their preferred development agenda,²⁷⁸ and priority development programs and projects, particularly those related to food security and reforestation, and in the utilization of their own natural resources in their ancestral lands and domains.
- Immediately promote the exercise of priority rights as provided by the IPRA. As equal partners of development, IP communities will be able to reap more economic fruits through a just share of revenues from the commercial exploitation of their natural resources. The exercise of priority rights will ensure respect for the environment and more importantly, future generations of IPs will still be able to make their own decisions in the utilization of those natural resources. We believe that the FPIC should be used only for projects which do not require the utilization of natural resources such as housing projects and the establishment of military installations. Thus, there can only be true empowerment if the IP communities have full control over the resources that they actually own.²⁷⁹

- In the short-term, the government must facilitate the funding for and to actualize the various ADSDPPs by coordinating with potential donors and local government units, in supporting the various projects contained therein. There is a need for the NCIP to liaise with the various Local Chief Executives and legislative bodies in the country's political units so that the community-formulated ADSDPPs may become an integral part of the respective development masterplans of local government units.
- In the long-term, the operations of mining and logging groups in areas near or within that of the IPs must be monitored in order to address the environmental issues brought about by these operations. This is to ensure that the livelihood and well-being of the IPs are not adversely affected.
- In the long-term, the government and civil society must work closely with various IP communities through their leaders in strengthening the IPs management over carbon sinks in their respective ancestral domains, as well as the adoption of other mitigating actions in addressing the negative impacts of climate change.
- In the medium-term, the government must create compensation mechanisms for indigenous communities that have contributed to environmental protection, biodiversity conservation, and the enhancement of natural vistas.
- There is a need to immediately enhance coordination and cooperation of concerned government agencies such as the NCIP, DENR, Department of Social Welfare and Development, and other concerned government agencies through the harmonization of conflicting laws on the delineation and titling of ancestral lands, and the management of resources within ancestral domains/lands.

Need for Access to Environmental Justice

In the long-term, there is a need to establish a civil and criminal liability framework that will serve as a deterrent to and facilitate claims for environmental damage, such as those resulting from mining activities. This is in support of the advocacy for environmental justice recently adopted by the Supreme Court which embraces two key objectives. First is the fair distribution of rights and responsibilities among communities. Second is the reduction of overall environmental damage.²⁸⁰ The new writs to protect the environment formulated by the Supreme Court mentioned earlier constitute a significant step in this direction.

Need for Climate Adaptation and Disaster Mitigation Measures

In the medium-term, the government must be able to complete the geo-hazard mapping of all regions in the country, and the implementation of soil stability measures (e.g., reforestation and planting in river banks and sloping areas) for landslide-vulnerable areas.

A recommendation contained in a study undertaken by the World Bank and the National Disaster Coordinating Center of the Philippines should be pursued:

In the Philippines, there are inadequate reliable data on the type and amount of Philippine economic activity at risk from natural hazards. A fundamental obstacle is the absence of accurate hazard and vulnerability maps. An integrated national natural hazards data and mapping system needs to be designed and implemented. This would consist of the following:

- Design of an integrated GIS database for the Philippines, for use in natural hazards data collection and mapping. This GIS database would have many benefits beyond natural hazards.
- Consistent modern maps of natural hazards zones (flood, geologic hazards, earthquake faults and shaking, volcanic hazards, etc) should be generated for the entire Philippines, using the integrated GIS database. These maps would be very beneficial for land-use zoning, project design, insurance, emergency response and many other applications.
- Risk analyses should be developed for high hazard areas, using the GIS database, which would then form the basis for a comprehensive understanding of the impacts of natural hazards on the nation. Loss estimates would prove useful to decision-makers and the public, and could be integrated into a national economic development plan.
- The data and mapping system could form the backbone for the national emergency response plan, and would serve during emergency periods as a database for needs assessment and data collection. The data so collected would then be in a consistent uniform format, for use in improving hazard maps and risk analyses.
- Currently, NAMRIA, NDCC, PHIVOLCS and others are all implementing limited GIS databases. Their efforts should be encouraged, and coordinated into a common format, so as to begin the building of this integrated national natural hazards GIS database.²⁸¹

In the medium-term, the government, in consultation with civil society and communities, must be able to craft a National Adaptation Plan for Climate Change and pass a comprehensive disaster management law.

A study has noted that:

The disaster management system in the Philippines is based on an outdated decree (dating back more than 20 years), and would greatly benefit from integrating lessons learned in the country around the globe over the past decades. In general, there is a failure to recognize natural hazards as a potential obstacle to long-term sustainable development. Reflecting this, there is a widespread emphasis on post-disaster relief and short-term preparedness (forecasting, evacuation, etc.) rather

than mitigation or post-disaster support for economic recovery, such as livelihood regeneration or tax breaks to affected businesses.²⁸²

In the long-term, the government together with the private business sector must explore more effective options for financing disaster risk and relieving the burden of disasters from the public sector, including the idea of a catastrophe insurance pool, and/or contingent credit facilities.²⁸³

Development of Fiscal Incentives for Proactive Risk Management at the LGU Level:

- to implement proactive disaster management, thereby balancing out the present strong rehabilitation and reconstruction emphasis. However, this will require a more careful analysis of the appropriateness of the present funding system, funding gap, and actions that would need to be implemented to reduce risk.
- that encourage LGUs to include mitigation and prevention activities in their development plans. Based on the achievement of agreed output indicators, the LGUs could be rewarded with additional funding to improve their overall disaster management capacity.
- which, in the constantly hard hit area of infrastructure, could also be used by IFI's²⁸⁴ when financing LGU-led infrastructure development, for example, by requiring that the LGUs submit a comprehensive risk management plan for the proposed investments. However, this type of incentive must be accompanied by government policy action to cause it to be implemented.

Explore the potential for a PCIP:²⁸⁵

- carry out a study to assess why the area of insurance remains under-developed in the Philippines as well try to determine its potential for increase. To do this, it would be most effective to create a technical working group including representatives of PIRA,²⁸⁶ GSIS...and the Office of Insurance Supervisor to develop a workable proposal for a business plan, institutional design, and regulatory framework for the operations of the PCIP.

Explore Contingent Credit Facilities:

- to allow the rapid mobilization of funding after a disaster to assess damage, rehabilitate and reconstruct. Given the frequency of disasters in the Philippines, it is important that the Government explore the use of a contingent credit facility to fund post and pre-event activities. To develop a contingent facility requires that there is sufficient understanding of risk and agreement on the criteria that would trigger withdrawal.
- determine the appropriate level at which the contingent facility could be developed: Federal Government, LGU level and/or PCIP.

For the long-term, the government and the private sector and civil society must together pursue the promotion and undertake the widespread use of renewable energy and promote energy efficiency to cut carbon dioxide emission. The Philippines has an estimated total potential of nearly 80,000-megawatt wind, biomass, and mini-hydro energy. It also has a solar energy potential of 1,500 hours of power annually at 5 kilowatt hours per square meter per day.²⁸⁷ While there are proposals to achieve energy self-sufficiency through nuclear energy, there are uncertainties about the disposal of nuclear waste and the high cost of maintaining nuclear power plants.²⁸⁸

Information campaigns on disaster risk management must be made systematic and well coordinated immediately in all locational areas concerned. While information on impending disasters and in dealing with disasters is available, often it is not widely or properly disseminated:

While much of this information is available online in the NDCC members' websites, many people and communities – especially in the rural areas - do not have access to computers and internet connection, and cannot access this information.

NGOs, private and civic organizations and government agencies at both the national and local levels undertake public awareness and information campaigns on disaster risks in many vulnerable areas.

However, oftentimes, these campaigns are not systematic and coordinated. There are also instances when vulnerable communities that had been already advised to evacuate refused to move out due to inadequate transportation, facilities in the evacuation centers, and availability of food and medicines.

There is no countrywide public awareness program on DRR. The media thru television and radio broadcasting has helped in disseminating information on different types of disasters, risks and adopting safeguards on disasters. Their scope, however, does not fully cover all disaster-prone areas.²⁸⁹

In the long-term, there is a need to integrate Disaster Risk Reduction concepts in the curricula of both public and private schools:

The Department of Education (DepED) is working on including DRR in elementary and secondary curricula. The teachers are also educated in DRR by including the concepts in Teacher's Education Curriculum. At present, education in DRR is still limited in scope and education materials are still inadequate. NDCC and DepED, in partnership with ADPC, undertook a project to develop DRM modules for integration into the secondary school curriculum. The module includes information on disaster preparedness, prevention and mitigation of hazards and risks of natural events to vulnerable communities and areas. Disaster

awareness has formed part of the learning core competencies under the Science and Social studies subjects in public elementary and high schools. Private schools, however, are not required to include these in their curriculum.²⁹⁰

In the short-term, a system for evaluating the utilization and impact of the Local Calamity Fund (LCF) of local government units should be established. The LCF is five percent of their estimated revenues from regular sources as, which can only be used upon declaration of a “state of calamity” by the local legislative body:

In 2003, a Joint Memorandum Circular issued by the Department of Budget and Management (DBM) and the Department of Interior and Local Government (DILG) permits the use of the LCF for disaster preparedness and other pre-disaster activities. However, many local officials find this instruction unclear because it is perceived to focus only on man-made disasters. Moreover, LGUs are not obligated to submit reports on the utilization of the calamity funds to NDCC or DBM, hence it is difficult to evaluate how efficiently the funds are used.²⁹¹

In the short-term, there is a need to strongly enforce some laws and policies for disaster risk reduction:

Poor enforcement of easement zone regulations contributed to the burgeoning of informal settlers along riverbanks and near coastlines. Many structures do not fully comply with the safeguards required under their Environmental Compliance Certificates (ECCs) and building codes. In some cities and municipalities, appropriate building codes and standards are set aside to reduce construction costs, and in some cases zoning regulations are poorly enforced and/or blatantly violated by some building and housing developers. Poor regulation in the construction of buildings and other physical establishments in disaster-prone areas contribute to the risks in these communities.²⁹²

In relation to natural and man-made disasters, the following findings from a study of the Benfield Research Center are worth considering:²⁹³

- a. The location-specific reasons why the landslides and flooding occurred need to be understood to guide recovery and prevent similar disasters in the future.
- b. Affected slopes need to be stabilized to prevent further landslides and debris flows.
- c. The changes to the landscape caused by the floods and landslides need to be mapped and understood to prevent future flooding and landslide impacts.
- d. Employment needs to be increased in the near term to limit the survivors' need to extract additional resources from the environment to meet reconstruction and recovery needs.

- e. The waste being generated by the clean-up process needs to be disposed of safely.
- f. Farmers need support to rehabilitate fields, as well as alternate crops to cultivate until rice and normal vegetable production can be restored. Similar support is needed in the fishing sector.
- g. The trees and other biomass brought down by the floods and landslides need to be transformed into useable assets (e.g., lumber, compost) and be used to support the recovery process.
- h. Shelter is a priority. Efforts need to consider immediate needs as well as proactively reduce the current and expected threat of flooding, landslides and typhoons. Traditional and modern Filipino experience and lessons from outside the country need to be incorporated into reducing the likelihood of damage to shelter in the future.
- i. Community-based warning systems need to be established as a priority to reassure at-risk disaster affected populations and minimize similar disasters in the future.

The “Philippine Disaster Risk Reduction and Management Act of 2010” must be improved considering the various points raised in this chapter. (See Annex ZD for complete text of the Disaster Risk Reduction and Management Act.) We also hope that the Climate Change Commission will discuss the relevant points raised in this section.

Recap of “What is to be done?”

- Pursue the environmental development goals contained in Philippine Agenda 21.
- Implement Republic Act 9003 or The Ecological Solid Waste Management Act up to the *barangay* level.
- Facilitate exchange of knowledge and experiences with APEC economies in order to build sustainable cities.
- Prioritize the following concerns in the rural areas: areas that may be reserved for small-scale mining, defensive measures in dealing with forest fires, and the impacts and effects of aerial spraying.
- Strictly implement the provisions of the Clean Air Act.
- Promote “green chemistry” and other clean technologies through incentive systems.

- Protect the rights of indigenous peoples in order to ensure the integrity and capability of ancestral lands that serve as “environmental havens” and “carbon sinks.”
- Establish a workable civil and criminal liability framework that will serve as a deterrent to and facilitate claims for environmental damage, such as those resulting from mining activities.
- Implement climate adaptation and disaster mitigation measures such as:
 - Improve the Disaster Risk Reduction and Management Act
 - Geo-hazard mapping of all regions in the country and the implementation of soil stability measures for landslide-vulnerable areas
 - Crafting a National Adaptation Plan for Climate Change
 - Exploring more effective options for financing disaster risk and relieving the burden of disasters from the public sector, including the idea of a catastrophe insurance pool, and/or contingent credit facilities
 - Pursuing the promotion and undertaking the widespread use of renewable energy and promote energy efficiency to cut carbon dioxide emission
 - Making information campaigns on disaster risk management more systematic and well coordinated in all locational areas concerned
 - Integrating Disaster Risk Reduction concepts in the curricula of both public and private schools
 - Setting up a system for evaluating the utilization and impact of the Local Calamity Fund (LCF) of local government units
 - Strongly enforcing zone regulations, building codes and related laws in support of disaster risk reduction
 - Implementing disaster mitigation measures recommended by previous studies for countries in similarly situated areas

D. Population

Status of the Philippine Population

According to the National Statistics Office²⁹⁴ (NSO), as of last Census of Population (POPCEN 2007), the total population of the Philippines as of August 1, 2007 was 88,574,614.²⁹⁵

In 1995, the total population of the Philippines was 68.62 million.²⁹⁶ In 2000, it was recorded at 76.50 million.²⁹⁷ This translates to an increase of 7.88 million in 5 years. Based on the 2000 Census of Population and Housing, the projected annual population growth rate for the period 2005 to 2010 was 1.95 percent.²⁹⁸

According to the World Factbook, a publication of the United States Central Intelligence Agency (CIA), the Philippines is the 12th most populated country, based on 2009 population estimates of 237 countries worldwide.²⁹⁹ (See Annex ZE for discussion of Trends in the Philippine Population.)

Lack of information, specifically on reproductive health and on the use of contraceptives, is one of the leading causes of the high population growth rate in the country. According to the United Nations Development Program (UNDP), based on the Family Planning Survey in 2006, only 50.6 percent of married women aged 15-49 use contraceptives.³⁰⁰ Reportedly, many women, especially those belonging to the poor social group, are ignorant on reproduction. Many unplanned pregnancies are a result of misconceptions, such as believing that they are infertile while they are still breastfeeding. Others have not even heard of contraceptives, while some of those who have were afraid of its side effects and refuse to use them.

The Reproductive Health Bill or RH Bill which aimed to step-up the promotion of natural and artificial contraceptives was not passed during the 14th Congress. The RH bill has been one of the most controversial bills as it has been met with formidable opposition in this predominantly Catholic country. And in this country where a number of religious groups practice bloc voting during elections, for many politicians who will be seeking re-election, it would seem a political suicide to support this bill. This has been seen as one of the major reasons for the “death” of this bill. (See Annex ZF for complete text of the Reproductive Health Bill.)

Increased life expectancy and decreased infant and under-five mortality rates have also contributed to the growing population. In 1950, the life expectancy at birth was only 43 years. In contrast, the life expectancy of both sexes in 2005 was around 68 years.³⁰¹ In terms of infant mortality, from 1990 to 2006, the number of infant deaths per 1,000 live births decreased from 84 to 32 deaths.³⁰² Under-five mortality rate also improved from 64 deaths for every 1,000 live births in 1993 to 42 deaths in 2003.³⁰³

Overpopulation is a major cause of concern as it results in a host of problems especially in a third-world country such as the Philippines where resources are scarce.

Firstly, the high number of children which is most common in poor families is seen as the main reason for so-called hereditary poverty. Poor families are already having difficulty in providing their children with the most basic needs such as food, clothing and shelter. Many children are deprived of realizing their full potential and becoming productive citizens as a result of lack of education and adequate health care.

