Report and Recommendation of the President to the Board of Directors

Project Number: 41380
November 2008

Proposed Program Cluster, Loan for Subprogram 1, and Technical Assistance Grant
Republic of the Philippines: Governance in Justice Sector Reform Program

Asian Development Bank
CURRENCY EQUIVALENTS
(as of 17 November 2008)

Currency Unit – peso (P)
P1.00 = $0.02023
$1.00 = P49.42

ABBREVIATIONS

ADB – Asian Development Bank
APJR – Action Program for Judicial Reform
AusAID – Australian Agency for International Development
BIR – Bureau of Internal Revenue
BJMP – Bureau of Jail Management and Penology
BSP – Bangko Sentral ng Pilipinas (Central Bank of the Philippines)
BuCor – Bureau of Corrections
CA – Court of Appeals
CiDA – Canadian International Development Agency
CTA – Court of Tax Appeals
DBM – Department of Budget and Management
DILG – Department of the Interior and Local Government
DOF – Department of Finance
DOJ – Department of Justice
GDP – gross domestic product
GJSRP – Governance in Justice Sector Reform Program
IBP – Integrated Bar of the Philippines
JAF – Judiciary Autonomy Fund
JBC – Judicial and Bar Council
JDF – Judiciary Development Fund
JELAC – Judiciary, Executive, Legislative Advisory, and Consultative Council
JICA – Japanese International Coordination Agency
JSCC – Justice Sector Coordination Council
LGU – local government unit
MDG – Millennium Development Goal
MTEP – medium-term expenditure program
MTPDP – medium-term Philippine development plan
NBI – National Bureau of Investigation
NEDA – National Economic Development Authority
NLRC – National Labor Relations Commission
NPS – National Prosecution Service
NSCB – National Statistical Coordination Board
OPIF – Organizational Performance Indicator Framework
PNP – Philippine National Police
RCAO 7 – Regional Court Administration Office in Region 7
TA – technical assistance
UNDP – United Nations Development Programme
USAID – United States Agency for International Development

NOTES

(i) The fiscal year (FY) of the Government and its agencies ends on 31 December.
(ii) In this report, "$" refers to US dollars.
<table>
<thead>
<tr>
<th><strong>Vice-President</strong></th>
<th>C. Lawrence Greenwood Jr., Operations 2</th>
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<tbody>
<tr>
<td><strong>Director General</strong></td>
<td>A. Thapan, Southeast Asia Department (SERD)</td>
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<tr>
<td><strong>Director</strong></td>
<td>J. Ahmed, Governance, Finance, and Trade Division, SERD</td>
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<td>J. Balbosa, Economist (Fiscal Management), SERD</td>
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<td>K. Bird, Economist, SERD</td>
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<td>T. Hla, Economist (Financial Sector), SERD</td>
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<td>P. Jena, Governance Specialist, SERD</td>
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<td>L. Kulp, Social Development Specialist, SERD</td>
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<td></td>
<td>F. Tornieri, Social Development Specialist (Gender and Development), Regional and Sustainable Development Department</td>
</tr>
</tbody>
</table>
TABLE OF CONTENTS

<table>
<thead>
<tr>
<th>LOAN AND PROGRAM SUMMARY</th>
<th>i</th>
</tr>
</thead>
<tbody>
<tr>
<td>I. THE PROPOSAL</td>
<td>1</td>
</tr>
<tr>
<td>II. THE MACROECONOMIC CONTEXT</td>
<td>1</td>
</tr>
<tr>
<td>A. Review of the Economy and Investment</td>
<td>1</td>
</tr>
<tr>
<td>B. Development Strategies and the Government’s Justice Sector Reform Program</td>
<td>2</td>
</tr>
<tr>
<td>C. The Government and Its ADB Partnership</td>
<td>3</td>
</tr>
<tr>
<td>III. THE SECTOR</td>
<td>7</td>
</tr>
<tr>
<td>A. Governance in the Philippines</td>
<td>7</td>
</tr>
<tr>
<td>B. Sector Description and Performance</td>
<td>8</td>
</tr>
<tr>
<td>C. Issues and Opportunities</td>
<td>11</td>
</tr>
<tr>
<td>D. Lesson</td>
<td>22</td>
</tr>
<tr>
<td>IV. THE PROPOSED PROGRAM</td>
<td>22</td>
</tr>
<tr>
<td>A. Objective and Scope</td>
<td>22</td>
</tr>
<tr>
<td>B. Policy Framework and Actions under Subprogram 1</td>
<td>23</td>
</tr>
<tr>
<td>C. Policy Triggers for Subprogram 2</td>
<td>29</td>
</tr>
<tr>
<td>D. Financing Plan</td>
<td>29</td>
</tr>
<tr>
<td>E. Implementation Arrangements</td>
<td>31</td>
</tr>
<tr>
<td>V. TECHNICAL ASSISTANCE</td>
<td>32</td>
</tr>
<tr>
<td>VI. PROGRAM BENEFITS, IMPACTS, AND RISKS</td>
<td>34</td>
</tr>
<tr>
<td>VII. SPECIFIC ASSURANCES</td>
<td>36</td>
</tr>
<tr>
<td>VIII. RECOMMENDATION</td>
<td>37</td>
</tr>
<tr>
<td>APPENDIXES</td>
<td></td>
</tr>
<tr>
<td>1. Design and Monitoring Framework</td>
<td>38</td>
</tr>
<tr>
<td>2. Development Policy Letter and Policy Matrix</td>
<td>41</td>
</tr>
<tr>
<td>3. Development Partners’ Coordination Matrix</td>
<td>53</td>
</tr>
<tr>
<td>4. Sector Analysis</td>
<td>57</td>
</tr>
<tr>
<td>5. Summary Poverty Reduction and Social Strategy</td>
<td>69</td>
</tr>
<tr>
<td>6. List of Ineligible Items</td>
<td>72</td>
</tr>
<tr>
<td>SUPPLEMENTARY APPENDIX (available upon request)</td>
<td></td>
</tr>
<tr>
<td>A. Special Features</td>
<td></td>
</tr>
<tr>
<td>B. Economic Governance Assessment</td>
<td></td>
</tr>
</tbody>
</table>
LOAN AND PROGRAM SUMMARY

Borrower
Republic of the Philippines

The Proposal
Support to the Government of the Philippines for the proposed Governance in Justice Sector Reform Program (GJSRP) cluster comprising two subprograms. Subprogram 1 is proposed to be supported by a loan of $300 million to be released in two tranches.

Classification
Target Classification: General intervention
Sector Classification: Law, economic management, and public policy
Subsectors: National government administration, law and judiciary, public finance and expenditure management
Themes: Governance, capacity development
Subtheme: Public governance, anticorruption, institutional development

Environmental Assessment
Category C

Social Sector Assessment
Involuntary resettlement – Category C
Impact on indigenous people – Category C

Program Rationale. The Philippines suffers from poor perceptions of governance as captured in social weather surveys, investment climate surveys, and international comparisons. While progress is being made in macroeconomic management and fiscal stability, other performance indicators have deteriorated, including those of corruption. Recognizing these challenges, the Medium-Term Philippine Development Plan 2004–2010 (MTPDP) lays out the agenda to improve institutions and governance outcomes through actions that will enhance both the supply and demand for good governance. MTPDP includes an extensive discussion on the rule of law and needed governance reforms in justice sector institutions. On the supply side of the reform dynamics, the Government, as the provider of public goods and service delivery, is undertaking a multi-year reform program to strengthen the state’s administrative capability—skills, incentives and salaries, human resources, and financial management systems—to deliver public goods and services at both the national and local government level. The Government recognizes that supply-side factors are necessary, but not sufficient to improve public services and reduce corruption. Demand-led “voice” and empowerment elements are also needed to strengthen accountability arrangements. A vibrant civil society, coupled with measures in support of transparency and accountability, provides an incentive to change behavior and improve the public service performance of government institutions.
Civil society and nongovernmental organization stakeholders play an important role in sustaining policy dialogue on justice sector reforms. These groups hold strong interests that protect the reforms from state capture, and their advocacy during policy dialogue makes the justice sector and government actions more responsive to the needs of its users.

The MTPDP envisions a judiciary that is independent, effective, and efficient, resulting from a holistic and integrated reform effort in the justice system. In addition, it recognizes the important link between the rule of law and institutional reforms in the justice sector, and a strategy to fight poverty and promote inclusive growth.

The justice sector is an interlocking set of agencies that includes the judiciary, which is an independent branch of government, and agencies from the executive branch, including the institutions responsible for prosecutions, enforcement, corrections, penology, and public legal assistance. Improving the public service delivery of justice sector agencies requires a number of interlinked reforms, including strengthened incentives to deliver public services, enhanced expenditure and budget management capabilities, accountability for the use of resources, more efficient delivery of justice, greater citizen voice and participation, and increased access to justice.

A key factor in the weakness of justice sector institutions has been poor incentives and a lack of financial resources that have constrained expenditures and capacities, and ultimately resulted in poor public service delivery. The impact of budgetary constraints has led justice sector agencies to prioritize recurrent expenses (primarily personnel). Budgetary compression has also resulted in low salaries that when coupled with antiquated equipment and infrastructure create vacancies in staff positions and disincentives for efficient performance. Resource constraints also make justice sector agencies—particularly the judiciary, prosecution service, and law enforcement—susceptible to external influence, which undermines the independence of courts and the integrity of other justice sector agencies. Justice sector fiscal management capabilities, particularly in budget planning that can play an important role in strengthening fiscal autonomy in spite of government budget constraints, is currently weak. This prevents justice sector agencies from defending their budget requests and obtaining the resources that they need. The absence of resources in justice sector agencies to exercise stronger oversight functions concerning their field offices and the dearth of transparent procedures and accountability mechanisms with respect to the use of public funds contribute to the perception that the agencies are susceptible to corruption.
ADB’s focus on governance, macroeconomic management, public expenditure management, and anticorruption in the Philippines is anchored in ADB’s Development Policy Support Program for the Philippines, which complements and reinforces ADB’s sector loan programs and projects that are aligned with the Government’s strategies. The Development Policy Support Program sets out broad policy outcomes for improving public expenditure management, but leaves the rollout to sector programs such as the Local Government Finance and Budget Reform Program and the proposed Governance in Justice Sector Reform Program (GJSRP). The proposed GJSRP will support increased budget resources to the justice sector and improved expenditure management through the rollout of the medium-term expenditure framework (MTEF), the operational performance indicators framework (OPIF), and internal controls for better justice service delivery, all of which are key outcomes and outputs of the Government’s national priorities that are incorporated in the Development Policy Support Program.

ADB has provided longstanding support to the Philippine judiciary and recently expanded the scope of such support to other justice sector agencies in recognition that the impact of governance reforms in the judiciary would be undermined without reforms in other justice sector agencies. The Philippine country strategy and program identifies governance and support for judicial reforms as key pillars of ADB’s development assistance. The proposed GJSRP reflects the Government’s priority of promoting good governance in the justice sector and builds upon related ADB support to this sector.

Impact and Outcome

The proposed GJSRP will support the Government in its efforts to enhance the rule of law in the Philippines. GJSRP implementation will result in improved governance and efficiency of justice sector agencies while expanding access to justice by (i) strengthening judicial fiscal autonomy and justice sector accountability, and improving public access to the resources of justice sector agencies; (ii) enhancing the integrity of justice sector personnel; (iii) supporting the governance and efficiency of justice sector agencies; (iv) expanding access to justice by the poor and vulnerable groups, with specific focus on addressing gender-based discriminatory practices and gender gaps; and (v) expanding the delivery of justice through alternative dispute resolution. GJSRP is expected to result in a more efficient processing of cases and enhanced and prompt access to court decisions. With improved access by the poor and vulnerable groups to the justice system, the Program also expects to see a decline in the time that legal aid clients spend in pretrial detention. There will also be increased use of alternative dispute resolutions, such as arbitration and court-annexed mediation, more certainty in the court decisions, and an increased recognition of international arbitration awards, which has been a difficult issue for foreign investors.
<table>
<thead>
<tr>
<th>Section</th>
<th>Content</th>
</tr>
</thead>
<tbody>
<tr>
<td>Financing Plan</td>
<td>A proposed loan of $300 million from ADB's ordinary capital resources will be provided under the London interbank offered rate (LIBOR)-based lending facility for subprogram 1. The loan will have a 15-year term, including a grace period of 3 years, an interest rate to be determined in accordance with ADB’s LIBOR-based lending facility, a commitment charge of 0.15% per annum, and such other terms and conditions set forth in the draft Loan Agreement.</td>
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<tr>
<td>Program Period</td>
<td>The program cluster period is from January 2006 until August 2010, with a loan of $300 million to be disbursed in two tranches under subprogram 1, when the Government has met the conditions for release of the first and second tranche. Subprogram 2 will be submitted for Board consideration approximately 30 months after the effectiveness of subprogram 1 (i.e., by 2011), subject to adequate progress of reforms and the Government’s readiness to continue with its reform agenda.</td>
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<tr>
<td>Counterpart Funds</td>
<td>Counterpart funds generated from the proceeds of the subprogram 1 loan will be used for budget support in meeting government expenditures for social and infrastructure programs, and the associated fiscal costs of the governance in justice sector reforms.</td>
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<tr>
<td>Executing Agencies</td>
<td>Two executing agencies are proposed for the GJSRP: the Supreme Court and the Department of Finance (DOF). The Supreme Court will be the executing agency for program activities focused on reforms in the judiciary, while the DOF will be the executing agency for all other program activities within the executive branch of government. Given the independence of the judiciary from the executive branch of government under the Philippine Constitution, it is deemed necessary to establish two executive agencies to account for the differing responsibilities of attaining outcomes in both branches of government.</td>
</tr>
<tr>
<td>Implementation Arrangements</td>
<td>Implementing agencies will include the Department of Justice (DOJ), the Department of the Interior and Local Government (DILG), the Department of Budget and Management (DBM) and the Office of Solicitor General (OSG). The Supreme Court and DOF will jointly set up a program coordination committee comprising representatives from each of the executing agencies, and DOJ, DILG, DBM, and OSG. The program coordination committee will be responsible for implementation of the reform program and will monitor progress and support the implementation of the cluster and provide guidance to the implementing agencies.</td>
</tr>
<tr>
<td>Procurement and Disbursement</td>
<td>The loan proceeds will be used to finance the full foreign exchange costs (excluding local duties and taxes) of items produced and procured in ADB member countries, excluding ineligible items and imports financed by other bilateral and multilateral sources. The Government will certify its compliance with this formula with each withdrawal request. Otherwise, import documentation under</td>
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existing procedures will be required. ADB reserves the right to audit the use of the loan proceeds and verify the accuracy of the Government’s certification. The loan proceeds will be disbursed to the Borrower in accordance with the provisions of ADB’s *Simplification of Disbursement Procedures and Related Requirements for Program Loans*.

**Program Benefits and Beneficiaries**

The program’s principal benefits are improved incentives increased increased resources, and greater accountability leading to a higher quality of public services in the justice sector. Primary beneficiaries will be justice sector agencies and staff, who will benefit from a better-resourced justice sector. While most benefits are expected to emerge over the long term, in the short to medium term, competitive salaries and higher budgets are expected to reduce vacancies among judges and prosecutors, improve information and case management systems, and provide the basis for a progressive reduction in delays in the justice system. Consequently, the Program will also benefit users of the justice system, who will enjoy more efficient and effective delivery of justice. Faster court decisions, and wider dissemination of information about justice sector functions and services will improve the public’s understanding and confidence in the formal court system, mediation, arbitration, and informal mechanisms of dispute settlement. The Program also has a special focus on the poor and disadvantaged groups, and a commitment to promote capacity-building initiatives aimed at addressing gender-based violence.

**Risks, Assumptions and Mitigation Measures**

While some of the risks of the GJSRP are political and outside of the scope of the Program to directly mitigate, the Program and advisory TA will contribute toward mitigating other risks through greater transparency and accountability mechanisms, by strengthening the capacity of justice sector agency officials and staff, and enabling active monitoring by civil society groups. The potential risks and mitigation measures include:

(i) The Philippine economy in 2008 has been affected by three adverse developments in the external environment: (a) the knock-on effects from the financial crisis in the United States, (b) United States and global economic slowdown, and (c) commodity and fuel price increases. In recognition of the impact of these exogenous shocks to the fiscal position, the Government has adjusted its fiscal balance target from 2008 to 2010. The easing of the fiscal target will provide more headroom for expenditures, including needed increases in budgetary resources for justice sector agencies. The Government has remained steadfast in its development program—increased infrastructure spending, support for critical sectors (e.g., mining, business process outsourcing, and tourism, among others)—in support of economic growth, while sustaining revenue mobilization efforts. Nevertheless, it is expected that there will be a net economic slowdown that will adversely affect the
Government’s ability to increase fiscal resources allocated to the justice sector.

(ii) While the Constitution protects the fiscal autonomy and independence of the judiciary, budgetary constraints and weaknesses in administration hamper the judiciary’s exercise of fiscal autonomy and independence in practice. Rectifying this requires continued commitment to good governance from the judiciary and other branches of government, including LGUs. It will also depend on the speed and commitment of the judiciary and its personnel to establish effective administrative and financial mechanisms that are transparent, participatory, and provide a strong sense of accountability for the use of public resources. Under the attached TA, ADB will continue to support the judiciary in its fiscal and administrative reforms, including support for change management to help mitigate this risk.

(iii) Weak absorptive capacity of the justice sector agencies due to inadequate resources (financial and human) will continue to undermine the impact of reforms. However, close performance monitoring and targeted technical assistance to the implementing agencies will help reduce the adverse effects of implementation delays due to capacity constraints.

(iv) The slow pace of civil service reform limits the ability of justice sector agencies to rationalize their staff and transform those savings into more attractive remuneration for recruiting and retaining qualified personnel, and undermines ongoing initiatives to improve capacity. To address this risk in the judiciary, the TA includes support for the judiciary to prepare a staff rationalization plan for submission to DBM and the Civil Service Commission.

(v) There is a risk that current reforms may be reversed by future governments. This risk may be mitigated by ongoing policy dialogue with the Government as well as other stakeholders including the judiciary, legislative branch, civil society, business associations, academia, and development partners. The Program targets reforms that are in the public interest so that the reversal of reforms by future governments may be less likely. Support under the accompanying TA for the establishment of a Justice Sector Coordination Council (JSCC) will facilitate policy dialogue and help build greater public awareness and a stronger constituency for the ongoing reform agenda.

Technical Assistance

The Government has requested ADB to provide an advisory TA grant to assist justice sector agencies in preparing and implementing the governance and policy reforms under subprogram 2.

The total amount of the TA is $2.2 million, of which $1.5 million will be sourced from the ADB’s Technical Assistance Special Fund and
$500,000 will be provided from the Gender and Development Cooperation Fund on a grant basis and administered by ADB. The Government will provide the remaining $200,000 equivalent through in-kind contributions.

The executing agencies will be the Supreme Court and DOF, and implementing agencies will include DOJ, DBM, and DILG. The TA will support the judiciary, and justice sector and oversight agencies to implement and monitor key governance reforms, including reforms relating to financial management, development of a medium-term expenditure program for the justice sector, change management and advocacy, strengthening programs for access to justice by the poor and vulnerable groups, and enabling greater and more effective use of alternative dispute resolution. To pursue the objective of gender and development in the justice sector, a grant-financed component under the TA is proposed. This component will be implemented by a national organization (nongovernmental organization or academic institution) in consultation with the Committee on Gender Responsiveness in the Judiciary and will provide support to the Supreme Court, Committee on Gender and Development of the DOJ, and the Human Rights Office of the Philippine National Police.
I. THE PROPOSAL

1. I submit for your approval the following report and recommendations on (i) a proposed program cluster for the Governance in Justice Sector Reform Program (GJSRP), and (ii) a proposed loan to the Republic of the Philippines for subprogram1 of the GJSRP. The report also describes proposed technical assistance (TA) for Supporting Governance in Justice Sector Reform in the Philippines, and if the Board approves the program cluster and loan, I, acting under the authority delegated to me by the Board, will approve the TA and administration of a grant to be provided from the Gender and Development Cooperation Fund.¹ The program design and monitoring framework is in Appendix 1.

II. THE MACROECONOMIC CONTEXT

A. Review of the Economy and Investment

2. The Philippines Recorded Robust Economic Performance in 2007 (Table 1). Real gross domestic product (GDP) grew by 7.2% in 2007, the highest growth rate in three decades. The economic expansion has been notable in recent years, with the last recorded contraction occurring during the Asian financial crisis in 1998. The expansion reflects improving macroeconomic fundamentals; economic management associated with low inflation; and a credible independent central bank that has been increasingly supported by fiscal consolidation, declining public debt, and 4 consecutive years of a current account surplus based on record high remittances from Filipinos working abroad.

Table 1: Aggregate Economic Performance

<table>
<thead>
<tr>
<th>Indicator</th>
<th>2006</th>
<th>2007</th>
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<tbody>
<tr>
<td>Gross national product, growth rate (%)</td>
<td>6.1</td>
<td>8.0</td>
</tr>
<tr>
<td>Gross domestic product (GDP), growth rate (%)</td>
<td>5.4</td>
<td>7.2</td>
</tr>
<tr>
<td>Investment/nominal GDP (%)</td>
<td>14.5</td>
<td>15.3</td>
</tr>
<tr>
<td>Inflation rate (%)</td>
<td>6.3</td>
<td>2.8</td>
</tr>
<tr>
<td>91-day T-bill rate (%)</td>
<td>5.4</td>
<td>3.4</td>
</tr>
<tr>
<td>Fiscal balance (% of GDP)</td>
<td>(1.1)</td>
<td>(0.2)</td>
</tr>
<tr>
<td>Exports of goods, growth rate (%)</td>
<td>14.9</td>
<td>6.1</td>
</tr>
<tr>
<td>Imports of goods, growth rate (%)</td>
<td>9.2</td>
<td>6.8</td>
</tr>
<tr>
<td>Current account balance (% of GDP)</td>
<td>4.5</td>
<td>4.4</td>
</tr>
<tr>
<td>Poverty incidence (% of families)</td>
<td>26.9</td>
<td></td>
</tr>
<tr>
<td>Unemployment rate (%)</td>
<td>7.9</td>
<td>7.3</td>
</tr>
<tr>
<td>Dubai oil prices, average (US$/bbl)</td>
<td>61.5</td>
<td>68.3</td>
</tr>
<tr>
<td>P/$ exchange Rate</td>
<td>51.3</td>
<td>46.1</td>
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¹ Contributors: the governments of Canada, Denmark, Ireland, and Norway.

3. Investment Showed Signs of Recovery in 2007. After rapidly expanding in the first half of the 1990s, investment growth in the Philippines slumped following the Asian financial crisis and has been slow to recover, which has been a common characteristic of all the other crisis-hit countries in the region since 1998. The Philippines' gross investment, both public and
private, was the equivalent of 23% of its GDP before the crisis, but this had declined to 14.5% in 2006. Lost investments have translated into lost growth, and in turn to the slow creation of jobs and missed opportunities for poverty reduction. The decline in investment covered both private and public investments. However, investment spending increased in 2007 for the first time in 10 years, growing by 11.8% over the previous year, which was well above the average annual growth rate of 0.8% from 1997 to 2006. Overall, the gross investment to GDP ratio improved from 14.5% in 2006 to 15.3% in 2007. ADB staff estimates suggest that the Philippines is under-investing in physical capital by as much as five percentage points of GDP when compared with its long run equilibrium rate.

4. Economic Challenges in 2008. The Philippines economy in 2008 has been affected by three adverse developments in the external environment: (i) commodity and fuel price increases, (ii) the financial sector knock-on effects from the United States (US), and (iii) the unfolding US and global economic slowdown. In recent months, economic data out of the US, Europe, and Japan confirms that the crisis has moved from the financial sector and into the real economy. The external shocks from the global financial crisis and economic slowdown have yet to fully impact economic conditions in the Philippines.

5. In the first half of 2008, the surge in international food and energy prices has contributed to higher domestic inflation. Inflation in the Philippines hit a 17-year high of 12.5% in August 2008 on a year-on-year basis, with rice prices increasing by 45%. Although global commodity prices have started to ease, including rising prospects for a benign oil price environment, current levels remain historically high. Food supply and price levels, particularly those of rice, continue to be a priority concern for the Philippines given its immediate impact on the poor. The economic growth rate of 4.6% in the first half of 2008 (from 7.6% in the first half of 2007) suggests that these adverse effects are beginning to affect the real economy. In addition, the extent of the global financial crisis and its impact on the real sector remains to be seen. The latest Asian Development Outlook estimates GDP growth in the Philippines at 4.5% in 2008 and 4.7% in 2009.2

B. Development Strategies and the Government’s Justice Sector Reform Program

6. The Medium-Term Philippine Development Plan (MTPDP) 2004–2010 sets out the country’s development priorities, policy agenda, and programs. The plan includes an extensive discussion on the rule of law and the needed governance reforms in justice sector institutions. The MTPDP envisions a judiciary that is independent, effective, and efficient. It also envisions collaborative governance reforms among the five pillars of the criminal justice system, namely, the courts, prosecution, law enforcement, rehabilitation and correction, and the community; with the community pillar providing overall monitoring. Supporting key reforms of the MTPDP is the Philippines Development Forum, the primary mechanism of the Government for facilitating substantive policy dialogue among stakeholders. The Philippines Development Forum created a working group on good governance and anti-corruption,3 where consensus on and commitments to the rule of law continue to be discussed and monitored.

