

ENHANCING ACCESS
OF THE BASIC SECTORS
TO THE
JUDICIARY

Supreme Court - United Nations Development Programme (UNDP)
TECHNICAL ASSISTANCE TO THE PHILIPPINE JUDICIARY ON JUSTICE AND DEVELOPMENT



SUPREME COURT OF THE PHILIPPINES

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**ENHANCING ACCESS OF
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Emmanuel C. Buendia

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Supreme Court of the Philippines

Manila

FROM THE CHAMBERS OF

Hilario G. Davide, Jr.

CHIEF JUSTICE

Foreword

Upon my appointment as Chief Justice, I immediately set up goals for the Judiciary rooted in a mission and vision founded on immutable principles and core values of the administration of justice. Hence, the Davide Watch.

The pursuit of the Watch entails undertaking extensive improvements to the judicial system. This, in turn, requires the identification of the challenges to the Judiciary bearing in mind that judicial enhancement is a critical component of total public sector reform which demands that the concerns of the people be made central to all endeavors.

The Judiciary must, therefore, be sensitive to the people's expectations and respond to their changing goals and aspirations. Within the first year of my tenure, I conducted dialogues with judges and court personnel throughout the country to determine their views and even anxieties. Yet, it remains equally important to know the experiences and perceptions of members of the academe, media, local governments, regional and national agencies, NGOs, socio-civic organizations, religious groups and other sectors.

*Thus, I have vigorously pursued the initiative begun by my predecessor, the esteemed Chief Justice Andres R. Narvasa, to formulate, through consensus-building, a **Blueprint of Action for the Judiciary**. The Blueprint identifies courses of action to be implemented through the next five years with the end of strengthening the Judiciary. This effort is made possible with the assistance of the United Nations Development Programme and the National Economic and Development Authority, and competently implemented by the SC-UNDP Project Management Office under the aegis of Senior Associate Justice Josue N. Bellosillo.*

The core reforms identified and consultation mechanism instituted by the SC-UNDP Project have catalyzed the establishment of partnerships with organizations such as the World Bank, USAID, AusAID, and the Asia Foundation to pursue further judicial enhancement.

*Indeed, the Blueprint Mission — defined by the members of the Supreme Court as “an independent, impartial, effective and efficient Judiciary, protective of the rights of the people and the democratic institutions to ensure sustainable human development” — will complement the vision and mission of the Judiciary as it faces the difficulties and opportunities of this millennium. The Judiciary cannot but exert utmost efforts to realize the ideals of the **Blueprint**, and, therefore, the ideals of the people.*


HILARIO G. DAVIDE, JR.
Chief Justice



Supreme Court of the Philippines
Manila

FROM THE CHAMBERS OF

Josue N. Bellosillo
ASSOCIATE JUSTICE

Message

*The **Blueprint of Action for the Judiciary** is the propitious end-product of earnest and intensive discussions, public as well as private, over a long period of time about the urgency to refurbish and enhance the function and role of the justice system in the country. When conceptualized two (2) years ago, the consensus was that the system was in need of cutting-edge reforms that would bring it into the mainstream of contemporary socio-economic and political life and make it genuinely responsive to the needs of the Philippine community.*

Its formulation has been an arduous and uphill process. It first began with a comprehensive identification by the Justices of the Supreme Court of the focus areas for improvement and change. Thereafter, in-depth consultations, workshops and dialogues with different sectors of society all over the country were undertaken. The insights, observations and proposals drawn from these encounters were collated, distilled and crystallized and thereafter submitted to the Court for validation and the stamp of final approval.

But, the birthing process was also an extremely invigorating and learning experience, both for the Court and the public with whom it interacted. It opened the way to a keener and more profound understanding by stakeholders of the justice system of the nature, structure and workings of the court institution long perceived by many as a mysterious cloud-shrouded ivory tower. More importantly, it imbued in the public a deep awareness of its primary responsibility to assist the courts in the noble mission of administration and dispensation of justice and to respect and safeguard judicial independence at all times.

*The **Blueprint** therefore is a benchmark document for all of us, a take-off point for our collective journey towards the goals we have set for the judiciary in the next five (5) years. When the directions for the **Blueprint** were being charted, foremost in the minds of its proponents was the delineation of the parameters under its avowed mandate — that the judicial branch of our government as the constitutionally designated arbiter of all legal disputes must at all times endeavor to dispense justice that is accessible, swift, inexpensive, fair and impartial. It must ensure that the individual manning its ramparts possess judicial competency, knowledge, probity and integrity. This mandate flows to all level of the judicial*

structure: from the Supreme Court, the Court of Appeals, the regional trial courts, to the municipal and metropolitan trial courts, including the sharia courts.

While the courts are the ultimate arbiters of disputes among the citizenry or between private individuals and the government, the judiciary is that branch of government with which a person may not even have any direct contact or transaction in his entire life. This however should not be reason for indifference or apathy to the plight of the system itself. Every law-abiding citizen must show utmost concern about how laws are being implemented and applied by the courts, and how the selection process of those who will man them is done. We have witnessed how these basic concerns have been expressed by the people, most often in forceful and impassioned ways, and we have marveled at the infectious civic spirit that infused all the gatherings that we convoked and participated in.

*With this **Blueprint** we, conjoining with the citizenry, have taken the initial but decisive steps towards a truly democratic, impartial and incredible justice system. We are fortunate indeed to have been assisted in this ground-breaking endeavor by individuals possessed with dynamic and restless minds, visionaries acutely aware of the realities of the present but who see in the future a just and meliorative world for their countrymen. While there will be roadblocks and challenges strewn along the way, I have no doubt this beneficent partnership will endure and our goals realized, given the tenacity, resiliency and optimism that have always been the hallmark of every Filipino.*


JOSUE N. BELLOSILLO

ACKNOWLEDGMENT

This Paper is a product of the inspiration from serving the Basic Sectors through the Social Reform Agenda of the Ramos Administration. They are “those who have less in life (and therefore) should have more in law.” It is sincerely hoped that this Paper on “Enhancing Access of the Basic Sectors to the Judiciary” is a step in the right direction.

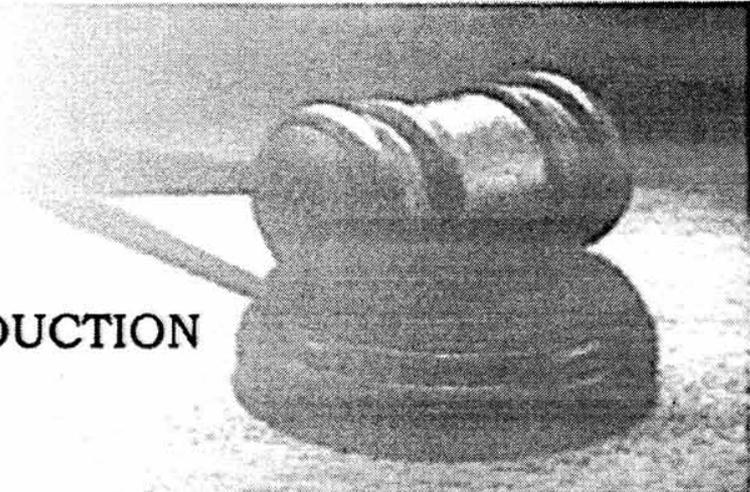
I also wish to express my appreciation and gratitude to the following, who helped to concretize my thoughts and ideas: Ms. Dolores De Quiros-Castillo, for editing my work; Mr. Carlos S. Bueno, for his suggestions and editing/layout design; and Ms. Rowena Remolona, for organizing and following through the various requirements, schedules and materials.

Finally, to the Lord above, for providing me the strength, courage and insights toward completing this Paper. May it serve to further glorify Him and all His Creation!

EMMANUEL E. BUENDIA

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INTRODUCTION

*T*he Judiciary ensures the attainment of people empowerment and sustainable development when it is uncompromising in fulfilling its mandate to serve the people. In recognizing this, the Judiciary affirms its understanding of its critical role in the ongoing development processes in the context of the legal and justice system.

The time has come for the Judiciary to concretely respond, within its mandate, to the Basic Sectors' clamor for overcoming the legal constraints that hinder their meaningful participation in development. It must heed the call of the poor, the Basic Sectors that comprise the majority of the country's population.

This issue paper on **“Enhancing Access of the Basic Sectors to the Judiciary”** articulates the interplay of justice, peace and development. It seeks to come out with the underlying analysis of issues on law, justice and social development. It also provides the legal, cultural, political and economic underpinnings of the Basic Sectors' subordinate status that impinge on the assertion of their rights and the redress of injustice on them. It further presents doable actions that can ensure the empowerment of people, particularly the poor, through the justice system. Moreover, the paper attempts to establish the fundamentals that the Judiciary may adopt in sustaining and improving the legal status of the Basic Sectors in the pursuit of people empowerment and sustainable development.

The series of consultations held on April 2, 16 and 24, 1998 with the active participation of the representatives of the Basic Sectors, legal non-government organizations, academe, Integrated Bar of the Philippines, and members of the Judiciary surfaced major issues as well as recommendations. These inputs provided significant insights in consolidating this paper.

This issue paper, therefore, can serve as a reference and a tool for all the key stakeholders of development within the purview of law and justice. The five (5) chapters of this paper substantiate the different components necessary in fully appreciating the varying and significant issues and the bases for effective courses of action.

Chapter One, *The Justice System in the Philippines: Proposed Framework on the Justice System and People Empowerment* provides the focus for analyzing and addressing the many issues related to the law, which impact on the majority of the people, particularly the poor and the disadvantaged. Moreover, Chapter One identifies the stakeholders that lay claim on the mandates for ensuring the exercise and protection of human rights, liberty and justice. It describes three tracks on how to foster and carry out justice. It also differentiates the aggressors and the aggrieved in the prevailing structures of inequities and injustice, including their causes and effects. Lastly, it puts a stress on the roles and functions of the government and the rest of civil society in pursuing the goals of justice, peace and development.

Chapter Two, *The Basic Sectors: Pushing for Social Reforms Toward People Empowerment*, describes the present-day realities and social reform issues of the so-called “disadvantaged sectors” of Philippine society. These sectors are the: farmers; fisherfolk; indigenous peoples; urban poor; workers in the formal and informal labor sectors; women; children; youth and students; persons with disabilities; senior citizens; and, victims of disasters and calamities.

In the context of basic human rights and Constitutional guarantees, Chapter Two situates the commonalities and diversities of the different groups of Basic Sectors. It also discusses their specific needs and life conditions as well as their state of marginalization and vulnerabilities. Furthermore, it highlights justice-related issues, including causes and effects that impact on the lives of the Basic Sectors.

Chapter Three, *The Total Judicial System: Corrective Mechanisms to Address Grievances and Redress*, briefly discusses the judicial system and its major

sub-systems, namely: the Integrated Court System, the Special Courts, and the Quasi-Judicial Agencies. Against this backdrop, the chapter details the implications of the judicial processes in relation to accessing justice for the Basic Sectors. It also identifies four major factors or hindrances for the Basic Sectors to effectively access the benefits of the judicial system. These factors are the delays in judicial proceedings; adverse or erroneous decisions rendered by courts; prohibitive costs of litigation; and, inadequacy or lack of information about the judicial system.

In view of these, a set of parameters for assessing the accessibility of the judicial system to the Basic Sectors is proposed. These include the **7 A's** that serve as measures for gauging access to the Judiciary by the poor, namely: **A**dequacy of judicial policies to protect the Basic Sectors; **A**ttention or fair treatment given to the Basic Sectors; **A**bility of justice practitioners to protect the rights of the poor; **A**vailability of judicial structures, personnel and information to the Basic Sectors; **A**ffordability of the costs of litigation; **A**cceleration of judicial processes; and **A**ceptability of court decisions.

Chapter Four, *Social Reform Laws: Preventive and Mitigating Mechanisms to Protect the Rights and Welfare of the Basic Sectors*, presents significant social reform laws that have a bearing on the socio-political and legal status of the Basic Sectors. It discusses areas of potential conflicts and disputes among and between the Basic Sectors and other interest groups. In addition, Chapter Four stresses the need to undertake efforts that address not only the above-mentioned concern but also the effective enforcement of social reform laws and other policy measures.