Overpopulation also dilutes social service delivery. According to Dr, Merceditas B. Concepcion, a member of the Commission on Population Board:

Swift growth in numbers hampers improvements in health and in the delivery of health services in several ways. First, in the face of economic stagnation, it is difficult to maintain, and more so, upgrade services for the growing number of people. Second, elevated birth rates generate a sizable fraction of young children in the population – the group with the highest illness and mortality rates in developing countries and hence, with the utmost need for health services. Third, too many births as well as those that are closely spaced are linked with high rates of maternal and child mortality.³⁰⁴

In addition, the expanding elderly population, which was pointed out as one of the factors for overpopulation in the country in recent years, also signifies an increase in health and social service requirements.

Unequal Distribution of Population Across Regions

As shown in previous sections, there is unequal distribution in population across regions. CALABARZON, NCR and Central Luzon comprise more than one-third of the total population of the country.

The average population density of the Philippines in 2007 was 260 per square kilometer. The densest region however, NCR, posted a very high figure of 18,650 per square kilometer. In contrast, the region with the lowest population density, CAR, posted only 78 persons per square kilometer.

The high density of population, particularly in highly urbanized cities, results in problems in housing, unemployment, crimes and unhealthy situations.

Ageing and Depopulation

In overpopulated countries, focus is given on arresting the growth of population. There are countries however who are now experiencing the negative effects of depopulation or under population.

Michael Meyer, in his article “Birth Dearth” (*Newsweek*, September 27, 2004), reports that, “the world’s population will continue to grow—from today’s 6.4 billion to around 9 billion in 2050. But after that it will go sharply into decline....”

The impending issue of depopulation should also be given consideration. Under populated countries are now feeling its negative effects.

The expanding elderly population is seen as a major issue that will heavily impact on the depopulation phenomena. The lack of replacements for the previously productive ageing

citizens poses a big problem. When Total Fertility Rate (TFR) goes below the replacement level, a country will find itself lacking a sufficient work force. This will force under populated countries to resort to hiring skilled and non-skilled workers from other countries, as in the case of under populated countries now.

What is to be done?

It has been suggested that there are only two alternatives to address overpopulation. One is to decrease population growth or increase resources to be able to provide everyone with quality standard of living. As countries are forced to operate on resources which are available to them, the only recourse left is to control population growth. And on this, the only way is through birth control, or in other words promoting the use of natural and artificial contraceptives in order to enable families to have the family size that they desire and can support.

That the major cause of unwanted and unplanned pregnancies is mostly due to lack of information on reproductive health and low contraceptive prevalence rate, indicates that there is indeed a need to disseminate information and give the people the right to choose and a chance to determine their families' size. Thus, it is crucial that initiatives such as the Reproductive Bill be passed and enacted. Out-migration of families to other countries is a trend that may have to be supported more vigorously in order to manage population in the country. The Philippines may already be considered a country whose citizens are spread throughout the world as migrants and Overseas Filipino Workers (OFWs) but are able to contribute billions of pesos annually to the local economy.

In the case of increased ageing population, steps must be taken to put measures in place in anticipation of this trend.

During the 1990s, there were discussions on the possibility of an SSS and GSIS merger. Today, many legislators and government officials have expressed support to a proposal to merge the SSS and GSIS. The Senate Committee on Government Corporations and Enterprises is presently considering a bill merging the SSS and the GSIS. According to Senator Richard Gordon, head of the committee, the merge would strengthen the SSS.³⁰⁵ Senator Sergio Osmeña also proposed the merge to settle the problem in the release of pensions and retirement benefits. At the same time, Senator Manny Villar suggested that the Department of Finance conduct a study on how much the government will save if the SSS and GSIS merge. The Department of Finance has conducted such a study of radical reform of merging the two corporations in 2000 but it did not materialize.³⁰⁶

In 2003, Senator Ramon Magsaysay, Jr. expressed an urgent need for new legislation to amend the SSS Charter to include the administrative merger of the SSS and the GSIS. He justified the merger as follows:

1. The national government as the ultimate guarantor of the SSS and the GSIS would have the opportunity to rationalize the cost of these two programs and provide a common standard of old age protection to all workers, regardless of sector of employment.
2. We cut down on bureaucracy cost.
3. Investment opportunities for the consolidated fund would expand because of the sheer size of the unified fund.³⁰⁷

Antonio C. Asper, Executive Assistant for External Affairs of the Federation of Free Workers, in his study, recommends the following reforms³⁰⁸ in the SSS:

Structure and Design

- a. Restructure the SSS into a two-pillar scheme—downscaled defined-benefit and appropriate defines-contribution schemes. Under the proposed defined-contribution scheme, members are allowed to save for their own pensions.
- b. Periodically examine these schemes to ensure that benefits and contributions are aligned at all times.
- c. Increase the contribution rate on a staggered basis from the current 9.4 percent up to a rate that will synchronize contribution rates with benefit payments. The need to increase the contribution rate will be able to ensure viability of the Social Security Fund for a longer period.

Administration

- a. Increase the number of inspectors and lawyers to prosecute employers who do not comply with the Social Security Law. In 2003, more than 300 additional account officers were fielded to monitor delinquent accounts and payments of employers. The account officers were tasked to look into the billings and payments of companies and crack down on those who did not comply with the Social Security Law.
- b. Review staffing patterns if it is to be converted into a two-pillared scheme. The employees who will be affected by the scheme need to be given employment or financial assistance.
- c. Improve the delivery of basic services. To reduce the processing time for benefit claims and loan applications, the Covenant of Service Program (COS) was introduced in 2001. The implementation of phase two of the program will further shorten processing time.

Fund Management

- a. Outsource fund management to professional fund administrators.
- b. Consider the proposal of selling or restructuring housing loans.

The SSS has proposed several corrective measures, to wit:

1. Increase the contribution rate from 8.4 percent of workers' monthly salary to 16 percent to 22 percent in a span of six years (only 1 percent has been approved so far).
2. Redefine "credited years of service" or CYS (the sum of the number of years from the year of coverage to 1984 and number of years where the member has at least 6 contributions in a year, starting 1985) which determines the amount of pension benefits. By redefining the CYS, the computed pensions will be more equitable in relation to how much the member has actually contributed.
3. Increase the maximum and minimum monthly salary credit along with an increase in benefit payments.

We can learn from the experience of China which has restructured its pension system since 1995 by combining the PAYGO system³⁰⁹ with a funded system relying on individual savings accounts. Lessons from Western countries showed that a national social security program with a PAYGO system is unsustainable.³¹⁰

The country's rapidly ageing population, strong economic growth and high return on capital mean that "a funded pension system would be more efficient than a PAYGO system."³¹¹

The consensus on establishing a partially funded pension system is embodied in the existing government reform program that aims to establish a three-pillar system, to wit, (1) a PAYGO pension financed by pooling funds citywide, (2) a system of individual savings accounts funded by both employees and employers; and (3) a supplementary pension funded by employers.³¹²

Recap of "What is to be done?"

- Control population growth by lowering the incidence of unplanned pregnancies
 - Provide information on reproductive health
 - Allow people to determine their family size by providing them with information on the use of natural and artificial contraceptives
- Promote regulated out-migration of families
- Put measures in place in anticipation of the increased ageing population, such as merging the SSS and the GSIS to rationalize the cost of these two programs and provide a

common standard of old age protection to all workers, regardless of sector of employment

E. Public-Private Sector Partnership

Macroeconomic History and Overview of the Philippine Economy

The Philippines has 7,107 islands and rich in natural resources, being one of the centers of marine and land biodiversity in the world. It also has one of the largest mineral deposits in terms of mineral ores, aside from having a coastal area longer than even that of the United States. Also, islands like Palawan and Cebu, and the Mindanao region, boast of breathtaking tourist spots that attract thousands of people every year. Why then, are we called the “Sick Man of Asia,” and are now lagging behind all our neighbors here in Asia, most especially in terms of economic growth and development?

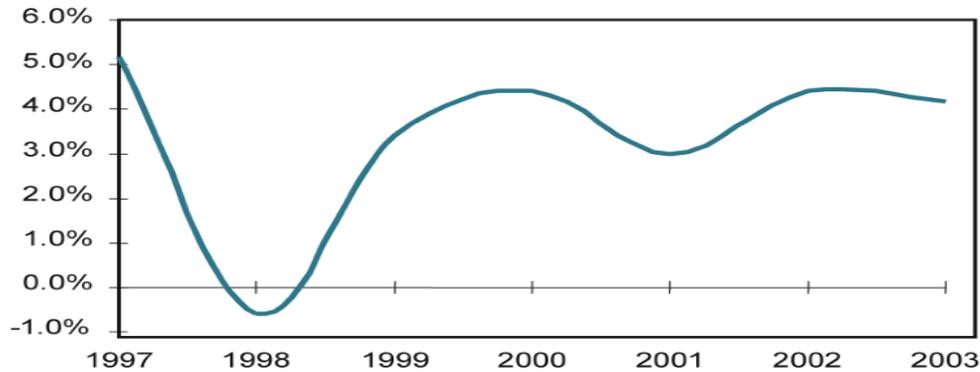
The country has had a long history of private sector-led economic growth, which led to 95 percent of the country’s gross domestic product (GDP) and 92 percent of the employed workforce in recent times being generated by the private sector. Partly this could be attributed to the entrepreneurial culture and skilled workforce of the Filipino people, but a major chunk of this growth also comes from foreign participation and investment in major sectors of business, like in retail trade, telecommunications, banking and infrastructure.³¹³ Efforts of previous administrations in the 1990s to liberalize the economy and develop pro-business economic policies should also be considered as one of the most important contributions by the government to economic growth.

From 1980 to 1997, economic growth remained steady at 2.5 percent despite political upheaval and a short adjustment period from the Marcos dictatorship back to democratic rule.³¹⁴ Foreign investors became significant players in various industries like banking and manufacturing. Also, another important factor is the liberalization of the power sector; which paved the way for 35 new projects to deliver electricity more efficiently to the public. As for infrastructure, not only the building of new roads, but also the broadening of the telecommunications sector—which includes telephone and mobile networks, the Internet and other media—the vibrant competition and development of numerous, privately-owned business networks could be attributed to all these.³¹⁵

Yet, this economic history of the Philippines is also marked with losses as well as gains. Following the Asian financial crisis of 1997, the gross domestic investment in the Philippines declined from 23.8 percent of gross national product (GNP) in 1997 to just 18.1 percent in 2002, and foreign direct investment (FDI) dropped from US\$2.1 billion to just US\$0.1 billion in 2003.³¹⁶ Although the Philippine economy has proved quite resilient to external shocks and changes in economic policy over the past five years—while many of its neighbors suffered deep

recessions during the post-Asian crisis years of 1998–2001—the Philippine economy continued to grow at an average pace of 2.5% per annum. Despite these gains, however, the rapid pace of population growth has led to a fluctuating gross domestic product (GDP) growth rate from 1997 to 2003 (see Figure 2).

Figure 2
GDP Growth 1997-2003
Philippines



Source: National Statistics Office, 2004.

The economy is dominated by the services sector, which contributes approximately 50 percent of GDP in recent years, followed by industry/manufacturing at 32 percent and agriculture, fishing, and forestry at 15–17 percent. The services sector has also had the fastest growth rate, reflecting the fast pace of consumption and demand for telecommunications and food services.³¹⁷

The following indicators currently showcase the economic status of the Philippines, for 2009:

- GDP growth is 0.9 percent, GNP growth is 3.0 percent; relatively better than our neighbors Thailand, Singapore and Malaysia who all suffered economic contraction at -2.8, -2.5 and -1.2 percent GDP growth in 2009 respectively.³¹⁸
- Our net exports (exports minus imports) accounted for only 0.4 percent of the country's GDP, against Malaysia and Singapore's 29 and 20 percent, respectively.³¹⁹
- The Philippines remains high in domestic savings due to the remittances of Overseas Filipino Workers.³²⁰
- The national savings rate is at 30 percent, versus an investment rate of 15 percent, which is broken down into 4 percent public and 11 percent private.³²¹

- Two industries particularly stand out with double-digit growth in the 4th quarter: Mining and quarrying, which grew by 17 percent, and finance (banks and insurance), which grew by 11 percent.³²²
- However, there is a negative growth (-3.8%) in agriculture, the sector in which the rural areas depend on for livelihood; there is a significant decline in growth of palay (-3.3%) and sugarcane (-10.6%).³²³

National debt was approximated at US\$55 billion in 2003, amounting to more or less 73 percent of total GDP.³²⁴ As of January 2010, the total national government outstanding debt has reached PhP5.063 trillion.³²⁵ Servicing this debt crowds out other important government expenditures for basic services for the Filipino people, especially those of health and education.

As the government looks to support private sector development in the country, it needs to create a better environment for private investments by building more competitive markets, maintaining a credible regulatory oversight system, better administrative performance from government institutions, and a reliable, efficient mechanism for dispute resolution.³²⁶

The Role of the Private Sector

According to the ADB Philippines Private Sector Assessment, the private sector dominates the Philippine economy generating on average 95 percent of GDP and accounting for 85 percent of total expenditure during 1991–2002 period. It also contributes on average 65–75 percent of total investment, although its share dropped to 66 percent as a consequence of the Asian financial crisis as the economy contracted and the government intervened to revive growth.³²⁷

Private enterprises employ 92 percent of the registered workforce but have not been able to keep pace with the growing number of job seekers since the Asian financial crisis.³²⁸ However, the overall productivity of the private sector is low and declining. Rising real wages due to successive rounds of minimum wage increases have not been matched by concurrent rises in productivity.

Public-Private Sector Relations

In a March 8, 2010 article in the *Philippine Daily Inquirer*, economic adviser to the Arroyo administration Joey Salceda mentioned that ‘historical structural factors...have persisted and are tougher to get undone despite deregulation, liberalization and privatization.’ This refers to the oligarchies that continue to ‘exploit’ the business environment in the country. There has been decreased productivity and competence because of the presence of monopolies and oligarchies which control a huge chunk of the domestic (and even international) business sector.³²⁹

Also, an advertisement in the *Philippine Daily Inquirer* last February 15, 2010, by the Joint Foreign Chambers of the Philippines (American, Australian-New Zealand, Canadian, European, Japanese, Korean and Pamuri) concerning the dispute between government agencies and Pilipinas-Shell: a) double taxation (of intermediates and final products) seriously hamper the growth and development of the manufacturing industry; b) the government needs to practice consistency, predictability, fairness, due process and no retroactive changes for better relations with the business sector; and c) the threatening of the government to use force in the confiscation of future shipments, which example may lead to disastrous effects in the relations between the government and the business sector in particular.³³⁰

Major Challenges

Macroeconomic View

Cielito Habito states that the three key challenges facing our economy are the following:

1. weak government finances;
2. low levels of investment, and
3. failure of our economic growth to translate into poverty reduction.³³¹

One of the major problems in the relations between the government and the private sector—just like that in the macro level where it appears to be pervasive—is corruption. Corruption always has had negative effects on a country's development. As Dr. Gerardo Sicat of the UP School of Economics states:

In a country where corruption is a problem, it is assumed that corruption greases actions in the system...a country that is run on such grease is oftentimes full of regulations and rules that are impractical, creating enormous rents³³² for some groups that participate in the operation of the system.³³³

Corruption is not a problem only in the Philippines; it is also a problem in many other parts of the world. However, the issue is to reduce it from being widespread and rampant to a status that is negligible. Leadership and good governance are the factors that could tip the scales in controlling and eradicating corruption. Political will is required to enforce policies and give appropriate sanctions to those who still make transactions outside the law. Also, there are agencies like the Office of the Ombudsman and the Sandiganbayan, which are dedicated to prosecuting and bringing erring officials with cases of corruption to justice. However, the Philippine government still appears to be riddled with the presence of corrupt officials at all levels.