7. Justice Sector Reform Strategies. There have been four phases of justice sector reform since 1986 (A detailed description of justice reforms appears in Appendix 4: Sector Analysis). The first phase of reform measures followed the 1986 EDSA revolution, which created a sound constitutional basis for an effective justice system, helped restore the independence of the judiciary, and initiated a continuing justice reform effort. A second phase of reform during the 1990s concentrated on strengthening the human and institutional capabilities

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3 This working group is currently chaired by the Philippines’ Office of the Ombudsman and co-chaired by ADB.
that were required to respond to the increased workload and growing number of reforms in the judiciary and other justice sector agencies. A third phase began with the Supreme Court’s implementation of its Action Program for Judicial Reform (APJR), a multi-year plan (2000–2006) that identified, prioritized, and implemented judicial reforms. The APJR was regarded as a concrete step in establishing a strong foundation for the long-term development of the judiciary. It aimed at strengthening the judiciary’s accountability, fiscal autonomy, and independence from external interference; and supported the delivery of fair and speedy justice. The APJR also received strong support from the executive branch. By the end of the APJR, the Supreme Court’s credibility had increased. Respondents to a survey of businesses who considered the Supreme Court sincere in fighting corruption increased from a net of 40% in 2006 to a net of 46% in 2007. Equally important is APJR’s production of a series of diagnostic studies that provided the basis for policy reforms in the Department of Justice (DOJ), the Office of the Ombudsman, the Public Attorney’s Office, and the Philippine corrections system. The diagnostic studies provided the opportunity for these nonjudicial justice sector agencies to build their own reform road maps. As a result, DOJ created a Management Systems Office to coordinate its reform program, the Office of the Ombudsman adopted a Medium-Term Anticorruption Program, and the Philippine National Police (PNP) launched its own reform program.

8. A fourth phase of reforms was initiated upon the current chief justice’s assumption of the office in 2006. The chief justice announced three broad priority areas for the judiciary: (i) seeking the speedy and efficient resolution of court cases, (ii) improving the court’s integrity, and (iii) increasing access to justice. The chief justice also continues to focus on APJR reforms that are expected to achieve results in these areas, by piloting a decentralized regional court administration structure; designating 22 small claims courts using judicial dispute resolution; and deploying mobile court units under the Justice on Wheels Program. The chief justice has not abandoned interest in coordinating justice reforms. Since his appointment, he has hosted two multisectoral summits, both of which were lauded for demonstrating justice sector leadership. Improved coordination is expected to continue, particularly after the signing of a memorandum of agreement among the executive, legislative, and the judicative branches to establish the Judiciary, Executive, and Legislative Advisory and Consultative Council on 13 May 2008. The council aims to develop a cooperative approach to resolving issues relating primarily to the budget of the judiciary in a manner that respects judicial independence. Other justice sector agencies—notably, DOJ and PNP—continue to implement components of their own reform programs, focusing on the efficient and effective delivery of services and agency integrity.

C. The Government and Its ADB Partnership

9. Country Strategy and Program. Justice sector and rule of law are themes of the investment climate component of the country strategy and program for 2005–2007, which emphasizes that ADB will help the Government to improve the investment climate through a combination of technical and program support for policy, institutional, and regulatory reform in key sectors. The ADB’s focus on governance, macroeconomic and public expenditure management, and anticorruption in the Philippines is anchored in the Development Policy Support Program, which both complements and reinforces the GJSRP and ADB’s other sector loan programs and projects that are aligned with government strategies. The Development Policy Support Program sets out broad policy outcomes for improving public expenditure management, but leaves its introduction to sector programs such as the Local Government Finance and Budget Reform Program and the proposed GJSRP. The proposed GJSRP will support increased budget resources to the justice sector and improved expenditure

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management through the introduction of the operational performance indicators framework (OPIF), MTEP, and internal controls for better justice service delivery, all of which are key outcomes and outputs of the Government’s national priorities.

10. **Policy Dialogue.** ADB’s engagement with the Government on governance reforms, and the justice sector in particular, began in the late 1980s as the Philippines embarked on its democratization effort and constitutional reforms. ADB assistance included support for regulatory oversight bodies, macroeconomic and fiscal stability, public financial management reform, local government fiscal and budget reform, and strengthening the judiciary and justice sector. ADB’s partnership in the justice sector started with the judiciary led by the Supreme Court, which adopted the APJR in 2001 following a series of diagnostic studies that identified major challenges to the judiciary’s integrity, competence, and efficiency. Policy dialogue and preparations for the GJSRP formally commenced in 2006.

11. In 2001, ADB provided a technical assistance grant (TA 3693-PHI) to the judiciary to assist in developing frameworks and systems to strengthen the judiciary’s independence and accountability; improve the judicial appointments system; and promote judicial training. Among the key outcomes of this engagement have been the design of a decentralized court administration system, which is currently being piloted by the Supreme Court in Region 7; and the creation of a financial management and administration office, and research positions in the Judicial and Bar Council (JBC), all of which were recommended by the TA and intended to improve JBC capability to independently select qualified judicial candidates. In 2006, ADB approved TA 4832-PHI to support the Supreme Court’s implementation of the recommendations from ADB TA 3693-PHI regarding decentralization of administrative and financial management functions in the judiciary. The TA is currently supporting the pilot testing of a regional court administration office in Region 7 that was launched by the current chief justice in May 2008, and engaged in full operations for all courts in the region beginning in July 2008. The TA also supported reforms in nonjudicial justice sector agencies that had been identified by Supreme Court diagnostic studies as agencies whose performance had an impact on judicial efficiency. A sustainable capacity-building program for members of the National Prosecution Service (NPS) of the DOJ has been designed and implemented. Inputs for a design of a prosecution case management system were also developed and are currently used in the DOJ’s design of such a system.7

12. Recognizing the Philippines’ improved macroeconomic performance since 2005, ADB has moved to a high-case lending scenario. Aligned with government priorities and directions, the 2008 program reflects a mix of policy-based and project loans that broaden support from fiscal consolidation to other key development constraints relating to the investment climate, governance and social sectors; and provides direct support for accelerated achievements of the Millennium Development Goals.

13. The proposed GJSRP is one of three pillars of policy-based operations for institutional strengthening that anchors ADB’s policy operations in the Philippines. The other two are focused on fiscal and public expenditure management: the Development Policy Support Program and the Local Government Finance and Budget Reform Program.8 Figure 1 illustrates

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6 Region 7, the Central Visayas region of the Philippines, comprise the provinces of Bohol, Cebu, Negros Oriental and Siquijor.


the links between the Government's MTPDP, the Philippines Development Forum agenda, and the partnership with and strategy of ADB.

|--------------------------------------|------------------------|---------------------------------|-------------------------------------|-------------------------------------|

**Philippine Development Forum – Seven Working Groups**

- WG 1 Economic and Fiscal Reforms
- WG 2 Governance and Anticorruption
- WG 3 Growth and Investment Climate
- WG 4 MDGs and Social Progress
- WG 5 Decentralization and Local Government
- WG 6 Sustainable Rural Development
- WG 7 Mindanao Development

**ADB Interventions: Sector Programs**

- Local Government Financing and Budget Reform (WG-5)
- Development Policy Support Program Cluster (WG-1)
- Financial Market Regulation and Intermediation Program (WG-3)
- Power Sector Development Program (WG-3)

**Governance in Justice Sector Reform Program**

- Strengthened Fiscal Autonomy, Accountability and Improved Access to Resources
- Enhanced Justice Sector Integrity
- Supporting Efficiency in the Justice Sector
- Access to Justice by the Poor and Vulnerable Groups
- Expanding Delivery of Justice Through Alternative Dispute Resolution

**ADB Country Strategy and Program’s Alignment with the Priorities of Government**

- Fiscal Consolidation
- Investment Climate and Good Governance
- Support for the Millennium Development Goals
- Alignment with Operations of Other Development Partners to Support Economy-Wide Structural Reforms

Note: Bold letters show interlinks between MTPDP, PDF Agenda and ADB intervention in Justice Sector reform.

ADB = Asian Development Bank, WG = working group.

14. The Medium-Term Program Approach. The proposed GJSRP will support the broad priorities of the Government’s justice sector reform measures, including institutional capacity building, as highlighted in the development policy letter addressed to the President of ADB (Appendix 2). These broad areas include (i) strengthening judicial fiscal autonomy, justice sector accountability, and improved access to resources of justice sector agencies; (ii) enhancing the integrity of justice sector personnel; (iii) supporting the governance and efficiency of justice sector agencies; (iv) expanding access to justice by the poor and vulnerable groups, with a specific focus on addressing gender-based discriminatory practices and gender gaps; and (v) expanding the delivery of justice through alternative dispute resolution. In addition, it provides (i) a coherent reform strategy with two discrete, but linked, subprograms within a
medium-term framework for the justice sector; (ii) a strong emphasis on performance, as the
decision on whether to proceed with the next subprogram depends on satisfactory achievement
of defined triggers; and (iii) flexibility in the reform measures, with provisions for incorporating
lessons learned and responding to changes in the external environment, and new priorities in
the design of the subsequent subprogram. The GJSRP has the following two phases:

(i) Subprogram 1 of the program cluster focuses on increasing resources to the
justice sector and supporting the efficient delivery of justice services. It is
designed as a two-tranche operation with equal amounts of $150 million in 2008
and 2009. The tranche structure for subprogram 1 serves as a commitment
device and platform for the judicial and the executive branches to reach a
consensus on key issues regarding (i) a coordinated approach to reforms in the
justice sector spanning all relevant agencies, while respecting their constitutional
mandates and autonomy; and (ii) increased funding for the judiciary.

(ii) Subprogram 2 will focus on institutional capacity building to deliver justice
services to the community, and implementing measures to address key priorities
of the justice sector, including decentralizing the court’s financial management
and administrative functions to regional court administration offices, improving
the integrity of the court and other justice sector agencies, and improving access
to justice.

15. Subprogram 2 will address the key risks identified in subprogram 1—particularly in
relation to sustaining support for increasing the share of the justice sector in the Government’s
budget—and make progress in other areas that might emerge from policy dialogue and
engagement with the Government from 2009 to 2011. The expected time frame for processing
subprogram 2 is approximately 30 months after subprogram 1 becomes effective (i.e., 2011).
Subprogram 2 contains eight policy triggers to provide the flexibility needed to respond to
unanticipated changes in the external environment by framing an appropriate policy response.
This approach will ensure the program cluster is synchronized with the Government’s policy
agenda and the crafting of the new medium-term plan in 2011.

16. **Government and Development Partner Coordination.** Philippine justice sector
reforms have been supported by development partners other than ADB. The United Nations
Development Programme (UNDP) played a key role in the background technical work and
baselines of the APJR. The World Bank’s Judicial Reform Support Program supported judiciary-
focused reforms, including information technology and infrastructure needs, as well as integrity-
focused initiatives. The World Bank, United States Agency for International Development
(USAID), and Canadian International Development Agency (CIDA) have all supported the
development of caseflow management and/or case management information systems in the
judiciary. CIDA and The Asia Foundation, with funding from USAID, have also focused on
alternative dispute resolution (court-annexed mediation), access to justice, and prison reforms.
The European Commission focused on access to justice reforms, while the Australian Agency
for International Development (AusAID) provided human resource training support. The
Japanese International Cooperation Agency (JICA) provided training for various justice sector
agencies and assisted in the operation of an automated fingerprint identification system at the
PNP. (Appendix 3: Development Partners’ Coordination Matrix gives a detailed description of
development partners’ support to the Philippine justice sector).
III. THE SECTOR

A. Governance in the Philippines

17. In the Philippines, the key binding constraints to ensuring sustained growth and poverty reduction were identified in an ADB study—and earlier in the country strategy and program—as relating to macroeconomic stability, high transaction costs of doing business, inadequate infrastructure, and weak investor confidence. These constraints have been partly shaped by governance and corruption concerns. The judiciary and justice sector agencies are engaged in the delivery of justice. As such, they perform a critical governance and oversight function by identifying and reviewing public and private sector actions that violate the law. Figure 2 outlines the entry points for governance reform supported by ADB. In the dynamics of the reform process, the supply and demand for good governance are considered important features in building strong institutions that provide quality public service delivery. To illustrate, ADB's operation in the Philippines include: a focus on supply side factors by strengthening human and financial resources and public financial management needed to deliver public services; and demand-led “voice” and empowerment elements to strengthen accountability arrangements. A vibrant civil society coupled with measures in support of transparency and accountability provides an incentive to change behavior and improve public service performance of government institutions. Civil society and NGO stakeholders play an important role in sustaining policy dialogue on justice sector reforms. These groups hold strong interests that protect the reforms from state capture. These groups’ advocacy during policy dialogue makes the justice sector and state actions more responsive to the needs of its users.

18. Good Governance Performance. The Philippines suffers from the perception of poor governance as captured in investment climate and governance surveys, and international comparisons. Progress is being made in macroeconomic management and fiscal stability but other indicators, including those of corruption, have deteriorated. In its report, Governance Matters 1996–2007: Worldwide Governance Indicators, the World Bank has noted three features of governance and corruption in the Philippines based upon an assessment of various published indicators. First, the Philippines has experienced deterioration in most governance and corruption indicators since 1998: bottoming out in 2004, and improving since 2005, with the exception of indicators for corruption and political stability, which continue to decline (Table 2). Second, while the Philippines scores well on indicators of the quality of legislative and regulatory governance frameworks, it scores less well on the implementation of such laws and public service delivery. Finally, the Philippines fares well in regional comparisons for most indicators, except for corruption and political stability indicators (Table 3).

19. Impact of Governance on Economic Growth. Weak institutions contributed to the Philippines’ lower-than-average economic growth performance. A study on Philippine economic growth over the last 35 years suggested that while Philippines growth performance has been average compared to all other developing economies, it has performed below average in the Southeast Asia region, which was attributed to weak institutions. The 2003 ADB and World Bank Investment Climate Survey identified corruption as the second most severe constraint to investment, behind macroeconomic stability. The analysis of cross-country data in this survey showed that if a country raises its governance ratings to international averages for political stability, corruption, and the rule of law, this would be a sufficient step to change investor

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perceptions and increase foreign direct investment and portfolio flows. In the Philippines context, this suggests that improving rule of law and corruption indicators would bring significant economic benefits to the country (Table 2).

Table 2: Update on Governance Indicators—Philippines  
(Percentile Ranking: Higher is better)

<table>
<thead>
<tr>
<th>Year</th>
<th>Voice and Accountability</th>
<th>Political Stability</th>
<th>Government Effectiveness</th>
<th>Regulatory Quality</th>
<th>Rule of Law</th>
<th>Control of Corruption</th>
</tr>
</thead>
<tbody>
<tr>
<td>1996</td>
<td>53.6</td>
<td>29.8</td>
<td>60.2</td>
<td>67.8</td>
<td>54.8</td>
<td>45.1</td>
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<tr>
<td>1998</td>
<td>60.6</td>
<td>38.9</td>
<td>49.8</td>
<td>62.4</td>
<td>50.0</td>
<td>43.2</td>
</tr>
<tr>
<td>2000</td>
<td>54.3</td>
<td>21.6</td>
<td>49.8</td>
<td>56.6</td>
<td>35.7</td>
<td>36.9</td>
</tr>
<tr>
<td>2002</td>
<td>52.9</td>
<td>25.0</td>
<td>52.6</td>
<td>50.7</td>
<td>34.3</td>
<td>38.8</td>
</tr>
<tr>
<td>2004</td>
<td>49.5</td>
<td>11.1</td>
<td>50.2</td>
<td>46.8</td>
<td>31.4</td>
<td>34.0</td>
</tr>
<tr>
<td>2005</td>
<td>51.9</td>
<td>17.3</td>
<td>55.0</td>
<td>51.7</td>
<td>41.9</td>
<td>35.9</td>
</tr>
<tr>
<td>2006</td>
<td>45.7</td>
<td>11.1</td>
<td>54.0</td>
<td>50.7</td>
<td>44.3</td>
<td>22.8</td>
</tr>
<tr>
<td>2007</td>
<td>43.3</td>
<td>10.1</td>
<td>56.4</td>
<td>50.5</td>
<td>33.8</td>
<td>22.2</td>
</tr>
</tbody>
</table>

Note: 2004 to 2007 and selected years. Percentile ranking is interpreted as follows: The Philippines has a rank of 43.3% for voice and accountability. This means that the Philippines score for this category is higher than 43.3% of the 212 countries included in the indicator, or conversely about 56.7% of the 212 countries have a higher score in this category.


B. Sector Description and Performance

20. The Philippine justice system consists of a network of institutions, including the judiciary and the several justice sector agencies under the executive branch of the Government. The executive branch agencies implement the laws, investigate violations, prosecute crimes, and enforce penalties; and the judiciary interprets the law, hears cases, resolves disputes, and reviews government actions. The executive and judicial branches are co-equal and separate, and together with the legislative branch, they each exercise powers that check and balance the powers of the other two. Under the executive branch and judiciary, the agencies constituting the justice system include the following: law enforcers and investigators, public defenders, solicitors, prosecutors, various levels of courts, and penal institutions. Although the core of the justice system is the judiciary—as the branch of government ultimately responsible for interpreting the law—a well-functioning justice system also relies on the capacities, performance, and coordination of the justice sector institutions in the executive branch (Appendix 4, Sector Analysis).

Table 3: Regional Comparison of Governance Indicators in 2007

<table>
<thead>
<tr>
<th>Country</th>
<th>Voice and Accountability</th>
<th>Political Stability</th>
<th>Government Effectiveness</th>
<th>Regulatory Quality</th>
<th>Rule of Law</th>
<th>Control of Corruption</th>
</tr>
</thead>
<tbody>
<tr>
<td>Philippines</td>
<td>43.3</td>
<td>10.1</td>
<td>56.4</td>
<td>50.5</td>
<td>33.8</td>
<td>22.2</td>
</tr>
<tr>
<td>Indonesia</td>
<td>42.8</td>
<td>14.9</td>
<td>41.7</td>
<td>43.7</td>
<td>27.1</td>
<td>27.1</td>
</tr>
<tr>
<td>Malaysia</td>
<td>31.3</td>
<td>52.4</td>
<td>82.9</td>
<td>67.0</td>
<td>65.2</td>
<td>62.3</td>
</tr>
<tr>
<td>Thailand</td>
<td>29.8</td>
<td>16.8</td>
<td>61.6</td>
<td>56.3</td>
<td>52.9</td>
<td>44.0</td>
</tr>
<tr>
<td>Viet Nam</td>
<td>6.7</td>
<td>56.3</td>
<td>41.2</td>
<td>35.9</td>
<td>38.6</td>
<td>28.0</td>
</tr>
<tr>
<td>Cambodia</td>
<td>24.0</td>
<td>28.8</td>
<td>20.9</td>
<td>30.6</td>
<td>13.8</td>
<td>8.2</td>
</tr>
<tr>
<td>Lao PDR</td>
<td>6.3</td>
<td>42.8</td>
<td>21.3</td>
<td>15.0</td>
<td>17.1</td>
<td>13.0</td>
</tr>
</tbody>
</table>

Lao PDR = Lao People’s Democratic Republic.

Italics = areas supported in varying degrees by ADB operations.

21. **Fundamental Performance Difficulties.** A common perception in the Philippines is that the quality of the rule of law leaves much to be desired. The justice system is often cited as a contributing factor to the low comparative rankings of the Philippines on a number of widely-known indices of economic competitiveness. In addition, the American Bar Association has also expressed concerns over inefficiency in the justice system. While reforms have helped improve the credibility of justice sector institutions—particularly the Supreme Court, and more recently, PNP—cross-cutting issues persist. The sector’s human and financial resources, and physical infrastructure remain grossly inadequate or poorly allocated and managed; caseloads are unrealistically high; court dockets remain congested and delays are perceived to be excessive; and the jail population is growing primarily as a result of prisoners awaiting trial. Conviction rates remain very low; public confidence in the integrity of justice system operators is also low; the private sector is frustrated by uncertainties about the law, its interpretation, and application; and access to justice is impeded by delays, costs, uncertainties, and in some cases the physical remoteness of courts.
22. **The Vicious Cycle of Poor Governance.** Informed observers attribute the persistence of underperformance in the justice sector to several factors. The immediate cause is inadequate resources and support facilities, and low remuneration, which inhibit the hiring and retention of qualified staff while concurrently providing strong incentives for corruption. This situation breeds a vicious cycle of (i) limited implementation capacities in justice sector agencies, including the limited capacity to manage change and to manage for results; (ii) inadequate investment in increasing capacities; and (iii) weak accountability, both in the sense of accountability for meeting performance targets and accountability for the use of resources, which have both impeded implementation of corrective actions in a timely manner. The absence of sufficient political consensus that the benefits of improved performance in the justice system would outweigh the costs and risks has also contributed to this difficult environment.

23. **Application of Governance Principles.** The application of governance principles for public sector service delivery provides the entry point to turn the vicious cycle described in para. 22 into a virtuous circle. These principles include (i) incentives to provide high-quality service delivery through competitive salaries and sufficient budgets for investments in training, information systems, and related facilities, (ii) enhanced accountability for performance against clear benchmarks, (iii) improved accountability and transparency mechanisms for the use of resources through strong public financial management systems, and (iv) effective and wide-ranging civic participation to provide feedback and monitor the reform process.
24. The fundamental change required in a complex environment such as the justice sector involves a slow and arduous process. It is important to focus on key areas and build sufficient capacity and consensus necessary for reforms. At the same time, a comprehensive approach is needed to address the issues, problems, constraints, and complex relationships of supervision and control across the network of justice sector institutions. The proposed GJSRP offers a road map of critical short-term actions and medium-term policy reforms that will require concerted effort from all of the concerned stakeholders.

C. Issues and Opportunities

1. Judicial Fiscal Autonomy, Justice Sector Accountability and Access to Resources

25. Judicial Independence and Fiscal Autonomy. An independent judiciary is a key feature of an efficient justice sector. Judicial independence refers to a judiciary deciding matters impartially “without improper influences, direct or indirect, from any source.”14 One of the key features to ensure judicial independence is the provision of adequate resources to the judiciary and to allow the judiciary to manage the resources. In the Philippines, courts obtain financing from three major sources: the national government budget, contributions from local government units (LGUs), and revenues from judicial fees and charges. However, the courts’ principal source of financing is the national government budget. To protect the judiciary from being unduly influenced by the executive branch, which proposes the budget, or legislative branch, which approves the budget, the Constitution grants the judiciary fiscal autonomy through the automatic and regular release of its budget once it has been approved by Congress.15 In addition, the Constitution states that the judiciary’s budget may not be reduced by Congress below the amount appropriated for the previous year.16 However the fiscal austerity measures of the national government from 2003 to 2006, weak public expenditure management, and reliance on funding from LGUs have combined to undermine fiscal autonomy of the judiciary.

26. Excessive Controls and Issues on Cash Release. The national government budget allocation process starts when the President, through the Department of Budget Management (DBM), prepares and submits to Congress an annual National Expenditure Program on the basis of which a national budget is appropriated. In the course of preparing the National Expenditure Program, DBM reviews the budget proposals of all government agencies—including the judiciary, legislature, the executive (Office of the President), and fiscally-autonomous constitutional commissions—on a line-item basis and decides which items may or may not be included in the National Expenditure Program.17 The House of Representatives files a General Appropriations Bill that cannot increase the appropriations recommended by the executive. Once the General Appropriations Bill passes into law, DBM allots the judiciary’s budget in one lump sum. Ideally, DBM would disburse the judiciary’s budget automatically, without conditions and on a regular basis, as required under the Constitution. However, as with executive departments under the supervision and control of the President, the judiciary has been subjected to cash availability timing issues and the fiscal position of the Government. The failure to automatically and regularly release cash to the judiciary is one of the main factors that

14 The Beijing Statement of Principles of the Independence of the Judiciary in the LawAsia Region. This is an international document signed by 32 chief justices from throughout the Asia Pacific region including the Philippines.
15 Article VIII, Section 3 of the Philippine Constitution; Supreme Court v. DBM, G.R. No. 158791, 10 February 2006.
16 Article VIII, Section 3 of the Philippine Constitution.
17 It will be noted that both the president and the chief justice have the statutory authority to realign resources and augment items within the budget of their government branch, but only if the budget items exist in the first place.
renders the judiciary unable to reasonably manage its own resources and have enough flexibility to adequately manage day-to-day operations. Failing to receive the resources that it needs in a timely manner, leaves the judiciary vulnerable to negotiating budget items with the executive branch on a transaction-by-transaction basis, thereby posing risks to its independence and integrity.

27. The Government’s fiscal management capabilities—particularly in budget planning—can play an important role in strengthening fiscal autonomy, notwithstanding government budget constraints. Ideally, a well planned operational cash program would allow DBM to plan for the disbursement of cash to fiscally-autonomous priority agencies, such as the judiciary, without referring to the Government’s fiscal position or reviewing the agencies’ expenditures as a precondition to releasing cash allocations. However, weak fiscal management capabilities and human resource constraints in the Supreme Court have resulted in the preparation of operational cash programs that do not reflect the actual cash requirements of the Supreme Court each quarter. This makes it difficult for DBM to program a realistic schedule of cash disbursements for the judiciary and other fiscally-autonomous agencies, especially when the Government’s fiscal position is weak.

28. Real Decline in Resources. While the nominal level of the judiciary’s budget can be protected by the Constitution, the increases have not always been sufficient to protect against inflation. Figure 4 illustrates that while there have been annual increases in the judiciary’s obligated budget in recent years, its value in real terms and its share of the National Expenditure Program has decreased. While there was a slight recovery in the budget allocation in real terms in 2007, it was not enough to meet the increasing demands of the courts’ increasing workload. In fact, the budget allocation for the judiciary in 2007 was able to buy 5% less goods and services when compared with the judiciary’s budget in 2000. With national government budgetary resources inadequate, the courts must turn to other sources to finance their operations.

29. Judiciary Development Fund. In 1984, Presidential Decree No. 1949 created the Judiciary Development Fund (JDF) in recognition of the need to provide the judiciary with some form of fiscal independence. The JDF is funded by court fees and other revenue collected by
the courts.\textsuperscript{18} By statute, at least 80% of the JDF is allocated to finance cost-of-living allowances for court personnel and not more than 20% may be used for office equipment and other court facilities. Although the Supreme Court sets the rates for court fees and has sole responsibility for collection, the JDF cannot serve as a major source of funds and revenue, as issues such as access to justice and equal treatment under the law need to be given due consideration in the setting and collection of fees. At best, the JDF merely augments the judiciary’s resources. The bulk of the judiciary’s resources must still come from the Government’s budget.