Chapter Five, *Initiatives and Proposed Actions: Enhancing Access of the Basic Sectors to the Judiciary*, outlines the current initiatives of the Judiciary and other institutions for improving the Basic Sectors' access to justice. Chapter Five submits a number of proposed courses of action for sustaining and enhancing ongoing initiatives as well as addressing emerging concerns. It calls on the judicial, legislative and executive branches of government, separately or collectively, to act on these proposals. Representatives of the Basic Sectors and the alternative law groups raised most of these proposals.

In conclusion, the paper reiterates the importance of pursuing all efforts towards attaining justice, peace and development. In partnership and close collaboration, the key stakeholders are called upon to redirect their central focus on the needs, concerns, aspirations and perspectives of the Basic Sectors. The Basic Sectors not only constitute the majority of the population, they are also vital contributors and partners in development and in the productive spheres of society.

If the wheels of justice turn slowly for these sectors and their rights are not protected, poverty seeps into their lives with more haste. Without justice, therefore, poverty does not only persist, it also spreads and grows. The injustices and inequities that sting the majority of our people erode our country's values, resources and potentials because they are not harnessed in our Basic Sectors.

Put the Basic Sectors, the poor, first in our agenda. Only they can effectively enable our nation, as a whole, to move toward real development. Sustainable growth and improved human well-being in our society can, after all, be realized only through an empowered majority.



Chapter One

PROPOSED FRAMEWORK ON THE JUSTICE SYSTEM AND PEOPLE EMPOWERMENT

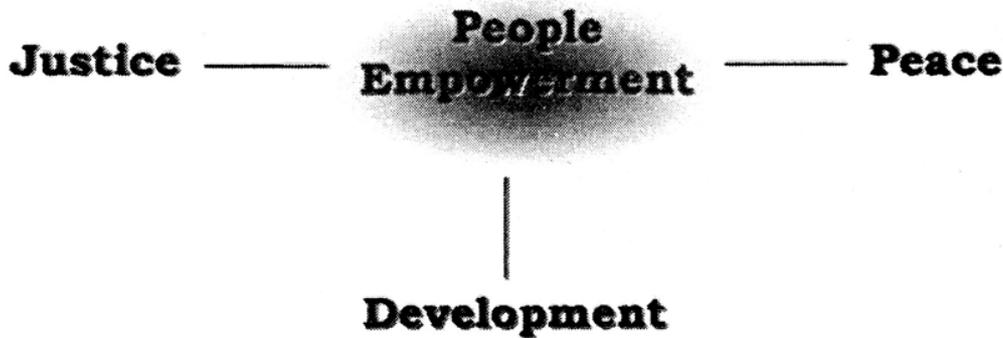
PEOPLE EMPOWERMENT

*W*e are striving to pursue and persevere on a path toward an over-arching vision that rests on people empowerment and sustainable development. This vision puts people at the core of development and ensures that all groups, especially the disadvantaged and poor sectors, equitably enjoy the benefits. It stresses the empowerment of people in molding a citizenry that holds an organic stake in the full cycle of achieving development.

The covenant between the State and the people is a development process that is sustainable and equitable. Most importantly, it promotes respect for human rights, non-violence, participation and self-determination. It is basically anchored on the actualization of potentials and capacities of people, with which they are able to become active participants in development as the main catalysts for positive change. It is not simply allowing the people the right to choose. It also means widening their access to viable opportunities for growth and the capability to make such choices productive and beneficial.

The State holds the responsibility to create an environment conducive for people empowerment. As it carries the mandate of the people and assumes the prime duties of service, government assumes very significant roles that include, among others, the protection of life, liberty and property, the maintenance of peace and order, and on the whole the promotion of the general welfare. These are essential preconditions for shaping an empowered citizenry and enabling communities to complement government efforts toward achieving real peace and prosperity, especially in the countryside.

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The empowerment of the people is *sine qua non* to attaining peace. Empowerment begins with individuals and communities able to appropriately exercise their rights with due respect to the rights of others, and thereby peace reigns. Peace, in turn, also brings about the environment that allows the people to fully harness their potentials and freely access opportunities for productivity and growth. Furthermore, people are able to actually enjoy the benefits of development such conditions nurture. Also, the living conditions of the poor are alleviated more effectively when there is rapid growth and development under such circumstances. In essence, peace brings forth a state where truth, freedom, equity, and justice predominate.

To attain peace, therefore, justice must prevail. Without genuine justice, there can be no real peace nor can progress and prosperity be sustained. The absence of justice breeds inequity and poverty — a state where people are chained to the vagaries of inadequacies, helplessness and loss of hope in life. People thus become decrepit and unmotivated, and may resort to all means, violent or non-violent, to express their disgust particularly over the debilitating conditions of poverty.

Development without the foundation of justice then becomes a hollow promise to the poor who are the majority, while only the few who wield the power to overcome or exploit the inequities in such a society are the ones who can actually benefit. Inequitable development — as manifested by a highly skewed distribution of wealth and power — becomes in and of itself the vehicle for perpetuating the hold of the rich and powerful. But such manner of development is a continuing burden for the poor who have little or no hope of breaking out of the vicious cycle of inequity and poverty.

In a Third World country like the Philippines, majority of the people is poor and disadvantaged. Many belong to the various groups of Basic Sectors, widely spread in the urban and rural communities. Being poor and marginal, they have less access to

opportunities for growth and development. The seeming inaccessibility of the justice system to the poor only serves to confirm and emphasize their vulnerabilities.

Because of debilitating poverty, the people's quest for justice is wrought with distrust, much uncertainty, and sometimes even with the supreme sacrifice of their own lives. They bear the brunt of the ill effects of inability or failure of some segments of the justice system. In the process, they are under-served and become highly vulnerable to depredation or even 'benign neglect.' Moreover, in many instances they may face great threats in exercising their rights and securing their own welfare. Less access to the basic protection of the judicial system demeans what little benefits of development they do achieve, and they become progressively less and less empowered. In such environment the culture of "unpeace" continues.

Justice as a Collective Effort among Stakeholders

Justice is a way of life of all civilized people. It is as much a basic right of ordinary people as for the rich and powerful. Justice denotes the vindication of rights and freedoms via the judicial system that is essential to government. In government, however, justice is not an exclusive concern of the Judiciary; it is as much the concern and responsibility of the Executive and Legislative branches as these components of government try to faithfully serve and protect the interests and welfare of all the people. Ultimately, however, the realization of rights and freedoms under a regime of justice may well rest in the hands of all citizens as they interact and inter-operate in the State toward making society the civilization that they collectively envision.

A fundamental task of government, as a whole, is to ensure that justice is served to individuals and their communities through the operation and collaboration of its three branches. The Legislative branch of government is vested with the powers to legislate and establish adequate legal measures for the protection of human rights and welfare, as well as the amendment or repeal of laws that undermine the general goals of society. The Executive branch is vested with the power to implement and enforce laws as well as execute legal remedies. The Judiciary exercises the

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mandate to determine objective and impartial decisions over conflicts, inconsistencies and disharmony in the development, formulation and implementation of laws. It also assumes the power to pass judgment on what legal remedies correspond to non-compliance of laws, and to hand down penalties and sanctions to erring individuals who abuse or disregard the laws of the land.

Civil society, on the other hand, is composed of the Basic Sectors, local communities, non-governmental organizations, civic associations, legal institutions, and others. It engages the government in qualitatively creating new inroads for social change and in implementing its vision of what society should be and how to achieve this vision. This sociopolitical configuration elicits great hope in expanding democracy and in promoting the protection of human rights and welfare of society. Specifically, civil society brings along the potential value for establishing a more effective alternative for ensuring justice for the poor. It provides the government with creative and innovative inputs for enhancing the delivery of justice. How it chooses to exercise its roles in shaping society is a foreboding of how the wheels of justice turn.

In the context of the common vision that they purport to achieve, the interconnectedness of the powers and functions of the three branches of government and the rest of civil society is apparent. It is therefore imperative that all these stakeholders join hands in building and sustaining a responsive and relevant justice system. They should define a common course of action based on a balanced perspective of justice for the majority. Separately and collectively, they should embrace and facilitate the emergence of the paradigm of development that is people-oriented, participatory, empowering and equitable. Together, they should set the stage for ensuring that justice benefits all toward sustainable human development and people empowerment.

The Three-Track Justice System

Justice is carried out in at least three (3) parallel tracks. The Criminal Justice System addresses the first track. It basically provides a mechanism for responding to crimes committed against aggrieved parties. Such a response is referred to as **Corrective Justice**. It focuses on the wrongs done by aggressors who are castigated with the corresponding penalties and sanctions. This track applies the five (5) pillars of the Criminal System, namely: Law Enforcement, Prosecution, Judicial, Correctional, and Community.



The second track dispenses **Preventive Justice**. It addresses the cause of injustice. It also emanates from the assertion that basic policies and programs are in place to protect the rights and welfare of people, as well as to deter infliction of harm to persons and properties. Under this track, the Executive agencies institute mechanisms for the enforcement of laws. They also set these laws in motion through the provision of adequate resources and structures. The legislature, on one hand, repeals, amends, or harmonizes laws and/or enacts new laws to provide further protection to specific sectors or for all individuals to address new realities in society. The Judiciary for its part reviews and modifies rules to allow speedier dispensation of cases, trains personnel and retools them to keep up with current developments. It also disseminates information in the barangays so that judicial processes are made understandable.

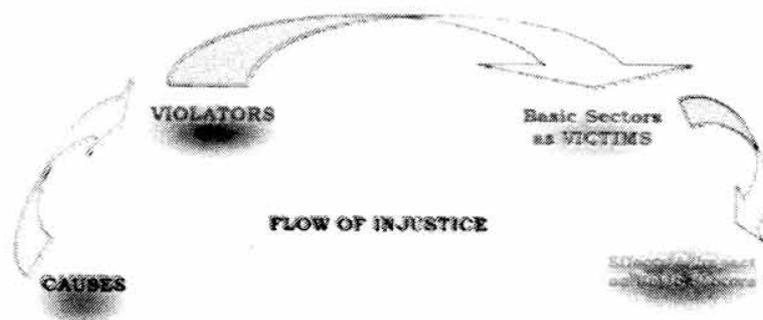
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The third track guarantees **Mitigating Justice**. It seeks to minimize the effects and lessen the impact of the harm inflicted on the physical, social, cultural or moral status of individuals or groups of individuals. Under this track, the Executive agencies render safeguards and protective programs to aggrieved parties. In the Judiciary, the Supreme Court undertakes automatic review of cases, particularly those that involve the imposition of the death penalty.

At the core of all these **Tracks of Justice** are the communities and the Basic Sectors. Their participation in the processes of the three branches of government is very crucial in ensuring adequate checks and balances in the administration of justice in the country. They have very important roles to play. In the **Corrective Justice**, they act as caretakers for released “prisoners” and help them get back to the mainstream of society. Their continuous advocacy and vigilance help to avoid injustice. Under the **Mitigating Justice**, they assist in lessening the harm inflicted on persons by providing relief assistance in the form of socioeconomic projects and psychosocial counseling support. Under **Preventive Justice**, they advocate for the issuance and implementation of policies as well as monitor compliance of concerned groups to specific laws. They also assist in ensuring that communities and their constituents understand the nuances of the critical laws and policies of government. Moreover, they espouse adequate representation of their ranks in major policy-making bodies, at all levels of governance, to secure the sentiments and aspirations of their constituencies.

The Flow of Injustice

In spite of past efforts to approximate the realization of these mandates, history tells us about people confronted with the legacy of structures of injustice and inequity. It is recognized that discrimination exists in the sphere of laws based on class, gender, and ethnicity. This situation is exacerbated by the state of poverty and the political disparities that impinge on the effective use of productive resources, delivery of services, and participation in governance and decision-making.



Inequity and injustice spring from the society's bias for those who hold power. Unfortunately, our people, especially the Basic Sectors, are still marginalized and sidetracked from the center of power that to this time remain in the control of a few. Power connotes the ability to unduly influence or otherwise shape the actions and behavior of others in accordance with one's designs. In reality, therefore, our means for achieving the common goals of empowering people and protecting the rights and welfare of the majority are still a long way from being concretized in practice.

A number of times, the enactment and enforcement of laws favor only a few. The so-called privileged few capitalize on the failure of the government machinery to enact policies or to effectively enforce the law. Others abuse their authority and use their powers to circumvent the law. While several of them violate the rights of others to satisfy their self-serving interests. Most of the time, the rich and powerful get away with it scot-free.