Also, another major challenge is setting goals and priorities. According to Amado Macasaet, the Philippines was “basically an agricultural country trying to industrialize...today, it

can neither rely on agriculture nor industry as the main drivers of the economy.”³³⁴ This is because, Macasaet writes, “economic development programs are invariably crafted during the election period.”³³⁵ He further asserts that these policy directives are “pieced together mostly by politicians or economists with strong political leanings...programs are calculated to attract votes, not really to make the economy grow.”³³⁶

Weeding out the useless and outdated laws that try to spur growth, or battle corruption, but are not really doing their job—this is a problem that has not been solved until now. There are too many laws with the thrust of economic growth in mind, and yet the country still continues to slump deeper into poverty and income inequality. Also, we are challenged with numerous policy mismatches. An example is the required policy to augment capital investments in the country, and the actual policies that the government adopted.³³⁷ The mismatched policies were at work for several decades—thus affecting capital adversely. As Sicat also notes, instead of encouraging foreign capital together with domestic capital, the government adopted the policy of limiting contribution from foreign capital. Policy restrictions on trade and industrialization also took its toll on the economy; the initial orientation of industrialization in the Philippines was mainly import substitution,³³⁸ thus, the perception that foreign and domestic capital competed with each other embedded a negative image in the Philippine psyche.

Studies also show that there is a high rate of unemployment and underemployment in this country. Sicat also notes that the growing population poses a threat to the labor force; the large chunk of the country’s population depends on the fewer, economically active individuals. Policy mismatch on the part of the government—an encouragement of more capital-intensive industries and the neglect of many labor-intensive ones—deterred the growth of jobs in relation to the labor supply.³³⁹

Zooming In on Public-Private Sector Relations

For the ADB,

Governance reforms should therefore form the central tenet of ADB’s sustainable private sector development strategy for the Philippines. In the current context, governance reform essentially means establishing and enforcing a rule-based business environment that encourages investment and rewards fair competition. In the Philippines, vested interests and systemic corruption will continue to make this process very challenging. Particular care will need to be taken in the design, implementation, and monitoring of programs to ensure that sufficient political will exists to support them.³⁴⁰

Also, a reduction of political interference in the markets is important. As stated by the ADB:

[This is possible] by strengthening the independence of sector regulators and giving them sole authority over utility tariffs, privatizing the remaining nonstrategic GOCCs and unbundling the commercial and regulatory roles of government agencies wherever they coexist (e.g., Air Transportation Office, Philippine Ports Authority).³⁴¹

Building credible and independent regulatory oversight is also part of the ADB's list of recommendations for better private sector development:

Due to the natural monopolies associated with many infrastructure investments, economic regulation is necessary to balance the public interest. To be effective, regulating bodies must be independent of policy-making agencies and free of any conflict of interest when implementing sector rules. In the Philippines, regulators exist for each major infrastructure sector, but none is financially independent or effectively free from political influence. In the case of the transport sector, ATO³⁴² and PPA³⁴³ combine policy, regulatory and operational responsibilities, thereby undermining their impartiality vis-à-vis private investors. This weak regulatory framework has resulted in formal legal challenges to almost every major regulatory decision and investment transaction.³⁴⁴

Local businesses may be optimistic in terms of access to financing,³⁴⁵ however, regulations and red tape are what they see as major constraints to investments and business. Also, limited access to the right information restrains the public and the businesses to estimate and approximate the economic environment.

The public-private sector relations in the Philippines is riddled with many problems and challenges that need to be faced head-on. One major challenge to the Philippine government is the rampant practice of what Dr. Paul Hutchcroft calls "Booty Capitalism." According to Hutchcroft, this exists where "the state is dominated by powerful business groups who finance electoral exercises and use politicians and the machinery of government to further their economic interests."³⁴⁶

This cycle starts when wealthy businessmen and even business groups with vested interests finance candidates' campaigns during elections. This is the basis of the statement that "the best investments happen every six years." If the candidate wins, he/she would repay his financiers by developing policy measures which favor the business, or even disregard past transgressions they incurred against the public or the government. Also, it could be considered that, as part of the Filipino psyche of "*utang na loob*,"³⁴⁷ definitely the politician would feel compelled to help the business people in any way he could, not only to pay off what they spent for his campaign, but also to make the 'help' worthwhile.

True enough, this practice adds political power to the already present economic power the oligarchic elites hold, and it distorts the demarcation between the private sector and the government. According to Romulo Neri, this “very ability to distort policies allows them to capture economic rent, economic rent being extraordinary profits which make them extraordinarily rich.”³⁴⁸ This gives them greater wealth, which allows them to finance the next election.

The combined impact of these policy distortions and our having weak state institutions makes it harder for foreign investors to develop and manage their investments in this country. Thus, low investment rates lead to low economic growth, and would eventually lead to high unemployment rates, poverty, poor social services and a very low respect for the law.

Lastly, a weak tax system is also a deficit of the government, as a considerable percentage of the Philippine GDP (roughly 14 percent)³⁴⁹ comes from overall tax revenue. Tax evasion is also a major challenge to the system. According to Habito, “taxpayers evade paying the proper amount of taxes on the belief that doing so would only feed corrupt pockets.”³⁵⁰ He further added that, unless there is a ‘more trustworthy’ government than what we have now, we cannot expect tax collection efficiency to improve.

What is to be done?

As Dr. Romulo Neri explains, the key to poverty reduction is generating greater economic value and higher income through higher productivity.³⁵¹ A reduction in poverty means a higher standard of living, and it is one ideal (yet elusive) environment for economic growth and development. So, how does this work, and how can we achieve the best possible results?

Dr. Gerardo P. Sicat, in his presentation entitled “Reflections on Philippine Development Challenges and Governance,” gives these propositions in economics that ‘are important in the analysis of Philippine economic issues.’³⁵²

1. Competition in the market leads to lower prices and to more output in general;
2. [Contrived] monopoly leads to higher prices and smaller output;
3. Trade benefits all parties in the transaction: the seller earning something in return, and the buyer getting a good price – so long as the trade happens as a result of competition and not of monopoly. Competition in international trade reduces the power of monopolists and cartels, and that
4. Specialization in production that is encouraged by the principle of comparative advantage enables a country – or producer – to become low cost and able to expand in the world market.³⁵³

These propositions, when used as bases for developing economic policies, would lead to a more efficient economy wherein there are equal opportunities for producers and consumers, and where there is no individual or firm that could dictate on market processes to their own advantage.

According to Dr. Sicat, employment creation is what the government should really prioritize. He gives several reasons for his recommendation; first, that gainful employment 'keeps people busy and away from mischief,'³⁵⁴ and second, since poverty takes place without apparent reduction, creating jobs would help people 'have a basis for hope,'³⁵⁵ gain a positive outlook and not 'get desperate in looking for all kinds of solutions...which makes them susceptible to any offers of cures, including those suggested by radicals and charlatans....'³⁵⁶

Giving stability to employment through a 'sustained rise of output and productivity'³⁵⁷ creates an assurance in the people of improving welfare standards in the country. As the gaining rate of employment is sustained, there will be a scarcity in labor, which will give rise to higher incomes and an improvement in skill competencies in the labor force. Also, scarcity in labor 'creates demand for greater productivity of labor because higher wages would demand a greater number of investments per labor.'³⁵⁸ Dr. Sicat even further states that as the economy grows, it would be easier to build a more peaceful, equitable and harmonious society. True enough, it is easier to allocate resources and achieve social goals when there is economic growth.

Definitely, one other important problem to address is strengthening the poor physical infrastructure of the country. Improving the physical environment, i.e. roads, and the telecommunications sector would help in the quality of product transportation and develop faster and more efficient business transactions.

Also, another one of the major recommendations for improving public-private sector relations in the Philippines is to review laws which have been set for the economy, and revise those which seem to be outdated, especially those which deal with tariff and trade, and investment, including the investment incentives that go along with them. Investment incentives provided in various laws should be reviewed, streamlined and aligned with the updated investment priorities. After this, the government should properly implement rules and regulations for the business sector that will bring about more jobs for the citizenry; there should be no special treatment for a particular set of businessmen or companies. This should build an environment that encourages investment and rewards robust and fair competition. A strong political will to implement and enforce laws may be one of the best solutions to defeat nepotism and the prevalence of Booty Capitalism in the country.

According to Dr. Sicat, sometimes, the 'short-run convenience of apparently popular policy choices introduces distortions in the economic outcomes that lead to high cost in the long

run.”³⁵⁹ Many of these policies counter market principles and thus, instead of building a stronger economy in the long run, becomes detrimental to the state of relations between the market and the government. An example of this, as Dr. Sicat states, is the root of the fiscal-crisis program of recent years. The crisis was a result of people-pleasing policy directives that the government decided upon for short-run gains.

According to Rafaelita Aldaba, one other recommendation is to prioritize drafting policies and programs ‘geared toward facilitating the exit of inefficient firms and entry of new ones.’³⁶⁰ Protecting inefficient firms that have no chances of exporting or surviving domestic competition should also be avoided.³⁶¹ As the firms are exposed to outside competition, restructuring processes³⁶² will be easier to undergo. The government is also expected to provide the necessary support to strengthen competitiveness by lowering the costs of doing business.³⁶³

A stronger push for agricultural and natural resource research and development programs jointly pursued by both the government and the private sector would definitely increase productivity in these two major sectors. Investments done by private companies in research and academic institutions to develop solutions should be commended and even encouraged. These programs could also help students and members of the academe to find stable jobs as part of research and development teams for private companies; it could also be an opportunity for companies to employ competent and efficient workers whom they have already previously worked with.

The creation and maintenance of a better finance environment for small and medium enterprises (SMEs) is also important; as Habito states, these SMEs are ‘viable source[s] of potential investments to fill the gap.’³⁶⁴ Extending SME loans seems to be a problem for banks, since they prefer lending to larger companies; however, as Habito asserts, these banks charge higher interest rates than what they charge the bigger companies. Thus, like in the case of Thailand, the government should consider lifting interest rate caps to increase credit flows to SMEs and pull up investment rates.³⁶⁵ As Habito concludes, “growth built on a flourishing SME sector should do it.”³⁶⁶

Finally, we agree with Habito that the government needs to look beyond the business process outsourcing (BPO) industry to provide jobs for the unemployed in this country. True enough, the real sources of hope for the jobless are agriculture and tourism.³⁶⁷ These are the sectors that could very well create jobs for the unemployed Filipinos, who are usually the young and undereducated.³⁶⁸ Expanding opportunities in agriculture and tourism should be one of the priorities when addressing unemployment and underemployment.

Recap of “What is to be done?”

- Creating jobs is what the government should really prioritize; giving stability to employment through a ‘sustained rise of output and productivity’ creates an assurance in the people of improving welfare standards in the country.
- Expand opportunities in agriculture and tourism to address the unemployment issue.
- Strengthen the poor physical infrastructure of the country. Improving the physical environment and the telecommunications sector would help in the quality of product transportation and develop more efficient business transactions.
- Review laws which have been set for the economy, and revise those which seem to be outdated, especially those which deal with tariff and trade, and investments, including the investment incentives
- Properly implement set rules and regulations for the business sector and removing special treatment for a particular set of businessmen or companies.
- Prioritize drafting policies and programs ‘geared toward facilitating the exit of inefficient firms and entry of new ones.’
- Push for agricultural and natural resource research and development programs jointly pursued by both the government and the private sector to increase productivity in these two major sectors.
- Create and maintain a better finance environment for small and medium enterprises (SMEs).

IV. SPECIAL CONCERNS

This chapter will detail some democratic deficits on special concerns like the continuing Muslim and Communist insurgencies and food security.

A. Insurgencies

This section shall discuss the Communist insurgency and the Moro issue which have persisted in the Philippines for the past decades.

A Short History of the Communist Insurgency in the Philippines³⁶⁹

On December 26, 1968, Amado Guerrero reestablished the Communist Party of the Philippines under the guidance of the theory of Marxism-Leninism and along the general line of national democratic revolution. Guerrero, who had been elected chairman of the Central Committee, subsequently wrote and issued *Philippine Society and Revolution* in 1969.

In carrying out the Communist struggle in the countryside, the CPP has incorporated armed struggle, land reform and mass-base building. On March 29, 1969, only a few months after the reestablishment of the CPP, the New People's Army (NPA) was established. This was facilitated by the “conjoining of the proletarian cadres from the urban areas and the fighters of the old people's army.”³⁷⁰

The NPA started with sixty fighters, armed with nine automatic rifles and twenty-six single-shot rifles and handguns in the second district of Tarlac province. The peasant mass base there was about 80,000, mainly organized through a legal peasant association and administered by barrio organizing committees.

Upon the declaration of martial law in 1972, the urban-based legal democratic mass organizations under the broad alliance banner of the Movement for a Democratic Philippines were outlawed and forced underground. Party cadres and mass activists had to be absorbed by the urban underground and by the revolutionary movement in the countryside. Thus, on April 24, 1973, the National Democratic Front (NDF) was organized “to embrace the underground mass organizations, base itself in principle on organs of political power built at the village level and facilitate the formation of united front committees and secret cells at higher levels.”³⁷¹

As of Liwanag's writing in 1988, the CPP-NPA-NDF increased its membership to 35,000 through the urban and rural revolutionary mass movement—in central organizations and in fourteen regional Party organizations. Out of the total membership, 5,000 members were of cadre quality capable of leading at least a committee or a squad. As of latest date, however, the numbers are not exact, yet it is estimated to have grown into a definitely larger number than listed in 1988.

(For a more detailed history of the CPP before its reestablishment in 1968, please see Annex ZG.)

A Short History of the ‘Moros’ in Mindanao and the Mindanao Struggle

“There can never be significant changes and reforms in a colonially-manufactured synthetic nation-state governed and perpetually plundered by greedy, corrupt and profligate Filipino elites whose oppressive and exploitative domination of and stranglehold on practically every aspect of life in this country, in subservient collusion with foreign imperialist powers, can only be dismantled if the Philippine nation-state itself is dismantled and the captive nations which make-up its components recover their respective sense of nationhood and are subsequently liberated...no choice is left for the Bangsamoro nation but to free itself from this environment of insecurity and the prospects of a bleak future...” (Alonto, 2006)³⁷²

What is the ‘Moro Issue’?

Originally, the term ‘Moro’ was coined by the Spanish colonizers to refer to the Muslim inhabitants outside of the capital, Manila.³⁷³ Their struggle for self-determination dates back to the late 16th century with their fierce resistance against the Spanish invasions in the southern regions of the country. Although the Americans replaced the Spaniards as the colonizers of the Philippines in 1899, the Moros were still resistant to their integration into the mainstream politics, culture and way of life of colonial Manila. They sought self-respect; an active, dynamic participation in all areas of social development and dignity alongside their men, and acknowledgment of their differences in various aspects of life from the rest of the Philippine territory.

The present armed conflict is a continuation of the long history of the Moro people’s struggle against all forms of colonization and subjugation.³⁷⁴ It reached its height in 1971 when the Moro National Liberation Front (MNLF) declared an armed struggle with a demand for an independent state for the Bangsamoro.³⁷⁵

The Moro struggle, in Samuel K. Tan’s book “Internationalization of the Bangsamoro Struggle”, could possibly be divided into three parts, according to the thrust and main ideology ruling each section: **the Integrationist Approach (1946-1968), the Secessionist Option (1968-1976), and the Separatist Alternative**, which lasted from 1976 till 1990. The Integrationist Approach started after the end of the Pacific War and subsequent proclamation of Philippine Independence, and some Moro families and key persons worked closely with the government to achieve the integration of the Muslims’ land, culture and customs into the new Filipino republic. However, in 1968, after the Jabidah Massacre,³⁷⁶ integrationist ideals gave way to secessionist ones, which were led by the Bangsamoro Liberation Organization of Datu Rashid Lucman of

Lanao. The most concrete means of compromise between the government and the Moros was the 1976 Tripoli Agreement, which was signed under the Marcos administration.

Following the Tripoli Agreement in 1976, Nur Misuari spelled out the ideological backgrounds and thrust of the MNLF through press releases and public speeches. Misuari's ideology primarily promoted the view that a "Moro Nation" had really existed even long before the Spanish colonization of the Philippines, and that this Moro Nation that he spoke of was inherently separate from the rest of the Philippines, which gave rise to the idea of a Separatist Alternative from 1976-1990.