30. \textbf{Local Government and the Judiciary}. Many LGUs contribute resources to the lower courts located in their respective area of responsibility.\textsuperscript{19} These contributions are not recorded in the financial accounting records of the judiciary. LGUs vary considerably in their policies about contributions to local courts as well as in the amounts provided. Some LGUs include contributions to local courts in their annual budgets, but most do not. These schemes run the risk of undermining the integrity of the courts, a risk that is further heightened by the absence of modern financial and expenditure management systems and capabilities within the judiciary.

31. \textbf{Weakness in Judicial Administration}. With inadequate budgetary resources, the quality of judicial administration suffers. The severe lack of administrative and financial management, and technical infrastructure hampers the efficiency of the reporting and accounting process. This has contributed to the perception that the judiciary is not forthcoming about its use of their resources, including the JDF, even as past audits by the Commission on Audit have confirmed the proper accounting and transparency of the JDF. International best practices and principles of financial management may be useful in preventing a negative perception of the courts, as well as in ensuring the judiciary’s accountability to the public for its performance and use of resources.\textsuperscript{20}

32. \textbf{Resource Constraints in Nonjudicial Agencies}. Nonjudicial agencies suffer the same budgetary constraints as the judiciary. In general, while annual budgetary allocations increase in nominal terms, the real value of the budgetary allocation has decreased. Between 2000 and 2007, the total budget in real terms for nonjudicial agencies dropped by about 5%, with DOJ experiencing the largest decline of about 15%.

33. In addition to its effect on the judiciary, budgetary constraints have also had a significant impact on the quality of public service provided by other justice sector agencies, as follows:

(i) There are insufficient resources for PNP field offices. At present, PNP field offices receive less than one-fourth of the programmed amounts required to support police operations in the field. Police officers responding to crimes do not have the basic equipment and materials necessary to cordon off the crime scene. They have to wait for specialized teams who perform crime scene investigation. Due to budget constraints, there are very few such teams that are authorized to

\textsuperscript{18} In addition to regular court fees, the other legal fees comprising the JDF include bar examination fees, interest on deposits of the judiciary’s funds, confiscated bail bonds, income from the publications of the Supreme Court printing press, and rental fees for the use of judiciary facilities.

\textsuperscript{19} Under the provisions of the local government code, LGUs are allowed to support the judiciary on a discretionary basis. LGU contributions vary considerably and include office equipment, supplies and materials, augmentation of judicial allowances, additional personnel, office repairs, travel and training allowances, and advances on utility fees. In low-income LGUs, the contributions ranged from P1, 000 to P9, 546 per month. In first class provinces, it ranged from 0.02% to 0.95% of the LGU’s revenues. In large cities, it ranged from 0.05% to 1.35% of the LGU’s revenues. Contributions to the prosecution service and the PNP have also been reported.

\textsuperscript{20} ADB is in close coordination with the World Bank in relation to World Bank’s recent report on procurement capacity assessment and the ACPI Evaluation Report for the Judiciary (unpublished as of July 2008).
process crime scenes. As a result, the quality of collecting evidence in crime scenes suffers.

(ii) There has been a considerable increase in the jail population in recent years, and there are insufficient resources available to provide prisoners reasonable living standards and adequate correction and rehabilitation services. It is striking that more than 95% of the jail population has not been sentenced, which means that less than 5% of detainees are serving sentences following conviction in court. From about 35,000 in 2000, the number of detainees in Bureau of Jail Management and Penology (BJMP) jails grew to more than 62,000 in 2006. About 10% of detainees are women, and 2% are minors. Metro Manila jails reportedly hold 400 times more prisoners than their official capacity. A rehabilitation center in the province of Cebu that was built for 400 detainees was until recently crammed with 2,600 (Appendix 4, Sector Analysis).

(iii) NPS has insufficient resources to fund and sustain an orientation program that would increase the competence and efficiency of new hires. A training facility has been made available to the NPS, but remains unutilized because there are no resources to finance the program plus staff, furniture, and equipment. NPS and the Public Attorney’s Office can offer only occasional training courses, which are often dependent upon international financial support.

34. **Squeezed Discretionary Spending on the Justice Sector.** Inadequate budgetary resources have led justice sector agencies to prioritize recurrent expenses (primarily personnel) and fund all other expenses with whatever resources remain. Consequently, more than 80% of justice sector agencies’ budgets go to salaries, leaving less than 15% for maintenance and other operating expenses, and less than 3% for capital investment. This deviates from the profile of the national government budget, which devotes 32% to expenses for personnel services and around 58% to maintenance and other operating expenses (Figure 5).

35. **Personnel Vacancies.** Notwithstanding the fact that the budget of justice sector institutions are mostly devoted to staff salaries and allowances, justice sector compensation rates are not comparable to those received by private sector counterparts. For example, lawyers employed in justice sector agencies receive salaries that are generally about one-fifth of private sector lawyers’ salaries. New law graduates, who are unqualified to become judges, can obtain starting salaries in private sector firms that are above those provided to judges. As a result, high vacancy rates persist in the courts, which contributes to increasing justice sector workloads. In addition, the employed staff working in the courts for comparatively-low compensation have

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**Figure 5: Comparison of National Budget Appropriations between Justice Sector and the Rest of Government**

<table>
<thead>
<tr>
<th></th>
<th>Government</th>
<th>Justice Sector</th>
</tr>
</thead>
<tbody>
<tr>
<td>Capital Outlays</td>
<td>10%</td>
<td>3%</td>
</tr>
<tr>
<td>MOE</td>
<td>58%</td>
<td>15%</td>
</tr>
<tr>
<td>Salaries</td>
<td>32%</td>
<td>82%</td>
</tr>
</tbody>
</table>

MOE = maintenance and other operational expenses.

Note: Entries include expenditures related to administration of justice that are identifiable in the GAA.
Source: General Appropriations Act (GAA), 2007.
weak incentives to provide efficient and effective service. While there have been efforts to reduce judicial vacancies in the past 3 years, a further reduction in vacancies merits support.

36. In 2003, legislation authorized the payment of additional compensation (allowances) for judges, increasing basic salaries by 100% over 4 years.\textsuperscript{21} As a result, judicial vacancies have decreased from one-in-every-three judicial positions to the current ratio of one-in-every-five judicial positions (Figure 6). Together with a number of reforms targeted at improving court efficiencies (para. 41), this has led to a decrease in judicial caseloads (Figure 7). While this has been a favorable development for court personnel, it has caused wage imbalances across the justice sector. The MTPDP has observed that many prosecutors and Public Attorney’s Office lawyers have left their positions to join the judiciary, while referring to resource and salary differentials as possible reasons for the transfer. This highlights the need to develop a sector-wide strategy that diminishes the risk of creating vacancies in one agency as a result of filling vacancies in another.

37. Additional judicial allowances are funded mainly from court fees, and not from the judiciary’s personnel services budget. Therefore, the amount of additional compensation is contingent on the amount of court fees collected. It should be noted that in order to fund the additional compensation the Supreme Court raised court fee levels. Similarly, extra allowances have been legislated for lawyers in justice sector agencies (e.g., the NPS, Office of the Solicitor General, and the Public Attorney’s Office). In the instances of the NPS and Office of the Solicitor General, authorized funding for these allowances comes from the agencies’ own source revenues,\textsuperscript{22} which decreases the likelihood that staff can receive the authorized allowances. The additional allowances mandated under the law for Public Attorney’s Office lawyers have yet to be funded.

2. Justice Sector Integrity and Higher Standards of Conduct

38. Enhancing the public’s perception of integrity in the justice system is a serious challenge. A recent business survey showed a high level of doubt about the sincerity of a number of justice sector agencies in fighting corruption.\textsuperscript{23} Most of the justice sector agencies appear to have satisfactory codes of ethical conduct in place or in development (e.g., the judiciary, PNP, and the NPS). However, knowledge of those codes among the relevant staff and general public appears to be uneven. The number of disciplinary cases seems small, given the large number of individuals involved in the administration of justice and the continued perception of widespread corruption. The American Bar Association, in its latest judicial reform survey for the Philippines, pointed out that the “disciplinary process has adequate written criteria, specific descriptions of misconduct, and a fair process. However, in practice, it is not working effectively.”\textsuperscript{24}

39. Performance Monitoring. The problem points to a need for stronger measures for performance monitoring and evaluation of the rules of conduct. The Supreme Court’s annual report for 2007 enumerated an increasing number of disciplinary actions imposed on judges and court personnel. In June 2008, the Supreme Court reprimanded and heavily fined a Pasig City

\textsuperscript{21} Republic Act 9227, approved 23 October 2003.
\textsuperscript{22} The Department of Justice will source its funds to implement the additional compensation from the fees it is authorized to collect. Aside from the fees it is authorized to collect, the Office of the Solicitor General will source its funds from 5% of the monetary awards given by the courts to its client government agencies.
\textsuperscript{23} 2006–2007 Social Weather Station Surveys of Enterprises on Corruption, July 2007. Only the Supreme Court was identified as having “good” sincerity. The Sandiganbayan (anti-graft court) was evaluated as having “moderate” sincerity; the trial courts and Ombudsman were ranked as “mediocre”; and the DOJ, DILG, and PNP were ranked as “poor”.
\textsuperscript{24} Judicial Reform Index for the Philippines (March 2006). Asia Law Initiative.
judge for not delivering a judgment in the maximum allowable time of 3 months following the final pleading. Even more recently, a justice of the Court of Appeals was dismissed, and another suspended, for failing to follow a number of the court’s internal rules while deliberating on a controversial case.

Figure 6: Vacancy Rate among Lower Court Judges

<table>
<thead>
<tr>
<th>Year</th>
<th>Total Vacancies</th>
<th>Vacancy Rate</th>
</tr>
</thead>
<tbody>
<tr>
<td>2001</td>
<td>650</td>
<td>21%</td>
</tr>
<tr>
<td>2002</td>
<td>650</td>
<td>21%</td>
</tr>
<tr>
<td>2003</td>
<td>650</td>
<td>21%</td>
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<td>2004</td>
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<td>2005</td>
<td>650</td>
<td>21%</td>
</tr>
<tr>
<td>2006</td>
<td>650</td>
<td>21%</td>
</tr>
<tr>
<td>2007</td>
<td>650</td>
<td>21%</td>
</tr>
</tbody>
</table>

*Vacancy rate refers to the number of vacant positions in relation to the total number of positions for judges in first and second level courts.*

Figure 7: Judicial Caseload

<table>
<thead>
<tr>
<th>Year</th>
<th>Caseload</th>
</tr>
</thead>
<tbody>
<tr>
<td>2001</td>
<td>850</td>
</tr>
<tr>
<td>2002</td>
<td>830</td>
</tr>
<tr>
<td>2003</td>
<td>810</td>
</tr>
<tr>
<td>2004</td>
<td>790</td>
</tr>
<tr>
<td>2005</td>
<td>770</td>
</tr>
<tr>
<td>2006</td>
<td>750</td>
</tr>
<tr>
<td>2007</td>
<td>730</td>
</tr>
</tbody>
</table>

*Caseload refers to the number of pending and new cases in a given year, less the number of cases decided, resolved, or archived in that year.*

40. In 2008, the Supreme Court embarked on an integrity assessment tool: the review and enhancement of performance and integrity program. The review program is designed as a preventive measure to reduce opportunities for negative organizational behavior by strengthening institutional regulations, structures, systems, and procedures.25 Using a balanced scorecard and a tool to assess and strengthen performance and integrity, the review program focused on policies, procedures, and practices related to performance management, human resource management, financial management, corruption risk management, internal reporting, and investigation of undesirable behavior. The review program recommended actions relating to procurement and implementation of a code of conduct for judiciary employees, a formal grievance and complaints system, and performance monitoring.26 In addition, a committee has been formed to revise the performance review, and evaluation and monitoring standards of the Supreme Court. With respect to other justice sector agencies, PNP has undergone a similar process through an integrity development review under the leadership of the Office of the Ombudsman.

41. **Civil Society Feedback Mechanisms.** Nongovernment organizations, such as the Supreme Court Appointments Watch, aim to ensure that the selection of judges and justices is fair and transparent, and free from undue political influence. Nongovernment organizations can assist in holding justice sector institutions accountable for their actions and raise public confidence in justice sector institutions and the rule of law.

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25 Review and Enhancement of Performance and Integrity has identified “hotspots” for monitoring among departments of the judiciary, including departments responsible for procurement, disbursement, and recruitment, among others. This approach is similar to the Integrity Development Review program implemented by the Office of the Ombudsman for all government agencies. Thus far, 18 agencies have undergone the Integrity Development Review. Both the Review and Enhancement of Performance and Integrity and Integrity Development Review programs are supported primarily by USAID, with strong support from development partners. For details, see [http://www.supremecourt.gov.ph/](http://www.supremecourt.gov.ph/).

26 USAID. 2008. *Strengthening the Integrity of the Judiciary.*
3. Efficiency in the Justice Sector

42. **Justice Delayed.** A major challenge to the justice system is the persistent perception of delay in the delivery of justice. The courts handle a caseload of about 1,100,000 cases per year yet are able to dispose of only about 450,000 cases per year, resulting in an additional 650,000 pending cases each year. Despite the decrease in the total caseloads in recent years (Figure 7), the decline of case backlog has not been significant. In fact, the clearance rate (volume of cases disposed of as a percentage of total caseload) remained low (about 39%) in the past 3 years, indicating that case backlog remains high. However, the disposition rate (number of cases disposed of as a percentage of case inflow) has been increasing, indicating that the courts have shown gains in efficiency (Appendix 4, sector analysis).

43. Improvements in the disposition rate correlate with a number of reforms initiated under the APJR to increase court efficiency, including the pilot use of an electronic caseflow management system in Pasay City courts, court-annexed mediation (discussed in para. 50), and judicial dispute resolution at any stage of litigation. In addition, improvements in the disposition rate also correlate with a decreasing vacancy in judicial positions, which was a development brought about by increasing judges total compensation by about 100% (discussed in para. 36). Additional reforms to increase judicial efficiency include the establishment of case management information systems in the Supreme Court, Court of Appeals, Sandiganbayan (the court that adjudicates graft and corruption charges against high-level government officials), and Court of Tax Appeals.

44. One reason that the backlog in the disposition of criminal cases remains high, even in the midst of ongoing justice sector reforms, is that judicial performance is also affected by the performance of other justice sector agencies. Delays in criminal court proceedings have reportedly been caused in part by the nonappearance of witnesses, absence of prosecutors and public defenders, and delays by law enforcement officers’ in turning over evidence to the courts.

45. With regard to noncriminal cases, the judiciary has recognized alternative dispute resolution as a means of encouraging speedy justice and reducing case backlog. The judiciary has established the Philippine Mediation Center, which conducts court-annexed mediation, and provided rules for the referral of a wide scope of cases that may be referred to court-annexed mediation at any time during litigation. A more effective alternative dispute resolution and mediation process at the barangay (village) level, the barangay justice system, has also proven to contribute to reducing case backlog. The barangay justice system settled more than 4 million cases between 1980 and 2005, with an average of about 150,000 cases per year. This number has grown to about 300,000 cases per year recently and the percentage of mediated cases that were settled has remained consistently high.27

46. In spite of these initiatives, the perception that the delivery of justice is regularly delayed still prevails. The interrelated nature of justice sector agencies’ operations requires that delays be prevented or reduced at all stages—investigation, dispute resolution, and enforcement. Although the Constitution and laws impose time limits on the judiciary with respect to deciding cases, there are generally no similar provisions for other justice sector agencies involved, particularly when the likelihood of a delay occurring is high, such as the enforcement of judgments. As a result, even if it were assumed that the courts were keeping within the time limits imposed by the Constitution and the law, the perception of delays in the delivery of justice would continue to exist if accused individuals were detained for long periods in police facilities or

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27 DILG summary of cases filed, actions taken, on Katarungang Pambarangay Implementation (from January 1980 to December 2005).
in district prisons while waiting for a complaint to be filed in court. For criminal cases, other justice sector agencies play a prominent role in bringing cases to the courts: DOF and BIR in the investigation of criminal tax evasion cases, PNP in the processing of crime scenes, and DOJ in case preparation and prosecution. Consequently, the effective delivery of services by these institutions will ultimately contribute to the quality of the cases entering the court and help in the speedy disposition and resolution of court cases.

47. Financial Management, Planning, and Budgeting Capacities. There is a need to build a stronger capacity for strategic planning, financial management, human resource development, information management; and promote a culture of results-based performance management within justice sector agencies. Successful implementation of justice sector reforms demand that participating agencies are able to live up to their responsibilities by relating budgets to strategy, meeting objectives, adapting to changing circumstances, monitoring performance, and reporting on results. Weak budget planning and monitoring capabilities afflict all justice sector agencies. In addition, as budget planning is conducted at the central office of justice sector agencies, field offices and court stations have even weaker financial management capabilities. These inherent weaknesses, the absence of resources to exercise stronger oversight functions, and the dearth of transparent procedures and accountability mechanisms all contribute to the perception that the agencies are susceptible to corruption. It also contributes to the reluctance of the oversight agency, DBM, to provide greater flexibility and control over its resources.

48. A key public expenditure management reform being implemented by the Government is the OPIF, which is an approach to expenditure management that directs resources towards national and departmental priorities and results in accordance with the Government’s strategic plan. If effectively implemented, the OPIF clarifies roles, functions, and accountabilities between and among agencies, and accounts for their performance. With better internal governance arrangements and systems to capture performance data, agencies are provided greater flexibility and control over their internal resource deployment. Although justice sector agencies under the executive branch have adopted the OPIF and the Supreme Court has signified its commitment, the widespread adoption and implementation of the OPIF will be a lengthy process that requires significant strengthening of justice sector agencies’ financial management systems. Agencies in the justice sector will need to establish their own performance indicators and strategize the best way of reaching their respective indicators. The development of benchmarks and reasonable indicators will be a challenge for many agencies that have never before engaged in similar exercises. Some agencies, such as DOJ, that have adopted performance indicators realize that they do not have the capability to monitor and collect data from their field offices (in DOJ’s case, data from field prosecutors’ offices) to determine whether or not they have reached their targets. In addition, measuring the efficient and effective delivery of justice requires both qualitative and quantitative measures.

49. Overly-Centralized Decision Making. Highly centralized administration continues to characterize the operation of justice sector agencies. The inefficiencies and delays inherent in this system of centralized decision making and resource allocation have been associated with many of the problems of poor infrastructure and inadequate operating systems. Within the judiciary, for example, all applications for a leave of absence need to be submitted to and processed by the judiciary’s central offices in Manila regardless of where the request


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originated. In addition, centralization results in an inability to prepare for and respond to the maintenance and other operating expenses and capital expenditure needs of field offices and court stations. Another example is PNP, where more than 95% of its appropriations from the national budget are centrally managed, including salaries for police in the field, and less than one fourth of the amount supporting police operations in the field (e.g., investigation, intelligence, and police relations) are allocated to the field offices.

50. A centralized administrative system hinders the efficient feedback of information from the field offices to the central offices. For example, the judiciary’s central offices require the trial courts to submit reports that include a large number of tracking indicators. Because of the sheer volume of these reports, the central offices are unable to monitor the performance of all the trial courts. As a result, the Supreme Court is unable to use the reports to inform its decisions regarding performance improvement. It also deprives the trial courts of an opportunity to compare their performance against that of their peers, and track their own improvement.

51. On 14 November 2006, the Supreme Court issued an order to implement reforms to strengthen the independence and fiscal autonomy of the judiciary by decentralizing its administrative and financial management functions through a pilot regional court administration office, which was launched by the current chief justice in Region 7 in May 2008. A key feature of the decentralization effort was the creation of the Judiciary Autonomy Fund, which is managed and controlled by the chief justice, currently through the Office of the Court Administrator. The fund is the source of all disbursements to support expenditures of the pilot regional court administration office and courts in the Seventh Judicial Region. The Supreme Court resolved that all funds attributable to the pilot regional court office in Region 7 and for all courts in the Seventh Judicial Region shall be deposited in the Judiciary Autonomy Fund. All funds accruing to the Seventh Judicial Region for its use and operation by virtue of any legislation or contractual agreement (e.g., budgetary appropriation from the national Government, LGU contributions, fees collected by courts, and revenues from the use or rental of court assets) shall be deposited to the Judiciary Autonomy Fund.

4. Access to Justice by the Poor and Vulnerable Groups

52. The poor often lack awareness of their rights and are deterred by inconvenient and unaffordable access to formal justice sector institutions. An ADB study has shown that there is a strong correlation between access to justice—particularly legal empowerment activities—and poverty reduction. A survey taken in agrarian reform communities in the Philippines showed that areas that have received legal empowerment training and paralegal assistance benefited from higher levels of productivity, income, and farm investment.

53. The Constitution of the Philippines makes it the Government’s duty to assure citizens free access to the courts and adequate legal assistance that “shall not be denied to any person by reason of poverty.” The Supreme Court has tried to operationalize this by providing relevant protections to the rights of the accused and providing free legal counsel to the poor in the Rules of Court. The Supreme Court has also adopted, as part of the Code of Professional

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30 A pilot regional court administration office for the pilot in Region 7 has been set up to handle these requests in lieu of the central office in Manila. It began regular operations in July 2008.
31 Region 7, the Central Visayas region of the Philippines, comprise the provinces of Bohol, Cebu, Negros Oriental and Siquijor.
34 Rules of Court Rules 112–127.
Responsibility of Lawyers, rules that prohibit lawyers from (i) rejecting the case of the defenseless or the oppressed, (ii) refusing to serve the needy, and (iii) declining an appointment as counsel de officio or a request from the Integrated Bar of the Philippines (IBP) to render free legal aid. Under the APJR, the Supreme Court issued a rule that exempts the poor from paying docket and other fees, including fees for the transcript of court proceedings kept by the court stenographer. In addition to the Public Attorney’s Office, the IBP and a number of law schools and legal clinics provide free legal service to the poor and disadvantaged.

54. **Gender Responsiveness.** The Supreme Court and some justice sector agencies are characterized by maintaining functioning gender and development committees (e.g., the Committee on Gender Responsiveness in the Judiciary at the Supreme Court, the Committee on Gender and Development at DOJ, and the Human Rights Office at PNP) and related budgets and actions plans. The Supreme Court has a gender mainstreaming strategy that was finalized in 2007 after a gender assessment was carried out under the APJR. The assessment identified the following key gender issues: (i) court processes, as well as processes of other justice sector agencies, are not sensitive to the conditions and circumstances of women and other disadvantaged groups; (ii) although there have been a number of gender-sensitivity trainings for judges and other members of the court and the PNP, the justice sector staff has low awareness and appreciation of gender issues; (iii) women currently lack economic resources and independence, and the justice system is generally insensitive to the concerns of women and girls; (iv) the lack of courts and/or judges, prosecutors, Public Attorney’s Office lawyers, and mediators, results in delays in the administration of justice; (v) women and disadvantaged groups have limited knowledge of their rights; (vi) information on the nature and workings of the justice system is not readily available; and (vii) women living in poverty pose multi-layered gender issues for the justice sector (e.g., women indigenous persons, women in the informal sector, women in agriculture). The gender mainstreaming strategy of the Supreme Court is currently being revised. While the judiciary and the other justice sector agencies have a gender and development plan, implementation and monitoring capacities remain inadequate.

55. **Jail Decongestion.** Access to justice by detained prisoners is currently a major problem in the Philippines. Over 95% of persons in BJMP-managed jails are detainees whose cases are still being tried and have not yet been sentenced. It is common for detainees to serve additional time awaiting their trial date in court because their case was not promptly processed following arrest. An inmate record system has been set up in pilot jails managed by BJMP to more effectively monitor the inflow and outflow of detainees awaiting trial. The judiciary is deploying three buses to jails and detention centers, as part of a Justice on Wheels program, to expedite the release of detainees when warranted. The Bureau of Corrections (BuCor), which administers prisons for convicts with sentences of 3 years and longer, has launched a reengineering program that aims to make its operations, including processing the release of prisoners when warranted, more efficient. Because the correctional and rehabilitation facilities in the Philippines are administered by several agencies (Appendix 4: Sector Analysis), jail decongestion is a complex process that entails multi-agency actions, coordination, and exchange of information—all of which require careful assessment and strategic planning.

35 Code of Professional Responsibility Canon 2, rule 2.01 and Canon 14.
36 Outstanding examples of access to justice programs include the European Union-supported Supreme Court program on “Access to Justice by the Poor through Information, Education and Communication,” and the Barangay Justice Services System and Barangay Justice Advocates training program supported by USAID. Another is the World Bank’s mobile courts program, Justice on Wheels, where three court buses have been acquired and deployed to strategic areas to serve as venues for court annexed mediation and hearings of detainees, particularly children in conflict with the law.
5. Delivery of Justice through Alternative Dispute Resolution Mechanisms

56. Alternative dispute resolution mechanisms, particularly recourse to the barangay justice system and mediation, have increased access to justice. Evidence suggests that settlements arrived at through these mechanisms have reduced the volume of complaints flowing into the court system.

57. Barangay Justice System. USAID is supporting the Barangay Justice Service System (BJSS) in the Autonomous Region in Muslim Mindanao (ARMM). The BJSS involves training and mobilization of barangay justice advocates, who are citizen-volunteers trained in barangay justice law; a paralegal course; basic counseling and mediation, alternative dispute resolution, and Shari’a (customary Muslim) law. The barangay justice advocates perform the following functions: (i) facilitate resolution of conflicts in their respective communities, (ii) assist parties to look for options within the rule of law, and (iii) assist in enhancing community awareness and encourage appropriate use of the justice system.