The weight of justice usually falls heavily on the poor and less privileged in favor of the rich and powerful. The Basic Sectors that comprise the poor majority continue to suffer discrimination. Their discrimination stems from a host of inequalities and inequities that include economic marginalization, political subordination, gender stereotyping, and other structural and social disparities. These biases heighten the domination of aggressors over the majority who bears the brunt of being poor, weak, helpless and vulnerable.

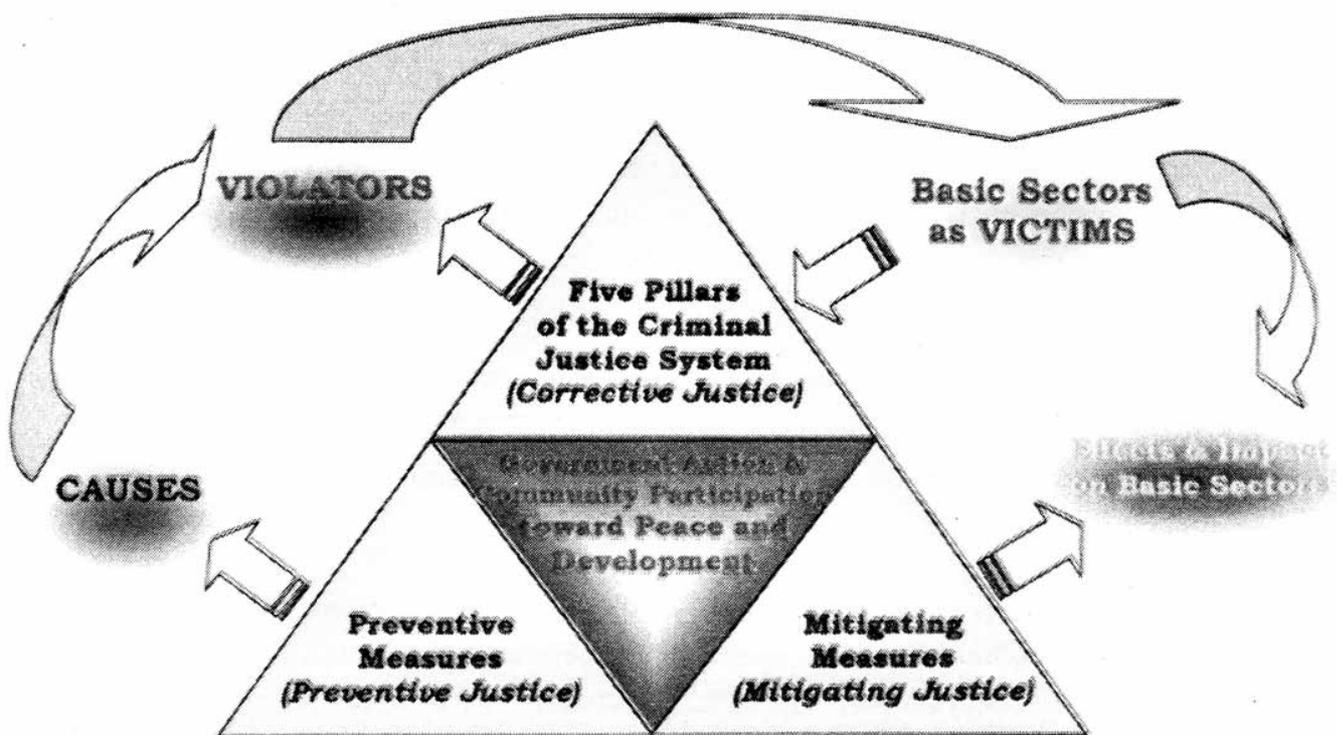
The Effects and Impact of Injustice on the Basic Sectors as the Aggrieved

In a society which limits individuals' right to humane and improved quality of life, which impairs people's dignity, which obscures people's dreams and aspirations, poverty effectively negates people empowerment. Consequently, the disadvantaged Basic Sectors suffer physical, social, economic and cultural displacements; violence against their persons; and curtailment of their rights and privileges. Their poverty situation worsens as the wheels of justice slowly turn. By common perception society has penalized them, not because they have done wrong, but because they are poor.

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The poor encounter numerous obstacles in asserting their rights, in harnessing their own potentials for growth and claiming the fruits of just and equitable development. In the community, they fear for their lives and property. They also confront a lot of insecurity due to the pervasiveness of criminality and, most of all, their lack of access to needed support mechanisms, such as the media and legal entities. At the workplace, they suffer discrimination, low wages, sexual harassment, and hazardous working conditions, among others. At home, they are vulnerable to demolitions, domestic violence, inadequacy of health services, lack of medical/dental support, and other basic needs. In all fronts, the poor doubly suffer and experience various forms of injustice.



**Proposed Framework on the
JUSTICE SYSTEM and PEOPLE EMPOWERMENT**

Chapter Two

PUSHING FOR SOCIAL REFORMS TOWARD PEOPLE EMPOWERMENT

SOCIAL REFORMS: THE CLAMOR OF THE BASIC SECTORS

*P*eople empowerment has been the battle cry since the 1896 revolution. This was echoed during the EDSA revolt in 1986. In 1994, the administration of President Fidel V. Ramos, together with the Basic Sectors, translated people empowerment into packages of reforms that constituted the Social Reform Agenda (SRA). These reforms seek to ensure that the majority of the people who belong to the disadvantaged sectors of society enjoy an equitable share in the benefits of development and advancement of the country. The SRA is the product of the collective effort of both government and civil society to put the “people” back in the center of development. It signified the growing partnerships between government and civil society in putting a face and flesh to “people empowerment.”

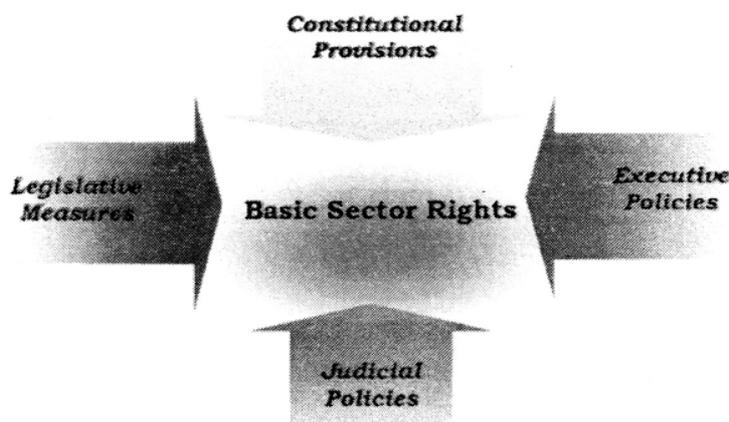
At the onset of the Estrada Administration, an enhanced SRA is being fleshed out into relevant and doable action agenda in the context of continuity and sustainability. Innovative and timely interventions are being formulated. All these aim to meet the emerging challenges of the future scenarios as well as enhance the reforms that the Basic Sectors now enjoy and benefit from. The past gains of SRA coupled with a forward-looking perspective of development for the poor substantiate the core objective of the present dispensation.

In the spirit of the Social Reform Agenda, government takes on three (3) major tasks. These lay the foundation upon which people empowerment can be secured and sustained.

- Government's responsibility to create an enabling environment that provides opportunities for enhancing the capacities, participation, and representation of the Basic Sectors in governance;
- Government's role to secure and protect the Basic Sectors' rights over productive assets and equitable share in the benefits of growth and development of the country; and,
- Government's mandate to address the Basic Sectors' survival needs through timely and efficient delivery of social services.

Basic Rights and Protection Guaranteed by the 1987 Constitution

The 1987 Constitution guarantees the protection of the rights and welfare of the Basic Sectors. It explicitly recognizes the sovereignty of the people. It lays importance on the people to exercise their rights, harness their potentials and participate in policy-making towards development and improved quality of life. It likewise mandates for the protection of life, property, and liberty of people for them to enjoy the benefits of development in a democracy. These are enunciated under Article 2 on State Policies, Article 13 on Social Justice and Human Rights and Article 15 on the Family.



The State declares the following policies:

- Free the people from poverty through policies and programs that promote an improved quality of life (Section 9, Article 2)
- Promote social justice in all phases of national development (Section 10, Article 2)
- Recognize the role of the youth in nation building (Section 13, Article 2)
- Recognize the role of women in nation building and their equality with men (Section 14, Article 13 on protecting the working women)
- Affirm the labor sector as the primary social economic force (Section 18, Article 2)
- Recognize the rights of Indigenous Peoples (Section 22, Article 2)
- Encourage the participation of the non-government and sectoral organizations (Section 23, Article 2)

Article 13 provides for the protection of human rights, to wit:

“The Congress shall give highest priority to the enactment of measures that protect and enhance the rights of all people to human dignity, reduce social, economic and political inequalities, and remove cultural inequities by equitably diffusing wealth and political power for the common good. To this end, the State shall regulate the acquisition, ownership, use, and disposition of property and its increments.”

Essentially, the rights of specific Basic Sector groups are:

- For Workers: Self-organization, collective bargaining, right to strike, security of tenure, provision of humane work conditions and living wage, representation and participation in policy and decision-making (Section 3, Article 13)

- For Farmers: Ownership of land, just share of the fruits of the land, participation in the agrarian reform program (Section 4, Article 13)
- For Fisherfolk: Preferential use of inland and offshore communal marine and fishing resources (Section 7, Article 13)
- For Urban Poor: Provision of decent and affordable housing (Section 9, Article 13); just and humane eviction and relocation, participation (Section 10, Article 13)
- For Persons with Disabilities: Rehabilitation and integration in society (Section 13, Article 13)
- For Indigenous Peoples: Preservation and development of their cultures, traditions, and institutions (Section 17, Article 14)

Under Article 15 on the Family, the State recognizes the needs and concerns of specific Basic Sectors:

- For Children: Right to assistance, proper care and nutrition, protection from all forms of neglect, abuse, cruelty, and exploitation (Section 3 [No. 2], Article 15)
- For the Elderly or Senior Citizens: Provision of care and just share in social security programs (Section 4, Article 15)
- For Women: Provision of safe and healthful working conditions, taking into account their maternal functions, and such facilities and opportunities that will enhance their welfare and enable them to realize their potential (Section 14, Article 13) as well as the recognition of their role in nation-building and the fundamental equality before the law of men and women (Section 14, Article 2)

The Basic Sectors' State of Marginalization and Vulnerabilities

Republic Act 8425, otherwise known as the Social Reform and Poverty Alleviation Act, institutionalizes the processes under the SRA that President Ramos pushed during his Administration. The law defines the coverage of the “disadvantaged sectors of Philippine society.” It includes at least 12 major basic sectoral groupings. They are referred to as the “poor.” The law defines them as individuals and families who “cannot

afford in a sustained manner to provide for their minimum basic needs of food, health, education, housing and other essential amenities of life.”

Most of the members of these sectors belong to at least 35 percent of households living below the poverty income threshold. These are the farmer-peasants, artisanal fisherfolk, indigenous peoples, urban poor, workers in the formal sector (including migrant workers), workers in the informal sector, women, children, youth (including students), senior citizens, persons with disabilities (differently-abled persons), and victims of disasters.

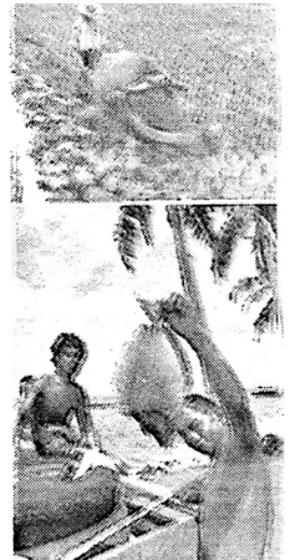
Farmers

In a predominantly agricultural economy like ours, the farmer sector constitutes about two-thirds (2/3) of the population. They are classified as small farm-tillers, tenants and landless rural workers. Most farmers produce rice and corn as their primary crops. Many do farming in coconut and sugar plantations.

As partners and beneficiaries of development, many of them encounter numerous problems and inequities in terms of access to productive assets and opportunities for growth. Their most nagging problems are land reform and the lack of support services. Most of them do not own the land which they till. They have limited access to agricultural support services, such as irrigation, credit, farm inputs, training, technology, infrastructure support for marketing and storage, post-harvest facilities, transportation facilities for their agricultural products, and alternative livelihood schemes.