(For a more detailed history of the three subsections of the Moro struggle, please see Annex ZG.)

Government Responses to Communist Insurgencies

According to Liwanag, the CPP has even "consistently sought unity, cooperation and coordination with the MNLF as well as with other forces of the Moro people even as the Party criticized their acceptance of regional autonomy within the framework of an oppressive state as provided in the Tripoli Agreement."³⁷⁷

But since the latter half of 1969, the government had concentrated the *Task Force Lawin* and organized the "barrio self-defense units" (BSDU) to operate against the NPA. In December 1970, the government proclaimed the elimination of the NPA and the peasant movement, as NPA units had been destroyed.

Also, the NDF postponed formal negotiations with the government "to comply with its obligations" according to the Hague Joint Declaration approved in 1992 and other agreements. The declaration proclaims "the need for peace talks to address the roots of the conflict and arrive at reforms...At least three substantive issues awaited discussion: constitutional reforms, socio-economic reforms and disposition of forces that are the core of the present armed conflict."³⁷⁸

Apparently, the peace dialogue with the National Democratic Front (NDF) is at a crucial juncture. In fact, NDF spokesman Luis Jalandoni admitted that "the chance for peace talks is already dim."³⁷⁹ The rebel group had broken off formal negotiations last year and cited government's failure to honor agreements it had forged with them.

In 1995, the Joint Agreement on Safety and Immunity Guarantees (JASIG) was mutually approved to protect the panelists. On October 5, 2005, however, the government suspended the JASIG as a response to the NDF's persistent refusal to peace negotiations and continued atrocities committed by the rebel forces. The government also condemned the use of landmines by the rebels in their offensives as violation of the Comprehensive Agreement on Respect for

Human Rights and International Humanitarian Law (CARHRIHL). With the move, 97 NDF personnel covered by the JASIG with standing warrants of arrest could be arrested and the suspension of their criminal proceedings could be lifted.

The Project Ploughshares website shows us a complete breakdown of the highlights of the government's engagement with the CPP-NPA-NDF. In April 1997, as listed in the website, "after a short respite for peace talks, government forces were ordered to resume full hostilities against the communist rebels."³⁸⁰ Meanwhile, rebel attacks increased, especially on the National Police. In 1998, despite renewed peace efforts, the Philippine Army was "reassigned counter-insurgency operations on the island of Negros as part of an escalating government campaign against communist rebels" (Project Ploughshares). In May 1999, peace talks were again suspended, and it was highlighted with more casualties, both in the military and in the rebel side.

In 2003, in spite of the lingering conflict since 2001, talks between the two sides resumed mid-year, but it had little to no success. The government continued strengthening its military forces, with the aid of US arms and training, as part of the global "war on terror." In 2004, the CPP-NPA-NDF was named by the US as one of the terrorist organizations, and remains so until this day. This started another major conflict between the government and the communist group that in 2005, escalated fighting claimed the lives of over 100 people. It was at this point in time too that the RPM-M, a breakaway faction of the CPP/NPA in Mindanao, signed a ceasefire agreement with the government.³⁸¹

In 2006, the NPA was held responsible for bombing many private companies, and attacking police and military targets. The government then announced additional funding to increase its anti-rebel program, strengthening its offensive and increasing clashes between the military and rebels. The international community sharply criticized the Philippine government for its role in the so-called "extrajudicial killings" of leftist activists since 2001. The UN began an inquiry into this. President Arroyo remained committed to defeating the NPA by the end of her presidential term in 2010, but government forces continued to struggle in the battle against the 7,000-strong NPA. Elections in May 2010 were generally considered free and fair, but increased violence and accusations of electoral fraud marred the results (Project Ploughshares).

Until now, the NPA is continuing its strategy of taking "revolutionary taxation" from mining operations, while the military targeted mining regions as a means to sever NPA funding and encourage foreign economic development. Hundreds became displaced this year, mainly in these mining regions. The government's Social Integration Program (SIC) provided financial assistance for 225 rebels in exchange for surrender, and may explain claims that NPA numbers have been reduced. Attempts to resume formal peace talks in late 2008 failed, as did attempts by the CPP to create a joint campaign with the MILF. To date, no government or military personnel have been persecuted in relation to the "extrajudicial killings" of leftist activists, despite a UN

report and government taskforce documenting military involvement in cases of “disappearance.”³⁸²

Government Responses to the Moro Issue

Overview

Since 1946, we can observe that the government answers to the challenges of the Muslim struggle have been based primarily on the idea of integration. Although integration was primarily based on the Spanish and American promotion of the Christianization of non-Christians throughout the country, the post-1946 Filipino government sought to eliminate this kind of integration by developing policies which were more or less guided by the constitutional guarantee of religious freedom.

But then, colonial bias against the marginalized, non-Christian cultures was difficult to eradicate. This bias continued to affect development and of many policies and programs of the state, not to mention the projects by private institutions in the development of the southern regions. There were limited opportunities for Muslims in government service and even in the private sector, and they continued to suffer neglect by the government; not only in providing the basic needs such as food, education and housing, but also in infrastructure and employment.

Despite carefully conceived policy thrusts and programs, which, according to Tan, even became political slogans and propaganda, the lack of tangible projects and strained resources accompanying the rapid increase in national population continued to plague the Muslim communities in the South.³⁸³ As priorities shifted, the minorities have been pushed farther down the list and not given close attention.

Truly, it could not be denied that bias against non-Christian minorities remained a large barrier towards nationalism. The Christian (primarily Roman Catholic) majority in the country not only enjoyed access to abundant resources, but also the near-monopoly of national power as well. Also, it should be noted that the Christian majority even shared power in the Muslim regions, as shown during the Integrationist Approach section of this chapter.

The government was right though in believing that, by giving enough political, economic and social concessions to Muslim leaders, the Muslim threat to national security could somehow be alleviated. True enough, many Muslim families from Lanao, Cotabato and Sulu opted to cooperate with the national government through appointments in local and national positions. This watered down the secessionist and separatist struggles, especially after the creation of the Commission on National Integration (CNI) in 1957 and the founding of the Mindanao State University in 1968. These two avenues gave the Muslim leadership “a sense of importance they

had been seeking, as well as the venue to project their political and intellectual profiles in Philippine society.”³⁸⁴

Even so, hostilities continued on both sides. The outbreak of war in Sulu in 1974 between the Philippine military and the then-newly-formed MNLF reduced hundreds of residents to utter poverty and razed Jolo to the ground. Also, scores of soldiers and MNLF *mujahedeens* were killed in the battle. The entire Sulu archipelago, including Lanao, Cotabato and Basilan, was turned into a war zone, as properties and valuables were also pillaged or burned down. This was the Muslim war of independence that caused the most tragic losses to both parties, and the only logical direction was to conduct peace talks in order to avoid more conflict and loss of lives. Thus, to end the armed conflict, in 1976, the historic Tripoli Agreement was signed between the MNLF and the government of the Philippines.

1976 Tripoli Agreement

The 1976 Tripoli Agreement between the Philippine government and the Moro Islamic Liberation Front was a product of the mediation efforts by the Organization of the Islamic Conference (OIC). Signed in Tripoli, Libya in December 1976, it granted autonomy to 13 geographic regions in Southern Philippines, namely Basilan, Sulu, Tawi-tawi, Zamboanga del Sur, Zamboanga del Norte, North Cotabato, Maguindanao, Sultan Kudarat, Lanao del Norte, Lanao del Sur, Davao del Sur, South Cotabato, and Palawan. Both parties agreed upon the regions since these areas housed the majority of the Muslim population in the country. It was also agreed upon that foreign policy and national defense would be overseen by the central government; the latter carrying the promise of a possible joint force between the Philippine Armed Forces and the MNLF. Shari’a law was implemented in their courts; and as for the educational system, the Muslims had the right to set up their schools, colleges and universities, provided that they would still follow a basic set of rules for the general education system of the state. The economic, financial and administrative systems were under the autonomous government, and some of the other sectors were too, with minimal supervision of the central government. Most importantly, ceasefire was declared immediately after the signing of the agreement. (See Annex ZI for complete text of the 1976 Tripoli Agreement.)

However, a year after the signing of the agreement, a referendum regarding the implementation of the agreement was turned down. The MNLF claimed that the government did not properly hold on to the end of the bargain, especially because the referendum did not succeed due to the migration and influence of new Christian settlers into Mindanao. This started another conflict between the government and the MILF. Eventually, after the Marcos dictatorship (the government of the day when the Tripoli Agreement was signed), in 1986, a ceasefire, an amnesty program, and peace negotiations were achieved, which led to drafting of the 1988 Organic Act for the Autonomous Region in Muslim Mindanao (ARMM).

1988 Organic Act for the Autonomous Region in Muslim Mindanao (ARMM)

The 1988 Organic Act to form the ARMM was developed and approved during the Aquino administration. It was designed to further lay down the provisions for the construction of an autonomous region in Mindanao led by Muslim leaders, one of which was Nur Misuari, in 1995. It was also developed to straighten out the problems brought about by the breaches in the Tripoli Agreement by both the government and the MILF. It contained a more comprehensive listing of provisions for governance of the region, and the rights and responsibilities of each person in the ARMM. (See Annex ZH for the complete text of the Organic Act for ARMM.)

However, according to Lanao del Sur Rep. Pangalian Balindong in his 2008 privilege speech to the House of Representatives, although the Regional Consultative Commission that helped draft the Autonomy Act recommended enough funds for the development of the Autonomous Region, it has never been implemented because of the refusal of the central government. He furthermore mentions that “the Regional Legislative Assembly [of which I was Speaker], enacted a law creating a Regional Police Force for the Autonomous Government pursuant to the Constitution but remains a dead letter law up to now.”³⁸⁵

Giving a more comprehensive framework for the development of the ARMM, the Organic Act also paved the way for the 1996 Final Peace Agreement between the Ramos administration and the MNLF.

1996 ‘Final Peace Agreement’

In September 1996, the Philippine government, on behalf of President Fidel V. Ramos, led by Chairman Manuel T. Yan, and the MNLF under Nur Misuari, signed an agreement in Manila to end the 24-year hostilities in Mindanao between these two parties. Since the outbreak of war in Sulu, there had been more than 120,000 casualties from both parties and left more than 300,000 Muslim refugees destitute.³⁸⁶ By the time this agreement was signed, the war in Mindanao is estimated to have cost the Philippine government \$3 billion since 1972.

Implementation of the agreement was envisioned to be divided into two phases; Phase I, a three-year transitional period, involved the development of a Special Zone of Peace and Development (SZOPAD),³⁸⁷ which will be the focus of “intensive peace and development efforts” to which investments will be channeled in order to “spur economic activities and uplift the conditions of people therein.”³⁸⁸ Concurrently, the Southern Philippines Council for Peace and Development (SPCPD) will be established as a mechanism to “monitor, promote and coordinate the development efforts” within the SZOPAD.³⁸⁹ Lastly, there will be a Consultative Assembly; all these will be established through an executive order.³⁹⁰ The integration of former MNLF guerillas into the Armed Forces of the Philippines (AFP) as well as the Philippine National Police (PNP) was also envisioned as part of this phase.

Phase II consists of a legislative action either to amend or to repeal the 1988 Organic Act of the ARMM, in which the subsequent law would be submitted to the people in the affected regions in a plebiscite for ratification. The new law will then incorporate the applicable provisions in the 1996 Agreement with new provisions which may later be espoused with an expansion of the territory from the four provinces that currently compose the ARMM. The provinces which vote for and opt to be part of the ARMM in that plebiscite (to take two years within Phase II) may then be formally incorporated into a new autonomous region.³⁹¹

Recent Government Responses to the Moro Issue

In the privilege speech of Rep. Balindong in 2008, he said that “I urge all parties (the GRP and the MILF) to go back to the table and talk peace once and for all. Whatever it is that GRP is willing to give whether autonomy or federalism, it must be stable and permanent. It must also be meaningful and able to achieve change and, finally peace. It must be sincere so that there would be no need to go back every now and then to the negotiating table. We will no longer have reason to fight each other again.”³⁹² Sporadic pushes for peace talks have happened in the course of the Arroyo administration, but all it achieved were sparse ceasefires and a few peace negotiations, with no specific, tangible document of peace yet; only a proposal for a Comprehensive Compact in January 2010.³⁹³ However, it was reported in the *MindaNews* article by Arguillas that the “government and the MILF peace panels have postponed to March their February 18 to 19 meeting in Kuala Lumpur to review the drafts on the comprehensive peace settlement that they exchanged on January 27.”³⁹⁴

In the course of writing this paper, the government has been working recently on a closer implementation of this Agreement. In an April 24, 2010 news article:

The Government of the Republic of the Philippines (GRP) and the Moro National Liberation Front (MNLF) signed a Memorandum of Understanding (MOU) in Tripoli, Libya, to continue working on the implementation of the Final Peace Agreement, an official said on Friday [April 23, 2010].

Sec. Annabelle Abaya of the Office of the Presidential Adviser on the Peace Process (OPAPP) said that the implementation of the Peace agreement as embodied in the signed MOU shall be fully carried out. The agreement was signed on Tuesday at the World Islamic Call Society. Under the MOU, all the parties concerned also agreed “to undertake a GRP-OIC-MNLF tripartite process structure to monitor the implementation of the 1996 Peace Agreement and the security, governance, economic activities, including the delivery of social services, in the conflict-affected areas.”

Signing for the GRP was Asst. Sec. Camilo Miguel Montesa of OPAPP, Nur Misuari, chairman of Moro National Liberation Front (MNLF), and

Ambassador Rezlan Jenie, chairman of the Organization of the Islamic Conference-Peace Committee for the Southern Philippines (OIC-PCSP). The panels worked on the review of the implementation of 1996 Final Peace Agreement.³⁹⁵

Challenges Posed by the Communist Insurgencies

While much of Asia has discarded communism for capitalism, communism still persists in the Philippines. Most of the reasons are basic, analysts say. As Roy Lagarde puts it, “poverty and social inequity are growing, and the political levers are held by the landowning Philippine elite, which has dragged its feet on agrarian reform since the restoration of democracy in 1986.”³⁹⁶ Even the government’s counter-insurgency efforts have been characterized by brutality and corruption of the military, and, according to Lagarde, some people are “of the belief that a section of the military feels it is in its interest not really to totally defeat insurgencies, because it gives them something to do—financial gains if you may.”³⁹⁷

In Lagarde’s article, to test the government’s sincerity to pursue peace, the NDF desired that the government resolve the following issues before the peace talks between both parties are resumed:

- Terrorist listing. The NDF demands the government to at least speak out against the US and European “terrorist” listing of the CPP-NPA-NDF. “Instead of protesting US intervention, the Arroyo regime in fact invites it,” the CPP said in a statement.
- Indemnification of human rights victims. Almost 10, 000 victims of human rights violations under the Marcos dictatorship have won their case in the US Court of Hawaii. But NDF protested that the government remained “unjust to these victims by preventing them from seeking justice” in the Philippines.
- Release of political prisoners. During the formal peace talks in Oslo on June 22, 2004, the NDF negotiating panel presented a list of 270 political prisoners and asked for their release. Of high priority are some Mamburao farmers, the sick and the elderly, women and children, and those whose release orders were signed already by President Arroyo in 2001 but have not yet been released to date.³⁹⁸

Challenges Posed by the Moro Issue

As for the Mindanao issues, although there are many, one of the major challenges that face the government is the failure of the government to deliver the basic needs and services for the people of Mindanao, most especially those in the rural areas. Examples of these are the insufficiency of *barangay* roads, and the lack of educational facilities and even health programs

for the citizens. This also comes with the inability to meet Muslim demands for socio-economic benefits vis-à-vis the more progressive Christian majority population.

In a forum-workshop for Muslim youth leaders held by the Institute for Autonomy and Governance with Konrad Adenauer Stiftung in 2008 in Davao City, the youth delegates listed five major root causes of the problems in Mindanao: historical injustice, lack of trust among the peoples in Mindanao, cultural and religious intolerance, dispossession of land, and the corruption and insincerity of the national government. True enough, the challenges for the government seem very simple, yet very difficult to face or even accept.