58. In 2006, a USAID-funded review of BJSS concluded that when compared with communities that do not participate in the program, BJSS barangays (i) had a significantly higher number of disputes resolved; (ii) awareness of the barangay justice system was significantly higher; (iii) awareness of individual rights and responsibilities in the justice system was significantly higher; (iv) the role of women in settling disputes, the number of women trained to settle disputes, and the number of disputes settled by women were higher; and (v) community cooperative activities were higher. Barangays under the BJSS also had significantly higher levels of participation in civic organizations, relative to barangays who are not covered by the BJSS program.

59. Court-Annexed Mediation. Court-annexed mediation, which the Supreme Court instituted in 2001, is a system of referring certain cases to mediators.37 There is evidence that court-annexed mediation can assist in de-congesting court dockets. The Supreme Court established the Philippine Mediation Center within its training arm, the Philippine Judicial Academy, to set up mediation centers in court houses and other convenient locations throughout the country and to run the mediation system. Currently, there are 113 units in 11 of the country’s 13 judicial regions. More than 75% of all cases that underwent mediation during the pilot court-annexed mediation project were settled. To date, more than 500 mediators have been trained, 300 of whom are currently accredited by the Supreme Court.

60. In spite of these successes, there is a need to encourage stakeholders to make full use of these alternative mechanisms. As an example of a high success rate for settling cases, the use of court-annexed mediation has not been maximized, as only a small percentage of eligible cases are being submitted to mediation. Judges have reportedly been reluctant to refer cases within the scope of court-annexed mediation. With the passage of the Alternative Dispute Resolution Act, Congress has recognized the important role that arbitration, mediation, conciliation, and other similar private mechanisms can play in resolving disputes. However, the law has not yet been implemented, as Congress has yet to approve the draft implementing rules prepared by DOJ. Notwithstanding the fact that private dispute resolution is regularly provided for in international commercial business contracts, there appears to be low demand for arbitration and similar mechanisms in the Philippines. Local lawyers and representatives of foreign investment groups have suggested that the public is uncertain about how arbitration

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37 Supreme Court Administrative Matter No. 01-10-5-Supreme Court PHILJA, 16 October 2001.
proceedings and awards would be treated by the courts. They have also expressed doubts regarding the Government’s capacity to enforce arbitration awards.

D. Lesson

61. **Separation of Powers and Judicial Independence.** A key lesson from the Access to Justice Program in Pakistan, ADB’s first justice sector reform program, is that one cannot divorce the issue of separation of powers, or judicial independence, from a justice sector reform program, even when it is focused on technical and management reforms. This lesson is particularly critical in the Philippines, which has a strong legal tradition recognizing judicial independence and where justice sector agencies deal with each other in a cautious fashion. Justice sector reform requires engagement with several justice sector reform champions. Even in Pakistan where the Access to Justice Program was developed in an environment where political consensus was facilitated by a strong executive, a key lesson learned was that the Ministry of Law and Justice, as the executing agency, could not realistically be assumed to take on a leadership role for an entire justice sector that comprised a number of diverse agencies. In this instance, the executing agency that was responsible for program leadership and implementation had limited formal relations with the judiciary, which was a major implementing agency. There were issues related to the speed in which project funds allotted to the judiciary were being disbursed. In addition, the Ministry of Law and Justice did not have direct supervision of the police, which came under the Ministry of Interior’s control. As a result, the police reform component of the Access to Justice Program in Pakistan enjoyed limited success when compared to that enjoyed by the judicial reform efforts.

62. To support several justice sector reform champions and build support for justice sector-wide reform in the context of the principle of separation of powers inherent in the justice sector, strong and sustained policy dialogue is required. The importance of policy dialogue in sustaining justice sector reform was an important lesson in the example of Pakistan. The policy dialogue must be supported by research and baseline studies, and informed by the participation of civil society. In the Philippines, it appears it would be useful to achieve consensus by focusing on issues that all justice sector agencies deem as important and develop a process of dialogue, which is equally important to the consensus that results. Once dialogue among justice sector champions has been established, it should be widened to include other justice sector stakeholders and civil society.

IV. THE PROPOSED PROGRAM

A. Objective and Scope

63. The GJSRP aims to support the justice sector in the Republic of the Philippines by (i) increasing resources available to the justice sector to levels that would reasonably enable the efficient delivery of justice services, (ii) supporting government efforts to strengthen the rule of law in the Philippines by enhancing the efficiency and integrity of justice sector agencies, (iii) improving access to justice by the poor and vulnerable groups with a specific focus on gender-based discriminatory practices and gaps, and (iv) improving investor confidence and public trust in justice sector agencies. The proposed GJSRP consists of two subprograms. Subprogram 1 will focus on increasing resources to the justice sector and supporting the efficient delivery of

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38 The GJSRP is ADB’s second justice sector reform program. The first, Access to Justice Program in Pakistan, which addressed reforms relating to judicial processes and institutions, police and public safety, prosecution, administrative justice and alternative dispute resolution, was approved on 20 December 2001 as a $350 million program loan (including a $20 million TA loan and a $1.3 million TA).
justice service. Subprogram 2 will focus on institutional capacity building to deliver justice services to communities and implement measures to address key justice sector priorities.

64. The GJSRP includes a series of policy reforms and capacity-building activities that underpin the priorities of the MTPDP and related sector strategies. These reforms are designed to accomplish the following:

(i) **Strengthen judicial fiscal autonomy, and improve justice sector accountability and access to resources** by enhancing public financial management systems, supporting decentralization of financial management and administrative capabilities, and making remuneration in the justice sector more competitive:

(ii) **Enhance justice sector integrity** through the development and enforcement of codes of conduct and the participation of civil society in monitoring justice sector performance and integrity; conduct of an integrity development review; transparency in the judicial selection and appointment process; and the wide and timely dissemination of judicial decisions:

(iii) **Improve justice sector efficiency** through the development of efficient case flow management; streamlined investigation, prosecution, and court processes; sustainable capacity-building programs for justice sector staff, and the promotion of a sector-wide approach to justice reform:

(iv) **Improve access to justice by the poor and vulnerable groups** through the designation of selected courts to expeditiously handle small claims; capacity building of selected justice sector agencies to support gender and development-related reforms and activities; and a comprehensive multisectoral jail decongestion strategy:

(v) **Expand delivery of justice** through supporting the implementation of efficient and effective alternative dispute resolution mechanisms nationwide.

### B. Policy Framework and Actions under Subprogram 1

65. All policy measures required for the first tranche of subprogram 1 were completed by the end of July 2008.

1. **Strengthened Judicial Fiscal Autonomy, and Improved Justice Sector Accountability and Access to Resources**

66. **Justice Sector Administration and Results-Based Management.** Justice sector agencies under the executive branch have adopted the OPIF, and the Supreme Court has also signified its commitment. The leadership of the judiciary issued a statement early in 2008 on the judiciary’s commitment to use OPIF in budget preparation, fiscal management, and planning. To demonstrate the judiciary’s commitment to the OPIF, the pilot court administration office in Region 7 has prepared its proposed 2009 budget following the OPIF template and principles. The judiciary’s adoption of the OPIF strengthens its capacity to plan and manage its own resources, and improve its capability to exercise fiscal autonomy. However, the judiciary’s adoption of the OPIF in practice will require significant strengthening of the judiciary’s financial management systems and a change management process. Under subprogram 1, second tranche, it is expected that the field offices of justice sector agencies will be able to implement the OPIF for budget preparation and performance monitoring by August 2009, and the Supreme Court is expected to submit an OPIF-compliant budget for 2010.

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39 In 2007, the Court of Tax Appeals (CTA), Sandiganbayan, and CA began work on their OPIF-compliant budgets, which includes the submission of a logical framework in their budget submissions.
67. Apart from adoption of the OPIF, other financial management reforms that increase justice sector agencies’ accountability in the use of public funds that have been completed by July 2008 include: the judiciary’s preparation and adoption of the MTEP 2008–2010 and a new government accounting system, and the formation of bids and awards committees in justice sector agencies. Under subprogram 1, second tranche, it is expected that the judiciary will have prepared and adopted a rolling MTEP for 2009–2011 that will reflect information on the use of the Judicial Autonomy Fund established in connection with the pilot regional court administration office.

68. **Decentralization of Financial Management and Administrative Functions of the Judiciary.** To further strengthen its capacity to exercise fiscal autonomy, the Supreme Court *en banc* approved an assessment report on existing financial management practices in the judiciary. The report recommended financial management reforms and a decentralized administrative structure to correct deficiencies. Thereafter, the Supreme Court approved the recommended reforms under a decentralized administrative structure. As discussed above, a pilot regional court administration office was established in Region 7 (RCAO 7) to address easily-identifiable redundancies and inefficiencies. New management tools are being implemented in RCAO 7, including gradual implementation of the OPIF. Other reforms in RCAO 7 include budget submissions that fully reflect and account for the use of fines and duties collected by the courts, LGU contributions, and funds reallocated from unfilled positions in the judiciary’s budget. Guidelines promoting transparency in the use of all resources available to the courts, including contributions from LGUs, have been issued by the RCAO 7 administrator, under authority of the Supreme Court. RCAO 7 will support enhanced financial systems that will track all receipts and expenditures irrespective of their origin. Under subprogram 2, it is expected that RCAO 7 will be replicated in at least two additional regions of the Philippines.

69. **Increased and Improved Access to Resources.** The continued and successful implementation of these reforms in the judiciary and in other justice sector agencies depends on increased allocations of budgetary resources. As of July 2008, the Government had demonstrated an increased budgetary commitment through the following measures: (i) the National Expenditure Program for 2009 reflects an increase in the judiciary’s budget of at least 18.8%, and (ii) DOJ has increased the levels of capital outlay in 2008 by 140% from 2006 levels. In addition, the National Expenditure Program for 2009 reflects proposed allotments to partially fund two new laws strengthening the Office of the Solicitor General and Public Attorney’s Office. A key requirement for release of the second tranche is that the National Expenditure Program for 2010 reflects a proposal to fully fund these two new laws. Demonstrating its commitment to implement improved financial management capability, the Supreme Court has submitted an OPIF-compliant proposed budget to support implementation of the pilot RCAO 7 beginning in 2009.40

70. Under Subprogram 1, second tranche, the National Expenditure Program for 2010 will propose to provide the judiciary with a national Government-sourced budget that is equivalent to at least 1% of the Government’s total expenditure. In addition, under subprogram 1, second tranche, DBM will start the release of scheduled allocations to the judiciary in line with the approved budget and agreed-upon operational cash program of the Supreme Court, in full each quarter and without conditions.

71. Likewise under subprogram, 1 second tranche, the National Expenditure Program for 2010 will propose that other justice sector agencies compliant with the OPIF will be provided

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40 The pilot RCAO 7 operations, which started in July 2008, are funded by savings in the 2008 budget of the judiciary.
real increases in budgetary resources, taking into consideration inflation and their approved MTEPs, and based on performance, absorptive capacity, and the prevailing macroeconomic situation of the country.

72. Making Remuneration in the Justice Sector More Competitive. Unless justice sector salaries and facilities are gradually brought closer to competitive levels, the incentives for corruption will slow progress in implementing other aspects of the GJSRP, such as enhancing integrity. While salary comparisons are different, the salaries of lawyers in public service are indicative of the disparity between public and private rates. Entry level salaries of lawyers in justice sector agencies are about one-fifth of market levels in the private sector.41 New law school graduates can often obtain starting salaries in the private sector above those provided to judges. As regards members of the judiciary, the first major step has already been taken. A 100% increase in judicial compensation was phased in over a 4-year period (2003–2006). The increase was implemented by providing judicial allowances equal to base level salaries. A further program along this line needs to be developed by other justice sector agencies in cooperation with DBM to help finance further effective salary increases. Such a program is to be agreed upon with DBM as a key trigger under subprogram 2.

73. The doubling of judicial compensation over the 2003–2006 period through the provision of allowances has already shown positive results. In particular, a correlation has been noted between the decreasing number of judicial vacancies and increasing court efficiency levels. While these improvements are meaningful, judicial salaries remain far below competitive levels. As such, an equivalent program to further raise judicial salaries funded from the national budget (as distinguished from raising judicial compensation, where additional compensation is sourced from court fees) is envisaged to be reflected in a phased salary adjustment plan indicated as a trigger under subprogram 2.

74. The issue of understaffing is even more severe in justice sector agencies under the executive branch. Even as extra allowances have been legislated to address high vacancy rates in NPS and the Office of the Solicitor General and Public Attorney’s Office, authorized funding for allowances at the NPS and Office of the Solicitor General comes from the agencies’ own source revenues, and Public Attorney’s Office allowances remain unfunded. Under Subprogram 1, second tranche, DBM will include a special provision in the National Expenditure Program for 2010 to fund the benefits and allowances provided by law to the Public Attorney’s Office and Office of the Solicitor General, where vacancies have been a major problem in the past. As the justice sector is hamstrung by these vacancies and the low quality of existing staff, there is pressing need to raise justice sector salaries closer to market levels under subprogram 2.

2. Enhanced Justice Sector Integrity

75. The Program will support implementation of recommendations under the review and enhancement of performance and integrity program for the judiciary, and the conduct of integrity development reviews for the other justice sector agencies. It will support the completion of codes of conduct in the justice sector agencies, where none currently exist, and the establishment of systems to monitor and enforce compliance, and sanction violations.

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41 For example, for new legal graduates the base salary in the NPS is P12,548 per month. In certain circumstances, it is possible to almost double this base pay with allowances if the funding for such allowances is available (such allowances are generally only partially funded and are not available at other justice sector agencies such as the Public Attorney’s Office and Office of the Ombudsman). By comparison, market related salaries for new graduates, as benchmarked at Bangko Sentral ng Pilipinas, are P31,952 per month and including benefits, about P56,000 per month, which is almost 4.5 times the base salaries at the NPS. At business process outsourcing centers, new law graduates command starting salaries of P80,000 per month or almost 6.4 times the base salary at the NPS.
76. **Civic Participation to Enhance Enforcement and Performance Management.** This program supports the Government’s initiatives to garner strong civic participation in order to introduce greater accountability of judges and other justice sector agencies’ personnel to the public. The Judicial and Bar Council (JBC) that nominates candidates for judicial appointments has undergone a major transformation to ensure the appointment of well-qualified judges. Clear and objective criteria (e.g., measures of integrity, probity, and independence) are now announced for short-listed candidates and the ratings of all nominees are provided to the public on the JBC’s website to ensure full transparency. The JBC has opened interviews of judicial nominees of certain courts to the public, including civil society organizations such as Supreme Court Appointment Watch.

77. **Transparency in Judicial Decisions.** Steps have been taken to increase the transparency of judicial decisions, initially by ensuring that all Supreme Court decisions are available on their website within 48 hours of promulgation. The Appellate Courts will follow suit under subprogram 2, while RCAO 7 will implement this reform as soon as it is fully operational.

3. **Supporting Efficiency in the Justice Sector**

78. **Case Flow Management.** Major steps have been taken to develop case tracking and caseflow management systems to ensure the timely administration of justice. Automated case management information systems have been installed in the Supreme Court, Court of Appeals, Court of Tax Appeals, and the Sandiganbayan. A caseflow management system has been established at the Office of Court Administrator, and the system has been piloted to track and manage the caseloads of lower courts in Pasay City. As a result of the pilot experience, the system has been enhanced by the experience and best practices of judges around the country. These measures, together with the decrease in judicial vacancies, have resulted in a higher case disposition rate.

79. To speed up the processing of probable cause (preliminary investigation) cases that precede the filing of a criminal complaint with the court, the NPS has reviewed the flow of such cases in the prosecution service, streamlined business processes relating to such cases, and completed an administrative manual and revised prosecutors’ operations manual reflecting the streamlined processes. These processes are the basis for the development of an automated prosecutors’ case management information system, which is expected to speed the prosecutors’ disposition of probable cause cases. With respect to criminal tax evasion cases, a parallel program has been initiated to adopt consistent guidelines on evidentiary requirements in connection with tax evasion cases to be filed by BIR with DOJ. These common guidelines aim to ensure that the cases filed by BIR are soundly developed and successfully prosecuted. An internal management unit has been established in the NPS to implement and monitor these reform priorities at DOJ.

80. **Strengthening Investigation, Prosecution, and Adjudication Functions in the Justice Sector.** To strengthen investigation and prosecution capabilities in the NPS, the DOJ is taking the lead in developing badly-needed training programs and operational manuals for the grossly-understaffed NPS office. Understaffing arises from salaries that are about 20% of market rates and generally appeal only to a segment of the inexperienced new law graduates for a limited period of time. Prosecution effectiveness can only be achieved as salaries are moved closer to competitive levels and additional training and guidance are provided. Similarly, the Office of the Solicitor General has developed a comprehensive training strategy for its solicitors. Other notable capacity-building reforms in the justice sector that were accomplished by July 2008 include the judiciary’s development of a distance learning program for judges and of a human resource development program for nonjudicial employees.
81. **Streamlining Court Processes and Creation of New Courts.** To promote efficiency through amended rules, the Supreme Court has amended the rules of court to clarify when a petition of *certiorari* may be entertained, which would allow for the case to be brought directly to the Supreme Court. The amended rules seek to address past misuse and over-use of such petitions. The *Sandiganbayan* has implemented continuous trials on a pilot basis. Complementary to efforts to streamline court processes to improve efficiency, legislation was passed establishing a third division in the Court of Tax Appeals that is expected to hear an increased number of criminal tax evasion cases, given the Government’s focus on such cases; and the Court of Tax Appeals’ jurisdiction was expanded to hear criminal tax evasion cases involving P1 million and above.

82. **Supporting Justice Sector Coordination.** To achieve maximum efficiency in the delivery of justice, justice sector agencies need to coordinate reform efforts. A first step in this direction was the signing of a memorandum of agreement for the creation of the Judiciary Executive and Legislative Advisory and Consultative Council. Although the council is mainly intended to discuss issues relating to the budget of the judiciary, it signifies that all three branches of government recognize the need for dialogue on issues of common interest relating to justice sector performance. Under subprogram 1, second tranche, a justice sector coordination council will be formed to act as a forum for dialogue and preparation of a justice sector reform program comprising the Supreme Court, National Economic Development Authority (NEDA), Office of the Solicitor General, Office of the Ombudsman, DBM, DILG, DOF, and DOJ.

### 4. Access to Justice by the Poor and Vulnerable Groups

83. In June 2008, the Supreme Court simultaneously held several nationwide summits on increasing access to justice by the poor. The summit’s objective was to hear directly from various stakeholders in the justice system about their concerns over access to justice, particularly through the judicial system, and recommendations on how the Supreme Court could address these concerns. The feedback from the summits’ has enabled the Supreme Court to better protect and enforce constitutional rights and ensure that legal assistance is provided to the underprivileged.

84. The judiciary has also increased access to justice through the development of a framework for expediting the litigation of small claims. The judiciary has adopted rules of procedure to provide a framework for the expedited handling of small claims, and 22 pilot courts have been designated to handle small claims. The newly-adopted procedures use judicial dispute resolution, which was piloted during the APJR, to speed up the litigation of small claims. The judiciary has also deployed three Justice on Wheels mobile courts to detention centers and areas without courts or judges to hear cases in these areas.

85. **Gender Responsiveness.** To increase responsiveness to the needs of women, the judiciary, DOJ, and PNP have each adopted a gender action plan and will actively monitor and evaluate its implementation. In particular, PNP is further expanding the establishment of women’s and children’s desks in all police stations with the mandate to administer and handle cases involving women and children victims of gender-based crimes.

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42 A petition to the Supreme Court to review the acts of a government agency on the ground that the agency acted without or in excess of its jurisdiction, or acted in grave abuse of discretion, amounting to a lack or excess of jurisdiction.
86. **Jail Decongestion.** Jail decongestion is a complex process that requires multi-agency actions, coordination, and exchanges of information, given that correctional and rehabilitation facilities in the Philippines are administered by several agencies. It is expected that the problem of detainees and overstaying prisoners can be reduced over the medium term through a set of focused actions coordinated among BuCor, BJMP, DOJ, DILG, the Supreme Court, and non-government organizations and development partners. The actions will include enhancement of BJMP’s pilot inmate record systems and the development of a rollout plan to implement the program nationwide. Detainees who have stayed beyond the incarceration period that would have been meted had they been convicted of the crime would be set free, thereby decongesting overcrowded city and municipal jails. With the support of civil society and legal aid groups, such actions can be implemented and monitored. Coordinating these actions with the Supreme Court’s Justice on Wheels program—where mobile court units are fielded to jails and detention centers to set overstaying detainees free—will put in place a comprehensive jail decongestion program.

5. **Expanding Delivery of Justice through Alternative Dispute Resolution**

87. The Supreme Court has adopted a business strategy to rollout court-annexed mediation to quickly resolve disputes at reduced costs through mediation to reduce pressure on the courts. Court-annexed mediation will be fully introduced nationwide under subprogram 2. Mechanisms strengthening the barangay justice system, which has demonstrated evidence of effectively resolving conflicts outside of the court system at the community level, will be introduced during GJSRP implementation.

88. The GJSRP will also support strategies to improve the enforcement of international arbitration awards. A key finding of a process map on the resolution of commercial disputes that surveyed foreign business chambers regarding the use of arbitration was that it is difficult to enforce foreign arbitration awards in the Philippines. The perception remains that enforcement of an arbitration award can be blocked by further litigation in the courts on the grounds of fraud or bad faith as claimed by a disgruntled party. To address the impediments to enforcement and promote efficiency of the dispute resolution mechanisms that are crucial for foreign direct investors, the Supreme Court has undertaken a study of the issues to ensure prompt enforcement of foreign arbitration awards.

89. While all policy actions for tranche 1 of subprogram 1 have been accomplished, there are 8 policy triggers for tranche 2 that the Government and development partners will focus on, as follows:

<table>
<thead>
<tr>
<th>Policy Triggers for Subprogram 1, Second Tranche</th>
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<tbody>
<tr>
<td>1. Supreme Court to submit OPIF-compliant budget for 2010</td>
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<tr>
<td>2. Supreme Court to prepare and adopt a rolling MTEP 2009–2011 that includes information on the use of the Judiciary Autonomy Fund</td>
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<tr>
<td>3. DBM to submit a National Expenditure Program for 2010, which shows that benefits and allowances provided to justice sector agencies (e.g., Public Attorney’s Office and Office of the Solicitor General) under existing laws are fully funded</td>
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<tr>
<td>4. National Expenditure Program for the 2010 budget includes a DBM proposal to provide (i) the judiciary with a budget sourced from the national Government equivalent to at least 1% of total government expenditure, and (ii) other justice sector agencies that are compliant with the OPIF real increases in budgetary resources</td>
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<tr>
<td>5. DBM will have fully and unconditionally release the scheduled cash</td>
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allocations to the judiciary in line with the approved budget and agreed upon operational cash program of the Supreme Court.
6. Supreme Court en banc to approve replication of RCAO 7 in at least two selected regions other than Region 7
7. Supreme Court work and financial plan to reflect that the proposed capital expense, MOOE, and related expenses for RCAO 7 in its 2009 budget are allocated to fund the full implementation of additional RCAOs in 2009
8. DBM shall submit a National Expenditure Program for 2010 to Congress, which shall reflect a line item budget provision for OSG’s reorganization and physical expansion, in accordance with existing law.

DBM = Department of Budget and Management, MTEP = Medium Term Expenditure Program, MOOE = maintenance and other operating expenses, OPIF = organizational performance indicator framework, OSG = Office of Solicitor General, RCAO 7 = Regional Court Administration Office in Region 7.

C. Policy Triggers for Subprogram 2

90. The development policy letter sets out the Government’s reform agenda for the next 3 years, building on the reform momentum of subprogram 1. There are 8 triggers for subprogram 2 described in Appendix 2. The milestones that will be monitored for subprogram 2 are also described in Appendix 2.

91. Impact and Outcome of the Program Cluster. The proposed GJSRP will support the Government in its efforts to enhance the rule of law in the Philippines. GJSRP implementation will result in improved governance and efficiency of justice sector agencies while expanding access to justice by (i) strengthening judicial fiscal autonomy, justice sector accountability, and improving access of justice sector agencies to resources; (ii) enhancing the integrity of justice sector personnel; (iii) supporting the governance and efficiency of justice sector agencies; (iv) expanding access to justice for the poor and vulnerable groups, with specific focus on addressing gender-based discriminatory practices and gender gaps; and (v) expanding the delivery of justice through alternative dispute resolution. The Program is expected to result in a more rapid and efficient processing of cases, while the timeliness and accessibility of court decisions will be enhanced. Reflecting better access of the poor and vulnerable groups to the justice system, there will be an expected decline in the time legal aid clients spend in pretrial detention. There will also be increased use of arbitration and court-annexed mediation, more certainty in court decisions, and the increased recognition of international arbitration awards, which has been a contentious issue for foreign investors.

D. Financing Plan

92. The Government has requested a loan of $300,000,000 from ADB’s ordinary capital resources in support of subprogram 1 of the GJSRP. The loan will be disbursed in two tranches: $150,000,000 upon loan effectiveness and $150,000,000 when the second tranche conditions have been fully complied, which is anticipated by August 2009. The loan will have a 15-year term, including a grace period of 3 years, an interest rate determined in accordance with ADB’s London interbank offered rate (LIBOR)-based lending facility, and a commitment charge of 0.15% per annum. The Government has made its own independent decision to borrow under ADB’s LIBOR-based lending facility, and has confirmed that this choice was not made on the basis of any advice from ADB.
93. The Government envisages that a loan of $300,000,000 will be needed to finance subprogram 2, the loan amount to be confirmed at the time of loan processing in 2010. Prior to the processing of subprogram 2, the Government will have demonstrated satisfactory progress with program implementation of subprogram 2 policy triggers. The proposed triggers for Subprogram 2 are as set out in the policy matrix in Appendix 2.