Fisherfolk

Fisherfolk refer to individuals who engage in municipal and small-scale or subsistence fishing, which is their main source of income. They use fishing gears that do not require boats or require only boats below three (3) tons. There are about six (6) million fisherfolk and their families living in major coastal communities of bays and lakes around the country.



They usually suffer threats of displacement due to the encroachment of commercial fishing groups in their municipal waters, piracy and depletion of coastal resources. Illegal fishing practices such as destruction of corral reefs and dynamite fishing threaten their main source of income. The continuing over-exploitation and destruction of coastal resources and fishing grounds cause the income deprivation experienced by this sector. Other issues that add to the burden of the fisherfolk include the lack of post-harvest facilities and credit, inadequate structures and mechanisms to enforce fishing laws, and inadequacy in the delivery of basic social services.

Indigenous Peoples

At present, there are 110 ethno-linguistic groupings or types of indigenous peoples (IPs) and cultural communities around the country. As defined by the United Nations, they are descendants of the original inhabitants who retain a strong sense of their distinct cultures, the most salient feature of which is a special relationship to the land. They are identified as distinct and homogeneous communities that continuously lived in communally bounded and defined territories, sharing common bonds of language, customs, traditions and other distinctive cultural traits. This sector also includes those who, by force of circumstances, have migrated, in sizeable number, to other regions.

The most serious problem of the IPs is the loss of control over and access to ancestral lands. Ancestral domains are the IPs main sources of ethnic identity and productive resources for survival. Closely related to this issue is the environmental destruction on their ecosystems. Along time, many groups of IPs lost all arguments on their ancestral domain claims. The Regalian Doctrine and the Torrens Title System have been invoked to end these land disputes.

The IPs end up dislocated or eased out of their lands to give way to commercial farming, mega-development projects and commercial-industrial activities. Added to the land-related issues, the IPs confront the problems of lack of physical resources, inadequate infrastructure facilities and poor delivery of basic services. Furthermore, armed conflicts and militarization continually endanger their lives and make them very vulnerable to violence and human rights violations.

Urban Poor

Rapid rates of migration, population growth and density increase in urban areas have increased significantly over the last decade. Consequently, there has been an increase in urban poor families residing in highly urbanized or urbanizing cities. Based on Habitat II report, the country's urban poor is about 14 million, comprising over half of the total urban population. They live in low-income communities, in slums and other blighted areas, which are most vulnerable to the high levels of pollution that is characteristic of most urban areas.

Most of these families earn combined household incomes that fall below the poverty threshold. They cannot sustain or provide for their minimum basic needs such as food, health, housing and education, as well as livelihood and income. Housing is a core need of the urban poor, which government recognizes. Most urban poor families face daily threats of eviction and demolition. They are also vulnerable to the ploys of squatter syndicates.

Moreover, their life conditions worsen in the occurrence of natural disasters such as floods or man-made disasters such as commercialization and industrial pollution. Health and productivity threats due to urban pollution also worsen their state of poverty. Most of them are exposed to industrial waste, vehicular emissions, and inadequate water, sewerage, drainage and solid waste services. Gainful employment, livelihood and credit assistance and provision of basic social services as well as provision of infrastructure facilities are some of the major needs of the sector to alleviate their poverty.

Workers in the Formal Sector

Workers in the formal sector are minimum wage earners working in commercial, industrial, service and manufacturing companies. They are considered as main contributors in the nation's socio-economic and productive life. About 92 percent of the 25.7 million laborers belong to the private sector. They encounter employment issues such as unjust low wages, hazardous working conditions, summary dismissals, illegal lockouts and employer abuses. Due to technological advancement, they



become vulnerable to displacement when their services are made redundant by the installation of labor saving devices. Domestic outwork and subcontracting arrangements expose these workers to abuse. Most of the time they are not covered by existing social security and medical care benefits. Because they lack access to education and training, most of them have low awareness of their rights and the laws protecting their rights and welfare.

Only about 14 percent of them are organized into unions or associations. This indicates that workers have less access to mechanisms for capability building, participation and fair representation in policy-making and decision-making, which are made available to labor unions. They also require socioeconomic interventions such as alternative income-generating activities, credit facilities and training programs.

Workers in the Informal Sector

Workers in the informal sector (WIS) refer to poor individuals who operate businesses that are very small in scale and are not registered with any national agency. Many are workers in micro-enterprises who sell their services in exchange for subsistence level wages or other forms of compensation. Most WIS engage in vending activities.

In most cases, they face threats of eviction in their workplaces, do not have social security protection, and have limited access to credit facilities and alternative income-generating activities. In addition, these workers suffer from poverty because of irregular and exploitative terms of employment. In this sense, they are usually not covered by social security measures and existing labor and social welfare laws. Innovative interventions are needed to respond to the following: lack of technology and access to markets; skills training for job security and organizing; and, provision of alternative livelihood opportunities.

Women

Women constitute almost half of the country's population. Most of them are poor and disadvantaged. Despite the constitutional provision recognizing the role of women in nation-building and ensuring equality before the law, discrimination against women and violations of their rights continue. Gender stereotyping, multiple burden and economic marginalization of women are considered the primary roots of women's subordination and discrimination. These induce problems such as unequal access to land and other resources as

well as violence against their persons such as rape, sexual harassment, wife battering and trafficking of women.

Children

Children, as redefined, are those belonging to 0-14 age-range. About 30 percent of the population is children. Children who are considered at risk generally belong to poor families. The disadvantaged children are categorized into various sub-groups based on their present state. These include the working children, children in situations of armed conflict, street children, children trapped in sexual exploitation, child victims of natural disasters, child victims of abuse, children of migrant workers, children with disabilities, transnational children, and children of internal refugees among others.

Children constitute vulnerable groups who bear the consequences of family breakdown, stresses and crises. They also suffer from the economic problems and other difficulties confronting their poor families.

Youth

Youth, as defined in RA 8044, otherwise known as the Youth in Nation-Building Act, are those belonging to the 15-30 years of age bracket. The sector is divided into four major sub-sectors, namely: in-school youth (ISY), out-of-school youth (OSY), working youth (WY), and special youth. Most of the economically marginalized youth belong to the OSY and WY sectors. The special youth are those belonging to IP communities, youth offenders, youth with disabilities, street youth, abused and exploited youth and youth in situations of armed conflict.

Persons with Disabilities

Persons with disabilities are those who are unable to ensure for themselves, wholly or partially, the necessities of normal individuals, and/or social life, as a result of impairment, either congenital or not, in their physical or mental capabilities. Based on the estimates of the World Health Organization (WHO), at least one (1) out of 10 persons are disabled or a total of 6.5 million Filipinos, of whom 75 percent live in rural areas.



Most of them are poor. The occurrence of disability in the poor family places heavy demands on their limited resources. They are the most vulnerable among the poor sectors in society. Attitudinal, physical, and social factors remain as barriers towards attaining social and economic integration and self-development.

Senior Citizens

Those in the elderly sector belong to the 60 years and over age range. The elderly sector's average growth rate is about five (5) percent annually. This sector is estimated to number to about six (6) or seven (7) million. Their number is projected to increase in varying rates around the country.

A number of the elderly sector belong to poor families. Economic activity among the elderly is concentrated in the agricultural sector where many elderly women and men remain self-employed. Many of them live with their children. Elderly couples, however, are increasingly living alone.

Since they are often without any form of social protection, the elderly are particularly vulnerable. The family remains central to support for the elderly. The need to complement this support is a prevailing concern that requires keen attention. There is also the need to supplement family support with institutional alternatives for care of the elderly with special needs. Furthermore, the clamor for support mechanisms for elderly is rising with the increasing responsibilities of families for income generation and the rise in their economic activity away from home.

Victims of Disasters

Victims of disasters are referred to as internal refugees or internally displaced persons forced to leave their homes because of direct or indirect consequences of natural or man-made disasters. Natural hazards are due to geological, climatic, and environmental danger. Armed conflict or development aggression activities, such as logging and land-grabbing operations, commercialization, wars, civil strife, and political oppression, are causes of man-made disasters. The victims of disasters number about 500,000 nationwide. Most of them were already living in poverty before they became victims of disasters. Their marginal situations are exacerbated by the negative consequences of disasters that, in most cases, result to physical, cultural, economic and psychosocial dislocations of individual and families.

Justice-related issues of the Basic Sectors that may require Executive, Legislative and Judicial intervention

Despite the constitutional provisions and the laws protecting and recognizing the rights and privileges of individuals, the Basic Sectors are often the last to benefit or are the least served. Their poverty and marginalization are further aggravated by a host of inequities such as: the inadequacy or the absence of legislation to translate these rights into concrete services; the poor implementation of these laws, and the perception that there is biased judgment rendered on specific cases that favor the rich and powerful. The cry of injustice oftentimes comes from the Basic Sectors.

As a whole, government is responsible for addressing the enabling, security and survival needs of the Basic Sectors toward an improved quality of life. The government, through its three branches, plays pivotal and critical roles to ensure that the poor are not denied of justice. Separately or as a collective, the Executive, Legislative or the Judicial Branches respond to issues depending on their nature.

Poor implementation of laws deprives the Basic Sectors of their rights. The Executive agencies have the responsibility to ensure that the corresponding laws are enforced, violators are apprehended, and sanctions are carried out as provided by law. The police and law enforcement organizations and other support structures, whether at the national or local levels, investigate, direct and monitor compliance with the law in order to prevent further harm and ensure the common welfare of people.

The absence, inadequacy or discriminatory provisions of the law aggravate the conditions of the poor. Congress is mandated to address these by reviewing, amending or enacting laws based on a legislative agenda that is congruent to the mandate of the State. Congress acts to resolve or harmonize conflicting provisions of various laws that influence and affect the state of the Basic Sectors.

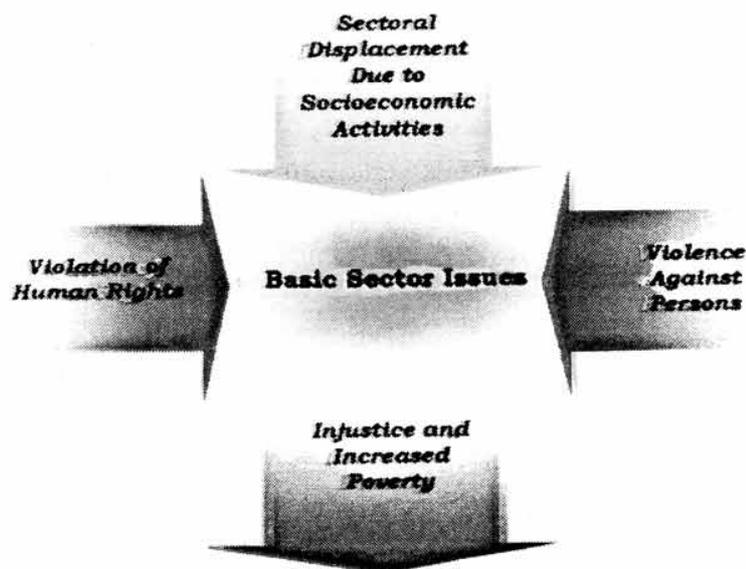
The prosecution of an offender or violator of laws defining and penalizing lesser crimes commences when a complaint is filed in the



As a whole, government is responsible for addressing the enabling, security and survival needs of the Basic Sectors toward an improved quality of life.

appropriate municipal courts. For crimes cognizable by the Regional Trial Courts, the complaint may be filed either in the proper municipal trial court for preliminary investigation or in the proper prosecution office in the Executive branch. The prosecutor then conducts formal investigation of the violation and, when appropriate, files a case in the proper Regional Trial Court which, upon acquiring jurisdiction over the case, sets it for hearing and facilitates the speedy resolution of the complaint for information. After trial, the court applies the relevant laws to the facts established by evidence and imposes the appropriate penalty prescribed by law upon the accused.

There are at least three (3) major clusters of justice-related issues that may require interventions from the Executive, Legislative and/or Judicial branches of government:



Sectoral displacement due to socioeconomic factors

Sectoral displacement refers to the physical, cultural, economic and psychosocial dislocation of families and individuals belonging to the disadvantaged Basic Sectors. Certain policies, programs and/or processes of government or private groups, which run counter to their present lifestyles and conditionality, bring it about. Such impediments upon the Basic Sectors are worsened by their own vulnerability. This vulnerability is primarily due to several factors such as: poor level of organization; lack of social, political and economic security; limited access to information; and, dependence on ecologically fragile resource base for sustenance and livelihood.