Ted Gurr's theory of relative deprivation could explain well enough what Mindanao is going through, and even why there is still a relatively large base of recruits by the NPA. Relative deprivation is a phenomenon that takes place when there is a discrepancy between the people's *value expectations* (what people expect that they deserve) and *value capabilities* (what they actually have or are capable of obtaining).³⁹⁹ To put it more simply, relative deprivation is a "group of people's thinking and feeling" that what "ought to be" is different from what "is."⁴⁰⁰ There are three forms of these values: the relative deprivation of *welfare values*, *power values* and *interpersonal values*. A deficit in one of these values is already detrimental to a country's overall stability; a deficit in all three is already a critical point to stimulate the people to cause conflict or instigate revolution.

In Rosalita Nuñez' book *Roots of Conflict*, she expresses the view that the basis of the Mindanao struggle can be thoroughly expressed by the relative deprivation of its inhabitants.⁴⁰¹ Bolongaita asserts that the roots of the conflict in Mindanao "go deep down in the collective consciousness of the people in the island and in the country."⁴⁰² It is a type of conflict that could not be 'calmed' by politics and economics alone,⁴⁰³ thus, it is also necessary for social reforms which will strengthen social cohesion and stability between multi-cultural Mindanao.

Definitely, the ancestral domain issue is also one of the major challenges in Mindanao, for not only Muslims occupy a large chunk of Mindanao land, but also many other indigenous peoples. Finding a comprehensive solution to this would not only lessen the hostilities between the military and the Muslim population; it could also give way for a more peaceful environment in the whole of Mindanao, including the indigenous peoples who have inhabited the land since time immemorial.

Lastly, cohesion between various sectors of the government seems to be a challenge that has spanned many generations. Most of the time, implementation problems stem from miscommunication, misunderstanding and lack of cooperation between government offices, not to mention widespread corruption embedded within transactions. Corruption is truly a major problem, the Philippines being branded as one of the most corrupt countries not only in Asia but

also in the world. If this seemingly intractable problem could only be given more attention and action, there might be a possibility that other difficulties could also be addressed.

What is to be done?

“Military strength and strategies cannot resolve the Mindanao conflict...development assistance must be people- and community-oriented” (Mercado, 2008)

Political Sector

As Roy Lagarde puts it, at the end of the day, it can be argued that the “best panacea to insurgencies” is good governance. On the premise that communism thrives on conflict or contradiction, it was the bad governance of the Marcos administration that gave it more life; while things took a better turn through the efforts of the Ramos administration, they had again failed in the span of the Arroyo administration for lack of a good framework for peace and governance in the area.

Definitely, the present remedial set-up for both the Mindanao issues and communist insurgencies are not the most effective ones, for they did not bring about peace and progress in the whole region since the time they were formulated by the government. True enough, as Mujiv Hataman, a Muslim youth group leader, says, “Autonomy has not helped solve the problems that are at the root of the Moro insurgency.” There must be some things that should be altered, or even developed, to suit the needs of the ever-evolving (not to mention elusive) challenge of peaceful co-existence in the Philippine landscape.

There are many reasons for the ongoing secessionist and insurgent thought in Mindanao—and most of them stem from what scholars call ‘structural weaknesses’ of the government and its policies. Some of these ‘weaknesses’ include the “lack of clarity of the premises of the negotiated settlements” and the “failure to articulate the foundation of these settlements;”⁴⁰⁴ and... Definitely, since the laws are not as clear-cut as they should be, implementation of the law is also a major problem being faced by both the national and the local government in the region. Also, as what could be observed after the infamous Maguindanao Massacre of 2009, Mindanao is teeming with arms and political warlords who are omnipresent.

As Benedicto Bacani stated in his article, “the settlement [in the peace process] may be substantial and comprehensive but will suffer problems in implementation, or the pact addresses only the ‘problems’ of the MILF.” Truly, there is no one all-encompassing solution that could be developed and implemented to remedy the situation in conflict-affected areas soon. One must closely study and develop the solution while understanding both parties and the issues they present.

Since governance remains a very important factor in achieving peace, the question of federalism now comes into view. Jose Abueva asserts that a federal government is best suited for the Philippines since it could deliver ‘greatly improved governance’ by being able to gradually ‘develop greater human and institutional capabilities for governance.’⁴⁰⁵ Furthermore, there shall be developments in decentralization and devolution which could not be attained under the unitary system. However, some problems might still arise especially if the public remains uninformed or even misinformed regarding the federal system of government. Shifting to a federal system of government does not automatically mean progress and peace; it is not a cure-all against the deficits of the government and the country itself. Constitutional revisions also require a lot of hard work, and definitely, the country needs more experienced and dedicated statesmen to be able to produce more comprehensive and updated constitutional reforms.

Also, since the hindrances of political warlordism and the bondage of citizens to their political leaders have always been present, one possible solution for the rampant political warlordism in Mindanao (and other parts of the country, for that matter) is the complete disarmament of these warlords, regardless of their positions in government, or their connections to the present administration. The government cannot afford to give special treatment in such situations, and a show of strong political will is important to ensure that everyone is equal under the law of the land.

Also, most importantly, proper implementation of rules and programs would not be possible if there are loopholes which exist in the law itself. Rules of engagement should be well-defined in order to avoid unnecessary armed conflict which could lead to casualties. Constitutional reforms—especially those regarding territory and management of institutions in the ARMM—should be reviewed and assessed more closely to straighten out conflicting statements and provisions.

As for the challenge of public administration and proper implementation of laws, it must be understood that implementation work does not all depend on one particular sector of the government. These laws and programs are interconnected; most of the time, they require more than one branch of the government for smooth accomplishment of specific goals. Most of these laws and programs look good on paper, but they often do not work in the ways they should because of lack of cohesion in the government sector. Objectives would remain empty words as long as only a few are willing to work for it; visions could more easily be realized if the people could see them and work together towards the common goal of peace and progress.

Economic Sector

Although the Communist struggle and the Mindanao issue are different in substance, ideology and framework, there are problems which overlap between them—especially the all-encompassing major problems of poverty and unemployment. Civilians trapped in conflict

zones suffer in poverty and fear, and many innocent lives are taken in skirmishes between the military and the rebels.

True enough, Mindanao is a land of contrasts. Although famous for marine and land biodiversity and richness of its natural resources, it could still well be considered the poorest region in the Philippines. Amidst the beauty of its surroundings, a peaceful environment continues to be elusive and people are in for a bleak future if no drastic measures to remedy the peace situation are taken.

Various scholars have proposed an array of solutions and recommendations regarding the peace situation in Mindanao, yet, a lot has to be done to really reduce conflict situations and strengthen the peace process. The Joint Needs Assessment for Reconstruction and Development of Conflict-Affected Areas in Mindanao study done by the World Bank appears to have the most feasible propositions and comprehensive solutions regarding the issues.

They have divided their proposed solutions into three headings: the Immediate Term, which, as they propose, will serve as “confidence and trust-building measures”⁴⁰⁶ and are “immediately doable and highly visible projects...[which] will yield quick ‘peace dividends’ to the community.”⁴⁰⁷ This includes “food aid, construction of core shelters, provision of farm and fishery materials and equipment, rehabilitation of damaged health and educational facilities, and immunization of infants and children.”⁴⁰⁸

The second heading, called “Short Term” projects, are “meant to consolidate gains from the initial round of engagement with the conflict areas.”⁴⁰⁹ This includes “educational assistance to out-of-school youth, rehabilitation of access tracks, small bridges and irrigation facilities, capacity-building for various local institutions and farm and non-farm livelihood projects.”⁴¹⁰

The last is the “Medium Term” heading, wherein plans such as feasibility studies for large-scale agribusiness projects are recommended “to bring the conflict areas to the path of sustained growth and recovery.”⁴¹¹ This particular phase will be linked closely with the long-term development goals of the government and the private sector in that area.

These propositions made by the World Bank, if done efficiently and in proper terms with both the government and the private sector, may very well lead to the progress of the Mindanao region. Not only that, the framework could also be used for other underdeveloped areas plagued by insurgencies left and right. With all the overwhelming challenges that face the government, it is only right to accept that the government cannot do everything on its own without the participation of civil society and the private sector. Thus, what could make up for the many deficits of the government is closer ties among the private sector, civil society and the government.

Social Sector

As Nuñez discussed in her book, one of the roots of the Mindanao conflict is the lack of cultural pluralism. Thus, to fulfill the dream of a ‘society that helps the different peoples in Mindanao gain confidence in achieving self-realization,’⁴¹² one must also bear in mind the importance of addressing social issues. One possible avenue for realization is the development of inter-faith dialogues to further discuss and understand issues which plague both the Muslim and Christian peoples in Mindanao. These confidence-building measures could help produce ideas to develop conditions to decrease animosity against each other.

The enhancement of the Madrasah educational system for Muslim children is also a tool in mitigating the Muslims’ perceived discrepancy between what they desire and what they can achieve in reality. According to former Education secretary Jesli Lapuz, enhancing the Madrasah program could “positively contribute to the ongoing peace process, make the public education system more intensive and seek to improve the quality of life of Muslim school children through education.”⁴¹³

Finally, the involvement of children in conflict zones, is a major problem in Mindanao and in provinces teeming with CPP-NPA forces. This is mostly due to poverty, lack of education and opportunity, and family influence. The exploitation of children by employing them as workers or child soldiers is punishable by law, however, there are still many instances where children are involved in conflicts, and more often than not, they become casualties. Thus, according to Dr. Elizabeth Protacio, former head of the International Committee of the Red Cross (ICRC), the minimum conditions of: (1) safe environment; (2) secure economic base; (3) community resilience enhanced by traditional support networks; (4) mechanisms for protection, including the monitoring of human rights violations and the enforcement of laws,⁴¹⁴ would be able to help child soldiers to recover and be socially reintegrated. Also, therapy and counseling would make it easier for the children to overcome the trauma and stress they have gone through.

Recap of “What is to be done?”

Political Sector

- Improve on governance and efficiency in delivering social services to the people; proper implementation of rules and programs to render the best service possible
- Study the pros and cons of federalism—will it be a better solution to the Mindanao issues, or will it exacerbate differences and problems between the central government and local units?
- Revise and strengthen loophole-riddled laws to decrease so-called ‘structural weaknesses’ brought about by outdated and compromised legal and justice system. This includes constitutional reforms and further definition and clarification of rules of engagement.

- Implement the complete disarmament of warlords and remove private armies from service to political families in Mindanao and across the country
- Enhance connections within the government agencies involved in delivering goods and services to the public, and develop an orderly, more efficient system of networks between the government, civil society and the private sector

Economic Sector

Immediate Term (1-2 years)

- Deliver food aid
- Construct core shelters for displaced individuals and families
- Provide farm and fishery materials and equipment
- Rehabilitate damaged health and educational facilities
- Develop health programs dedicated to the care of infants and children

Short Term (3-4 years)

- Provide educational assistance to out-of-school youth
- Rehabilitate access tracks, small bridges and irrigation facilities,
- Develop projects for capacity-building for various local institutions
- Implement farm and non-farm livelihood projects.

Medium Term (5-6 years)

- Draft feasibility studies for agricultural development and agribusiness prospects
- Make and strengthen partnerships between the government and private sector to push for the development of small and large-scale agricultural businesses

Social Sector

- Develop inter-faith dialogues as confidence-building measures to further discuss and understand issues which plague both the Muslim and Christian peoples in Mindanao
- Enhance the Madrasah educational system to cater to the intellectual and social needs of Muslim children
- Decrease and eventually abolish the presence of children involved in conflicts by safeguarding their rights to life and education, and providing rehabilitation services for children who had gone through episodes of being involved in conflict areas.

B. Food Security

Overview of the Situation

With a growing population, the first order of the day that a government should push for is to put food on the table of every household. There are already about 854 million people in the world who are hungry and undernourished. Everyday, there are more or less 10,000 children all over the world who die of hunger and malnutrition.⁴¹⁵ True enough, food security is one of the major problems of the world, and definitely, the Philippines is not exempted.

As the Food and Agriculture Organization (FAO) keeps a world food price index, it could be seen that the whole range of commodities has risen by 9 percent in 2006, 24 percent in 2007 and 51 percent in 2008.⁴¹⁶ This is alarming, especially because this means that poor countries will be paying 40 percent more in their food import bills.⁴¹⁷ Further, this means that more people will go under the poverty threshold—the United States Agency for International Development (USAID) projects that 133 million people will be under the poverty line.⁴¹⁸

Challenges to Food Security

Food shortages automatically lead to higher mortality rates, an even higher poverty incidence, and poor health. A poorly fed individual who could not meet the standards of the Recommended Daily Allowance of required vitamins and minerals is more likely to get sick; thus, there will be a strain on his labor productivity.

With the soaring food prices, food buffer stocks in the country are diminishing. We used to keep a food buffer stock of 90 days, but now, it has gone down to just 30 days.⁴¹⁹ However, this is not happening only in the Philippines, this is happening globally.

These rising food prices could bring about unrest and political stability, especially in countries where political and social institutions are fragile, and those with conflict areas like the Philippines. Another example is Haiti where problems were further compounded by the January 2010 earthquake.

Higher incidence of sicknesses brought about by poor handling of agricultural produce is also a challenge. This is due to numerous pesticides and chemical fertilizers used to either combat pests or speed up crop growth and increase crop yield. Also, handling and transportation of livestock and fish is hampered due to poor physical infrastructure and lack of methods to preserve the meat and fish for consumption in the markets.

Domestic agricultural productivity is further hampered by instability in governance, which is exacerbated by inadequate financial resources for goods of major importance for the

population.⁴²⁰ A large population also constrains the capacity of the government to develop efficient and effective programs for agricultural development.

The significant dependence on the importation of rice from our neighboring countries by the Philippines is a major challenge, especially with the fact that rice is the staple food of the Filipinos—thus it is imperative that we improve on rice productivity.

Current Government Projects and Responses⁴²¹

In the current Arroyo administration, numerous programs addressing food shortages are already being implemented. Some of them include:

1. The Food-for-School Program (FSP), a food subsidy program that provides a daily ration of one kilo of rice to hungry families through children in Grade 1, pre-school and day care centres and one of the immediate stop-gap measures to mitigate hunger among poor families, is now implemented in priority municipalities within FIVIMS/AHMP⁴²² provinces and all villages in the National Capital Region.
2. The Gulayan ng Masa Program, a component of AHMP which promotes integrated backyard gardening in rural communities through training and provision of seeds and planting materials, distribution of poultry, small ruminants, livestock and fingerlings is being implemented in 38 of the 49 FIVIMS/AHMP provinces.
3. The Tindahan Natin, a project that provides low-priced but good quality rice and instant noodles to low income families through an accredited store, serves close to 330,000 poor families in NCR. Programs promoting good nutrition on the other hand, continue to be implemented in all provinces of the country, while programs that support population management cover 28 provinces. The League of Municipalities has also conducted a campaign dubbed “Kung Maliit ang Pamilya, Kayang-kaya” to encourage families to achieve a manageable family size. Water transport facilities such as ports and wharf facilities have also been constructed in 33 of the 49 FIVIMS provinces costing about P1.4 billion. This is to improve commodity flow and marketing of agricultural products to maximize economic potentials.⁴²³

The FIELDS program of the Department of Agriculture (DA)—which stands for Fertilizers, Irrigation, Extension, Loans, Driers and Seeds—was one of the major programs of the administration to address food shortages. Agriculture Secretary Arthur Yap said these priority areas for government funding or intervention support will be divided under the two-tiered system, based on each and every FIELDS component.⁴²⁴

Also, according to the website of the DA, they said it will give “priority to areas where local governments are willing to provide counterpart funding for farm-friendly programs and to

the 2,600 clusters spread out in 48 provinces across the country where per-hectare yields are below the national average of 3.8 metric tons (MT), or 76 cavans per hectare.” Yap stressed that “the counterpart funds provided by local governments will help offset the impact of the financial crisis by generating economic activities and creating more jobs in the countryside...greater investments in the sector will induce greater economic activity, which will, in turn, rev up the rural economy and create more jobs in the countryside at a time when the global financial flu is expected by international experts to get worse in the year ahead before it gets any better.”⁴²⁵

The National Commission on Indigenous Peoples (NCIP), under the leadership of former Chairman Atty. Eugenio A. Insigne, conceptualized and initiated a “food for security” program to show how ancestral lands can contribute to the country’s food security through agricultural projects. According to Insigne, “We conceptualized a project on food for security with indigenous cultural communities (ICCs), together with the involvement of government agencies like the Department of Agriculture, Department of Agrarian Reform, Department of National Defense, and Department of Environment and Natural Resources, and private companies, including Kuok and San Miguel Corporation. The development of 1 million hectares of ancestral land through a multi-stakeholder approach is envisioned to benefit the country.” He hopes that the project can be replicated in other areas and benefit the entire country.”⁴²⁶

What is to be done?