94. The program loan reflects the development financing needs of the Government (Table 6). The Government aims to increase development and social spending in 2008 and, given the need for additional funding to mitigate the effects on the poor of the slowdown in the US economy and the surge in rice prices, the Government envisages a targeted Government deficit of no more than 1% of GDP in 2008, 0.5% of GDP in 2009, and a balanced budget in 2010. Gross and net financing needs are larger than the planned government budget deficit, because of the amortization of external and domestic debt. Finally, there are substantial budgetary costs to the Government arising from the Program. The release of the second tranche will set the stage for a permanent increase in the 2009 budget of about 19% for the judiciary alone, amounting to about P2.02 billion (excluding pension lump sum obligations). The present discounted value of the increase in the Judiciary’s budget, which is in perpetuity, is estimated to be several times the ADB financing. Other direct costs of the Program include implementing systems to reduce caseload backlog in the court system and congestion in jails, and a program of the Supreme Court to increase access to justice for the poor.

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<th>Triggers for Subprogram 2</th>
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<tr>
<td>1. SC to implement OPIF judiciary-wide</td>
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<td>2. The judiciary to prepare and submit to en banc for its consideration and approval the rationalization program including a phased salary adjustment plan in accordance with the proposed Salary Standardization Law III.</td>
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<tr>
<td>3. DBM to approve the rationalization program submitted by the justice sector agencies in the executive branch, and these agencies shall adopt and start implementing the program</td>
</tr>
<tr>
<td>4. NEP for 2011 budget to show DBM proposal that justice sector agencies compliant with OPIF will be provided real increases in budgetary resources.</td>
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<tr>
<td>5. SC to issue guidelines authorizing replication of financial management procedures ensuring transparency in the use of all resources available to the courts.</td>
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<tr>
<td>6. CTA makes available to DOF information on the status of criminal tax evasion cases generated by its CMIS.</td>
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<tr>
<td>7. SC to implement its Access to Justice by the Poor Program</td>
</tr>
<tr>
<td>8. SC, BJMP, BuCor, and PAO to formulate, adopt and implement a comprehensive jail decongestion program.</td>
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Bureau of Jail Management and Penology, CTA = Court of Tax Appeals, DBM = Department of Budget and Management, DOF = Department of Finance, DOJ = Department of Justice, MTEP = Medium Term Expenditure Program, OPIF = Organizational Performance Indicator Framework

<table>
<thead>
<tr>
<th>Table 4: Government of the Philippines Projected Financing Requirements for 2008</th>
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<tr>
<td>Financing Mix in 2008</td>
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<tr>
<td>Proposed Amounts in 2008</td>
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<tr>
<td>Programmed gross external borrowings</td>
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<tr>
<td>of which:</td>
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<tr>
<td>ADB’s proposed loan pipeline</td>
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<tr>
<td>DPSP</td>
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<tr>
<td>LGU finance reform</td>
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<tr>
<td>Governance in justice sector reform</td>
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<tr>
<td>Other donor and commercial borrowings</td>
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<tr>
<td>$2.5 billion</td>
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<tr>
<td>$700 million</td>
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<tr>
<td>$250 million</td>
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<tr>
<td>$300 million</td>
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<tr>
<td>$150 million</td>
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<tr>
<td>$1,850 million</td>
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43 The pension lump sum obligation is equivalent to an increase of P220 million from the pension lump sum obligation in 2008 (which was equivalent to P700 million). Source: National Expenditures 2005. Department of Budget and Management.
E. Implementation Arrangements

95. Program Management. The Supreme Court and DOF will be the executing agencies. The Supreme Court will be responsible for program activities focused upon judicial reforms and the DOF will be responsible for other program activities. Given the independence of the judiciary from the executive branch of government under the Philippine Constitution, it is deemed necessary to establish two executing agencies so that the responsibility for attaining outcomes specific to one of the two branches of government is accounted for separately.

96. The implementing agencies will be DOJ, DILG, DBM and OSG. Each of the implementing agencies will be responsible for meeting the policy actions or program activities under their respective agencies. The Supreme Court and DOF will jointly set up a program coordination committee comprising representatives from DBM, DOJ, DILG and OSG. The program coordination committee will be co-chaired by the Head of the International Finance Group of DOF and the SC's Court Administrator, and will be responsible for implementing and sustaining program components. The committee will meet quarterly to coordinate and ensure effective implementation of the proposed reforms. ADB may be invited to participate in the meetings as an observer. The Supreme Court and DOF will be responsible for program implementation activities within their respective scope, report implementation progress, and provide guidance and direction to the implementing agencies.

97. Implementation Period. The first tranche of subprogram 1 covered the period from January 2006 to July 2008. All actions included in the policy matrix under the first tranche have been implemented within this period. The second tranche of subprogram 1 covers the period from July 2008 to August 2009. Subprogram 2 extends from September 2009 through August 2010. The Government and ADB will prepare a program completion report by June 2011.

98. Procurement and Disbursement. The loan proceeds will be used to finance the full foreign exchange cost (excluding local duties and taxes) of items produced and procured in ADB member countries, excluding ineligible items, and imports financed by other bilateral and multilateral sources. In accordance with the provisions of ADB's Simplification of Disbursement Procedures and Related Requirements for Program Loans, no supporting import documentation will be required if during each year that loan proceeds are expected to be disbursed the value of the Philippines' total imports minus imports from nonmember countries, ineligible imports, and imports financed under other official development assistance is equal to or greater than the amount of the loan expected to be disbursed during such year. The Government will certify its compliance with this formula with each withdrawal request. Otherwise, import documentation under existing procedures will be required. ADB reserves the right to audit the use of the loan proceeds and verify the accuracy of the Government's certification.

99. Anticorruption. ADB’s Anticorruption Policy (1998, as amended to date) and the Policy on Combating Money Laundering (2003) were explained to the Government. All relevant ADB guidelines, including the Procurement Guidelines (2006, as amended from time to time), Guidelines on Use of Consultants (2006, as amended from time to time), and the Loan Regulations, were specifically brought to the attention and notice of the Government. Consistent with its commitment to good governance, accountability, and transparency, ADB will require the

44 For a list of ineligible items, see Appendix 8.
Government to institute, maintain, and comply with internal procedures and controls following international best practice standards for the purpose of preventing corruption, money laundering activities, or the financing of terrorism; and covenants with ADB that prohibit engaging in such activities.

100. As regards to the specific governance and anticorruption measures, the GJSRP’s design is to addresses governance and anticorruption issues by strengthening integrity mechanisms in the judiciary and justice sector agencies in the executive branch of government.

101. **Accounting, Auditing, and Reporting.** ADB retains the right to audit the use of loan proceeds and to verify the accuracy of the Government’s certification for the withdrawal applications. Prior to withdrawal, the Government will open a deposit account with the Bangko Sentral ng Pilipinas (Philippine Central Bank) to receive the loan proceeds. The account will be managed, operated, and liquidated in accordance with terms satisfactory to ADB. DOF will be required to submit semiannual progress reports and a final report on the progress of subprogram 1 implementation.

102. **Counterpart Funds.** Counterpart funds generated by the GJSRP will be used by the Government under the arrangements satisfactory to ADB to support sector reform and meet the adjustment costs associated with the GJSRP, as agreed upon by the Government. The counterpart funds generated from the loan proceeds will be transferred from the Treasury to DOF and the Supreme Court to meet the costs and counterpart funding requirements for implementing sector reform.

103. **Monitoring and Review.** In coordination with the committee (para. 81), ADB will carry out periodic reviews of progress implementation and assess the impact of the GJSRP. The Government will keep ADB informed of the outcome of policy discussions with other multilateral and bilateral agencies that have implications for GJSRP implementation and will provide ADB with the opportunity to comment on any resulting policy proposals. ADB, in collaboration with the committee, will undertake a review of program performance 12 months after loan effectiveness to review the outcomes of subprogram 1.

V. **TECHNICAL ASSISTANCE**

104. The TA will focus on strengthening capacity to deliver targets envisioned under subprogram 2. The total cost of the proposed TA will be in the amount of $2,200,000, of which ADB will finance $1,500,000 on a grant basis from ADB’s technical assistance funding program and $500,000 on a grant basis from the ADB-administered Gender and Development Cooperation Fund. The Government will provide the additional $200,000 in-kind, in the form of administrative and support costs, including salaries of counterpart staff, secretarial support, supplies, office accommodation, local transportation, miscellaneous costs for training courses, and per diem associated with attendance at appropriate events not covered under this TA. The Supreme Court and DOF will be the joint executing agencies. DOJ, DBM, and DILG will be the implementing agencies for the TA. The TA components are as follows:

105. **Strengthening Judicial Fiscal Autonomy, Justice Sector Accountability, and Improved Access to Resources.** The TA will assist the justice sector in cascading financial management reforms such as the OPIF to field offices. In the judiciary, this subcomponent will adapt financial management reforms that are being piloted in the RCAO 7 for rollout in not less than three other selected regions. This is expected to increase the judiciary’s capacity to oversee lower courts and provide transparent financial recording and accounting of the Judiciary Autonomy Fund, budgets corresponding to unfilled positions, and LGU contributions through the
regional court administration offices. It is also expected to increase the lower courts’ capacity to plan, manage, and demand the resources required for smooth operations in support of proposals to increase the lower courts’ share of maintenance and other operational expenses, and the capital outlay budget of the judiciary. It will also support a study to streamline justice sector agencies. For the judiciary, this study should include a proposed strategy to shift the funding of allowances, which are equivalent to 100% of judges’ salaries and currently sourced mainly by court fees, to the national budget.

106. **Improving Integrity and Individual Accountability in the Sector.** The TA will support implementation of recommendations in the review and enhancement of performance and integrity (para. 39) concluded in the judiciary, the setting up of an integrity unit at the Supreme Court, and customization of internal controls manuals for justice sector agencies. Reforms that aim to improve the performance, management, and evaluation of the judiciary will also be supported. The development of codes of conduct and similar documents in agencies that do not yet have such codes will be supported. Measures that improve transparency and increase the role of civil society in monitoring justice sector performance and the implementation of appointments and disciplinary procedures will also receive support.

107. **Supporting Efficiency in the Justice Sector.** The TA will support the continuing development of the case management information systems in the judiciary and the NPS, and related change management programs. The establishment of a forum (the Justice Sector Coordination Council) to discuss and coordinate justice sector reforms will be supported. As the GJSRP’s performance depends on the Government’s actions, the TA will support the development and implementation of a monitoring and evaluation system for the Program.

108. **Access to Justice by the Poor and Vulnerable Groups.** The fourth area of support concerns the implementation of the judiciary’s program to increase access to justice by the poor, including the implementation of a comprehensive jail decongestion program through the rollout of a simplified inmate record system. The TA will support civil society participation in policy dialogue and reform implementation. Under this component, the TA will pursue the objective of gender-based development in the justice sector by building the gender-based capacities of selected justice sector agencies. This output will strengthen the PNP’s women and children’s desk officers program and pilot test a stress management program for these officers. In the NPS, the TA will support gender-sensitivity trainings and related benchmarking activities to track performance. In the judiciary, the TA will develop benchmark indicators and performance standards for family courts, develop related amendments to the rules of court and administrative procedures on gender-based violence, and support training on the gender-sensitive handling of cases in family courts. The activities will be implemented in municipalities and cities within selected provinces. These efforts will be piloted—under the Gender and Development Cooperation Fund—in Region 7, which includes the provinces of Cebu, Bohol, Negros Oriental, and Siquijor. Based on the implementation of pilot-tested activities, the Government is expected to extend the proposed activities to the national level.

109. **Support for Alternative Dispute Resolution.** The fifth area of support relates to the use of alternative dispute resolution mechanisms, particularly the barangay justice system. This will include training and support for barangay justice advocates, community mediators, and paralegals to enable them to assist community members, particularly members of the poor and vulnerable groups, in dealing with disputes. The individual components of the proposed TA are outlined in a Supplementary Appendix on Technical Assistance Support for Governance in Justice Sector Reform.
VI. PROGRAM BENEFITS, IMPACTS, AND RISKS

110. Benefits. The Program’s principal benefits are improved incentives, increased resources, and greater accountability all leading to a higher quality of public services in the justice sector. Primary beneficiaries will be justice sector agencies and staff, who will benefit from a better-resourced justice sector. While most benefits are expected to emerge over the long term, in the short to medium term, competitive salaries and higher budgets will reduce vacancies among judges and prosecutors, improve information and case management systems, and provide the basis for a progressive reduction in delays in the justice system. Consequently, the Program will also benefit users of the justice system, who will enjoy the more efficient and effective delivery of justice. Faster court decisions and wider dissemination of information about these decisions will improve understanding among individuals and businesses about the costs and benefits of seeking contract enforcement through the formal court system, mediation, arbitration, and/or informal mechanisms of dispute settlement. The Program also has a special focus on the poor and disadvantaged groups, especially women and children.

111. A key benefit is the deepening of a results-based performance management framework by which individuals, agencies, and departments can be held accountable through the OPIF and performance-based budgets. When fully in place, this framework will draw all justice sector agencies into the national MTEF exercise in which each agency aligns its priorities and performance targets with national targets under the MTPDP for executive agencies, and the Supreme Court for the judiciary. Strengthened accountability over the use of public resources within the justice sector is a major benefit to be achieved through a modern performance management framework. Deepening and widening public participation and feedback in the justice sector will further strengthen accountability mechanisms and provide a set of incentives to improve service delivery across justice sector agencies.

112. Social and Environment Safeguards. The GJSRP will not involve any involuntary resettlement nor have a negative impact on indigenous people or the environment. It is classified as category C with respect to involuntary resettlement, and impact on indigenous people and the environment.46 The GJSRP is a general intervention aimed at supporting governance reforms in the justice sector and in that respect it is expected to have an indirect positive effect on poverty reduction by improving access to justice by the poor and vulnerable groups, and by creating a governance environment that promotes investment and more sustainable economic growth (Appendix 7).

113. Assumptions and Risks. The GJSRP assumes political stability in the Philippines and sustained implementation of sound macroeconomic policies by the Government. Given the Philippines’ encouraging results in establishing a resilient macroeconomic framework since the Asian financial crisis, both of these assumptions appear to be valid and defensible. However, implementation of the GJSRP could face a number of risks for which mitigation measures have been designed:

(i) Exogenous shocks. The Philippines economy in 2008 has been affected by three adverse developments in the external environment: (a) the financial sector knock-on effects from the US financial crisis, (b) the US and global economic slowdown, and (c) commodity and fuel price increases. In recognition of the impact of these exogenous shocks to its fiscal position, the Government has

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46 The GJSRP is classified as Category C since it is unlikely to have environmental impacts; no involuntary resettlement effects foreseen, the program neither require a resettlement plan nor a resettlement framework; and have no impact on indigenous people and therefore do not require special provisions for them.
adjusted its fiscal balance targets from 2008 to 2010. The easing of the fiscal target will provide more headroom for expenditures, including the needed increases in budgetary resources for justice sector agencies. The Government has remained steadfast in its development program—increased infrastructure spending, support for critical sectors (e.g., mining, business process outsourcing, and tourism)—in support of economic growth, while also sustaining its revenue mobilization efforts. Nevertheless, it is expected that there will be a net economic slowdown that will adversely affect the Government’s ability to increase fiscal resources allocated to the justice sector.

(ii) Judicial fiscal autonomy and administrative independence. While the Constitution protects fiscal autonomy and the independence of the judiciary, in practice budgetary constraints and weaknesses in administration hamper the exercise of fiscal autonomy and independence. Rectifying the situation will require strong commitment to good governance from the judiciary and other government entities, including LGUs. It will also depend on the speed and commitment in which the judiciary and its personnel establish strong administrative and financial mechanisms that are transparent, participatory, and provide a strong sense of accountability for the use of public resources. Under the attached TA, ADB will continue to support the judiciary in its fiscal and administrative reforms, including support for change management to help mitigate this risk.

(iii) Resistance to governance reforms. There will be resistance to the reforms from affected personnel, in particular from middle- to high-level staff that have a vested interest in the existing power structure and illegal rents. This risk reinforces the need for change management to be supported by an effective advocacy program targeted at internal and external shareholders. For this reason, a change management and advocacy component is included in the accompanying TA. The risk will also be mitigated by continued policy dialogue with the Government and other stakeholders.

(iv) Weak absorptive capacity. Weak absorptive capacity of implementing justice sector agencies due to inadequate resources (financial and human) will continue to undermine the impact of reforms. However, close performance monitoring and targeted technical assistance to implementing agencies will help reduce the adverse effects of implementation delays due to capacity constraints.

(v) Slow pace of civil service reforms. The slow pace of civil service reforms that limits the ability of justice sector agencies to rationalize their staff and transform those savings into higher levels of remuneration for attracting and retaining qualified personnel undermines ongoing initiatives to improve capacity. To address this risk in the judiciary, the TA includes support for the judiciary to prepare a staff rationalization plan for submission to DBM and the Civil Service Commission. In addition, change management support is required to give justice sector staff time to understand, internalize, and put into practice the reforms.

(vi) Governance reversals. There is a risk that current governance reforms may be reversed by future governments. This risk may be mitigated by ongoing policy dialogue with the Government as well as other stakeholders, including the judiciary, the legislative branch, civil society, and development partners. The program cluster targets reforms that are in the public interest so that the reversal of reforms by future governments may become less likely. Support under the accompanying TA to the new Justice Sector Coordination Council will facilitate policy dialogue, enhance related capacity, and help build greater public awareness of the ongoing reform agenda.
VII. SPECIFIC ASSURANCES

114. In addition to the continued compliance and implementation of the actions specified in the Program's policy matrix and standard assurances, the Government has given the following specific assurances:

(i) **Policy matrix.** The Government will ensure the satisfactory implementation of the Program and will accomplish the actions set out in the policy matrix, in particular, actions that are conditions for the release of Tranche 2. The Government will submit documents, in a form satisfactory to ADB, as evidence to demonstrate compliance. The Government will carry out the policies and actions in accordance with the schedule of policy reforms contained in the policy matrix and ensure that the reforms in the justice sector are sustained.

(ii) **Policy dialogue.**
   (a) The Government will keep ADB informed of, and will from time to time exchange views on, the progress made in carrying out subprogram 1. In addition, the Government will continue policy dialogue with ADB on problems and constraints encountered during implementation of subprogram 1 and on appropriate measures to overcome or mitigate such problems and constraints.
   (b) The Government will keep ADB informed of policy discussions with other multilateral and bilateral agencies that have implications for implementation of subprogram 1, and will provide ADB with an opportunity to comment on any resulting policy proposals. The Government will take ADB's views into consideration before finalizing and implementing any such proposals.

(iii) **Counterpart funds.** The Government will ensure that the counterpart funds will be used to finance the local currency costs relating to the implementation of the Program and other activities consistent with the objectives of the Program and will provide necessary budget appropriations to finance the structural adjustment cost relating to the implementation of reforms under the Program.

(iv) **Subprogram 1 review and evaluation**
   (a) **Information.** DOF and the Supreme Court will provide ADB with all relevant data and information in such detail as ADB may reasonably request to facilitate review by ADB of the progress in the implementation of subprogram 1.
   (b) **Reports.** DOF and the Supreme Court will prepare the quarterly progress reports as well as closing report on subprogram 1.
   (c) **Subprogram 1 review.** At the end of subprogram 1, DOF and the Supreme Court will ensure that a review is undertaken for subprogram 1. The review will identify the lessons learned, to be used for input in the design of the proposed subprogram 2 of the Program Cluster.
   (d) **Subprogram 1 review report.** A subprogram 1 review report will be submitted to ADB that (a) assesses compliance with the policy actions under subprogram 1, including tranches 1 and 2; (b) assesses progress with implementation of complementary activities under the overall reform program; (c) reviews fiscal performance and updated fiscal estimates; and (d) defines requirements for adjustments to activities under the proposed Subprogram 2.
115. The following is the condition for program loan effectiveness:

The Government will have established the program coordination committee, which will be co-chaired by DOF and the Supreme Court, and comprise representatives from DOJ, DILG, DBM, and the OSG.

VIII. RECOMMENDATION

116. I am satisfied that the proposed loan would comply with the Articles of Agreement of the Asian Development Bank (ADB) and recommend that the Board approve

(i) the program cluster to the Republic of the Philippines for the Governance in Justice Sector Reform Program; and

(ii) the loan of $300,000,000 to the Republic of the Philippines for Subprogram 1 of the Governance in Justice Sector Reform Program cluster, from ADB’s ordinary capital resources, with interest to be determined in accordance with ADB’s London interbank offered rate (LIBOR)-based lending facility; a term of 15 years, including a grace period of 3 years; and such other terms and conditions as are substantially in accordance with those set forth in the draft Program Loan Agreement presented to the Board.

Haruhiko Kuroda
President

21 November 2008
# DESIGN AND MONITORING FRAMEWORK

<table>
<thead>
<tr>
<th>Design Summary</th>
<th>Performance Targets/Indicators</th>
<th>Data Sources/Reporting Mechanisms</th>
<th>Assumptions and Risks</th>
</tr>
</thead>
</table>
| **Impact**     | Improvement by 2 percentage points from 2007 to 2011 in the following indices:  
• Rule of law index (baseline 33.8% in 2007)  
Public perception survey on the fairness and impartiality of the judiciary, and the efficiency of the justice system to be supported under the TA | Assumptions:  
• Demonstrated and sustained commitment and support by the Government through oversight agencies (DBM, NEDA, and DOF), and justice sector agencies  
• Strong oversight by civil society groups and media  
**Risk:**  
• Lack of effective and timely coordination among justice sector agencies and other relevant national government agencies. |

| Outcome | Case clearance rate\(^a\) in courts increases from 40% in 2006 to 45% by 2010  
Case disposition rate\(^b\) in courts increases from 107% in 2006 to 118% by 2010  
Increase in lawyers’ rating on the efficiency of the courts in resolving cases with minimal delay from 29% in 2006 to 32% in 2010  
Increase in percentage of lawyers and litigants who agree that courts and court personnel do not treat rich and poor litigants differently from 42% in 2006 to 47% in 2010 | Supreme Court, Office of the Court Administrator, and project management office annual reports on caseflow management performance  
Public perception survey on the fairness and impartiality of the judiciary, and the efficiency of the justice system to be supported under the TA | Assumptions:  
• Strong coordination and commitment of the three independent branches of government to the reform process  
• Government to provide budgetary requirements of justice sector  
**Risk:**  
• Institutionalizing reforms may face strong resistance from vested interests |

| Outputs | By the end of 2010:  
(i) Real increases in the justice sector’s annual budget, as proposed in the NEP.  
(ii) Increase in judiciary’s share in national budget from 0.83% 2007 to about 1% in 2010.  
Establish RCAOs with OPIF-compliant budgeting systems in at least 2 regions  
(iii) MTEP submitted by justice sector agencies include operation expenses for the implementation of respective General Appropriations Act and budget, expenditures, and sources of financing published by DBM | | Assumption:  
• Government commitment that justice sector is a priority sector for budgetary purposes  
**Risk:**  
• Severe impact from the global financial crisis resulting in significant changes in government’s budgetary allocation. |

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\(^a\) Case clearance rate: The percentage of cases that were disposed of in the current year.

\(^b\) Case disposition rate: The percentage of cases that were disposed of in the current year.
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</table>
| **2. Implement mechanisms to enhance justice sector integrity** | By end of 2010:  
  - Supreme Court Integrity Unit operational.  
  - Performance monitoring and evaluation system fully operational in the judiciary and selected justice sector agencies. | Supreme Court annual report  
  Certifications from appropriate justice sector agencies | **Assumptions**  
  - Necessary Supreme Court support for REPI-recommended reforms is maintained  
  - Support from government agencies in the implementation of performance monitoring and evaluation system  
  **Risk**  
  - Ineffective change management strategy |
| **3. Supporting efficiency in justice sector** | By end of 2010:  
  - Decrease in the average duration of a case in lower courts from 4 to 3 years  
  - Reduce backlog of court cases by 15% by 2010 (number of backlog cases about 700,000 in 2007) | Agency reports and certifications | **Assumption**  
  - Executive branch effectively liaises with Congress to ensure strong support for incremental moves towards market-based salaries and facilities  
  **Risk**  
  - Inadequate support from Congress members on justice sector reforms |
| **4. Improved access to justice for the poor and vulnerable groups** | By end of 2010:  
  - Average length of time spent by a detainee accused of a crime (e.g., theft) in jail decreases from 5 years in 2008 to 3 years in 2010  
  - Supreme Court, DOJ, NPS, and PNP approve an MTEP that includes operations expenses relating to the implementation of an agreed-upon GAD agenda  
  - 70% of family court judges and court personnel trained on gender sensitive handling of gender-based violence cases (base: no existing training) | Agency reports and certifications | **Assumption**  
  - The newly elected Government in 2010 continues to support the justice sector reform program  
  **Risk**  
  - Change in reform priorities of new administration in 2010. |
| **5. Expanding delivery of justice through alternative dispute resolution** | By end of 2010:  
  - Increase in number of mediated cases by about 20% (baseline is 19,825 in 2007)  
  - Raise the success rate of resolution of mediation cases to 75% (baseline: 73% in 2007) | Agency reports and certifications | **Risk**  
  - Inadequate supply of well-trained mediators to maintain required quality for public support |
## Activities with Milestones

1.1 Training to strengthen financial management capabilities of justice sector agencies’ administrative staff started in 2009
1.2 Annual reports to DBM, legislature, and COA to include and account for all public funds (from all sources, including local government contributions) used by justice sector agencies in their operations no later than August 2009
1.3 Implementation of resource mobilization and utilization accountability guidelines in the pilot RCAO completed by August 2009.