Specifically, there are several causes of sectoral displacement:

- Conversion of agricultural lands to commercial, residential or industrial use which physically and economically displaces farmers and landless rural workers
- Encroachment of municipal waters by commercial fishing companies which creates unfair competition and depletion of marine resources; thus, leads to drastic reduction in fish-catch of small fisherfolk
- Encroachment of mining companies in the ancestral domains of indigenous peoples which disturbs the IPs' centuries-old cultural traditions and indigenous economic activities
- Unjust eviction of legitimate urban poor squatters and the demolition of their houses to give way to public and/or private infrastructure projects
- Unjust dismissals of workers from their work allegedly due to losses incurred by private business firms
- Eviction of vendors from their workplaces (e.g., sidewalks) to give way to road widening projects and traffic, among others.

Violation of human rights

Universally accepted human rights that every person can enjoy are enshrined in our Constitution and various international statutes. The State is mandated to protect these rights through the enactment of laws and supportive policies, enforcement of laws and the redress of grievances as well as the provision of adequate basic services and other support mechanisms.

The Commission on Human Rights has formulated a Philippine Human Rights Plan covering the period 1996-2000. This plan spells out the action program for ensuring the protection of the rights of specific sectors, particularly the disadvantaged. It encompasses a wide spectrum of rights to include civil, political, economic, social and cultural rights.

Poverty, the lack of education, lack of legal assistance, and absence of credible witnesses most often doubly burden those whose human rights are violated.

However, it recognizes that a number of issues infringe on the enjoyment of these rights by the people. These are often reflected in the plights and circumstances of the Basic Sectors and the disadvantaged. The vulnerability of the poor to violations of human rights and the resultant impact on their lives serve as indicators of the extent by which these rights are exercised and respected. Poverty, the lack of education, lack of legal assistance, and absence of credible witnesses most often doubly burden those whose human rights are violated. While human rights violations are rampant under repressive political conditions and in situations of armed or internal conflicts, other forms are evident in normal settings. When the enforcement of laws and their concomitant processes are circumvented for the convenience or interests of power holders, the human rights of the victims are trampled upon. Such occurrences are observed during illegal detention, searches and arrests without warrant, press censorship and union busting.

Violence or abuse against disadvantaged persons, particularly women and children

Violence against persons is a serious and urgent human rights concern. It is usually committed by aggressors who possess physical power and exert this power against the disadvantaged and physically powerless. It is nevertheless predicated on the existence of unequal power relations and gender inequalities. It denotes the elements of abuse of power and control, arbitrary deprivation of liberty, as well as force and coercion. In most cases, women and children are the actual or the potential victims of violence, while the perpetrators are usually men, whether relatives, intimate partners, simple acquaintances or complete strangers. Women and children are most vulnerable and exposed to verbal, psychological and physical abuse and violence. These are due to a host of interacting factors that includes: the low status ascribed to women and children by society; the socialization processes and gender prescriptions that vest social power on men; and, the culture of violence that permeates the lives of ordinary people. The most common form of violence against women and children include rape, forced prostitution, sex trafficking, incest, child labor, sexual harassment, and domestic violence (e.g, child/wife-beating), pornography and abuse of women in tri-media, medical abuse, reproductive rights abuse, among others. These issues are gaining keen attention in the sphere of law and justice. For women in particular, their rights are being violated due to the existence of discriminatory laws that perpetuate gender inequalities.

In a number of cases, victims of violence confront further injustice due to lengthy and humiliating investigation process, insensitive law enforcers and judges, lack of protection from offender's reprisals and absence of support systems for alleviating the social and psychological effects of crime on the victims.

Chapter Three

CORRECTIVE MECHANISM TO ADDRESS GRIEVANCES AND REDRESS

The Total or Expanded Court System in the Philippines is the primary mechanism of government to address grievances or redress. It is made up of at least three major sub-systems: the Integrated Court System, the Special Courts and the Quasi-Judicial agencies. The Supreme Court is the court of last resort in the system.

Aside from the adjudication of actions and proceedings, the Supreme Court also exercises administrative or disciplinary jurisdiction over judges, court employees and members of the Philippine Bar. Moreover, the regular, special and quasi-judicial courts exercise quasi-legislative or rule-making powers governing procedures. They function to ensure speedy disposition of cases without diminishing, increasing or modifying substantive rights.

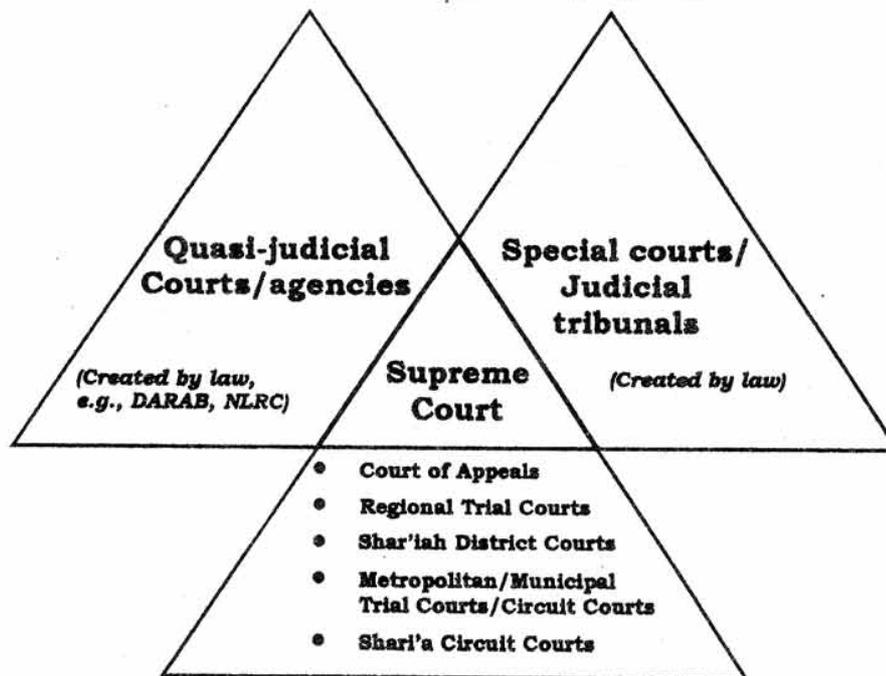
The Supreme Court

The Supreme Court is the highest adjudication body. It acts on appeals and renders final verdicts on cases decided upon by the:

- a) Lower courts (ordinary appeal, Rules 40, 41 and 122)
- b) Quasi-judicial bodies and Sandiganbayan (petition for review on *certiorari*, Rules 45 and 122)
- c) COA and COMELEC (petition for review of judgment and final orders of resolution on *certiorari*, Rule 65) and
- d) NLRC (in the case of *St. Martin Funeral Homes v. NLRC*, the Supreme Court held that appeals from the NLRC are considered as petitions for *certiorari* under Rule 65 and should be filed initially in the Court of Appeals in strict observance of the doctrine of hierarchy of courts).

Expanded or Total Court System in the Philippines

Classification of Court / Agency



The Supreme Court has the power to oversee the administration of justice in the Integrated Court System. It also performs quasi-legislative powers to make rules governing the conduct of justice. It is also responsible for promulgating rules concerning the following: the protection and enforcement of constitutional rights; pleading, practice and procedure in all courts; admission to the practice of law; the Integrated Bar; and legal assistance to the disadvantaged or underprivileged.

Integrated Court System

The Integrated Court System is collectively referred to as the Judiciary. It consists of four (4) levels. The First Level Court is made up of Metropolitan and Municipal Trial Courts/Circuit Courts. The Second Level Court is made up of the Regional Trial Courts and the Shari'a Court. The Third Level is the Court of Appeals. And, the Fourth Level is the Supreme Court.

The regular courts handle civil and criminal cases. Court proceedings involve various stages until the final verdict is handed down. The Rules of Courts, as regularly reviewed and approved by the Supreme Court, prescribe the steps, roles, time, necessary documents and remedial measures to ensure efficient and effective delivery of justice.

Special Courts or Judicial Tribunals

The Special Courts exercise limited jurisdiction over particular or specialized categories of actions. The Court of Tax Appeals is vested with jurisdiction to review decisions made by the Commission of Customs and the Bureau of Internal Revenue in cases of tax evasion. The Sandiganbayan or the Graft Court has jurisdiction over the trial and resolution of criminal cases involving violations of the Anti-Graft and Corrupt Practices Act, forfeiture of illegally acquired property, bribery, and corruption of public officials. The Family and Child Courts have exclusive original jurisdiction to hear and decide the following:

- a) Criminal cases where one or more of the accused is below 18 years of age, but not less than nine (9) years of age, or where one or more of the victims is a minor at the time of the commission of the offense: *Provided*, that if the minor is found guilty, the court shall promulgate sentence and ascertain any civil liability which the accused may have incurred. The sentence, however, shall be suspended without need of application pursuant to Presidential Decree No. 603, otherwise known as the "Child and Youth Welfare Code"
- b) Petitions for guardianship, custody of children, habeas corpus in relation to the latter
- c) Petitions for adoption of children and the revocation thereof
- d) Complaints for annulment of marriage, declaration of nullity of marriage and those relating to marital status and property relations of husband and wife or those living together under different status and agreements, and petitions for dissolution of conjugal partnership of gains
- e) Petitions for support and/or acknowledgment
- f) Summary judicial proceedings brought under the provisions of Executive Order No. 209, otherwise known as the "Family Code of the Philippines"
- g) Petitions for declaration of status of children, as abandoned, dependent or neglected children; petitions for voluntary or involuntary commitment of children; the suspension, termination, or restoration of parental authority and other cases cognizable under Presidential Decree No. 603, Executive Order No. 56 (Series of 1986), and other related laws

- h) Petitions for the constitution of the family home
- i) Cases against minors cognizable under the Dangerous Drugs Act, as amended
- j) Violations of Republic Act No. 7610, otherwise known as the “Special Protection of Children Against Child Abuse, Exploitation and Discrimination Act,” as amended by Republic Act No. 7658, and
- k) Cases of domestic violence against women and children.

Decisions made by the Court of Tax Appeals and the Family Court may be appealed to the Court of Appeals for review. The Supreme Court only entertains petitions for review on *certiorari* (Rules 45 and 122) after the Court of Appeals has rendered its decision. Decisions made by the Sandiganbayan can be directly appealed to the Supreme Court only if the petition is for review on *certiorari*.

Quasi-Courts or Quasi-Judicial Agencies

Quasi-Courts or Quasi-Judicial bodies are administrative agencies, not considered as courts of justice, but are empowered by the Constitution or by law to hear and decide certain cases or categories of cases. By virtue of the 1987 Constitution, the Commission on Elections (COMELEC), Civil Service Commission (CSC), and the Commission on Audit (COA) are empowered to exercise quasi-judicial functions. There are also a number of quasi-judicial bodies created by law. Among these are the Department of Agrarian Reform Adjudication Board (DARAB), which handles agrarian disputes; and the National Labor Relations Commission (NLRC), which handles labor-related cases.

Decisions of the quasi-judicial bodies may be appealed to the Court of Appeals, except those made by the COMELEC and COA. Such decisions may be elevated to the Supreme Court for direct review. However, petition for review on *certiorari* from a judgment of the Court of Appeals (on appealed decisions made by quasi-judicial bodies) may be raised to the Supreme Court only on pure questions of law.

Local Dispute/Conflict Resolution Mechanisms

Barangay Justice System or Lupong Tagapamayapa

Unless exempted from the process of law, no dispute involving individuals actually residing in the same city or municipality may be brought to court without first going through the conciliation procedure of the **Lupong Tagapamayapa**. This is an alternative local dispute resolution mechanism, which is constituted every three years, chaired by the Barangay Chairman and composed of 10 to 20 appointed members of the barangay.

If the Lupon fails to amicably settle the case within 15 days from its first meeting, the Chair constitutes a conciliation panel or the Pangkat ng Tagapagkasundo. It is composed of only 3 members chosen by the parties from the list of Lupon members. If the Pangkat still fails to amicably settle the case within 15 days, then and only then, may the parties concerned go to court.