To achieve food self-sufficiency and alleviate the challenges of food security, each country has to develop measures that could increase food supply, or promote economic development and eventually increase the purchasing power of the people.

The UN has come up with short-term approaches that immediately address the needs of populations. This includes the following:

1. Enhancing emergency food assistance nutrition interventions and safety nets, and making them more accessible to all;
2. Increasing smallholder farmer food production;
3. Adjusting trade and tax policies, and
4. Managing macro-economic implications.⁴²⁷

The Philippines has already been a recipient of aid from the World Food Programme (WFP) and the FAO, especially in increasing smallholder farmer food production. In fact, a minimum set of options has been provided for guidance to the government:

1. Immediate supply of seeds, fertilizer, feeds, veterinary drugs/services and small pumps;

2. Remove barriers to domestic trade, rehabilitate small-scale irrigation, storage facilities, farm to market roads, soil conservation by cash or food for work;
3. Reduce post-harvest crop losses and community-based food stocks, and
4. Remove constraints to domestic trade to link small farmers to markets.⁴²⁸

In the long term, for sustainable food production growth, the UN gives eight points to guide the government:

1. Improve enabling policy framework;
2. Stimulate public-private investment in agriculture;
3. Ensure secure access to and better management of natural resources, including land, water and biodiversity;
4. Invest in agricultural research;
5. Improve rural infrastructure;
6. Ensure sustained access to competitive, transparent and private-sector led markets for food produce and quality inputs;
7. Support development of producer organizations, and
8. Strengthen access of smallholders and other food chain actors to financial and risk management instruments.⁴²⁹

Achieving self-sufficiency in agricultural production is possible in the Philippines, albeit it would be a major challenge to our leaders as to what needs to be done. One major recommendation is the implementation of genuine agrarian reform programs which do not patronize selected sectors of society. An equal and fair agreement between farmer-tenants and landlords should be reached through peaceful consultations and conversations between the two parties. As the need might arise for a revision of the current agrarian reform program, lawmakers must take to heart the needs of the greater population of the Philippines and not to cater only to a select few.

Another step in attaining self-sufficiency is to provide farmers in rural communities with better access to equipment, facilities and other agricultural supplies until they achieve self-sufficiency in producing their own crops for their own families. This has been a promise of almost every administration; yet, there is still a large number of rural agricultural families who have not yet attained the goal of self-sufficiency.

There is a need to study the proposal of some quarters to transform the National Food Authority into a postharvest service institution; coupled with the proposal to impose a ceiling on the retail price of rice (for example PhP33.00) instead of on the farm gate price (which is a lot lower) and help farmers to sell rice directly to consumers at that retail price, thereby increasing the profit margin for farmers. This will help rice farmers realize profit (in relation to the cost of farm inputs) and make them more self-sufficient and increase their productivity.

Provision of corn and rice mills, threshers, dryers and other equipment would greatly reduce the time needed to do these things manually, which could be devoted to scholarly and leisurely activities for the women and children in rural areas. It could also help decrease the incidence of spoilage, especially those crops that need fast drying.

Definitely, peace-building processes in Mindanao will further ensure food security, not only in that particular region, but also for the entire Philippines. This is because Mindanao is home to a large agricultural base and has rich natural resources. In addition, public sector partnerships with the private sector and NGOs in research will definitely help in the promotion of agricultural development.

Proper population management and improving education are two of the most basic long-term recommendations to address food shortages. A higher rate of population growth means more mouths to feed, which could easily cause shortage and increase poverty incidence. On the other hand, a more maintained, educated population would yield higher income rates and higher labor productivity. Also, provision of lower-cost agriculture and aquaculture-based tertiary education programs for the children of farmers who wish to continue managing their own farms should be provided to increase the number of youth who would opt to be farmers and agribusiness people.

The strengthening of physical infrastructure, i.e. building more quality farm-to-market roads and better irrigation systems would also be needed to increase productivity. Improving on aquaculture technology could be an answer to food shortage problems. Higher yield from the fisheries sector would lower prices for protein-rich fish which could be used as substitutes for meat and poultry products.

True enough, as Amado Macasaet asserts, ‘the concentration should be on agriculture. Agriculture is the foundation of the growth of the industry. Agriculture solves the problem of food shortage.’⁴³⁰ Improving agricultural technology is a step in solving the challenges of food security. A few suggestions to increase productivity include finding ways to prolong shelf-life of products while not using expensive and harmful fertilizers and pesticides, increasing nutrient content of products, and optimizing soil usage through alternate cropping. As the Department of Agriculture explains, “Irrigation raises productivity by 25%, technology 25%, seeds 10%, mechanization 5%, and integrated pest management another 10%. Extension brings in about 15%

in productivity, and the environment, which we cannot control, affects productivity by around 20%.”⁴³¹

Therefore, it is also only right to say that in the areas that we can control and handle, we must be able to optimize utilizing these factors to our advantage.

Recap of “What is to be done?”

Immediate Term:

- Enhancing emergency food assistance nutrition interventions and safety nets, and making them more accessible to all
- Increasing smallholder farmer food production
- Adjusting trade and tax policies
- Managing macro-economic implications
- Provide immediate supply of seeds, fertilizer, feeds, veterinary drugs/services and small pumps to those in need

Short Term:

- Study the proposal to transform the National Food Authority into a postharvest service institution; coupled with the proposal to impose a ceiling on the retail price of rice (for example PhP33.00) instead of on the farm gate price (which is a lot lower) and help farmers to sell rice directly to consumers at that retail price
- Remove barriers to domestic trade
- Rehabilitate small-scale irrigation, storage facilities, farm-to-market roads, soil conservation by cash or food for work
- Reduce post-harvest crop losses and community-based food stocks
- Remove constraints to domestic trade to link small farmers to markets

Medium to Long Term (5-7 years)

- Improve enabling policy framework
- Stimulate public-private investment in agriculture
- Ensure secure access to and better management of natural resources, including land, water and biodiversity
- Invest in agricultural research
- Improve rural infrastructure
- Ensure sustained access to competitive, transparent and private-sector led markets for food produce and quality inputs
- Support development of producer organizations
- Strengthen access of smallholders and other food chain actors to financial and risk management instruments

- Implement genuine agrarian reform programs which do not patronize selected sectors of society
- Provide farmers in rural communities with better access to equipment, facilities and other agricultural supplies until they achieve self-sufficiency in producing their own crops for their own families
- Speed up peace-building processes in Mindanao, which will further ensure food security, not only in that particular region, but also for the whole Philippines
- Secure public sector partnerships with the private sector and NGOs in research in order to help in the promotion of agricultural development
- Proper population management and improving education are two of the most basic long-term recommendations to address food shortages
- Strengthen physical infrastructure, i.e. building more quality farm-to-market roads and better irrigation systems
- Improve on agricultural technology—this includes finding ways to prolong shelf-life of products while not using expensive and harmful fertilizers and pesticides, increasing nutrient content of products, and optimizing soil usage through alternate cropping
- Improve on aquaculture technology—higher yield from the fisheries sector would lower prices for protein-rich fish which could be used as substitutes for meat and poultry products

CONCLUSION

As we finished writing this book, the national 2010 elections has just drawn to a close just awaiting the proclamation of the President and the Vice President. Many have exclaimed, even euphorically, how this first automation of the counting of the votes has radically changed the political environment. But, has it really changed? The political party system is still broken. The 100 seats garnered by the administration party, Lakas Kampi, is already in danger of disintegrating as many of its elected members are reported to be not too keen to support the Speakership of the former President Gloria Macapagal-Arroyo. Already, some horse trading in terms of choice committee chairmanship and membership are doing the rounds. So, has anything changed? Nothing has changed because the political party system is still not composed of party members who will toe the party line and who will collectively embody the wishes in legislation of what they promised the people individually. Indeed, we are still a long way to go in terms of political party reform. Will shifting to a parliamentary system compel party loyalty and a cessation to party switching?

And, did we see a lessening of the political dynasties this election? Alas, there were more “families” who were elected, more wives, sisters, sons, daughters, sons in law and the like who were elected at this time than in the previous election. The democratic deficit on the level playing field for those who wish to be voted upon is indeed widening and deepening. We await a legislature who has the political commitment not only to further reform the electoral system but legislate on the constitutional provision on a ban on political dynasties. We await a national government that will work in synchronicity with local government units toward resolving governance issues. We await as the three branches of government endeavor to cooperate and deal with our democratic deficits in the areas of education, health, population, environment, corruption, rule of law and justice reform, AFP/PNP reform, public-private sector partnership, insurgencies, food security and many others that we have not covered in this study.

The work to eliminate a substantial part of our democratic deficits within the six-year term of our national leaders will require focusing on a list of priorities. While most of the recommendations presented herein per issue area can actually be carried out by the concerned Cabinet secretaries and their respective departments, within the next five years the new leadership needs to focus on certain urgent tasks that correspond to the most critical democratic deficits. When we speak of the “new leadership,” we are referring to the new leadership in the three branches of government—the executive branch, legislative branch and judiciary—because reforms can only be carried out effectively with all three branches cooperating and coordinating.

We believe that the most urgent tasks for the new leadership in order to lay down the groundwork for economic development are as follows, in the following order of priority:

1. *Corruption/Rule of Law and Justice Reform.* Good housekeeping should be the first priority for the new leadership to be effective in implementing all other reforms.

Achieving respect for the rule of law and undertaking reforms in the justice system are very much closely related to eradicating corruption and inefficiency in the three branches of government.

2. *Insurgencies.* Peace is a pre-requisite to development. Unless there is peace in the various regions, especially in Mindanao, it is very difficult, if not impossible to bring development to those areas, and to the country as a whole, where vast potentials for development remain untapped.
3. *Public-Private Sector Partnership.* Development can only be pursued if there is a sound working relationship between the government and the private sector.
4. *Local-National Government Relations.* Implementing policy for development and basic services must be carried out consistently at various levels of governance down to the smallest political unit which is the *barangay*.
5. *Political Parties/Electoral Reform.* The new leadership must ensure that a reconfiguration of the political party system as well as the pursuit of electoral reform will be carried out to pave the way for principled and party-based leadership, in contrast to purely personality-based leadership that we have now.

Democratic deficits are the consequences of our failures as a people to cope with the challenges of development as we confront them everyday. Democratic deficits are the broken promises of political leaders, the apathy and procrastination of our people, the failure of our institutions, the alienation of the marginalized sectors of our society, the apparent incorrigibility of some officials and rank-and-file government workers, or simply our unwillingness to devise ways and means for our communities to have a fighting chance. Have we grown so numb and insensitive to the ills of our society such that what other countries perceive as deficits, we merely regard as inconveniences that we can live with day in and day out?

Only by dealing with each of these democratic deficits in a holistic manner do we have any hope of rising above our own failures as a people. Only by ensuring that our democratic institutions are capable and up to par in coping with our democratic deficits can we be assured of an opportunity to reduce or abolish these deficits.

We hope that we have presented you an overall picture of what has been, although not pleasant, but still hopeful of what can be. The recommendations contained herein are the result of the cumulative efforts of the various individuals, agencies and institutions who believe that something can be done to eliminate our democratic deficits and bring the Sick Man of Asia on his way to recovery, and eventually, embark full throttle towards progress together with his Asian neighbors in the 21st century.

END NOTES

¹ How did political parties evolve? Max Weber and Maurice Duverger are the proponents of the Institutional theory which states that political parties evolved from aristocratic cliques, small group of notables to plebiscitarian democracy. Duverger claims that the evolution of political parties is related to the evolution of national parliaments and the growth of the size of the electorate. He cited two origins of the political parties, namely, the electoral parliamentary origin and the extra parliamentary origin of parties. Of the former, Duverger describes the establishment of parliamentary groups, electoral committees and creation of a permanent connection between the two. Usually, these groups are formed due to the geographical proximity of parliamentary members or the common desire of these members to defend their profession. Thus, parliamentary groups were initially local groups with no political doctrine to guide their programs. Later on, these groups became ideological groups. The extra parliamentary origin of parties, on the other hand, states that political parties evolved from groups or associations outside the parliament. Labor groups and socialist organizations or the so called parliament of the streets are examples of these groups.

See Joseph LaPalombara and Myron Weiner, *Political Parties and Political Development*, (Princeton: Princeton University Press, 1966), pp. 8, 14, 15 and 20.

A slightly divergent view of political parties is shared by M.I. Ostrogorki who suggested that party organizations rose from the needs of an expanding electorate to serve as a linkage between the mass and political leadership. Parties also, according to him, emerge in the midst of political and economic demands emanating from industrial revolution and the extension of the suffrage beyond the citizen's capacity to muster. The problem, according to him, is that political organizations superimpose its control over an indifferent citizenry while government leaders are dependent of the party for election, thereby, becoming subservient to it. Thus, to Ostrogorki, political parties become threats to democracy. See M.I. Ostrogorki, *Democracy in the Organization of Political Parties*, (New York: Macmillan, 1902).

² Political parties are supposed to have 3 basic characteristics according to Robert Bone. They are as follows:

1. It has an organizational structure with lines of authority and power distribution;
2. It offers candidates for elective offices on the basis of party programme of principles and goals it wants realized and;
3. It attracts as much popular support as possible, primarily in the form of votes

See Robert Bone. *Action and Organization: An Introduction to Contemporary Political Science*, (New York: Harper and Row, 1972), p. 94.

³ Joseph La Palombara and Myron Weiner define political parties as having the following salient features:

- Continuity in organization, i.e., an organization whose expected lifespan is not dependent on the lifespan of the current leaders;
- Manifest and presumably permanent organizations at and other relationships between local and national units;
- Self conscious determination of leaders of both national and local levels to capture and hold decision making power alone or in coalition with others, not simply to influence the exercise of power;
- A concern on the part of the organization for seeking followers of the polls

See Joseph LaPalombara and Myron Weiner, *Political Parties and Political Development*, (Princeton: Princeton University Press, 1966), p.6.

⁴ Luzviminda Tangcango. "The electoral system and political parties in the Philippines" in Raul de Guzman and Mila Reforma (eds). *Government and Politics of the Philippines*. (Singapore: Oxford UP, 1988), p.87.

⁵ Randolph David, "Political Parties and social movements," *Philippine Daily Inquirer*, April 17, 2010.

⁶ Quoted in Paul Hutchcroft and Joel Rocamora, "Strong demands and weak institutions: the origins and evolution of democratic deficit in the Philippines," *Journal of East Asian Studies*, vol. 3, 2003, p. 263.