2.1 Establishment of an integrity unit in Supreme Court by August 2009
2.2 Adoption of REPI and IDR recommendations to justice sector agencies by August 2010

3.1 Continuous trials’ implementation rolled out at the Sandiganbayan by August 2010
3.2 JSC established by August 2009
3.3 Capacity building and training for NPS internal management unit and Supreme Court nonjudicial staff by August 2010

4.1 Roll-out of simplified inmate record system in not less than 3 selected regions, and in metro Manila by August 2010
4.2 Completion of BuCor process map of procedures relevant to decongesting prisons under its jurisdiction and recommendations for implementation by August 2010
4.3. Training and capacity building for NPS, family court public prosecutors, and family court staff in selected regions completed by end 2010
4.4 Revision of the judiciary’s gender and development plan by end 2009

5.1 Roll-out of court-annexed mediation nationwide by August 2009
5.2 Establishment of the alternative dispute office at DOJ by August 2010

### Inputs

- **ADB - $300 million program loan**
- **ADB $1,500,000 technical assistance grant**
  - Consulting services - $1,100,000
  - Person-Months - 130
  - International and Local Travel - $200,000
  - Reports and Communications - $5,000
  - Workshop and training - $120,000
  - Contingencies - $75,000
- **ADB Gender and Development grant - $500,000**
  - Consulting services – $300,000
  - Local Travel - $50,000
  - Reports and Communications - $30,000
  - Person Months – 50
  - Workshop and Training - $80,000
  - Contingencies – $40,000
- **Government Counterpart – $ 200,000**
  - Office facilities and accommodations; Government personnel/staff time and assistance; and other in-kind contributions.

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BuCor = Bureau of Correction, COA = Commission on Audit, DBM = Department of Budget and Management, DOF = Department of Finance, DOJ = Department of Justice, IDR = Integrity Development Review, NEDA = National Economic Development Authority, NEP = National Expenditure Program, NPS = National Prosecutor Service, MTEP = Medium Term Expenditure Program, PNP = Philippine National Police, RCAO = Regional Court Administration Office, REPI = Review and Enhancement of Performance and Integrity, OPIF = Organizational Performance Indicator Framework.

a Clearance rate refers to the volume of cases disposed of as a percentage of total caseload. Low clearance rate means that backlogs remain high; higher clearance rates mean that the backlog of cases that need to be resolved is diminishing at a faster rate.

b Disposition rate is the total number of cases disposed by courts over the total number of cases filed in courts within a year.

c National budget is defined as the National Expenditure Program submitted by DBM to Congress inclusive of debt service requirements and internal revenue allocation for local government units.
DEVELOPMENT POLICY LETTER

21 October 2008

Mr. HARUHIKO KURODA
President
Asian Development Bank
Manila, Philippines

Re: Governance and Justice Reform Program

Dear Mr. Kuroda:

This Development Policy Letter highlights a unique program focused on improving the governance of the justice sector in the Philippines. The Philippines Medium Term Development Plan 2004 - 2010 highlights the importance of strengthening the rule of law and the public service delivery of the Justice Sector as a basic need. It envisions a judiciary that is independent, effective and efficient. It also envisions a holistic and integrated reform effort in the justice system.

The Justice sector is an interlocking set of agencies that includes the judiciary and agencies from the executive branch, including prosecutions, enforcement, corrections, penology and institutions for public legal assistance. Improving the public service delivery of justice sector institutions require a number of interlinked reforms including strengthened incentives to deliver public services, enhanced expenditure and budget management capabilities and accountability for use of resources, more efficient delivery of justice, greater citizen voice and participation and access to justice.

Government is committed to this program, which focuses on resolving the budgetary restraints on the Judiciary and is reflective of the importance given in the Philippines to improving governance of the entire Justice Sector. These efforts are intended to create a just and equitable society through enhancing the rule of law in the Philippines. The economic impacts will follow from greater investor confidence and an improved investment climate, resulting in higher growth and renewed poverty reduction. These objectives will be achieved through improved governance and public service delivery by the Justice Sector.

The Judiciary has been independently developing its reform program since 2000 under technical assistance importantly from the Asian Development Bank, but also from other development partners. The current program shown in the attached matrix is now being implemented under the Judiciary's prerogative 'as an independent branch of the Government.

The key outputs of strengthened judicial fiscal autonomy, justice sector accountability, and improved access to resources are to be achieved through application of a series of financial management reforms including performance based budgeting. The Judiciary will be showcasing through the pilot Regional Court Administrator's Office (RCAO) in Region 7, the application of performance-based budgeting that is both transparent as well as comprehensive in terms of incorporating all sources of revenues and all uses of funds.

Steps have been taken to **enhance justice sector integrity** by setting higher standards of conduct and their enforcement and conducting integrity development reviews of agencies
within the justice sector. To improve access to justice by the poor and vulnerable groups, the Judiciary has supported an expanded Justice on Wheels program, with a focus on assisting in the decongestion of jails; the designation of small claims courts to expedite the handling of small claims, and the implementation of a gender and development action plan. To expand delivery of justice through alternative dispute resolution, the Supreme Court has adopted a business strategy to rollout and expand their Court Annexed Mediation to resolve disputes speedily at reduced costs through mediation while reducing the pressure on the Courts.

As regards improvements in justice sector efficiency, major steps have been taken by developing case tracking and case management systems at the Supreme Court, Court of Appeals, Sandiganbayan, Court of Tax Appeals and the Office of the Court Administrator, as well as in the National Prosecution Service (NPS), an integral office in Department of Justice (DOJ). DOJ has also developed training programs and operational manuals for NPS to improve prosecutor capability to handle cases assigned to them.

Budgetary Resource Requirements. The continued implementation of these reforms will be dependent on increased levels of real budgetary resources. Initially in reference to the 2009 budget, increased budgetary allocations will be required to fund the RCAO in Region 7 as well as increased access to justice by the poor and vulnerable groups that will also be piloted in Region 7. In the subsequent budgets for 2010 and beyond, the Department of Budget and Management (DBM) is committed to the proposed real increases in the Justice sector agencies' budgets in line with their OPIF compliant submissions, to cover the costs of the program implementation. In the case of the Judiciary, the medium term objective is to at least restore its one percent share of proposed total Government expenditures.

The Government is fully committed to the reform in the justice sector and is determined to implement the actions outlined in the Policy Matrix attached hereto within the agreed timetable. The Government is committed to maintaining an active policy dialogue with development partners on implementation of the agreed actions and the progress of the reform to ensure that the objectives of the GJRP are met.

In conclusion, we would like to convey to ADB that the Judicial and the Executive Branches remain independently supportive of the governance and justice reform program outlined above.

Yours sincerely,

Reynato S. Puno
Chief Justice,
Supreme Court

Margarito B. Teves
Secretary,
Department of Finance
<table>
<thead>
<tr>
<th>Policy Action</th>
<th>Summary of Actions Accomplished Under Subprogram 1 (Triggers in Bold)</th>
<th>Subprogram 2</th>
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<tbody>
<tr>
<td></td>
<td>First Tranche  (July 2008)</td>
<td>Second Tranche (August 2009)</td>
</tr>
<tr>
<td><strong>1. Strengthened Judicial Fiscal Autonomy, Justice Sector Accountability, and Improved Access to Resources</strong></td>
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<tr>
<td><strong>1.1. Adoption and implementation of performance-based budgeting</strong></td>
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<tr>
<td>1.1.1 Supreme Court has committed to the adoption of the organizational performance indicator framework (OPIF). SC submitted SCPLC logframe to DBM.</td>
<td>SC to submit OPIF-compliant budget for 2010.</td>
<td>SC to implement OPIF judiciary-wide.</td>
</tr>
<tr>
<td>1.1.2 Regional court administration office for Region 7 (RCAO 7) has submitted an OPIF-compliant budget for 2009.</td>
<td>SC to prepare and complete the template for Annual Report on judiciary-wide operations and performance. The report template will include details of budget, revenue and expenditures, and highlight efficiency gains (e.g., higher disposition rates).</td>
<td>SC to publish Annual Report on judiciary-wide operations including budgetary performance. SC to prepare template for disclosure of own-source revenue mobilization and utilization.</td>
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<tr>
<td>1.1.3 RCAO 7 has submitted to the Supreme Court an OPIF-based work and financial plan for July to December 2008.</td>
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<tr>
<td>1.1.4 Supreme Court en banc has approved and implemented an assessment report on existing financial management practices in the Judiciary which identified deficiencies and recommended financial management reforms, and a decentralized administrative structure to correct such deficiencies.</td>
<td>SC to implement the recommendations of the assessment report on the portions relevant to RCAO 7.</td>
<td>SC to approve financial management assessment and recommendations in not less than 2 selected regions, apart from Region 7, preparatory to the establishment of new RCAOs. SC to implement accepted recommendations of study; DBM to provide necessary funding for implementation following its confirmation of the SC recommendations, consistent with agreed-upon MTEF and</td>
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<tr>
<td>Policy Action</td>
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<tr>
<td>1.1.5 SC en banc has approved financial management reforms under a decentralized administrative structure and has implemented these on pilot basis in Region 7.</td>
<td></td>
<td>OPIF targets.</td>
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<tr>
<td>1.1.6 Judiciary has adopted the New Government Accounting System (NGAS).</td>
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<tr>
<td>1.1.7 SC, CA and OCA have adopted the electronic New Government Accounting System</td>
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<td>1.1.8 SC, CTA, Sandiganbayan (anti-graft court), and OCA have formed bids and awards committees.</td>
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<tr>
<td>1.1.9 Department of Justice (DOJ), Bureau of Corrections (BuCor), National Police Commission, Philippine National Police (PNP), and the Bureau of Jail Management and Penology (BJMP) have adopted and implemented the OPIF.</td>
<td></td>
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<tr>
<td>1.2 Adoption and implementation of a medium-term expenditure framework and increasing transparency relative to the sources and uses of funds.</td>
<td>1.2.1 Supreme Court has prepared and adopted a Medium-Term Expenditure Program (MTEP) for 2008–2010.</td>
<td>Field offices of DOJ, NAPOLCOM, PNP, BuCor, and BJMP to implement the OPIF.</td>
</tr>
<tr>
<td>1.3 Support for progressive adjustments in salaries towards a market benchmark</td>
<td>1.3.1 Judges’ compensation has been increased by 100% in accordance with Republic Act No. 9227 (2003), inclusive of a 21% increase in salary as provided by Executive Orders 611 and 719.</td>
<td>DOJ submits OPIF-compliant budget for fiscal year 2009 and 2010.</td>
</tr>
<tr>
<td></td>
<td>The NEP for 2010 to be submitted by DBM to Congress shall reflect the benefits and allowances to justice sector agencies, including PAO and OSG, as a special provision, in accordance with RA 9417, RA 9279, and RA 9406 (as may be amended from time to time).</td>
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<td>The judiciary to prepare and submit to the SC En Banc for its consideration and approval the rationalization program including a phased salary adjustment plan in accordance with the proposed Salary Standardization Law III (SSL III).</td>
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<td>DBM to approve the rationalization program submitted by the justice</td>
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<tr>
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<tr>
<td>1.4 Increase national budgetary support to justice sector agencies</td>
<td>1.4.1 DBM has submitted a NEP for 2009 budget which shows that budget for the Judiciary has been increased by 18.8%.</td>
<td>NEP for 2011 budget to show DBM proposal that justice sector agencies compliant with the OPIF will be provided real increases in budgetary resources that take into consideration current inflation, consistent with their approved MTEPs, and based on performance, absorptive capacity, and the prevailing macroeconomic and fiscal situation of the country.</td>
</tr>
<tr>
<td></td>
<td>NEP for 2010 budget to show DBM proposal to provide (1) the Judiciary with budget sourced from the National Government equivalent to at least 1% of total government expenditure proposed under the 2010 NEP; and (2) other justice sector agencies compliant with the OPIF, real increases in budgetary resources, taking into consideration current inflation, consistent with their approved MTEPs, and based on performance, absorptive capacity, and the prevailing macroeconomic and fiscal situation of the country.</td>
<td>Notice of Cash Allocation to show that DBM has released cash allocations to the Judiciary each quarter in full and in accordance with agreed upon operational cash program of SC, from 2009 and onwards.</td>
</tr>
<tr>
<td></td>
<td>DBM to commence the release of the scheduled allocations to the Judiciary in line with the approved budget and agreed upon operational cash program of SC, in full each quarter without conditions.</td>
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<td></td>
<td>The Judiciary will submit mandatory accountability reports to DBM within the prescribed periods.</td>
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<tr>
<td>1.5 Showcasing, through a pilot program, decentralization efficiencies and full</td>
<td>1.5.1 Supreme Court has launched a pilot regional court administration</td>
<td>SC to complete evaluation of pilot RCAO 7. SC to launch</td>
</tr>
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<tr>
<td>transparency in sources and uses of funds, including accountability mechanisms.</td>
<td>office (RCAO) in Region 7.</td>
<td>least two selected regions other than Region 7.</td>
</tr>
<tr>
<td></td>
<td></td>
<td>RCAOs in at least two other selected regions.</td>
</tr>
<tr>
<td></td>
<td>1.5.2 SC has provided in its proposed 2009 budget submitted to DBM proposed budgetary allocations to support full implementation of the Region 7 pilot RCAO in 2009.</td>
<td>SC Work and Financial Plan to reflect that the proposed capital expense, MOOE, and related expenses for RCAO 7 personnel that were provided in its proposed 2009 budget are allocated to fund full implementation of RCAO 7 in 2009.</td>
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<td>1.5.3 SC en banc has issued resolution authorizing Regional Court Administrator to set financial management procedures and guidelines ensuring transparency in the use of all resources available to the courts, including contributions from local government units (LGUs), for compliance by all courts in Region 7.</td>
<td>SC to implement in the pilot RCAO financial management guidelines and procedures ensuring transparency in the use of all resources available to the courts.</td>
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<td></td>
<td>1.5.4 RCAO in Region 7 has issued the above financial management procedures and guidelines.</td>
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<td>1.6 Justice sector agencies to allocate additional resources to local and field offices.</td>
<td>1.6.1 DOJ has increased the level of capital outlay from P5 million to P63.8 million in 2008.</td>
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<td>1.7 Strengthen autonomy of justice sector agencies where appropriate, to promote efficiency</td>
<td>1.7.1 Passage of R.A. No. 9417 (in 2007) and the corresponding implementing rules and regulations (on 16 July 2008) to strengthen the independence of the Office of the Solicitor General.</td>
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<td>1.7.2 Passage of R.A. No. 9406 (2007) and the corresponding implementing rules and regulations (on 16 July 2008) providing for greater autonomy to the Public Attorney’s Office and providing funds therefore.</td>
<td>PAO prepares MTEP with expenditure provisions in line with justice sector agency budgetary support.</td>
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<td><strong>2. Enhanced Justice Sector Integrity</strong></td>
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<tr>
<td>2.1 Ensuring integrity and higher standards of conduct in justice sector agencies</td>
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<td>2.1.1 JBC has (i) adopted clear and objective criteria that measure integrity, probity, independence of judicial nominees, which criteria are publicly announced during the short listing of nominees; and (ii) developed and is operating its own website, which displays the rules on transparency on judicial vacancies and appointments.</td>
<td>SC to utilize all available information on cases of impropriety provided by civil society groups such as Court Watch in its investigations to ensure integrity of court personnel.</td>
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<tr>
<td>2.1.2 JBC has opened to the public its interview of judicial nominees to the SC, CA, Sandiganbayan, CTA, and NCR lower courts.</td>
<td>OSG to adopt a lawyers’ manual for solicitors and develop system to monitor compliance with the manual.</td>
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<tr>
<td>2.1.3. A review and enhancement of performance and integrity (REPI, Integrity Development Review) has been completed in the Supreme Court.</td>
<td>SC to establish an Integrity Unit.</td>
<td>SC to approve recommendations in REPI.</td>
</tr>
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<td>2.1.4. SC has oriented justices, judges, and court personnel on the Code of Conduct for Court personnel and new Code of Judicial Conduct for the Philippine Judiciary.</td>
<td>SC to prepare and implement the customized manual on internal controls.</td>
<td>DOJ to develop and carry out consultations with stakeholders on the code of conduct for prosecutors and recommend system to monitor compliance.</td>
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<td><strong>2.2 Increase transparency of judicial decisions</strong></td>
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<td>2.2.1 SC has set up a web-based facility that enables it to make decisions of the SC publicly</td>
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<td>Appellate courts (CA, CTA, and Sandiganbayan) to initiate public availability (web based)</td>
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<td>available within 48 hours from promulgation and has issued the resolution therefore.</td>
<td>of the decisions of the appellate courts within 48 hours from promulgation.</td>
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<td><strong>RCAOs</strong> to make publicly available (web-based) of the decisions of the <strong>RCAO Courts</strong> within one week from promulgation.</td>
<td><strong>CTA</strong> makes available to <strong>DOF</strong> information on the status of criminal tax evasion cases generated by its <strong>CMIS</strong> based on a signed memorandum of understanding between <strong>SC</strong> and <strong>DOF</strong>.</td>
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<td><strong>3. Increased Efficiency in the Justice Sector</strong></td>
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<tr>
<td><strong>3.1 Case tracking and caseflow management to ensure timely administration of justice</strong></td>
<td><strong>3.1.1 The SC, CA, CTA and Sandiganbayan</strong> have established case management information systems (CMIS) to track, among other cases, criminal tax evasion cases filed and pending before it.</td>
<td><strong>CTA</strong> makes available to <strong>DOF</strong> information on the status of criminal tax evasion cases generated by its <strong>CMIS</strong> based on a signed memorandum of understanding between <strong>SC</strong> and <strong>DOF</strong>.</td>
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<td><strong>3.1.2 SC</strong> has approved an enhanced e-Caseflow Management system piloted by the <strong>SC</strong> in Pasay City courts.</td>
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<td><strong>3.1.3. NPS-DOJ</strong> has completed an assessment of the current system of managing probable cause cases decided by the <strong>National Prosecutor Service (NPS)</strong> and deputized Ombudsman prosecutors.</td>
<td><strong>NPS</strong> to complete the development of an integrated case tracking system for probable cause cases based on this review and previous assessment. <strong>NPS-DOJ</strong> to publish and distribute manual on case management to all prosecution offices. <strong>NPS</strong> to pilot an automated prosecution case management system in the Office of the Chief State Prosecutor and Lapu Lapu City.</td>
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<td><strong>NPS</strong> to include in its budget submission to DBM for 2011 budget items preparatory to the roll-out of the automated prosecution case management system to other NPS offices.</td>
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<td><strong>3.2 Coordinating information to increase efficiency and effectiveness</strong></td>
<td><strong>3.2.1 DOJ</strong> and the BIR have established a joint panel to meet regularly to promote the development and implementation of consistent evidentiary requirements in connection with tax evasion.</td>
<td><strong>DOJ</strong> and <strong>BIR</strong> to adopt consistent guidelines on evidentiary requirements in connection with tax evasion.</td>
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<td>3.3 Establishing a Government-wide coordinating council to provide policy</td>
<td><strong>3.3.1</strong> The Judicial, Executive, and Legislative branches of Government have signed a memorandum of agreement for the creation of the Judiciary, Executive and Legislative</td>
<td>JSCC adopts a common set of objectives for enhancing the performance of justice sector over the medium term. SC, DOJ, OMB, PAO, OSG, DILG-PNP to develop a framework for a sector-wide information exchange system.</td>
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<td>guidance for the development, implementation, financing, and periodic review</td>
<td>Advisory and Consultative Council (JELAC).</td>
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<td>of a justice sector policy and a sector wide approach to reform.</td>
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<td>3.4 Creation of new court divisions to increase efficiency.</td>
<td><strong>3.4.1.</strong> SC has approved revised rules of the CTA to reflect court’s expanded jurisdiction.</td>
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<td><strong>3.4.2.</strong> RA 9503 (June 2008) was passed establishing a third division in the CTA.</td>
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<td>3.5 Strengthen investigation, prosecution, and adjudication functions of</td>
<td><strong>3.5.1</strong> DOJ has adopted and implemented in the national capital region a capacity development strategy for NPS prosecutors, including a core curriculum, to develop the basic skills that prosecutors need, including skills needed to successfully prosecute a tax evasion case.</td>
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<td>justice sector agencies.</td>
<td>NPS shall create an internal management unit to undertake program development and change management strategies. The unit shall be in operation immediately after its creation.</td>
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<td>DOJ to develop and pilot a strategy to enhance the NPS internal management unit’s capacity to design, monitor, and evaluate project impact and oversee change management.</td>
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<td>NPS to implement the DOJ-developed capacity development programs for and its field offices, and continue implementation in national capital region.</td>
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<td>DOJ to reflect in its budget submission to DBM for 2010 budget for all programs implementing the NPS capacity development strategy. The NEP for 2010 shall reflect provision of line item budget to implement the strategy.</td>
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<td><strong>3.5.2 DOJ has developed a prosecutors’ manual, which includes sections on the prosecution of tax evasion cases and cases involving human rights violations.</strong></td>
<td>SC to implement a training program for (i) nonjudicial personnel (e.g., sheriffs and staff in oversight agencies) that focuses on enforcement of court decisions and orders and staff integrity; (ii) RCAO, OCA, and other offices performing oversight functions staff to enhance financial management and administrative capacity and related oversight.</td>
<td>SC to institute orientation programs for new nonjudicial staff.</td>
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<td><strong>3.5.3 SC has developed and initiated a distance learning program for judges to update their knowledge and skills related to remedial and civil law and e-commerce.</strong></td>
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<td><strong>3.5.5 SC has developed a human resource development program for nonjudicial personnel.</strong></td>
<td>SC annual budget to reflect an allocation for orientation and training of nonjudicial personnel.</td>
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<td><strong>3.6 Amendment of rules and procedures to promote efficiency.</strong></td>
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<td><strong>3.6.1 SC has amended Rule 65 of the Rules of Court to clarify when a petition for certiorari may or may not be entertained, to address misuses, abuses, and overuse of these petitions.</strong></td>
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<td><strong>3.6.2 Sandiganbayan has implemented continuous trials on a pilot basis.</strong></td>
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<td>Sandiganbayan to implement and mainstream continuous trials in all divisions.</td>
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<td><strong>4. Improved Access to Justice by the Poor and Vulnerable Groups</strong></td>
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<td><strong>4.1 Improve access to justice by the poor and vulnerable groups.</strong></td>
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<td><strong>4.1.1 SC has organized a nationwide forum on increasing access to justice by the poor</strong></td>
<td>SC to complete the design of a nationwide access to justice program</td>
<td>SC to implement its Access to Justice by the Poor Program</td>
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<td><strong>4.1.2 Three Justice on Wheels buses have started scheduled operations as mobile courts and mobile court-annexed mediation centers.</strong></td>
<td>NEP for 2011 to include budgetary allocation for its Access to Justice by the Poor Program.</td>
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<td><strong>4.1.3 SC has adopted rules of procedure for the expedited handling of small claims cases.</strong></td>
<td>SC to designate at least 22 first level courts as small claims courts that will pilot new rules</td>
<td>SC to evaluate pilot small claims courts and make recommendations for further</td>
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<td>and procedures to expedite the handling of small claims.</td>
<td>implementation. SC to designate the recommended number of first level courts nationwide as small claims courts, based on the evaluation.</td>
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<td>4.1.4 SC has adopted a gender action plan and conducted gender-sensitivity trainings for judges, SC lawyers, clerks of court, and legal researchers.</td>
<td>SC to evaluate implementation of its gender action plan.</td>
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<td>4.1.5 PNP has established 1,700 women and children desks at police stations.</td>
<td>PNP to develop and implement capacity building and training program for staff of its women and children desks.</td>
<td>PNP to establish system for monitoring and evaluating the performance of its women and children desks.</td>
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<td>4.2. Improve detained prisoners' access to justice</td>
<td>4.2.1 BJMP has piloted the Simplified Inmates Records System (SIRS) to monitor the inflow and outflow of accused persons, including those awaiting trial</td>
<td>BJMP to enhance the SIRS and develop a roll out plan for SIRS in the national capital region, and three other selected regions. BJMP to replicate SIRS in Quezon City, and three other selected regions.</td>
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<td>4.2.2 BuCor has launched a re-engineering program to strengthen its organizational structure and monitoring of organizational program.</td>
<td>SC, BJMP, BuCor and PAO to formulate, adopt and implement a comprehensive jail decongestion program.</td>
</tr>
<tr>
<td>5. Expanded Delivery of Justice through Alternative Dispute Resolution</td>
<td>5.1.1 Supreme Court has adopted a strategy to roll out and expand court-annexed mediation, (2) train mediators, (3) expand coverage of cases of “mediatable” cases; (4)</td>
<td>SC to roll out court-annexed mediation to selected sites. SC to complete roll out of court-annexed mediation.</td>
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<td>Monitor the referral by judges of &quot;mediatable&quot; cases to the Philippine Mediation Center and periodically publish data on the number of cases referred by court.</td>
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<td>5.2 Address impediments to the enforceability of foreign arbitration awards and promote efficiency of dispute resolution mechanisms.</td>
<td>5.2.1 SC has completed a study evaluating the impediments to resolving commercial disputes in the Philippines, including issues relating to the enforceability of foreign arbitration awards in the Philippines.</td>
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<td>5.2.2 DOJ has finalized the implementing rules and regulations of the Alternative Dispute Resolution Act of 2004 and submitted the draft to Congress for adoption/ratification.</td>
<td>DOJ to establish the Alternative Dispute Resolution Office, upon approval of implementing rules and regulations by Congress.</td>
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<td>5.3 Enhance operations of barangay justice system</td>
<td>5.3.1 <strong>Supreme Court has conducted an assessment of the coordination of the barangay justice system and the judicial system in Region 7.</strong></td>
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<tr>
<th>Core Policy Areas in GJSRP</th>
<th>Components</th>
<th>ADB Support for Policy Reforms</th>
<th>Major Support from Other Development Partners</th>
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</table>
- International conference and showcase on judicial reforms |
| | Implementation of a medium term expenditure framework and increasing transparency relative to the sources and uses of funds | -Design and recommendation of decentralized administrative and financial management structure for the judiciary | European Commission  
- National Summit on Extra-Judicial Killings |
| | Support for progressive adjustments in salaries towards a market benchmark | ADB TA 4832-PHI: Enhancing the Autonomy, Accountability, and Efficiency of the Judiciary, and Improving the Administration of Justice | UNDP  
- Blueprint of Action for the Judiciary |
| | Increase national budgetary support to justice sector agencies | -Development of detailed structure, staffing, operating procedures and systems of pilot regional court administration office (RCAO) with capacity building and change management support | USAID  
- 2007 Judicial and Bar Council Strategic Planning Workshop |
| | Showcasing, through a pilot program, decentralization efficiencies and full transparency in sources and uses of funds | -Support to implement pilot formula for standardizing local government contributions to judiciary | The Asia Foundation  
- Provision of court equipment |
| | Justice sector agencies to allocate additional resources to local and field offices | -Support for developing a framework for a long term strategy for the justice sector | The World Bank  
- Preparation of Infrastructure Master Plan |
| 2. Enhanced Justice Sector Integrity | Ensuring integrity and higher standards of conduct in justice sector agencies | ADB TA 4686-PHI: Harmonization and Managing for Results | USAID  
- Judicial Reform Support Project (JRSP) |
| | Increase transparency of judicial decisions | ADB TA 3693-PHI  
-Desk review, study and recommendations regarding the judicial selection process | The Asia Foundation  
- Judicial Ethics Symposium |
| | | ADB TA 4832-PHI  
-Development of a new accountability system in the centralized court structure (integrity unit) | The World Bank  
- JRSP |
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| 3. Supporting Efficiency in the Justice Sector | Case tracking and caseflow management to ensure timely administration of justice | ADB TA 4832-PHI | AusAID  
  - Development and production of benchbook for trial court judges  
  - Training needs assessment of judicial personnel |
|                           | Coordinating information to increase efficiency and effectiveness | - Developing a framework for a national justice information system and a related ICT framework  
  - Developing business processes integrating the barangay justice system into judicial processes in Region 7  
  - Improving connectivity in courts  
  - Developing a case management system for the National Prosecution Service  
  - Providing research materials and training to the National Prosecution Service and the Court of Tax Appeals  
  - Support for developing a framework for a long-term strategy for the justice sector | CIDA  
  - Case Administration Management Information System (CAMIS)  
  - Study program for judicial educators  
  - Supreme Court Information System Strategic Plan (ISSP) formulation  
  - Training of justices and judicial educators on legal education and court management at the Commonwealth Judicial Education Institute (CJEI), Halifax, Canada |
|                           | Creation of new court divisions to increase efficiency | ADB TA-PHI: Enhancing Revenue Collection and Strengthening the Criminal Prosecution of Tax Evasion | UNDP  
  - Expanded caseload survey  
  - Strengthening of the Shari'a justice system |
|                           | Strengthen investigation, prosecution, and adjudication functions of justice sector agencies | ADB Process Map on the Prosecution of Criminal Tax Evasion Case | USAID  
  - Development of a court management manual  
  - TA on continuous trial system at the Sandiganbayan  
  - Training/workshop on records Management, control, and archiving  
  - Caseflow management assessment in the Autonomous Region in Muslim Mindanao (ARMM) |
|                           | Amendment of rules and procedures to promote efficiency | | The Asia Foundation  
  - E-Commerce Law Project  
  - Strengthening implementation of the code of Muslim personal law  
  - Development of a uniform manual of style for the Supreme Court  
  - Study of the possible expansion of the scope of recognizance  
  - Study on the expansion of the scope of the rule on summary procedure for criminal cases  
  - Caseflow management pilot project in Pasay City courts |
|                           | Establishing a Government-wide coordinating council to provide policy guidance for the development, implementation, financing and periodic review of a justice sector policy and a sector-wide approach to reforms | | }
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| 4. Access to Justice by Poor and Vulnerable Groups | Improve legal representation for poor and vulnerable groups | ADB TA 4832-PHI -Support for integrating the barangay justice system into judicial processes in Region 7 | • Docket decongestion at the Court of Appeals  
• Concepts of law and economics and corporate governance  
• Strengthening the rules in civil forfeiture and money laundering |
<p>| | Improve the vulnerable groups’ access to services relating to the delivery of justice | ADB TA 6217-RETA: Challenges in Implementing Access to Justice Reforms | |</p>
<table>
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<td>5. Expanding Delivery of Justice through Alternative Dispute Resolution</td>
<td>Enhance operation of the barangay justice system</td>
<td>ADB TA 4832-PHI - Support for integrating the barangay justice system into judicial processes in Region 7</td>
<td>USAID - Small-claims Court Pilot Project, Gender sensitivity trainings</td>
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<td>Expand and institutionalize court-annexed mediation</td>
<td>ADB Process map on the resolution of commercial disputes</td>
<td>CIDA - JURIS Project: Operationalization of court-annexed mediation and alternative dispute resolution in six model court sites; training for judges and mediators to serve as facilitators and mentors in alternative dispute resolution training; mainstreaming of skills-based methodology Building sustainable community alternative dispute resolution systems in Culion, Palawan The Asia Foundation - Evaluation of the mediation project and refresher course for mediators Support drafting of bill on alternative dispute resolution programs Strengthen court-referred mediation Review of the barangay justice system</td>
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A. Key Agencies