Indigenous/Traditional Justice System

Indigenous communities in the Cordilleras and among the Lumads of Mindanao are still practicing traditional justice systems. These traditional practices serve as alternative dispute mechanisms particularly between two warring tribal groups or within a particular community. They vary in their approaches and methodologies. Common to these traditional practices is the participation of the community members in settling disputes.

Republic Act 8371 or the Indigenous Peoples' Rights Act (IPRA) recognizes the indigenous peoples' justice systems and conflict resolution institutions. However, it is not clear how these traditional practices are reconciled, mainstreamed or made compatible with national legal systems and internationally recognized human rights processes.

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Implications of Judicial Processes in the access of the Basic Sectors to the Justice System

Access to justice by the Basic Sectors may be affected by several factors in the Judicial System. These can be clustered into four (4) major factors, namely: delays in the judicial proceedings; decisions rendered are erroneous; prohibitive cost of litigation; and inadequacy or lack of information; and lack of lawyers in some areas.

Delays in the Judicial Proceedings

Litigation, by its very nature, takes time. It goes through various processes to ensure that both parties are given the opportunity to present their cases in court. Time for the Basic Sectors is essential. Each day that is lost to court hearings means a lot to them. Such does not only require them to spend their limited resources but also deny them the time to earn a decent living. Opportunity cost is high. Justice delayed is justice denied. For the Basic Sectors, this translates to increased social and economic marginalization. For some of them, their children will be denied education. Others will miss decent meals for a long time. The wives or mothers of some will bear the burden to work double time to make both ends meet in the family. Some of them will continue to suffer community ridicule even after the resolution of their cases. The impact on the basic sector may be hard to quantify. One thing however is definitely sure: their sufferings take a heavy toll on their present state of impoverishment.

Delays in the judicial proceedings have been attributed to inter-related factors:

- Lack of courts and inadequate number of qualified professional and personnel support who can perform the following tasks: handle increasing number of cases filed over the years, lack of information on new laws and rules as they relate to existing legislative measures;
- Limited budget of the Judiciary that prevents it from adequately performing its mandate and instituting improvements in the dispensation of justice;
- Shortfall in the number of judges appointed to available positions due to the limiting constitutional requirement imposed upon the President, who is mandated to issue the appointment of a judge chosen from among three nominees, when, in most cases, applicants to said position do not reach the required number of nominees;

- Complexity of the rules of procedure and the medium of communication used during court proceedings that may unnecessarily limit the active participation of the accused or aggrieved Basic Sectors or cause further delay in the judicial proceedings;
- Lack of prosecutors who can serve for the speedy trial of cases; and,
- Prioritization of cases over other pending cases, particularly those involving the Basic Sectors.

For most Basic Sectors, they have to work extra time to earn just enough to spend for their basic minimum needs like food, shelter and education for their children...

Adverse Judgment of the Courts

Decisions rendered by the lower courts are not always just or fair. To address this concern, the court system instituted the process of appeal. When an appeal is raised, higher courts can review the decision made by lower courts. There were several cases where the Supreme Court or the Court of Appeals overruled the decisions rendered by the lower courts or quasi-judicial courts involving the Basic Sectors. In some instances, however, the innocent party had to suffer the penalties imposed by the lower courts before justice is rightfully given them. The injustice and harm done to the poor sector may cause untold anguish. "The rich will always have means of redress, the poor will not."

In some cases, justice is already denied even at the start of judicial proceedings. From the point of view of the Basic Sectors, some laws that are used as bases for judgment are anti-poor. Any judgment that will be rendered therefore will be in favor of the other party. The only recourse for the Basic Sectors in the judicial system, in these cases, is to seek the intervention of the Supreme Court on the constitutionality of the law as it relates to their basic rights. Beyond the courts, however, the Basic Sectors can seek the intervention of Congress, which is empowered to amend or repeal anti-poor legislation.

Prohibitive Cost of Litigation

For most Basic Sectors, they have to work extra time to earn just enough to spend for their basic minimum needs like food, shelter and education for their children. For poor farmers, they have to invest on

some seeds and farming tools to till the lands that in most cases they do not own. For the small fisherfolk, they have to spend sleepless nights to catch fish in over-fished municipal waters. For the urban poor, they have to budget their limited earnings from their vending to spend for basic commodities, prices of which have sometimes become prohibitive. Any expense beyond their regular family budgets, will definitely be a serious blow to their present state.

Filing a case in court or being dragged into a court battle, therefore, is not only time consuming but also becomes a heavy burden on their meager budgets. Time spent in court proceedings also entails opportunity cost to them. Their physical presence in court hearings deprives them of the time to work and earn a living. In the process, their family members suffer. In most cases, due to their limited resources, the Basic Sectors find difficulty in accessing quality legal aid and competent legal counsel, which are costly.

Inadequate Information

Ignorance of the law is not an excuse. But, in most instances, the Basic Sectors are considered ignorant of the law. This situation is definitely not of their own doing. With numerous laws and ordinances, and the complexity of rules and procedures in the country's justice system, the Basic Sectors will have too much to absorb given their limitations. Added to this is the aspect of language barrier arising from the inability of the common *tao*, particularly the Basic Sectors, to comprehend fully legal and judicial-related information, guidelines and rules. This is aggravated by the inability of the government machinery and non-government institutions to make them aware and understand the intricacies of the justice system. Provisions of such information come in trickles, or worse, none at all.

Unless this is addressed adequately, the Basic Sectors will always be in the losing end. Information is an empowering tool. The lack or absence of it leads to further marginalization.

Proposed Parameters in Assessing the Judicial System

As a result of the exploration done to identify the factors that further cause injustice on the Basic Sectors, the need to establish a mechanism for assessing the judicial system is apparent. Using a wider perspective, it is necessary that the theory of law and the judicial processes and structures are analyzed and assessed in terms of the cultural, social, political and economic realities and consequences of the Basic Sectors.

The proposed set of parameters provides an indicative measurement in determining whether the judicial system adequately addresses the issue on access of the Basic Sectors to the Judiciary.

In sum, there are at least 7 A's in assessing the ACCESS of the Basic Sectors to the Judiciary. Focused questions on major aspects of the judicial process can be used for identifying current and potential issues and gaps as well as for mapping out current initiatives being undertaken for addressing these issues. Moreover, the responses derived from using these guide questions can serve as basis for drawing out future and doable actions towards the enhancement of the current system.

- Are the Judicial policy and reforms **ADEQUATE** to protect the Basic Sectors?
- Are the Basic Sectors given priority **ATTENTION** in the judicial processes?
- Do our justice-practitioners have the sensitivity for the poor and **ABILITY** to protect their rights?
- Are the Judicial structures, personnel and information **AVAILABLE** to the Basic Sectors?
- Is the cost of litigation **AFFORDABLE** to the Basic Sectors?
- Will the Judicial processes and procedures **ACCELERATE** decision-making?
- Are the court decisions socially and morally **ACCEPTABLE**?

The State, by legislation, expedites its mandate for sustainable advancement of individuals and communities. It institutionalizes preventive and mitigating measures to protect the rights and welfare of individuals. With the passage of laws, it is able to bind the government bureaucracy and the rest of civil society with the basic prescriptions for asserting people's rights, redressing injustices, and accessing economic, social and political resources.

Filing a case in court or being dragged into a court battle, therefore, is not only time consuming but also becomes a heavy burden on their meager budgets.

...the effectiveness of laws can only be ensured when these measures serve the interests of the majority.

The 9th and 10th Congresses of the Philippines enacted more than 200 laws. About 60 of these are social reform-related laws. These specific laws articulate the stakes of the Basic Sectors in development and governance. They likewise recognize the contribution and role of the Basic Sectors in pursuing the people's agenda for social reform and prosperity. For the Basic Sectors these laws signify partial successes in bringing to the fore systemic and structural issues that impinge on their aspirations for an improved quality of life. The question now lies on whether these laws can truly serve the interests of the poor majority under the rubric of disparate interests and conflicting views among the contending stakeholders.

However, the effectiveness of laws can only be ensured when these measures serve the interests of the majority. The quality and reach of their application depends on how Government manifests its political will to concretize its intent to empower people along the broad spectrum of civil society. In view of these, the implementation and enforcement of these laws, at all levels, are deemed very important. Future administrations are faced with major challenges for localizing the application of these laws and providing funds for such processes.

Chapter Four

PREVENTIVE AND MITIGATING
MECHANISMS TO PROTECT THE
RIGHTS AND WELFARE OF
THE BASIC SECTORS

HARMONIZING NEWLY ENACTED SOCIAL REFORM-RELATED LAWS:
*AREAS OF CONFLICT AND DISPUTE AMONG AND BETWEEN
BASIC SECTORS AND OTHER INTEREST GROUPS*

*U*nder the Aquino and Ramos Administrations, a number of legislative measures were enacted to embody the twin goals of social empowerment and economic advancement. These laws address the social concerns of specific Basic Sectors and ensure economic growth across the country.

While these are critical to the survival of our country, potential flash points require closer review and action. The government must undertake strategic actions through its three branches, the Executive, Legislative and the Judiciary, in order to deflect potential conflicts and disputes that may arise among the diverse stakeholders. Such interventions are needed to prevent or mitigate the negative effects that these laws carry, particularly to poor communities and basic sectoral groups. The continuing vigilance of the people to track and advocate these issues is also indispensable to ensure that their rights and welfare are secured.

The government must undertake strategic actions through its three branches, the Executive, Legislative and the Judiciary, in order to deflect potential conflicts and disputes that may arise among the diverse stakeholders.

Indigenous Peoples Rights Act 1997 vis-à-vis Mining Act 1995

Republic Act 8371 or the Indigenous Peoples' Rights Act (IPRA) was passed by Congress two years after the Mining Act was enacted in 1995. The IPRA recognizes and protects the rights of the indigenous peoples, particularly, on their rights over ancestral domains. On the other hand, Republic Act 7942 or the Mining Act of 1995 provides incentives to local and foreign mining companies to explore our vast mineral resources, which in most instances are found within the boundaries of ancestral domains. Both laws, when taken together, function as instruments for either promoting or inhibiting access to ancestral domains and its resources. In implementing these laws, critical interventions are needed to avoid the possibility of conflicts and arbitrary applications, which can harshly impact on either the IPRA or the mining sector.

Efforts to harmonize these two laws are currently being undertaken. A multi-sectoral task force has finalized the Implementing Rules and Regulations (IRR) of the IPRA while the IRR of the Mining Act is being reviewed and a number of amendments are being introduced. Some sectors, however, are seeking the repeal of the Mining Act which they consider as anti-poor.

Prior to the enactment of these two laws, Department Order No. 2 (DAO) was issued by the Department of Environment and Natural Resources (DENR) in 1993. The order provided for the distribution of Certificates of Ancestral Domain Claims (CADCs) to legitimate indigenous peoples. Under the CADC scheme, the IPs' rights over their ancestral domains are protected. The CADC establishes the control of IPs on the ancestral domains; thus protecting these areas from possible encroachment of outsiders.

To date, about 132 CADCs have been issued. These cover some two (2) million hectares of land area. So far, DENR claims that no permit has been issued to mining companies that intend to undertake projects in CADC areas. By virtue of the IPRA, the National Commission on Indigenous Peoples (NCIP) takes charge over the concerns of IPs, including the issuance of CADCs; while DENR, through its Bureau of Mines, is mandated to issue mining permits.

Repeal of Presidential Decree No. 772 of 1975 vis-à-vis Urban Development & Housing Act (UDHA) of 1992

Republic Act 8368, otherwise known as the Act Repealing the Anti-Squatting Law or Presidential Decree No. 772 issued by President Marcos on 20 August 1975 liberates “legitimate squatters” from being labeled as “criminals”. The law decriminalizes squatters but maintains that “squatting” is a civil offense. The urban poor were the hapless victims of PD 772.

Republic Act 7279 or the Urban Development and Housing Act (UDHA) of 1992 provides for a comprehensive and continuing urban development and housing program, especially in the interest of the urban poor. It mandates the Local Government Units (LGUs) to maximize its participation in socialized housing. The law allows LGUs to initiate eviction of squatters and demolition of their squatter shanties as long as critical conditions and procedures are adequately complied with. Among the prerequisites that the LGUs should undertake to carry out its mandate are the following: adequate consultations, adequate notice, humane police procedures, and provision of resettlement sites for the evicted squatters. The UDHA differentiates the “legitimate squatter” from a “professional squatter.” It also provides for penalties against the latter, including squatter syndicates, which undermine the essence of the law.