⁷ Democratic deficits of political parties may be evaluated against their functions. What are the functions of political parties? Roy Macridis, a noted political scientist, provides us the most comprehensive listing of the functions of political parties as follows:

- Representation and brokerage: This means the expression and articulation of interest within the party and through the party. The major function of the party is to provide a direct political vehicle to the interests it represent;

- Conversion and aggregation: This function is a variant of representation and brokerage which means the transformation of interests and demands into policy and decision;
- Integration (participation, socialization and mobilization): These are variants of integration. Socialization is the process through which a set of norms about a political system is transmitted to the younger people. Mobilization is the attempt of the party to bring rapidly large numbers of people who formerly stood outside the system, either because they were apathetic, alienated, ignorant, indifferent or simply afraid, into the system, to inculcate interest and secure mass support. Participation mean that through the party, a medium of expression of interest and participation in deliberation and choice of policies and leaders is open to all;
- Persuasion: This refers to those party activities geared to the development and presentation of policy suggestions to gain widespread support;
- Repression: The party, through the government directly or indirectly, imposes sanctions upon its members and non-members alike, controls the fate of other associations and parties and endeavors to exact obedience and to fashion the minds and loyalties of adherents that does not allow for opposition;
- Recruitment and choice of leaders: This refers to the training and preparation for leadership, exposure to the public, performance of governmental legislative and other functions by party members and most importantly, winning elections;
- Deliberation: This refers to the process in which party members come to agreement about major objectives;
- Policy Formation: It may refer to the process in which party members create major decision on the basis of the demands of the electorate;
- Control of government: This means the actual function of legislating and governing and the constant effort of the party to control the government and its activities.

Roy Macridis, *Political Parties: Contemporary trends and ideas*, (New York: Harper and Row, 1967), pp. 1-30.

Some hypotheses have been proffered by Maurice Duverger on political parties, as follows:

- That the simple majority system or plurality single ballot system favors the two party system;
- That the simple majority system with a second ballot or proportional representation favors multiparty system;
- That there is a real correspondence between totalitarian regime and single party systems;
- That there is a real correspondence between democracy and multipartism.

See Maurice Duverger. *Political Parties*. (New York, Wiley, 1963), p. 217.

⁸ Clarita R. Carlos, *Dynamics of Political Parties in the Philippines*, (Manila: Konrad Adenauer Foundation, 1997), pp. 217-227.

⁹ "Congress won't end reign of political dynasties," *Philippine Daily Inquirer*, April 26, 2010.

¹⁰ Alfred McCoy, *An Anarchy of Families: State and family in the Philippines*, (Manila: Ateneo de Manila UP, 1994), p. 518.

¹¹ Philippine Statement by H.E. Mr. Hilario G. Davide, Jr., Permanent Representative of the Republic of the Philippines to the United Nations, on Rule of Law Support and Advancement: The Philippine Experience, delivered on 20 April 2009 at the Helmsley Hotel, New York.

¹² Justice Artemio V. Panganiban, "Ensuring the Success of the Philippine Judicial Reform Program." Paper delivered by Justice Artemio V. Panganiban, chairperson of the Third Division of the Philippine Supreme Court during the Third Plenary Session of the International Conference and Showcase on Judicial Reforms, held on November 28-30, 2005, at the Rizal Ballroom of the Makati Shangri-la Hotel. Justice Panganiban was the chairperson of the Conference.

¹³ See Elai, "Rule of Law: The Lamp that Illuminates," n.d. 1st place winner of the Essay Writing Contest on the Rule of Law sponsored by the Supreme Court in 2007.

¹⁴ Asian Development Bank, *Background Note on the Justice Sector of the Philippines*, 2009, pp. 2-3.

¹⁵ Asian Development Bank, *Background Note on the Justice Sector of the Philippines*, 2009, pp. 16-17.

¹⁶ As cited in Asian Development Bank, *Background Note on the Justice Sector of the Philippines*, 2009, p. 18.

¹⁷ *Ibid.*, pp. 91-92.

¹⁸ *Annual Report 2008* (Annual Report of the Supreme Court of the Philippines) (Manila: Supreme Court Public Information Office, 2008), p. 32.

¹⁹ *ADB Country Governance Assessment: Philippines*, (Mandaluyong City: Asian Development Bank, 2005), pp. 101-102; and Asian Development Bank, *Background Note on the Justice Sector of the Philippines*, 2009, p. 58.

²⁰ Marites Danguilan Vitug, op. cit., pp. 224-225.

²¹ Philippine Statement by H.E. Mr. HILARIO G. DAVIDE, JR., Permanent Representative of the Republic of the Philippines to the United Nations, on RULE OF LAW SUPPORT AND ADVANCEMENT: The Philippine Experience, delivered on 20 April 2009 at the Helmsley Hotel, New York.

²² Ibid.

²³ Justice Artemio V. Panganiban, "Ensuring the Success of the Philippine Judicial Reform Program." Paper delivered by Justice Artemio V. Panganiban, chairperson of the Third Division of the Philippine Supreme Court during the Third Plenary Session of the International Conference and Showcase on Judicial Reforms, held on November 28-30, 2005, at the Rizal Ballroom of the Makati Shangri-la Hotel. Justice Panganiban was the chairperson of the Conference.

²⁴ "Outgoing SC Justice Puno to Associate Justice Corona: Preserve integrity of the High Court,"

May 14, 2010. Available online from <http://balita.ph/2010/05/14/outgoing-sc-justice-puno-to-associate-justice-corona-preserve-integrity-of-the-high-court/>

²⁵ The five (5) pillars of the justice system, as used in various studies, are the following: law enforcement, prosecution, judiciary, corrections and community.

²⁶ CPRM Consultants, Inc., *Conduct of Further Study on Operations and Linkages of the 5 Pillars of Justice*, March 2006, p. 4-2. Study supported by the United Nations Development Program (UNDP) and the Supreme Court of the Philippines.

²⁷ Ibid., pp. 4-5 to 4-6.

²⁸ Ibid., p. 4-6.

²⁹ Ibid., p. 4-8.

³⁰ Ibid., p. 4-9.

³¹ Ibid., p. 4-7.

³² Ibid., p. 4-9.

³³ Ibid.

³⁴ Ibid., p. 4-10.

³⁵ This list was culled from *ADB Country Governance Assessment: Philippines*, Mandaluyong City: Asian Development Bank, 2005, pp. 93-94.

³⁶ *ADB Country Governance Assessment: Philippines*, Mandaluyong City: Asian Development Bank, 2005, pp. 106-107. For more information on the impact of the Barangay Justice System, see Alfredo F. Tadiar, "Impact of the Barangay Justice System on Decongesting Court Dockets and Broadening Access to Justice: Looking Back and Forward," in *A Sourcebook on Alternatives to Formal Dispute Resolution Mechanisms*, Metro Manila: National Judicial Institute, 2008, pp. 1-23. A publication of the Justice Reform Initiatives Support (JURIS) Project supported by the Canadian International Development Agency (CIDA).

³⁷ For a more detailed discussion of CAM and JDR, see Ameurfina Melencio Herrera, "Court Annexed Mediation(CAM)-Making it Work: The Philippine Experience." A Presentation by Justice Ameurfina A. Melencio Herrera, retired Justice of the Supreme Court, and Chancellor of the Philippine Judicial Academy, at the International Conference and Showcase on Judicial Reforms, Parallel Session C, November 29, 2005, at the Makati Shangri-La, Philippines.

For summary of accomplishments of the JURIS Project, see "JURIS Project: Supreme Court promotes mediation and alternative dispute resolution mechanisms," posted on July 2, 2008 at <http://attyatwork.com/juris-project-supreme-court-promotes-mediation-and-alternative-dispute-resolution-mechanisms/>

See also related articles in *A Sourcebook on Alternatives to Formal Dispute Resolution Mechanisms*, (Metro Manila: National Judicial Institute, 2008). Carolyn A. Mercado and Damcelle S. Torres, Court Annexed Mediation: Summing Up the Past and Charting the Future, pp. 25-45; Imelda Gidor, The lawyer's Perspective on ADR in the Courts and its Implication on the Profession, pp. 45-58; Salvador S. Panga, Jr., Judicial Dispute Resolution (JDR) as an Innovative Mode of Dispute Resolution, pp. 59-90; and Eleanor Conda, Traversing Boundaries and the No-Man's Land: On Mediation, Gender, Rights and Justice, pp. 129-158.

See also various mediation stories in *Most Significant Technique in Mediation Series*, (Metro Manila: Justice Reform Initiatives Support [JURIS] Project, February 2008).

³⁸ CPRM Consultants, Inc., *Conduct of Further Study on Operations and Linkages of the 5 Pillars of Justice*, March 2006, p. 4-8. See also Maria Roda L. Cisnero, "Rediscovering Olden Pathways and Vanishing Trails to Justice and Peace: Indigenous Modes of Dispute Resolution and Indigeneous Justice Systems," in *A Sourcebook on Alternatives to Formal Dispute Resolution Mechanisms*, Metro Manila: National Judicial Institute, 2008, pp. 91-128.

³⁹ The mobile court provides increased access to justice for those who may avail of: bail/recognizance, plea of guilty and sentencing, diversion under R.A. No. 9344/referral to mediation, enforcement of prior order of release, mittimus for transfer to Bureau of Correction/National Bilibid Prison, release pending hearing since detention period is already beyond the maximum penalty imposable, and referral for medical/psychological treatment. See Atty. Jackie C. Saguisag, “Justice on wheels goes to work in Manila.” Available online from http://apjr.judiciary.gov.ph/news_2007/news_aug2008_01.html

⁴⁰ For more details on how the “Justice on Wheels” program was initially implemented, see Associate Justice Adolfo S. Azcuna, “The Justice on Wheels of the Philippines.” Presented during the International Conference and Showcase on Judicial Reforms held at the Shangri-la Hotel, Makati City, Philippines on 28-30 November 2005.

⁴¹ “Outgoing SC Justice Puno to Associate Justice Corona: Preserve integrity of the High Court,” May 14, 2010. Available online from <http://balita.ph/2010/05/14/outgoing-sc-justice-puno-to-associate-justice-corona-preserve-integrity-of-the-high-court/>

⁴² *ADB Country Governance Assessment: Philippines*, Mandaluyong City: Asian Development Bank, 2005, pp. 105-106.

⁴³ Cited in Marites Danguilan Vitug, op. cit., p. 111.

⁴⁴ Cited in Marites Danguilan Vitug, op. cit., p. 117.

⁴⁵ Ibid.

⁴⁶ *ADB Country Governance Assessment: Philippines*, Mandaluyong City: Asian Development Bank, 2005, pp. 103-104.

⁴⁷ Ibid., p. 104.

⁴⁸ For a detailed account of this crisis, see chapter on “Mortal Combat” in Marites Danguilan Vitug, *Shadow of Doubt: Probing the Supreme Court*, Quezon City: Public Trust Media Group Inc., 2010, pp. 61-85.

⁴⁹ *ADB Country Governance Assessment: Philippines*, Mandaluyong City: Asian Development Bank, 2005, p. 104.

⁵⁰ Ibid., p. 107.

⁵¹ The law states that only the Supreme Court can issue temporary restraining orders against national government infrastructure projects, except in cases that involve constitutional issues and if the matter involved is of extreme urgency. Another law, Presidential Decree No. 1818, also prohibits the issuance of injunctive writs against government projects.

⁵² *ADB Country Governance Assessment: Philippines*, Mandaluyong City: Asian Development Bank, 2005, p. 99.

⁵³ CPRM Consultants, Inc., *Conduct of Further Study on Operations and Linkages of the 5 Pillars of Justice*, March 2006, p. 4-2.

⁵⁴ Ibid., p. 4-3.

⁵⁵ Ibid., p. 4-4.

⁵⁶ Ibid.

⁵⁷ *ADB Country Governance Assessment: Philippines*, Mandaluyong City: Asian Development Bank, 2005, p. 106.

⁵⁸ These recommendations were culled from CPRM Consultants, Inc., *Institutional Strengthening of the Shari’a Justice System (Phase 1), Final Report*, June 2004, pp. 132-135. Supported by the Supreme Court and the UNDP.

⁵⁹ These recommendations were culled from CPRM Consultants, Inc., *Institutional Strengthening of the Shari’a Justice System (Phase 1), Final Report*, June 2004, p. 128. Supported by the Supreme Court and the UNDP.

⁶⁰ These recommendations were culled from CPRM Consultants, Inc., *Institutional Strengthening of the Shari’a Justice System (Phase 1), Final Report*, June 2004, pp. 131-132. Supported by the Supreme Court and the UNDP.

⁶¹ *ADB Country Governance Assessment: Philippines*, (Mandaluyong City: Asian Development Bank, 2005), p. 107.

⁶² See Veronica A. Jimenez, “Judiciary-wide Court Management Information System (CMIS) launched: Seen to Help Reduce Caseload and Delays.” Available online from http://apjr.judiciary.gov.ph/news_2007/news_aug2008_02.html

⁶³ National Prosecution Service

⁶⁴ Asian Development Bank, *Background Note on the Justice Sector of the Philippines*, 2009, p. 59.

⁶⁵ CPRM Consultants, Inc., *Conduct of Further Study on Operations and Linkages of the 5 Pillars of Justice*, March 2006, p. 4-5.

⁶⁶ The Project Management Office (PMO) of the Supreme Court handles and coordinates the Action Program for Judicial Reform.

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⁷⁸ E.P. Pacoy, *op. cit.*

⁷⁹ According to Transparency International, a country receiving a score of zero is perceived to be highly corrupt, while a country scoring 10 in the index is perceived to have low levels of corruption. The CPI measures the perceived levels of public-sector corruption in a given country and is a composite index, drawing on 13 different expert and business surveys.

⁸⁰ Cai U. Ordinario, R.P. trails neighbors in Transparency International’s corruption index, available online at <http://transparency.ederic.org/?p=10#more-10>

⁸¹ *Ibid.* Note: Highest scorers in the 2009 CPI are New Zealand at 9.4; Denmark at 9.3; Singapore and Sweden tied at 9.2; and Switzerland at 9.0. TI explains that these scores reflect political stability, long-established conflict of interest regulations, and solid, functioning public institutions.

⁸² *Ibid.*

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The main findings presented in the global survey are as follows:

- Corruption in the private sector is a growing concern among the general public
- Political parties and civil service groups are perceived to be the most corrupt sectors around the world
- Petty bribery is reported to be growing in some parts of the world –with the police the most likely recipients of bribes.
- Ordinary people do not feel empowered to speak out against corruption
- Governments are considered to be ineffective in the fight against corruption – a view that has remained worryingly consistent in most countries over time.

⁸⁵ “We have blatant and quiet corruption,” available online from

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⁸⁸ Ronnel W. Domingo, "Corruption pulls down RP freedom ranking," *Philippine Daily Inquirer*, January 22, 2010, p. B4.

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⁹⁰ Presented by Social Weather Stations President Mahar Mangahas at the "Forum on the SWS 2009 Surveys of Enterprises on Corruption and Anti-Corruption Strategies" on February 11, 2010 at the AIM Conference Center in Makati City. The forum was organized by The Asia Foundation, Social Weather Stations, and the Hills Program on Governance- Asian Institute of Management.

The 2009 SWS Surveys of Enterprises on Corruption were conducted from November 3 -December 5, 2009 using face-to-face interviews of 550 top and middle-level enterprise managers (error margin of $\pm 4\%$), 366 of whom from randomly drawn Small and Medium Enterprises, and 184 from randomly drawn Large Corporations.

The sample enterprises were drawn from five study areas: 200 in Metro Manila, 100 each from Metro Cebu and Metro Davao, and 75 each from Cavite-Laguna-Batangas (CALABA) and Cagayan de Oro/Iligan City.

The ratings of agencies' sincerity in fighting corruption were graded into Very Good (net +50 and above), Good (+30 to +49), Moderate (+10 to +29), Neutral (-9 to +9), Poor (-10 to -29), Bad (-30 to -49), and Very Bad (-50 and below). Changes were considered "notable" when the rating moved in a different grade.

SWS is a member of the Transparency and Accountable Governance (www.tag.org.ph) research and advocacy project, sponsored by The Asia Foundation.

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¹⁹² These points were discussed and proposed by Prof. Ma. Serena I. Diokno, Prof. Ma. Cynthia Rose B. Bautista, Prof. Allan B.I. Bernardo and Prof. Dina S. Ocampo in a forum entitled “The Promise of Redemption: BESRA and the Need for Higher Education Reform” held on March 9, 2010 at the NISMED, UP Diliman, Quezon City.