1. The Philippine justice system, which enforces laws established by the Legislature, consists of a network of institutions involving the other two branches of Philippine Government, namely the judiciary and the executive. The judiciary, the core justice sector institution (discussed extensively in para. 4), interprets laws and determines their application in actual disputes. The executive branch is in charge of implementing the existing body of laws and plays a variety of roles in justice sector operations. It supervises certain offices that have been granted investigatory, prosecutorial, or dispute resolution powers. It has the prerogative to choose whom to prosecute for criminal violations and the power to apprehend and punish lawbreakers. It also has the power to grant reprieves, commutations, and pardons; and remit fines and forfeitures after a final judgment of conviction had been issued by a court. In addition, laws have granted certain agencies under the executive quasi-judicial powers the authority to resolve certain disputes within these agencies’ specific jurisdiction as set forth by the law, which generally may be appealed to the judiciary on questions of law (as opposed to questions of fact). An overview of justice sector agencies is provided below.

2. The judiciary, led by the Supreme Court, is an independent branch of government co-equal to the executive and legislative branches. The judiciary comprises the Supreme Court, Court of Appeals, Court of Tax Appeals, the Sandiganbayan (a special anticorruption court), and lower courts. There are some 2,166 lower courts throughout the country, including 56 Shari’a courts in the Autonomous Regions of Muslim Mindanao (ARMM). Under the 1987 Constitution, judicial power expressly includes not only the settlement of controversies involving legally-enforceable rights, but also it is the duty of the courts to review acts of government for possible grave abuses of discretion. The Constitution also strengthened judicial independence. Its powers to appoint, discipline, and remove officials and employees of the judiciary for cause, and to adopt its own rules of procedure were recognized. It granted the judiciary fiscal autonomy and prohibited the reduction of appropriations for the judiciary below the previous year’s level. All courts and court personnel are under the administration and supervision of the Supreme Court. (A discussion on judicial independence appears in the section on Sector Issues below.)

3. In the executive branch, a key justice sector agency is the Department of Justice (DOJ). The Secretary of Justice is tasked with the protection of the Government’s and people’s legal interests. Assisted by the DOJ’s legal staff, the Secretary provides legal advice and a variety of legal services to the Government, its functionaries, government-owned and -controlled corporations and their subsidiaries. An attached, though autonomous, agency is the Office of

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1 Although private individuals may choose to resolve disputes among themselves, and even as dispute resolution may take place in other government branches—for example, certain disputes are resolved by an administrative body exercising quasi-judicial power under the executive branch—the judiciary is the only agency that has the power to interpret the law when the law is unclear or susceptible to different interpretations, and protect rights and resolve disputes in accordance with their definitive interpretation of the law. Moreover, the judiciary exercises the power to review the decisions and actions of any government agency to determine if they have been performed “with grave abuse and discretion” or “with lack or in excess of jurisdiction.”

2 See for example art. vii sec. 19 of the 1987 Philippine Constitution, which explicitly gives his power to the President, subject to the following limitations: (i) it cannot be exercised in impeachment cases, (ii) it can be exercised only after conviction by final judgment, and (iii) the president may grant amnesty (granted to classes of persons guilty if political offenses) only with the concurrence of all Members of Congress.

3 Other measures to protect judicial independence include (i) The Constitution prohibits Legislature from depriving the Supreme Court of jurisdiction vested by the Constitution or reorganizing the judiciary so as to determine the security if judicial tenure. (ii) Justices and judges hold office in good behavior until age 70 and their salaries may not be decreased.
the Solicitor General, which represents the Government in civil cases, and in criminal cases on appeal. Being autonomous, it is not subject to the direction of the Secretary of Justice.

4. The National Prosecution Service (NPS), which is in charge of making a preliminary investigation of criminal complaints and the prosecution of alleged offenders, is an integral part of DOJ and is subject to the direction of the Secretary of DOJ. It is headed by a chief state prosecutor who is appointed by the president. Its authorized workforce of more than 4,000 personnel is divided almost equally between prosecutors and support personnel. Unfortunately, there are a very large number of vacant positions in the civil service and salaries are too low to attract applicants. The prosecution of corruption cases in the Sandiganbayan—that is, those cases brought against senior public officials—is managed by the Office of the Ombudsman, which is an office provided for in the Constitution. The Office of the Ombudsman, through its Office of the Special Prosecutor, has exclusive responsibility for prosecuting corruption cases in the Sandiganbayan. The Office of Ombudsman shares with the NPS the function of prosecuting lower ranking officials before the regular courts. The office also handles administrative complaints against public officials.

5. The principal law enforcement agency is the Philippine National Police (PNP), a force of some 125,000. The National Police Commission provides oversight for the PNP. However, the agency also needs to be responsive to local governments that have roles in police recruitment and discipline, and provide supplemental resources. Also, the PNP is often called on to carry out functions for other law enforcement agencies that have less of a national presence, such as the Philippine Drug Enforcement Administration. Administratively, the PNP is under the jurisdiction of the Department of the Interior and Local Government (DILG). The National Bureau of Investigation (NBI) is the premier investigative law enforcement body, with about 1,700 plainclothes investigators and related staff. The NBI is attached to DOJ. About 30 other national agencies exercise some law enforcement function. Coordination among law enforcement agencies is carried out through the National Law Enforcement Coordinating Council.

6. The Constitution provides that the Government has a duty not only to prosecute alleged offenders, but also to defend indigent persons who are accused of committing crimes. The Public Attorney’s Office is the principal organization responsible for fulfilling this constitutional duty. In 2006 alone, the Public Attorney’s Office provided assistance to about 4.6 million poor clients in a range of criminal, civil, and administrative cases. The Public Attorney’s Office is an attached agency to the DOJ for purposes of policy and program coordination, and, unlike NPS, is autonomous from DOJ. Autonomy was granted in 2007 in recognition of the Public Attorney’s Office’s responsibility to act in criminal proceedings as the adversary of the NPS, which is under the control of the DOJ Secretary.

7. The criminal justice system includes the common practices of incarceration of individuals charged with serious offenses, imprisonment of those convicted, and programs for the rehabilitation of offenders and their reintegration into society. Administration of correctional and rehabilitation facilities is fragmented, and is performed by several agencies. The Bureau of Jail Management and Penology (BJMP) of the DILG is responsible for the management and operation of about 1,100 district, city, and municipal jails. These are facilities for the detention of those against whom criminal charges are pending as well as those serving sentences of three years or less. BJMP’s 2007 authorized staffing pattern consists of almost 7,000 positions, more than 98% of which are for uniformed personnel, and includes a prisoner-to-guard ratio of nine

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4 The Constitution guarantees to every person under investigation for the commission of an offense the right to “competent and independent counsel.” This includes the right of a person who cannot afford counsel to be provided with one.
prisoners to one guard. Prior to the BJMP’s creation in 1991, the management of these facilities was under the jurisdiction of the PNP. However, stagnant budgets and a growing jail population have impeded the transfer of functions to BJMP. Therefore, about 750 municipal jails remain under PNP control. The Local Government Code also authorizes provincial governments to operate jails for detainees awaiting trial and serving sentences of 3 years or less. There are 79 provincial and 25 sub-provincial jails whose wardens are appointed by provincial governors and that operate separately from the BJMP and PNP jails.

8. The Bureau of Corrections (BuCor), an integral part of the DOJ, operates seven national penitentiaries for the incarceration of prisoners serving sentences of more than 3 years. The Bureau also operates a juvenile training center, completed in 2003, and a drug treatment and rehabilitation center created in 2002. As in the case of jails, the population of facilities operated by BuCor is growing. The capacity of the nation’s prisons is 19,600, but occupancy exceeds 25,000. BuCor has about 2,400 authorized positions, of which 60% are in custodial roles, a prisoner-to-guard ratio of 3.64 prisoners to one guard. Rounding out the set of corrections and rehabilitation institutions are the Board of Pardons and Parole (BPP) and the Parole and Probation Administration (PPA), both integral units of DOJ. BPP recommends to the president the grant of pardon and other forms of executive clemency, grants parole to qualified prisoners, and authorizes the transfer of residence of parolees and pardonees, orders their arrest and recommitment, or grants their final release and discharge. PPA oversees offenders who are likely to respond to individualized and community-based treatment programs. Both agencies are under the control and supervision of the DOJ Secretary.

9. Alternative dispute resolution mechanisms exist within and outside the judicial system to settle civil disputes and the civil aspects of criminal cases:

(i) The barangay (village) justice system uses conciliation, mediation, and arbitration to resolve disputes between residents of the same municipal unit. Procedures are informal, under the direction of the elected barangay chairman. The parties may not be represented by lawyers. The number of cases handled each year under this system approaches the number of cases decided by the Philippine courts. The settlement rate is about 75%. Disputes eligible for consideration under the barangay justice system must use that system before being filed in court. If the system does not resolve a dispute, a party may take it to the court that otherwise would have jurisdiction.

(ii) A Supreme Court-initiated system of court-annexed mediation is now operating with 731 courts in all regions. Since the institutionalization of court-annexed mediation through the establishment of the Philippine Mediation Center (PMC) under the Philippine Judicial Academy, several institutional innovations have been introduced such as appellate court mediation, family court mediation, mobile court-annexed mediation and judicial dispute resolution. With these mediation mechanisms in place, the number of mediated cases dramatically increased from 3,559 in 2002 to 19,825 in 2007, with an average success rate of 73%.

(iii) Indigenous populations in the Philippines (exceeding 12 million people) may use their own commonly-accepted justice systems and institutions, so long as they are compatible with national law and internationally-recognized human rights. The operation of customary legal systems is facilitated by the National Commission on Indigenous Peoples, which is authorized to hear appeals from decisions affecting indigenous populations.

(iv) Mediation and arbitration are available to the public sector. The volume of commercial mediation and arbitration remains quite limited. However, a new alternative dispute resolution law enacted in 2004 promises to invigorate the use
of these remedies. Implementing regulations have not yet been adopted to make the new legal regime operational. The 2004 Alternative Dispute Resolution Law mandates the establishment of an Alternative Dispute Resolution Office in the DOJ to facilitate implementation of the law.

10. Civil society plays a key role in justice sector reforms in the Philippines, are regularly consulted in the development and implementation of judicial and justice sector reform projects, and, on their own initiative, monitor the performance of some justice sector agencies. Among the key civil society stakeholders is the Integrated Bar of the Philippines (IBP). All 40,000 attorneys in the country are compulsory members of the IBP. The IBP is a primary channel for the discipline of attorneys, plays an active role in legal education, and provides legal assistance to the poor. The Supreme Court allocates a portion of its budget yearly to fund legal aid programs of the IBP. Philippine law schools are also important stakeholders of the justice sector. There are about 100 law schools, most of which are voluntary members of the Philippine Association of Law Schools. Some law schools operate legal clinics through which fourth year law students, supervised by licensed attorneys, represent indigent clients in court for free. Law professors, who are often concurrently sitting or retired judges, are frequently called upon to provide legal and policy advice concerning legal and justice sector reforms. Other stakeholders include organizations that do research, monitor the operation of the courts and government agencies, take public positions on justice policy issues, provide information to the public, and offer legal services to the poor.5

B. Initial Reforms

11. There have been three phases of reform since 1986. An initial phase of reform measures during the period following the February 1986 revolution created a sound constitutional basis for an effective justice system, helped to restore the independence of the judiciary, and initiated a continuing justice reform effort. A second phase of reform during the 1990s concentrated on strengthening the human and institutional capabilities that were required to respond to the increased workload and growing number of reforms in the judiciary and other justice sector agencies. Two key examples of such reforms in nonjudicial justice sector agencies were the Justice Sector Infrastructure Program that aimed to build court houses and facilities for prosecutors and public defenders and the creation of the Public Attorney’s Office. A third phase was introduced during the Action Program for Judicial Reform 2001–2006 (APJR). The APJR was a multi-year plan (2001–2006) that identified, prioritized, and implemented judicial reforms. It instituted a system of coordination among justice organizations and communication with stakeholders. Significant achievements include:

(i) improved judicial efficiency demonstrated by an increase in the number of cases disposed by courts;

(ii) a decreasing number of vacant judicial positions (due to the passage and implementation of a law increasing judicial remuneration by 100%, which attracted competent candidates);

(iii) the establishment of 113 court-annexed mediation centers nationwide (intended to facilitate access to justice); and

5 Some notable examples of the foregoing include: the Alternative Law Groups (free legal assistance to vulnerable sectors, paralegal training, legal reform advocacy); the Supreme Court Appointments Watch and Court Watch (monitoring judicial appointments and court performance); HLAF and Philippine Jesuit Prison Service (development of inmate record systems, free legal assistance to detainees, paralegal training, prison reform advocacy); and the Gerry Roxas Foundation (implementing USAID-funded support for the barangay justice system, capacity development of barangay justice advocates, paralegal training, mediation and community justice).
(iv) decentralization of court administration functions (currently exercised by the Supreme Court assisted by the Office of the Court Administrator in Manila) to a pilot regional court administration office (intended to increase efficiency).

12. Although the APJR focused on the development of a reform action plan for the judiciary, the Supreme Court encouraged the participation of other justice sector institutions in consultations and planning. The APJR proceeded on the assumption that the administration of justice was a task shared by the judiciary with the other branches of government and other pillars of the criminal justice system—the prosecution service, police and law enforcement, corrections, public defense, and the community. Without reforms taking place in other justice sector agencies, judicial reforms risked being less successful than expected. The APJR produced a series of diagnostic studies that provided the basis for policy reforms in the Department of Justice, the Office of the Ombudsman, the Public Attorney’s Office, and the Philippine corrections system. Subsequently, the DOJ created a Management Systems Office to coordinate its reform program. The Office of the Ombudsman adopted a Medium Term Anti-Corruption Program. The PNP launched its own reform program. The Public Attorney’s Office successfully lobbied for a law that implemented the recommendations of an APJR study on increasing the Public Attorney’s Office’s autonomy. These studies provided the opportunity in building the road map for reform of these institutions.

13. The APJR, which ended in 2006, appears to have contributed to improving the Supreme Court’s credibility. In 2007, the Social Weather Station survey of enterprises on corruption noted an increase in survey respondents who found the Supreme Court sincere in fighting corruption was a net 40% in 2006 to a net 46% in 2007.

14. Upon his assumption into office in 2006, Chief Justice Reynato Puno announced three broad priority areas for the judiciary: (i) the speedy and efficient resolution of court cases, including administrative cases against judges, lawyers, and court personnel; (ii) improving the integrity of the court; and (iii) access to justice. Under his leadership, the Supreme Court has continued, with strong support, APJR-initiated reforms falling into the three areas described above. As an example, the Supreme Court has pursued decentralization of the administrative and financial management functions to regional court administration offices (expected to speed up overall court efficiency, integrity and oversight) and designated 22 small claims courts employing judicial dispute mediation and expanding the Justice on Wheels Program (to improve access to justice)—all of which were begun during the APJR. This demonstrates a deliberate strategy to focus on APJR reforms that are expected to achieve results in areas that would improve perceptions of court performance and integrity, and increase access to justice.

15. The chief justice has also demonstrated concern for and an understanding of the judiciary’s resource constraints, as well as an interest in financial management reforms that would facilitate the judiciary’s capability to plan and demonstrate reasonable budget proposals, and assert fiscal autonomy (discussed in the section on Sector Issues below) during budget execution. For example, upon being informed that commitment to the Organization Performance Indicator Framework (OPIF) would enable the judiciary to plan and explain its budget proposals to the executive, which proposes the budget to the legislature, the chief justice expressed commitment to the OPIF and the Supreme Court has submitted in 2008 documents that demonstrate such commitment.

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6 See Supreme Court APJR website for more details: http://apjr.supremecourt.gov.ph/
7 Hard copies of the DOJ and PNP reform agenda, as well as the Medium-Term Action Plan of the Officer of the Ombudsman, are available upon request.
16. Although the chief justice appears to have focused on reforms that have a direct impact on the judiciary, he has not abandoned interest in coordinating justice reforms. Since his appointment, he has hosted two multisectoral summits, both of which have been lauded for demonstrating justice sector leadership: the Summit on Extra-judicial Killings, which brought together criminal justice sector agencies to discuss ways by which the extra-judicial killings may be halted; and the Summit on Increasing Access to Justice, which served both as a multisectoral consultative forum and venue for justice sector agencies to discuss possible ways by which they could coordinate efforts to bring access to justice. One example of a collaboration resulting from the latter is that the City of Manila and the Supreme Court launched a mobile court unit near the Manila City Jail a month after the Summit. The mobile unit was intended to speed up hearings of detainees at the Manila City Jail.

C. Sector Issues and Assessment of Performance

17. Judicial Independence and the Justice Sector. An independent judiciary is a key feature of an efficient justice sector. The Beijing Statement of Principles of the Independence of the Judiciary in the Asia Region, an international document signed by 32 chief justices from throughout Asia and the Pacific, including the Philippines, defines judicial independence in terms of a judiciary deciding matters impartially “without improper influences, direct or indirect, from any source.” The Beijing statement represents a remarkable consensus within the region of the minimum standards that need to be complied with in order to maintain the independence and effective function of the judiciary. It identifies the rule of law to be the aim and object of every justice system—otherwise, legal power becomes an instrument of oppression and corruption. The following are identified in the Beijing statement as features of judicial independence:

(i) the appointment of competent, incorruptible, and independent judges without discrimination or undue influence;
(ii) the security of tenure of judges, with removal only for incapacity or inappropriate conduct as determined by an independent tribunal;
(iii) judicial remuneration at an appropriate level, and guaranteed for the term of a judge’s appointment;
(iv) a guaranteed jurisdiction for a judge that cannot be altered except with the consent of the members of the court;
(v) judicial administration controlled by the court, especially in relation to the allocation of cases;
(vi) a relationship with the executive that is free of pressure upon the judiciary; and
(vii) adequate resources for the courts.

18. The Philippines’ colonial history and its experience with martial law contributed to a strong tradition of judicial independence. After the 1986 EDSA Revolution, the 1987 Philippine Constitution expanded court jurisdiction to include the power to review Government actions, including actions of the executive and legislative branches, and provided several measures demonstrating most of the features of judicial independence enumerated in the Beijing statement.

19. Judicial Fiscal Autonomy. A key provision of the judiciary’s fiscal autonomy is the automatic and regular release of the court’s budget after it has been approved by legislature.\(^8\) The same constitutional provision also states that the judiciary’s budget may not be reduced by

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\(^8\) Article VIII, Section 3 of the Philippine Constitution; CSC v. DBM, G.R. No. 158791, 10 February 2006.
Congress below the amount appropriated for the previous year. Fiscal autonomy aims to safeguard the last feature of judicial independence under the Beijing statement—that of ensuring the provision of adequate resources for the judiciary. However, despite the constitutional grant of fiscal autonomy, the Supreme Court has been hampered by effective executive control of the budgetary purse strings. In the course of preparing the National Expenditure Program, DBM reviews the budget proposals of the judiciary on a line-item basis and decides which items may or may not be included in the national budget. After Congress appropriates the budget, DBM allots the judiciary's budget in one lump sum. However, in the past, cash disbursements have been released on a transaction basis. As with executive departments under the supervision and control of the president, the judiciary is also subjected to cash availability timing issues.

20. **Fiscal Management to Strengthen Judicial Fiscal Autonomy.** Arguably, the resource constraints faced by the Government limit the judiciary's fiscal autonomy, in that the Government's fiscal position determines how much it can allot to the judiciary and other government agencies at any given time. However, it is also true that the Government's fiscal management capabilities—particularly in budget planning—can play an important role in strengthening fiscal autonomy, notwithstanding government budget constraints. As an example, DBM schedules its disbursement of cash allocations quarterly in accordance with the operational cash program submitted by government agencies. Ideally, a well planned operational cash program would allow DBM to plan for the disbursement of cash to priority agencies—e.g. fiscally autonomous agencies such as the judiciary—without referring to the Government's fiscal position or reviewing the agencies' expenditures as a precondition to releasing cash allocations. However, weak fiscal management capabilities and human resource constraints in the Supreme Court result in the preparation of operational cash programs that do not reflect the actual cash requirements of the Supreme Court each quarter. This makes it impossible for DBM to program a realistic schedule of cash disbursements for the judiciary and other fiscally autonomous agencies, especially when the Government's fiscal position is weak.

21. **Weak Financial Management Capabilities in the Justice Sector.** Weak budget planning and monitoring capabilities afflicts all justice sector agencies, and this prevents them from justifying requests and ultimately obtaining the resources that they need. As budget planning is done at the central office of justice sector agencies, field offices and court stations have even weaker financial management capabilities. These inherent weaknesses, together with the absence of resources in justice sector agencies to exercise stronger oversight functions concerning their field offices and the dearth of transparent procedures and accountability mechanisms with respect to the agencies’ use of public funds, all contribute to the perception that the agencies are susceptible to corruption. It also contributes to the reluctance of the oversight agency, DBM, to allow agencies greater flexibility and control over their resources.