A number of issues, however, have emerged and these impinge on the implementation of UDHA. Recent reports showed that arbitrary evictions and demolitions are being undertaken by a number of LGUs without compliance to specific provisions of the law. These situations reflect, in a sense, the pressures put upon legitimate squatters who are evicted without recourse. They lose their homes; suffer injustices; and, consequently lose their dignity. The compliance by the LGUs as well as national agencies particularly the Department of Public Works and Highways (DPWH) to prescribed procedures must be pursued. Monitoring and applying sanctions to erring parties should be initiated. There are already measures being done to address the pervasive problem of squatting and squatting syndicates, but their prosecution should be intensified.

Fisheries Code 1998 vis-à-vis Local Government Code 1991

Republic Act 7160 or the Local Government Code (LGC) of 1991 gives “preferential treatment to the fisherfolk” and determines the jurisdiction of municipal governments over municipal waters within 15 kilometers from the shoreline.

Republic Act 8550 or the Fisheries Code of 1998 gives exclusive rights to municipal fisherfolk within 0 to 10 km of the municipal waters. The municipal government may only allow fishing by big commercial fishing groups within the 11 to 15 km. radius, upon the approval of the local Sanggunian and in consultation with local fisherfolk organizations. All bays have been closed for commercial fishing groups.

A multi-sectoral task force formulated the Implementing Rules and Regulations (IRR) of the Fisheries Code. The LGC, on the other hand, is being reviewed for possible amendments in consonance with the provisions under the Fisheries Code. The ongoing efforts seek to promote the protection of marine resources for the interests of municipal fisherfolk. One of the critical concerns that the fisherfolk sector faces is ensuring that the laws are being enforced and complied with. “Bantay Dagat” or community-based watch groups have already been organized. But, they have been reported as being harassed by commercial fishing groups in remote fishing villages.

Comprehensive Agrarian Reform Law of 1988 vis-à-vis Investments Act

Republic Act 6657 or the Comprehensive Agrarian Reform Law (CARL) of 1988 propelled the implementation of the Comprehensive Agrarian Reform Program (CARP) as a special reform measure for the farmers and land tillers. Its mandate includes the equitable allocation and efficient use of land, as vital productive resources. It also expands the coverage of agrarian reform to rice, corn and sugar lands.

Specifically, the Investments Act and other economic measures provide liberal guidelines for undertaking income and employment generating ventures in the country, such as the development of lands for commercial and industrial use. These provisions have attracted local and foreign investors to access ownership or lease of lands and aquamarine resources that are recognized as the main source of livelihood among the farmers and fisherfolk.

In recent years, the influx of investors in the country resulted to disputes on land and their valuation. A number of policy measures and mechanisms have been established to address these disputes. Sources have already been decided upon and many more are undergoing review.

By virtue of the mandate under CARL, the Department of Agrarian Reform Adjudication Board (DARAB) serves as the quasi-judicial agency to settle disputes on land valuation. The DAR is also given the power to allow land conversions based on the criteria set by law. To date, of the 1,207 petitions filed for land conversion, 875 were approved covering 12,541 hectares. As a check and balance mechanism, the Office of the President (OP) acts as a quasi-judicial body to oversee the decisions made by DAR on land conversion issues. Recently, the OP intervened in the Sumilao case, which rendered its final verdict in favor of the affected farmers against the private commercial developers. However, the Supreme Court issued a Temporary Restraining Order and directed further review of the case.

To protect prime agricultural lands from illegal or premature conversions, President Ramos issued Administrative Order 363 last October 9, 1997. In compliance with this order, DAR issued the Omnibus Rules and Procedures governing conversion of agricultural lands to non-agricultural uses. Republic Act 8435 or the Agriculture and Fisheries Modernization Act complemented these efforts by declaring, among others, a five-year moratorium on the conversion of irrigated and irrigable lands.

Enforcement of Social Reform Laws: Translating Policies into Action to Benefit the Basic Sectors

Aside from the laws mentioned in the previous section, there are other laws that directly impact on specific Basic Sectors. Some of these laws require localization or their enforcement at the local levels. A number of these laws have been assigned to local government units for their full enforcement and monitoring. Unfortunately, not all the newly enacted laws have funding. These “unfunded mandates” have become sources of tension not only between national and local governments, but also among concerned basic sector groups.

Anti-Child Labor Law, Law Against Child Abuse and Establishment of the Family Court Act

Republic Act 7658, otherwise known as the Anti-Child Labor Law, prohibits the employment of children below 15 years of age in public or private undertakings; except in some cases whereby required conditions are ensured for the protection, health, safety, moral and normal development of the employed child. Republic Act 7610, or the Law Against Child Abuse, spells out the unlawful acts against children. Republic Act 8369, or the Establishment of the Family Court Act, meanwhile establishes in every province and city the special Family Court, which assumes original jurisdiction over children and family cases. Despite these laws on children, there are still a number of reported cases of child abuse and child labor, particularly in sugar plantations and urban centers.

Senior Citizens Act and the Senior Citizen's Centers Act

There are two laws for the elderly that need to be fully enforced at the local level. Republic Act 7432 or the Senior Citizen's Act addresses the protection of the rights and welfare of the elderly. Its mandate covers the provisions for special privileges and socio-economic support to the elderly. These support measures include: the provision of retirement benefits; the establishment of the Office for the Senior Citizens Affairs (OSCA); the provision of free medical and dental services; and the granting of discounts for the elderly by all establishments, among others.

Republic Act 7876, on the other hand, mandates the establishment of a Senior Citizens Center in every city and municipality to protect and promote the welfare of the elderly with ages 60 years and over. The law directs the LGUs to identify the needs, training programs and opportunities of the elderly, as well as initiate, develop and implement productive activities for the elderly to gain extra income. Only a few LGUs have actually established centers since the law was enacted in February 1995. The mayors of 5th and 6th class municipalities, in particular, claim that their resources are not even enough to address other basic needs of the community and, therefore, find difficulty in establishing said centers.

Sectoral Representation in Congress through the Party-List System

Republic Act 7941 provides for the election of national, regional or sectoral parties or organizations to serve as sectoral representatives in the Lower House Congress. The law institutionalizes the Party-list System, which provides

disadvantaged sectors like farmers, women, fisherfolk, urban poor and labor to be represented and actively participate in the legislative structure and processes of government.

In the 1998 national elections, about 123 sectoral parties and organizations were accredited by COMELEC to vie for the 52 seats constitutionally allocated for the sectors in Congress. However, many claim that a number of those accredited are “fronts” or “satellites” of major political parties; thus, jeopardizing the winning chances of smaller and newly created sectoral parties that represent legitimate and genuine basic sector groups. To date, only 13 sectoral parties won the election on the basis of the qualification criteria under the Party-list System.

Pending Social Reform Policies: Continuing Advocacy

Efforts for continuing advocacy on unmet social policy reforms are significant to the attainment of the overall goals for alleviating the poverty of the Basic Sectors. There are a number of pending critical bills that constitute, in part, the policy advocacy agenda of the Basic Sectors. Some of these are: *Land and Water Use Act*; *Sectoral Representation in Local Sanggunians*; and, *Magna Carta for Students*.

Unless Congress enacts these laws, nagging issues specific to concerned basic sector groups will remain as problems. These are not only the concerns of the Executive, but also of the judicial branch of government.

Land and Water Use Act

The absence of a law defining the policy parameters for the utilization of land and water resources can lead to arbitrary conversions of agricultural lands. These conversions result to the displacement of some Basic Sectors and their deprivation of possible means of livelihood. These can also lead to unabated destruction of natural resources, such as land and water, on which most of the sectors depend.

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Presently, occurrences of land conversions have been wrought with disputes and conflicts among interests groups and the affected small farmers. The Basic Sectors and the farmers, in particular, have raised major issues that government must address. Careful assessment is required in determining the overall cost-benefit impact of these economic measures in relation to the empowering initiatives being undertaken for the Basic Sectors.

Sectoral Representation in Local Sanggunians

Republic Act 7160 or the Local Government Code provides for sectoral representation in the local Sanggunians. This allows the Basic Sectors to actively participate in the decision-making and policy development at the local levels. However, an enabling law is required to provide the needed provisions for its full implementation. Unless Congress enacts an enabling law, the Basic Sectors will continue to be deprived of their right to be represented and to participate actively in local legislative processes. Some local government units resist the passage of this law, mainly, because of funding constraints.

Magna Carta for Students

In State universities and colleges, students are represented in major policy-making bodies. Through these mechanisms, the students are able to present their issues and needs, propose possible solutions, and determine courses of action with school authorities. In most public and private schools, however, these mechanisms are not established.

The proposed Magna Carta for Students seeks to institutionalize the genuine representation of students in major policy-making bodies of both public and private tertiary schools. Private schools, in particular, oppose this intervention. They claim that this provision runs counter to their corporate charters and can jeopardize their prerogatives as management.

ENHANCING ACCESS OF THE BASIC SECTORS TO THE JUDICIARY

*T*he social reform issues of the Basic Sectors are definitely linked to the political and economic realities in our society today. We are reminded that the legal and judicial constraints faced by the various groups are primarily survival and security issues, if not enabling ones. These constitute their struggles for equity and justice, which are not peripheral to development. In many ways, these are measures of the quality of development and its concomitant processes unfolding in the midst of their poverty situations. These are indicative of the very essence of what the search for social justice means to attain lasting peace.

Our attention now turns to the initiatives undertaken to address these issues. Effective interventions for specific issues have been explored. From these we present proposed actions that either challenge or use the judicial system to achieve our goal of people empowerment. Using the judicial system, in this case, involves interventions such as undertaking public education on legal rights and proposing new laws as means to facilitate legal assistance to the Basic Sectors, among others. On the other hand, challenging the system can be undertaken in varying ways, which include issue-based advocacy and consciousness-raising and litigation of cases. These considerations lend significance in articulating alternative modes of action to expand and enhance current norms and practices.

Current Judicial Initiatives to Improve Access to Justice

Increasing physical access of the Basic Sectors

In compliance with Batas Pambansa Blg. 344, the Judiciary has set up structures and facilities that increase the accessibility of persons with disabilities. The Supreme Court together with the Executive Department has initiated the construction of Halls of Justice or Bulwagang Pangkatarungan in every province with provision of access in favor of certain groups, particularly persons with disabilities and the elderly.

Ensuring speedy disposition of cases

In response to the public's clamor for more efficient and speedy disposition of cases, the Supreme Court initiated several measures to institute reforms in the Judiciary. These measures serve to address the clogging of dockets, among others. One of these is the review and revision of the Rules of Court. As an output of this exercise, the Supreme Court issued the 1997 Rules of Civil Procedures. Meanwhile, the members of the Judiciary are currently reviewing the Rules on Criminal Procedure.

The Supreme Court also initiated the Mandatory Continuous Trial System by virtue of SC Circular No. 4. It requires the courts to conduct judicial fact-finding and adjudication with speed so that trials are held on schedule without needless postponements. It also directs the courts to hear trials within three months. Further, Circular No. 38-98 implementing the Speedy Trial Act was passed. Through these reform measures, the courts are now ready to fully implement the Speedy Trial Act.

In addition, the Supreme Court established special courts to address specific cases. It created a Special Court that exclusively attends to heinous crimes and other crimes punishable by *reclusion perpetua*. Republic Act 8369 or the Act Creating the Family Courts created courts that specifically handle family and child cases, such as domestic violence against women, child abuse, and annulment of marriages. Pursuant to the Family Courts Act of 1998, Circular Nos. 33-98 and 44-98 were issued directing judges to make an inventory of all criminal cases falling under the jurisdiction of the Family Courts to enable the Office of the Court Administrator to determine the actual number of such cases.

The Supreme Court also issued various circulars addressed to the members of the Judiciary. Circular No. 7 and Administrative Order No. 134-92 define the pairing of judges. Circular No. 13 instructs the courts on punctuality and strict observance of office hours; active management of trials to minimize postponements; annual conferences on pending cases to determine causes of delay; inventory of cases; and, good conduct of judges as exemplars in the community.