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²³⁵ See official website of Conservation International’s Biodiversity Hotspots featuring the “Philippines.” Available from <http://www.biodiversityhotspots.org/xp/Hotspots/philippines/Pages/default.aspx>

²³⁶ According to Conservation International: “A seminal paper by Norman Myers in 1988 first identified ten tropical forest “hotspots” characterized both by exceptional levels of plant endemism and by serious levels of habitat loss. In 1990 Myers added a further eight hotspots, including four Mediterranean-type ecosystems. Conservation International adopted Myers’ hotspots as its institutional blueprint in 1989, and in 1996, the organization made the decision to undertake a reassessment of the hotspots concept, including an examination of whether key areas had been overlooked. Three years later an extensive global review was undertaken, which introduced quantitative thresholds for the designation of biodiversity hotspots: To qualify as a hotspot, a region must meet two strict criteria: it must contain at least 1,500 species of vascular plants (> 0.5 percent of the world’s total) as endemics, and it has to have lost at least 70 percent of its original habitat. (See “Hotspots Defined” in http://www.biodiversityhotspots.org/xp/hotspots/hotspotsscience/Pages/hotspots_defined.aspx

²³⁷ See official website of Conservation International’s Biodiversity Hotspots featuring the “Philippines.” Available from <http://www.biodiversityhotspots.org/xp/Hotspots/philippines/Pages/default.aspx>

²³⁸ See <http://www.biodiversityhotspots.org/xp/Hotspots/philippines/Pages/default.aspx> Accessed on May 4, 2010.

²³⁹ Conservation International defines “endemism” as “the degree to which species are found only in a given place. This can be thought of as a measure of ‘irreplaceability.’ Since endemic species cannot be found anywhere else, the area where an endemic species lives is wholly irreplaceable.”

²⁴⁰ See <http://www.biodiversityhotspots.org/xp/Hotspots/philippines/Pages/default.aspx> Accessed on May 4, 2010.

²⁴¹ European Commission, *The Philippines, Country Environmental Profile – Updates*, June 2009, p. 8.

²⁴² Howie G. Severino, “The Costs of Extraction,” in *Saving the Earth: The Philippine Experience*, 4th edition, (Pasig City: Philippine Center for Investigative Journalism, 1997), edited by Ceciole C. A. Balgos, p. 14.

²⁴³ European Commission, *The Philippines, Country Environmental Profile – Updates*, June 2009, p. 8.

²⁴⁴ Philippine News Agency, “GMA, 5 other heads of state ink Coral Triangle Initiative,” *Tribune*, May 16, 2009, p. 3.

²⁴⁵ See “The Revitalization of the Minerals Industry Program,” outlining the Philippine government’s policy on mining, available from http://www.mgb.gov.ph/revitalization_files/revitalization_frame.htm

²⁴⁶ Riza T. Olchondra, “Mining still an investment draw, officials say,” *Philippine Daily Inquirer*, January 18, 2010.

²⁴⁷ The Supreme Court Reversal on La Bugal - A Bigger Storm Brewing Network, Statement from Legal Rights and Natural Resources Center, Inc. Kasama sa Kalikasan/ Friends of the Earth – Philippines (LRC-KSK/FOE-Phil.) December 8, 2004.

²⁴⁸ Howie G. Severino, op. cit., p. 14.

²⁴⁹ Gunther Handl, ‘Human Rights and Protection of the Environment: A Mildly “Revisionist” View,’ n.d., pp. 135-136.

²⁵⁰ The IPRA was signed into law on October 29, 1997 by then President Ramos. Hailed as a landmark legislation, the IPRA is the result of various consultations, consolidated bills related to ancestral domains and lands, and international agreements on the recognition of land/domain rights of the IPs. The law seeks to recognize, promote and protect the rights of the indigenous peoples of the Philippines. These include the Right to Ancestral Domain and Lands; Right to Self-Governance and Empowerment; Social Justice and Human Rights; and the Right to Cultural Integrity.

²⁵¹ Atty. Eugenio A. Insigne, “The Important Role of Free and Prior Informed Consent (FPIC) in Responsible Mining” delivered before the Chamber of Mines of the Philippines in November 2007. Insigne was then Chairman of the National Commission on Indigenous Peoples (NCIP).

²⁵² Culled from various public speeches of Insigne in early 2010 and the NCIP website at www.ncip.gov.ph

²⁵³ *Climate Change: Impacts, Vulnerabilities And Adaptation In Developing Countries*, United Nations Framework Convention on Climate Change (UNFCCC), 2006-2007, p. 8.

²⁵⁴ *Country Environmental Analysis 2008: Philippines*, (Pasig City: Asian Development Bank, 2008), p. 113.

²⁵⁵ *Climate Change 2007: Synthesis Report*, 4th Assessment Report of the Intergovernmental Panel on Climate Change, p. 50.

²⁵⁶ European Commission, *The Philippines, Country Environmental Profile – Updates*, June 2009, p. 9.

²⁵⁷ Greenpeace, *The Philippines: A Climate Hotspot*, 2007.

²⁵⁸ “Global warming to cause famine in RP by 2020,” *Manila Times.net*, April 21, 2008.

²⁵⁹ “A Climate of Conflict,” *International Alert*, November 2007.

²⁶⁰ Air Quality Monitoring Boards

²⁶¹ See also <http://www.cleanairnet.org/caiasia/1412/article-34762.html>

The Clean Air Act outlines the government’s measures to reduce air pollution and incorporate environmental protection into its development plans. It relies heavily on the polluter pays principle and other market-based instruments to promote self-regulation among the population. It sets emission standards for all motor vehicles and issues registration only upon demonstration of compliance. It also issues pollutant limitations for industry. Polluting vehicles and industrial processes must pay a charge. Any individual, enterprise, corporation or groups that installed pollution control devices or retrofitted its existing facilities to comply with the emissions standards in the Act can apply for tax incentives of accelerated depreciation, deductibility of R&D expenditures or tax credits on the VAT of the equipment and are exempt from real property tax on the machinery or equipment used to comply. It also establishes a R&D program for air pollution reduction mechanisms and technologies. It bans incineration and smoking in public places. At the local and municipal levels, governments are allowed to set emission quotas by pollution source, and the development of recycling programs is encouraged. (See <http://projects.wri.org/sd-pams-database/philippines/clean-air-act>)

²⁶² PGMA Creates Task Force on Climate Change, PDI, 28 February 2008.

²⁶³ Philippines: Climate Change tops DENR priority in 2007, PDI, 2 January 2008

²⁶⁴ Katherine Adraneda, “Yearender: Climate change tops DENR priority in 2007,” *The Philippine Star*, available from <http://www.philstar.com/ArticlePrinterFriendly.aspx?articleId=36402>

²⁶⁵ Office of the President, “PGMA Signs Renewable Energy Act of 2008 Today,” (press release of the Office of the President).

²⁶⁶ Candelaria, Sedfrey and Ballesteros, Maria Milagros, “Designation of ‘Green Benches’ in the Philippines: Regional Exchange in Support of Improved Judicial Institutions and Capacity,” (n.d), p. 1.

²⁶⁷ *Ibid.*

²⁶⁸ *Ibid.*, p. 2.

²⁶⁹ “Outgoing SC Justice Puno to Associate Justice Corona: Preserve integrity of the High Court,”

May 14, 2010. Available online from <http://balita.ph/2010/05/14/outgoing-sc-justice-puno-to-associate-justice-corona-preserve-integrity-of-the-high-court/>

²⁷⁰ *Ibid.*

²⁷¹ Cielito F. Habito, “Economy and Environment in the Philippines: Issues and Imperatives,” n.d., p. 21.

²⁷² See draft of “enhanced Philippine Agenda 21” at: <http://pcsd.neda.gov.ph/>

²⁷³ Declaration, APEC Ministerial Meeting on Sustainable Development, July 11-12, 1996, Manila, Philippines.

²⁷⁴ Based on recommendations of a 2004-study commissioned by the International Tropical Timber Organization (ITTO) as cited in “DENR calls on communities to help prevent and control forest fires,” March 4, 2010. Available from <http://www.denr.gov.ph/article/articleview/5632/1/39/>

²⁷⁵ See http://unfccc.int/kyoto_protocol/items/2830.php

²⁷⁶ See the official website of the US Environmental Protection Agency at <http://www.epa.gov/greenchemistry/>

- ²⁷⁷ Declaration, APEC Ministerial Meeting on Sustainable Development, July 11-12, 1996, Manila, Philippines.
- ²⁷⁸ The ADSDPPs are filed at the NCIP main office, 2nd floor, Delta Bldg., Quezon Blvd., Quezon City.
- ²⁷⁹ Based on the advocacy of former NCIP Chairman Eugenio A. Insigne as culled from his various public speeches.
- ²⁸⁰ A Forum on Environmental Justice: Upholding the Right to a Balanced & Healthful Ecology was held on 16 – 17 April 2009 at the University of the Cordilleras, Baguio City (with simultaneous forums in the University of the Philippines Visayas, Iloilo City and Ateneo de Davao University, Davao City via video conferencing). Organized by the Supreme Court.
- ²⁸¹ *Natural Disaster Risk Management in the Philippines*, published by The World Bank, East Asia and the Pacific Region, Rural Development and the National Disaster Coordinating Council of the Philippines, p. 44.
- ²⁸² *Ibid.*, p. 45.
- ²⁸³ *Ibid.*, p. 47.
- ²⁸⁴ International financing institutions
- ²⁸⁵ Philippines Catastrophe Insurance Pool
- ²⁸⁶ Philippine Insurers and Reinsurers Association
- ²⁸⁷ Katherine Adraneda, “Yearender: Climate change tops DENR priority in 2007,” *The Philippine Star*, available from <http://www.philstar.com/ArticlePrinterFriendly.aspx?articleId=36402>
- ²⁸⁸ See Amy R. Remo, “For 3 agencies, nuke option looks appealing,” *Philippine Daily inquirer*, January 1, 2010; Nelson D. Laviña, “Uncertainties surrounding nuclear waste,” (Commentary) *Philippine Daily Inquirer*, March 5, 2010; Paul Icamina, “Greepeace debunks nuclear benefit,” *Malaya*, December 18, 2009.
- ²⁸⁹ *Country Disaster Risk Management Note on the Philippines* by the Global Facility for Disaster Reduction and Recovery, p. 96. Available from <http://gfdrr.org/ctrydrmmnotes/Philippines.pdf> DRR stands for Disaster Risk Reduction.
- ²⁹⁰ *Ibid.*
- ²⁹¹ *Ibid.*, p. 97.
- ²⁹² *Ibid.*, p. 98.
- ²⁹³ C. Kelly, “Draft Field Report: Philippines Flooding/Typhoon Rapid Environmental Impact Assessment,” January 12, 2005. (with financial support of Office of Foreign Disaster Assistance, U.S. Agency for International Development and the Joint UNEP/OCHA Environment Unit [Geneva]).
- ²⁹⁴ Primary statistical arm of the government of the Philippines.
- ²⁹⁵ National Statistics Office, Press Release, “Official population count reveals...,” <http://www.census.gov.ph/data/pressrelease/2008/pr0830tx.html>, (Philippines, 2008)
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- ²⁹⁷ Based on the 2000 Census of Population and Housing.
- ²⁹⁸ *Ibid.*
- ²⁹⁹ Central Intelligence Agency, The World Factbook, “Country Comparison: Population,” available online from <https://www.cia.gov/library/publications/the-world-factbook/rankorder/2119rank.html>, (2009)
- ³⁰⁰ United Nations Development Programme Philippines, “The Millennium Development Goals: Goal 5 Improve maternal health,” available online from http://www.undp.org.ph/?link=goal_5
- ³⁰¹ Merceditas B. Concepcion, “Why Population Growth is Still an Issue in the Philippines,” available online from <http://www.newsflash.org/2004/02/si/si001983.htm>, 14 February 2005.
- ³⁰² United Nations Development Programme Philippines, “The Millennium Development Goals: Goal 4 Reduce child mortality,” available online from http://www.undp.org.ph/?link=goal_4
- ³⁰³ *Ibid.*
- ³⁰⁴ Concepcion, op. cit.
- ³⁰⁵ “Bad Investments, Politics Blamed for SSS Losses,” *The Manila Times Internet Edition*, December 19, 2004, downloadable at <http://www.manilatimes.net>.
- ³⁰⁶ “Solons Bat for Merge of GSIS, SSS.”
- ³⁰⁷ Ramon Magsaysay, Jr., “How is Your Pension Doing?,” Reengineering the SSS, a privilege speech, May 14, 2003.
- ³⁰⁸ Presented during the ALNI/P Symposium at Balay Kalinaw, UP Diliman, Quezon City, September 30, 2003, Vol. 1, No. 5 of Monograph Series of Asian Labor Network on IFIs/Philippine Chapter.
- ³⁰⁹ Pay as you go system consisting of social pooling and individual fund accumulation where employers and employees must deposit money into the accounts regularly.
- ³¹⁰ David D. Li and Ling Li, “A Simple Solution to China’s Pension Crisis,” *Cato Journal*, Fall 2003, Vol. 23, No. 2, pp. 281-282.

- ³¹¹ Li and Xu, 1996, cited in David D. Li and Ling Li, “A Simple Solution to China’s Pension Crisis,” p. 282.
- ³¹² Mitra Toossi, “Labor force projections to 2012: the graying of the U.S. workforce,” *Monthly Labor Review*, February 2004, p. 37.
- ³¹³ Taken from the 2005 ADB Philippines Private Sector Assessment Study.
- ³¹⁴ Ibid.
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- ³¹⁹ Ibid.
- ³²⁰ Cielito Habito, “The new big, bad G word,” *Philippine Daily Inquirer*, November 16, 2009.
- ³²¹ Mar Arguelles, “What next president must do to grow economy,” *Philippine Daily Inquirer*, February 28, 2010, p. A11.
- ³²² Habito, op. cit., GNP 2009.
- ³²³ Ibid.
- ³²⁴ Ibid.
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- ³²⁶ Ibid., p. 4.
- ³²⁷ Ibid.
- ³²⁸ Ibid.
- ³²⁹ Gil Cabacungan Jr., “Salceda: Rich also became richer,” *Philippine Daily Inquirer*, March 8, 2010, p. A1.
- ³³⁰ Taken from a half-page advertisement of the Joint Foreign Chambers of the Philippines in the *Philippine Daily Inquirer*, February 15, 2010.
- ³³¹ Ibid.
- ³³² Economists define rents in this context as the “return to factors that have fixed supply, which is brought about by artificial scarcities that result from the intricacies of regulations, bureaucracy and legislation”. Source: Dr. Gerardo Sicat
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- ³³⁴ Amado Macasaet, “A damaged culture and the economy”, *Malaya*, March 1, 2010. p.A3
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- ³³⁶ Ibid.
- ³³⁷ Sicat, op. cit.
- ³³⁸ Ibid
- ³³⁹ Sicat, op. cit., p.34.
- ³⁴⁰ ADB, op. cit., p. 50.
- ³⁴¹ Ibid.
- ³⁴² Air Transportation Office
- ³⁴³ Philippine Ports Authority
- ³⁴⁴ Ibid.
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- ³⁴⁷ Loosely translated as ‘debt of gratitude.’
- ³⁴⁸ Neri, 2004.
- ³⁴⁹ See <http://www.heritage.org/index/country/philippines>
- ³⁵⁰ Habito, op. cit.
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- ³⁵³ Ibid.
- ³⁵⁴ Ibid., p.27.
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³⁵⁹ Ibid., p. 26.

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³⁶⁸ Ibid.

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³⁷⁰ Ibid.

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³⁷⁵ Literally translated as "Moro Nation."

³⁷⁶ Government forces were involved in the killing of hundreds of Muslim youth who were 'recruited' to be part of the Philippine military forces.

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³⁸¹ Ibid.

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³⁸³ Tan, op. cit., pp.45-51.

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³⁸⁶ K. Bauzon, *The Philippines: The 1996 Peace Agreement for the Southern Philippines: An Assessment*, 1999, ICES.

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³⁸⁸ Ibid. p.1

³⁸⁹ Ibid. p.2

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- ³⁹⁸ Ibid.
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- ⁴¹⁶ Ibid., p.48.
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