22. Justice sector agencies under the executive branch—DOJ and its attached agencies (e.g., BuCor); the PNP, National Police Commission, and the BJMP, which is under the DILG—have adopted the OPIF, a public expenditure management reform that directs resources towards results and accounts for performance. The leadership of the judiciary also issued a statement early in the year on the judiciary’s commitment to use the OPIF in budget preparation, fiscal management, and planning. In addition, to showcase the judiciary’s commitment to the

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9 Article VIII, Section 3 of the Philippine Constitution.
10 These are the Commission on Elections, the Commission on Audit and the Civil Service Commission.
11 It will be noted that both the President and the Chief Justice have the statutory authority to realign resources and augment items within the budget of their government branch but only if the budget items exist in the first place.
12 In 2007, the CTA, Sandiganbayan, and CA began work on their OPIF-compliant budgets, which included the submission of a logical framework in their budget submissions.
OPIF, a regional court administration office (RCAO) being piloted by the Supreme Court in Region 7 prepared its proposed 2009 budget following the OPIF template and principles. It is expected that adoption of the OPIF across the justice sector will result in better internal governance arrangements and systems to capture performance data; and provide agencies with greater flexibility and control over their internal resource deployment.13 If done across all sector agencies, it is expected to provide a comprehensive, precise, and unified articulation of accountability in the use of public resources by justice sector agencies to the public and citizenry.

23. It should be noted, however, that the adoption of the OPIF is not a rapid process and will require significant strengthening of justice sector agencies’ financial management systems. Agencies in the justice sector need to set their own performance indicators and strategize the best ways to reach these indicators. Measuring the efficient and effective delivery of justice requires qualitative, and not only quantitative, measures. For example, the quality and legitimacy of judicial decisions may be as important, if not more important, as the number of decisions issued by a court. The development of benchmarks and reasonable indicators is a challenge for many agencies, which have never engaged before in similar exercises. Some agencies, such as the DOJ, which have adopted performance indicators, realize that they do not have the capability or resources to monitor and collect data from their field offices (in DOJ’s case, data from field prosecutors’ offices) to determine whether or not they have reached their targets.

24. Centralized financial and administrative management have also contributed to delays and inefficient performance. For example, requests to undertake repairs on court houses and justice sector buildings, replace equipment, and pay utility bills, need to be submitted to and processed by the Office of the Court Administrator (OCA) in Manila before the required action can be performed by lower courts. Both the judiciary and nonjudicial justice sector agencies suffer from a lack of sufficient telecommunications and information technology infrastructure or equipment connecting most courts stations or field offices outside of the national capital region to the relevant central office. Thus, requests are not processed quickly. This results in long delays in payment and the suspension of key services performed by court staff. To address the additional constraints resulting from a centralized financial and administrative system, the Supreme Court has piloted an RCAO to perform financial and administrative functions (including budget planning, physical assets, and human resource management) relating to the lower courts in three provinces in Region 7. The RCAO was launched by Chief Justice Reynato Puno in May 2008 and commenced operations in July 2009.

25. **Resource Constraints.** Although the nominal level of the court's budget can be protected by the Constitution, the increases are not high enough to protect against inflation. Although there have been annual increases in the judiciary’s obligation budget, its value in real terms and its share of the national expenditure program has decreased. While there was a slight recovery in real term budgetary allocation in 2007, it is not enough to meet the increasing demands of the courts workload. In fact, the budget allocation of the judiciary in 2007 can buy about 5% less goods and services when compared to its budget in 2000. With national government budgetary resources inadequate, the courts must turn to other sources of financing for their operations. Nonjudicial agencies suffer the same budgetary constraints as the judiciary. In general, while annual budgetary allocations increase in nominal terms, the real value of the budgetary allocation has decreased. Over the period 2000 to 2007, total budget in real terms for nonjudicial agencies may have dropped by 5%, with the DOJ experiencing a larger decline of about 15%.

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26. While there may have been extenuating reasons for these budgetary restrictions, the inefficiencies created and the damage done to the reputation of the justice sector agencies now requires that cooperative approaches be found to reverse these resource constraints. At the same time, when the focus is on these justice sector agencies for failing to achieve a rule of law that is believed satisfactory to the public and the business community in the Philippines, the budgetary restrictions on these agencies needs to be addressed within the context of achieving real gains in the rule of law with the additional public resources allocated to this sector.

27. The impact of the budgetary compression led justice sector agencies to prioritize recurrent expenses (primarily personnel). The result is that more than 80% of the budgets of justice sector agencies’ goes to salaries, leaving less than 15% for maintenance and other operational expenses, and less than 3% for capital investment (e.g., new facilities and equipment). This deviates from the profile of the national government budget, which devotes 32% to expenses for personnel services and around 58% to maintenance and other operational expenses. In the justice sector agencies there is a double squeeze on infrastructure, utilities, and supplies, which adds further pressure on their operations. Budget constraints have also resulted in low salaries that couple with antiquated equipment and infrastructure to create vacancies in staff positions and disincentives for efficient performance. As an example, there were 463 vacancies in the judiciary at the end of 2007, equivalent to 20% of the authorized positions. These vacancies have contributed to a backlog of cases that at the end of 2007 amounted to about 700,000 cases in all levels of the courts, with more than half in the regional trial courts. The congestion of case dockets is central to a multitude of problems, either as a cause or as an effect. In the NPS, at the end of 2007, only 1,500 out of 2,100 positions were filled.

28. Resource constraints also make justice sector institutions, particularly the judiciary, prosecution service, and law enforcement, susceptible to the influence of local government units (LGUs). Under the Local Government Code, LGUs may provide contributions to these agencies. Many LGUs contribute resources to lower courts, judges, and prosecutors within their territory. These contributions are not recorded in the financial accounting records of the agencies’ central offices. These schemes run the risk of undermining the independence of courts and the integrity of other justice sector agencies receiving such contributions, a risk that is further heightened by the absence of oversight capabilities in the central offices.

29. Justice Delayed. A major and persistent challenge to the justice system is the persistent perception of delay in the delivery of justice. The Constitution and law impose time limits on the judiciary, but generally have no counterpart provisions for other agencies involved in the administration of justice, particularly in phases where the likelihood of delay occurring is strong—during the police investigation, preliminary investigation stages, as well as during the enforcement of judgments. Thus, even if it were assumed that the courts kept well within the time limits imposed by the Constitution and the law, the perception of delay in the delivery of justice would continue to exist if accused individuals were detained for long periods in police facilities or in district prisons while waiting for a complaint to be filed in court. The interrelated nature of justice sector agencies’ operations requires that delay be decreased and prevented in all investigation, dispute resolution, and enforcement.

30. Until recently, total caseloads were increasing each year as the volume of cases entering the system was higher than the volume of cases leaving the system. That is, the

14 Of the total vacancies of 463 at end of 2007, over 100 was due to the lack of applicants for those positions, mainly relating to the lack of interest in potential applicants serving in rural and remote locations with the inadequate infrastructure and the uniformly low salaries being offered.
disposition rate was negative. More recently, caseloads have declined slightly because inflows have diminished and the courts are disposing of more cases than are being filed each year. However, the total number of cases disposed of has been declining despite the increase in the number of available judges as vacancies have been filled. The improved disposition rate has not resulted in significant improvement in the clearance rate, the volume of cases disposed of as a percentage of total caseload, and the low clearance rate means that backlogs remain high.

Table A4: Summary Of Caseload, Disposition, And Clearance Rates, 2004–2006

<table>
<thead>
<tr>
<th>YEAR</th>
<th>PENDING ON 1 JAN</th>
<th>INFLOW</th>
<th>CASELOAD</th>
<th>OUTFLOW</th>
<th>PENDING ON 31 DEC</th>
<th>DISPOSITION RATE (%)</th>
<th>CLEARANCE RATE (%)</th>
</tr>
</thead>
<tbody>
<tr>
<td>2004</td>
<td>751,579</td>
<td>478,019</td>
<td>1,229,598</td>
<td>491,273</td>
<td>738,325</td>
<td>102.77</td>
<td>39.95</td>
</tr>
<tr>
<td>2005</td>
<td>738,325</td>
<td>449,733</td>
<td>1,188,058</td>
<td>478,563</td>
<td>709,495</td>
<td>106.41</td>
<td>40.28</td>
</tr>
<tr>
<td>2006</td>
<td>709,495</td>
<td>414,765</td>
<td>1,124,260</td>
<td>445,483</td>
<td>678,777</td>
<td>107.41</td>
<td>39.62</td>
</tr>
</tbody>
</table>

Source: Office of the Court Administrator, Supreme Court
Note: Excludes Supreme Court.

31. Improvements in the disposition rate correlate with a number of reforms initiated under the APJR to increase court efficiency, including the pilot use of a caseflow management system in Pasay City Courts, and pilot court-annexed mediation and judicial dispute resolution at any stage of litigation. In addition, improvements in disposition rate also correlate with a decreasing vacancy in judicial positions, a development brought about by an increase in the compensation of judges by 100% through the grant of allowances funded by court fees. Further reforms to increase judicial efficiency include the establishment of case management information systems in the Supreme Court, Court of Appeals, Sandiganbayan, and Court of Tax Appeals with USAID support.

32. One reason contributing to the fact that backlogs in the disposition of criminal cases remain high notwithstanding the above-mentioned reforms is that judicial performance is affected by the performance of other justice sector agencies. Delays in criminal court proceedings have reportedly been caused in part by the nonappearance of witnesses, absence of prosecutors and public defenders during trial, the dearth of prosecutors and public defenders (who reportedly apply for judge positions, as the overall compensation of judges have increased substantially), and law enforcement officers’ delay in turning over evidence to the courts. Another recognized cause of delay in the criminal justice arena is the lengthy and complex procedures of the NPS for the determination of probable cause. To address this, NPS has completed a review of its business processes and is working on a prosecution case management system to enable NPS to track probable cause cases being resolved by its prosecutors.

33. **Access to Justice.** Access to justice is most commonly associated with access to the courts and the provision of legal counsel to those who cannot afford one. The Constitution makes it the Government’s duty to assure citizens free access to the courts and adequate legal assistance that “shall not be denied to any person by reason of poverty.” If a member of a poor family in the Philippines were accused of a crime, the family would likely be unable to pay for legal fees, even if the counsel for the accused provided his or her services for free. The Free Legal Assistance Group, a non-government lawyers’ organization that provides free legal assistance, estimated that the typical cost of a criminal case that is handled pro bono could be as high as P70, 300, which “represents the subsistence budget for an entire Filipino family of six for an entire year,” and is three times more than the average annual savings of a Filipino

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family based on official government statistics. In addition, the poor would have difficulty in posting bail for temporary freedom pending trial, providing travel costs for witnesses to attend trial hearings, or complying with documentary requirements. The costs are higher if free legal assistance is not provided. Private legal practitioners are said to charge an acceptance fee at the start of their engagement and an appearance fee for attending hearings. Acceptance fees are usually above P10,000, while appearance fees amounted to P1,000.

34. The Supreme Court has tried to operationalize the constitutional provision to provide free access to the courts by issuing a rule that exempts the poor from paying docket and other fees, including fees for the transcript of court proceedings kept by the court stenographer. Under the APJR, a Justice on Wheels program was established. Three mobile courts were deployed to bring court stations to remote areas and detention facilities far from court stations. Under Chief Justice Reynato Puno’s leadership, a multisectoral summit on increasing access to justice by the poor was held to enable the Supreme Court to consider reforms that would effectively increase access to the courts. As regards the constitutional mandate to provide the poor with adequate legal counsel, the Supreme Court provides relevant protections to the rights of the accused and providing free legal counsel to the poor in the Rules of Court. It has also adopted, as part of the Code of Professional Responsibility of Lawyers, the rule that lawyers cannot (i) reject the case of the defenseless or the oppressed; (ii) refuse to serve the needy; (iii) decline an appointment as counsel de officio or a request from the IBP Philippines to render free legal aid.

35. The Public Attorney’s Office, an autonomous office of public defenders whose services indigents may access for free, was created to fulfill the constitutional mandate to the Government to provide adequate legal counsel for the poor. Private sector efforts that are intended to increase indigents’ access to courts include free legal services offered by the IBP and law school-based legal aid clinics, where senior law students supervised by qualified attorneys appear before courts to represent indigent clients.

36. Access to justice in the Philippine context means more than free legal assistance or court-related assistance for the poor. The Constitution also promotes the rights of what are perceived to be the most vulnerable sectors in Philippine society and accords a high priority to social justice, guarantees full respect for human rights, and ensures the fundamental equality of women and men. It is replete with policies favoring labor, and recognizes the rights of indigenous cultural communities within the framework of national unity and development. In this context, access to justice refers to defending, or promoting, the rights of the groups identified in the Constitution as being in need of special protection—women, children, indigenous peoples, labor, and the urban poor. The constitutional mandate “does not require a judge to exhibit sensitivity to parties of a case at the expense of impartiality. Rather, it merely requires a judge to provide special protection for those particularly identified in the Constitution as marginalized,” and the challenge is how the judiciary can apply “this…legal framework to concrete cases involving vulnerable sectors with predictability and consistency.”

Rules of Court Rule 3, sec. 21 and A.M. No. 04-2-04-Supreme Court.
Rules of Court Rules 112–127.
37. **Jail Decongestion.** Access to justice by detained prisoners is currently a major problem in the Philippines. The number of detainees in BJMP-managed jails has increased considerably in recent years. From about 35,000 in 2000, the number of detainees grew to exceed 62,000 in 2006. About 10% are women and 2% are minors. Metro Manila jails reportedly hold 400 times more prisoners than their official capacity. A rehabilitation center in Cebu that was built for 400 was crammed with 2,600 detainees until recently. Over 95% of persons in BJMP-managed jails are detainees whose cases are still being tried and are not yet sentenced. Often detainees serve more time awaiting their trial than they would have for a conviction if their cases had been promptly processed following their arrest.

38. An inmate record system has been set up in pilot jails managed by the BJMP to more effectively monitor the inflow and outflow of detainees awaiting trial. The judiciary is deploying three Justice on Wheels buses to jails and detention centers to expedite the release of detainees when warranted. It is expected that this problem of detainees can be reduced over the medium term involving a set of focused actions coordinated with BuCor, BJMP, DOJ, DILG and the Supreme Court, in coordination with non-government organizations and development partners. The actions will include enhancements of BJMP’s pilot inmate record systems and the development of a rollout plan. Detainees who have stayed beyond the incarceration period that would have been meted, had they been convicted of the crime, would be set free, thereby decongesting overcrowded city and municipal jails. With the support of civil society and legal aid groups, such actions can be implemented and monitored. Coordinating these actions with the Supreme Court’s Justice on Wheels Program will put in place a comprehensive jail decongestion program.
SUMMARY POVERTY REDUCTION AND SOCIAL STRATEGY

Country/Project Title: Philippines/Governance in Justice Sector Reform Program

Lending/Financing Modality: Program Cluster

Department/Division: Southeast Asia Department/ Governance, Finance, and Trade Division

I. POVERTY ANALYSIS AND STRATEGY

A. Linkages to the National Poverty Reduction Strategy and Country Partnership Strategy

The Millennium Declaration signed by 189 heads of state in 1995 affirmed the global commitment to a “more peaceful, prosperous and just world”. The declaration sets forth the six values underpinning this commitment including freedom of fear from injustice, equality of men and women’s rights, solidarity, tolerance of diversity, respect for nature, and shared responsibility. The core values are translated into action through the Millennium Development Goals. The program cluster directly addresses freedom from fear and equality.

The program cluster is aligned with the MTPDP strategy and objective on social justice and basic needs. The MTPDP recognized the important link between rule of law and institutional reforms, and the strategy to fight poverty and promote inclusive growth. ADB strategy has identified the strengthening of Philippine institutions engaged in the administration of justice as critical to improving the investment climate and promoting inclusive growth. In this regard, the proposed program cluster will help create efficient and effective delivery of justice services to the public on a non-differentiated basis. Its focus on access to justice by the poor and women helps protect their access to social and other assets that will help them create sustainable livelihoods, an important step towards reducing poverty, as was determined under the Asian Development Bank (ADB) poverty assessment for the Philippines.

B. Poverty Analysis

Targeting Classification: General Intervention

1. Key Issues

The Philippine Governance in Justice Sector Reform Program is a general-intervention (GI) project that seeks to shorten the time and lower the cost of gaining justice for all, and to improve the capacity of the judiciary and key justice agencies to respond to complaints, particularly those related to violence against women and children, as well as gender-based discrimination. The direct beneficiaries of the project are all users of justice services through improved governance of the justice system. Both poor and non-poor people will be able to access improved justice sector services. The poor and women will disproportionally benefit from the program because they are the least able to afford or wait for justice.

C. Poverty Impact Analysis

The Governance in Justice Sector Reform Cluster Program has five components or policy action areas: (i) strengthened judicial fiscal autonomy and justice sector accountability, and improved access to resources; (ii) enhanced justice sector integrity; (iii) improved efficiency in the justice sector; (iv) increased access to justice by poor and vulnerable groups; and (v) expanded delivery of justice through alternative dispute resolution.

A participatory poverty impact assessment was conducted through separate interviews and focus group discussions in the program’s pilot site for the Regional Court Administrator’s Office, Cebu City. The barriers to justice for the poor include cumbersome procedures for small claims; the impact of long litigation times on livelihoods and income generation; for those in jail awaiting trial, court congestion results in additional financial burden on poor families; the actual cost of court litigation is beyond the capacity of poor families; and underserved areas increase transport costs bringing the overall cost of justice beyond the ability to pay of the poor. Non-financial barriers include inadequate understanding of basic legal rights and procedures, and the belief that judges will always side with the non-poor. Poor gender sensitivity among judges, Supreme Court lawyers, clerks, and legal researchers disadvantage women. Insensitive treatment of plaintiffs in crimes specific to women and children, such as violence against women and children, and sexual harassment, remains a significant issue.

Policy action area 1 has a positive indirect and medium term impact on the poor. Improved access to resources will enable modernization of the court system, higher salaries necessary to draw and maintain justice system positions with competent staff, and the increased independence and improved governance of the justice system. This will promote an efficient and
The justice sector staff has low awareness or appreciation of gender issues, especially in the area of gender-based violence, although there have been a number of gender sensitivity trainings for judges and other members of the court and the PNP. Sector agencies are not sensitive to the conditions and circumstances of women and other disadvantaged groups; (iii) and disadvantaged groups have limited knowledge of their rights; (ii) court processes as well as processes under other justice (The Government) under the effective application of pro-poor and gender-responsive policies, strategies and programs. Critical impediments to women’s sector and law enforcement agencies) on the constraints and challenges faced by their respective institutions to promote the quality of the justice system through better trained and gender-sensitized judges, court personnel, and mediators while providing a more expedient and affordable remedy.

II. SOCIAL ANALYSIS AND STRATEGY

A. Social Analysis

Rule of law is one of the basic needs of all Filipinos according to the Medium Term Philippine Development Plan. The program has been designed to meet the key areas that benefit the majority of the population who are not involved in litigation and for the minority that are. The program contributes to human security, reduces vulnerability to injustices that are beyond the capacity of the poor, and provides access to restitution should it be necessary. For those involved in litigation, the program develops the quality of the justice system through better trained and gender-sensitized judges, court personnel, and mediators.

B. Consultation and Participation

High-level and working-level consultations were held before and during the extended Fact-Finding Mission completed in July 2008. Moreover, the policy matrix of the cluster program was presented for comments and discussed extensively with stakeholders, including those in Cebu, the pilot site for the RCAO, in May 2008. The pro-poor focus of the program was guided by focus group discussions with community-level stakeholders in Cebu City, including micro-entrepreneurs, barangay council members, and women’s and other community level associations. In addition, consultations were held with organized non-government organizations focusing on the justice system, including Supreme Court Appointments Watch, Humanitarian Legal Assistance Foundation (HLAF), the Gerry Roxas Foundation, the Philippine Jesuit Prison Service Foundation, and the Integrated Bar of the Philippines.

2. What level of consultation and participation (C&P) is envisaged during the project implementation and monitoring?

Information sharing ☒ Consultation ☒ Collaborative decision making ☒ Empowerment

Program reforms include elements of information sharing, consultation, collaborative decision making, and empowerment. Examples of these are: (i) increasing the transparency and accountability of budgets and processes; (ii) creation of a justice sector agency-wide coordination council to provide policy guidance for the development, implementation, financing, and review of a justice sector policy and a sector wide approach to reforms. Development and expansion of alternative dispute resolution mechanisms empowers communities to meet their justice needs.

3. Was a C&P plan prepared? □ Yes ☒ No

The specific actions described are incorporated in the policy reforms to be implemented by the implementing agencies.

C. Gender and Development

The GJRP Program has been developed based on extensive consultations with relevant stakeholders (the Judiciary, judicial sector and law enforcement agencies) on the constraints and challenges faced by their respective institutions to promote the effective application of pro-poor and gender-responsive policies, strategies and programs. Critical impediments to women’s equal access to judicial services were documented in a gender assessment carried out by the Government of the Philippines (The Government) under the Action Program for Judicial Reform 2001–2006 (APJR). These included: (i) women and disadvantaged groups have limited knowledge of their rights; (ii) court processes as well as processes under other justice sector agencies, are not sensitive to the conditions and circumstances of women and other disadvantaged groups; (iii) and although there have been a number of gender sensitivity trainings for judges and other members of the court and the PNP, the justice sector staff has low awareness or appreciation of gender issues, especially in the area of gender-based violence.
(GBV). Building on these findings and the project-specific social/gender analysis, the Program has been designed to incorporate gender design features in all of its subcomponents. GAD-relevant conditions for tranche release have been included in the Policy Matrix [see policy actions 4.1.4, 4.1.5 and 5.3.1 under subprogram 1 and 2 (Appendix 2)]. In addition, the Government has requested the ADB to provide technical assistance (TA) grant to support the implementation of the GJRP. The TA, in its output 2, includes a range of activities aimed at increasing the gender capacity of the Judiciary, selected judicial and enforcement agencies to address critical issues related to GBV. The activities will be implemented by a national organization (nongovernment organization or academic institution) in consultation with the Committee on Gender Responsiveness in the Judiciary (CGRJ) at the SC, the Committee on Gender and Development of the DOJ and the Human Rights Office of the Philippine National Police.

2. **Key Actions.** Measures included in the design to promote gender equality and women’s empowerment—access to and use of relevant services, resources, assets, or opportunities and participation in decision-making process:

| Gender plan | Other actions/measures | No action/measures |

### III. SOCIAL SAFEGUARD ISSUES AND OTHER SOCIAL RISKS

<table>
<thead>
<tr>
<th>Issue</th>
<th>Significant/Limited/No Impact</th>
<th>Strategy to Address Issue</th>
<th>Plan or Design Measures</th>
</tr>
</thead>
<tbody>
<tr>
<td>Involuntary Resettlement</td>
<td>No impact.</td>
<td></td>
<td>☒ No Action</td>
</tr>
<tr>
<td>Indigenous Peoples</td>
<td>No impact.</td>
<td></td>
<td>☒ No Action</td>
</tr>
<tr>
<td>Labor</td>
<td>Improved equality of opportunity and treatment</td>
<td></td>
<td>☒ No Action</td>
</tr>
<tr>
<td>Affordability</td>
<td>Positive impact</td>
<td>The policy actions under the program are intended to reduce the cost and increase access to justice by general public, including the poor</td>
<td>☒ No Action</td>
</tr>
<tr>
<td>Other Risks and/or Vulnerabilities</td>
<td>No impact.</td>
<td></td>
<td>☒ No Action</td>
</tr>
</tbody>
</table>

### IV. MONITORING AND EVALUATION

Are social indicators included in the design and monitoring framework to facilitate monitoring of social development activities and/or social impacts during project implementation? □ Yes ☑ No

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LIST OF INELIGIBLE ITEMS

1. No withdrawals will be made for the following:

   (i) expenditures for goods included in the following groups or subgroups of the United Nations Standard International Trade Classification, Revision 3 (SITC, Rev. 3), or any successor groups or subgroups under future revision to the SITC, as designated by notice to the Borrower:

   Table A6: Ineligible Items

<table>
<thead>
<tr>
<th>Chapter</th>
<th>Heading</th>
<th>Description of Items</th>
</tr>
</thead>
<tbody>
<tr>
<td>112</td>
<td>Alcoholic beverages</td>
<td></td>
</tr>
<tr>
<td>121</td>
<td>Tobacco, unmanufactured; tobacco refuse</td>
<td></td>
</tr>
<tr>
<td>122</td>
<td>Tobacco, manufactures (whether or not containing tobacco substitute</td>
<td></td>
</tr>
<tr>
<td>525</td>
<td>Radioactive and associated material</td>
<td></td>
</tr>
<tr>
<td>667</td>
<td>Pearls, precious and semiprecious stones, unworked or worked</td>
<td></td>
</tr>
<tr>
<td>718 718.7</td>
<td>Nuclear reactors, and parts thereof, fuel elements (cartridges), non-irradiated for nuclear reactors</td>
<td></td>
</tr>
<tr>
<td>728 728.43</td>
<td>Tobacco processing machinery</td>
<td></td>
</tr>
<tr>
<td>897 897.3</td>
<td>Jewelry of gold, silver or platinum-group metals (except watches and watch cases) and goldsmiths’ or silversmiths’ wares (including set gems)</td>
<td></td>
</tr>
<tr>
<td>971</td>
<td>Gold, non-monetary (excluding gold ore and concentrates)</td>
<td></td>
</tr>
</tbody>
</table>


   (ii) expenditures in the currency of the Borrower or of goods supplied from the territory of the Borrower;

   (iii) expenditures for goods supplied under a contract that any national or international financing institution or agency will have financed or has agreed to finance, including any contract financed under any loan or grant from the Asian Development Bank;

   (iv) expenditures for goods intended for a military or paramilitary purpose or for luxury consumption;

   (v) expenditures for narcotics;

   (vi) expenditures for environmentally hazardous goods, the manufacture, use or import of which is prohibited under the laws of the Borrower or international agreements to which the Borrower is a party; and