Instituting reforms to address needs of specific Basic Sectors

Basic Sectors groups have specific needs arising from their diverse nature and socioeconomic status. In addressing these needs, a number of initiatives have been done within the judicial system. For youth offenders, the Supreme Court designated branches in the Judiciary to handle their cases. For indigents, the amendment of the Rules of Court on the Code of Civil Procedure, Rule 3, Section 21, authorizes indigent litigants to be exempted from payment of docket, other lawful fees, and the Transcript of Stenographic Notes (TSN).

Enhancing capabilities of the members of the Judiciary

Republic Act 8557 or the Philippine Judicial Academy Law aims to ensure that the members of the Judiciary are fit to perform their duties as public servants. Specifically, it provides the judges with continuous training on legal education. The proposed "PHILJA Updates" in electronic format of the Philippine Judicial Academy is designed to enhance the said thrust. It will feature recent laws for judges, administrative proceedings against judges and Supreme Court Administrative Circulars and Orders. These will be distributed electronically to courts. The Supreme Court has also begun computerizing its records through the Case Administration System.

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Current initiatives of other institutions to enhance the access of the Basic Sectors to justice

Aside from the initiatives of the Judicial, Legislative and Executive departments, there are other groups, which have contributed their share in providing the disadvantaged Basic Sectors with greater access to justice.

Various legal NGOs, lawyers' associations and the so-called "alternative" legal groups have initiated efforts to ensure that the disadvantaged Basic Sectors are given greater access to justice. They are most active in assisting labor groups, indigenous peoples, urban poor, farmers, women, and students. They also provide legal assistance in the following areas of concern:

- the advocacy efforts of the Basic Sectors to pass critical social reform bills;
- the provision of free legal assistance to cases involving Basic Sectors;
- information campaigns on judicial processes, laws and basic rights;
- monitoring cases involving Basic Sectors; and,
- skills training for Basic Sectors that can serve as paralegals in their communities.

The Commission on Human Rights (CHR) has likewise initiated the establishment of barangay legal centers. These centers serve as paralegal support mechanisms to local communities and as centers for information campaigns on human rights.

Proposed actions to address access to justice

Some of the recommendations identified in this paper were culled from the proposed actions raised during the dialogue held last April 1998. It emanated from the inputs shared by the participating members of the Judiciary and the representatives of the Basic Sectors and alternative legal groups.

These recommendations are classified into three clusters of proposed measures requiring Judicial, Legislative and Executive actions. The recommendations for judicial measures are categorized on the basis of the 7-A's or the indicative parameters of the access of the Basic Sectors to the Judiciary.

Proposed Judicial Measures

These measures focus on the substance of the law, the legal processes involved, and the structures necessary to install activities geared toward changing discriminatory or unjust legislation or policy as well as their corresponding judicial processes for the protection of the rights of the Basic Sectors. When the desired objectives are met, they can result in better understanding the laws and related policies, their implementation, and the probable impact of these laws and processes to the Basic Sectors.

1. Institutionalize ADEQUATE judicial policy reforms to protect the Basic Sectors and poor communities

○ Mainstream gender-sensitivity concerns in the Judiciary

Mainstreaming the women concerns and their participation in governance are major advocacy concerns of the various Basic Sector groups. These interventions are being promoted to ensure equal opportunities for women and to eliminate discrimination against them. The Judiciary may wish to initiate the review of gender profiling of the Judiciary at various levels and identify the policy issues that hinder women's participation and their career movement. An empirical study on gender bias in the courts may also be conducted. The Supreme Court may wish to link up and jointly undertake this review with the National Commission on the Role of Filipino Women (NCRFW) and the other Focal Points in various government agencies for Gender and Development.

○ Mainstream customary or traditional modes of adjudication by Indigenous Peoples

Although Republic Act 8371 or the IPRA provides for the recognition of indigenous peoples' justice system using their own traditional methodologies and practices, there is a need to provide clear parameters on how these may be integrated and made compatible with the current legal system of government. The Supreme Court may wish to include this concern in the

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ongoing review of the Rules of Court and to issue circulars to guide legal practitioners and judges.

○ Conduct an assessment and analysis of the processes involved in death penalty cases

Death penalty cases usually involve the poor. In view of these, there is a need to review and strengthen the processes involved so that any miscarriage of justice is prevented. The qualification of lawyers assigned to handle death cases must also be determined to ensure that the defendants, particularly the poor, are given adequate counsel. Competent counsel from big law firms may be tapped, on *pro bono* basis, to handle such cases.

○ Review the possible adoption of epistolary jurisdiction of the courts and other judicial reforms

The Judiciary may wish to conduct a study on experiences of other countries in handling cases involving the poor. One of these, which may be worth studying and adopting, is the “epistolary jurisdiction” of the Supreme Court of India. Poor litigants are allowed to just write a letter to the Court to serve as their petition to the Court. The letter will be used to move the Court even without the physical presence of the poor litigants.

Other policies that are worth studying for institutionalization in Philippine Courts are: (a) Exploring means for greater people participation in the administration of justice (e.g. having a jury, court monitoring by citizenry) to ensure check and balance; and, (b) Providing rules for prohibition to file *certiorari* from Regional Trial Courts to Court of Appeals by joining alleged abuse of discretion with the appeal.

2. Give ATTENTION to the Basic Sectors in judicial processes

○ Give fair treatment to cases involving the Basic Sectors

Section 1, Rule 20 of the 1997 Rules on Civil Procedure gives preference to certain types of cases for prioritization in the calendar of cases. However, this provision does not include cases that involve the Basic Sectors. Sectoral displacement issues and other cases involving the Basic

Sectors are growing in number. The Supreme Court may wish to prioritize these cases, in view of the fact that these involve their rights and survival. The use of color-coding scheme in the lower courts may facilitate the process in prioritizing cases.

As a special concern, the process of adjudicating cases involving overseas Filipino workers may be reviewed and the corresponding adjustments may be done. Furthermore, special assistance may be extended to persons with disabilities in bringing to court discrimination cases.

3. *Strengthen the ABILITY of justice-practitioners in handling cases of the Basic Sectors*

○ Strictly implement Republic Act 8557, otherwise known as the Act Establishing the Philippine Judicial Academy; pursue the Legal Education Reform Act as a measure to implement mandatory legal education; and, upgrade the quality of legal education of law students; and, provide continuing legal education for judges and lawyers;

○ Upgrade the capabilities of justice practitioners on handling Basic Sector and social reform-related cases

The Supreme Court may wish to require all law practitioners to undergo regular updating and orientation on the Basic Sectors and social reform-related laws to keep them abreast with present-day realities and emerging trends. In line with this, the Supreme Court or the national government may require the Philippine Judicial Academy, law schools and other institutions offering legal education to include the corresponding learning modules in their curriculum.

In addition, legal education institutions may adopt a redirection of emphasis from litigation to peaceful resolution of disputes. They may institute reforms in the legal education system, including the bar examinations, by emphasizing values

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of integrity and social responsibility over mere technical rules and by stressing practicum and clinical education over theories. Another reform initiative that they may promote is the use of Filipino and local languages in the practice of law. Lastly, the whole Judiciary and legal sector may adopt a program for continuing review and assessment of legal rules and procedures to assure quality legal decisions.

○ Undertaking continuing dialogue between the Judiciary, the Basic Sectors and alternative law groups to provide the opportunities for raising the level of awareness and participation of the Basic Sectors in the speedy and efficient administration of justice;

○ Set up the mechanisms for giving incentives to and recognition of good judges and legal practitioners aside from the Judicial Excellence;

4. Make AVAILABLE judicial structures, personnel and information to the Basic Sectors

○ Establish legal centers for the Basic Sectors

Legal NGOs and lawyers' associations have set up some legal centers at the barangay level. The Judiciary may adopt and institutionalize this approach as part of its legal support to disadvantaged and indigent groups. It may enhance these centers by providing direct support such as technical assistance and funds. Aside from providing legal assistance to poor litigants, these legal clinics may serve as venues to provide information and orientation on new laws and the basic rights of the people as well as train the Basic Sectors as paralegals in their community.

○ Disaggregation of data by Basic Sectors, sex and gender issues

To be able to effectively track cases involving Basic Sectors and provide the corresponding assistance to fast track their disposition, it is necessary to install a data-base that classify or sort cases according to type of sector groupings, sex, gender, and ethnicity in the case of IPs. In addition, the data system may include basic sector participation in the judicial system whether as litigants or witnesses (*e.g.*, what sort of cases they are involved in, how many cases have been filed by workers in the informal sector). The Supreme Court may install this as part of its Case Administration System.

○ Improve the physical accessibility of the Halls of Justice for persons with disabilities.

○ Conduct study on jurisdiction of courts vis-à-vis new laws and strictly implement these laws such as Republic Act 8369, otherwise known as the Family Courts Act.

○ Fill-up the vacancies in the court system to ensure adequate delivery of legal services particularly in the Family Courts.

5. *Ensure the cost of litigation to be AFFORDABLE to the Basic Sectors*

○ Create a guarantee system or legal insurance for Basic Sectors involved in court cases

The guarantee or insurance system is being used in the agriculture sector. In this system, creditors are assured of getting back their investments once farmer-clients fail to pay the agri-loans due to natural disasters, such as droughts, floods and typhoons. The Judiciary may apply a similar system for the Basic Sectors that are involved in court cases. In this system, they may access monetary assistance while their cases are still pending in court. This monetary assistance lessens the pressure on their family members in terms of the family's basic needs such as food and education. In most instances, Basic Sectors involved in court cases are unable to work and earn a living because they are required to be physically present in judicial proceedings.

○ Require all law firms, law students and law practitioners to render free legal assistance to the Basic Sectors in poor and remote barangays

The Supreme Court may wish to require all members of the bar, bar associations and law students to render mandatory free legal assistance to the Basic Sectors in poor and remote barangays. It may also review the feasibility of requiring law firms to have 10-20 percent of their total cases as *pro bono*. Specifically, the Supreme Court may allow more leeway for the

Integrated Bar of the Philippine (IBP) to use the legal aid fund specifically when handling *pro bono* cases. In addition, the Judiciary may also provide free interpreters for the deaf and mute who cannot afford to pay and develop a monitoring scheme in compliance with the Circular No. 46-95.

These initiatives may serve as their contribution in enhancing the access of the Basic Sectors in the judicial system. Legal assistance may not only include litigation but also the conduct of orientation and training activities on the Justice System and social reform-related laws with the Basic Sectors and in the barangays.

○ Recognize and provide incentives to law practitioners giving support to Basic Sectors

Based on unofficial reports, only a handful of lawyers and legal NGOs provide legal assistance to the Basic Sectors. This is due to the inadequate support mechanisms such as legal assistance and funds that are available for them. Most lawyers practice their profession with high paying legal groups or share their expertise with business companies on retainer basis. At present, there is no system in the Judiciary that provides incentives (*i.e.*, tax breaks) to lawyers who spend time and effort to assist disadvantaged group or individuals.

Given the increasing demand of the Basic Sectors for legal assistance, it may be worthwhile to consider the installation of an incentives system to encourage more lawyers to provide quality legal assistance to the poor. The Judiciary may wish to recognize and encourage the activities of human rights groups and NGOs specializing in alternative or developmental lawyering. Support mechanism for judicial personnel may also be expanded to cover compensation and other basic logistical requirement.

The Department of Finance and the Public Attorney's Office (PAO) may look into the possibility of setting up a support mechanism for the Basic Sectors, particularly in terms of assistance to lawyers and practitioners that handle their cases. Tapping foreign agencies that are open to providing financial support for legal programs and services may generate additional funding.

6. *ACCELERATE decision-making in the judicial processes*

○ Strictly implement Republic Act 8493, otherwise known as the Speedy Trial Act.

The Supreme Court may require the strict compliance to the constitutional and legal mandates on time limits for case resolution. With the issuance of Circular No. 38-98, efforts may be done to encourage judges to expedite trials using depositions, discovery procedures and continuous hearings. Reforms on judicial procedures may also be initiated to encourage greater use of modes of discovery as provided in the rules of court, to promote more pre-trial settlement of cases, and to find creative means for faster disposition of cases.

Furthermore, the Judiciary may train a group of judges to mediate and convince litigants to settle or compromise during the pre-trial stage in litigation or at least, limit the issues, to minimize trial time. In addition, there is a need to standardize some court orders by putting these into forms that would save the time and efforts of judges.

○ Create Special Courts or Small Claims Courts to Handle Basic Sector-Related Cases particularly on Sectoral Displacement Issues

The creation of special courts and small claims courts may be necessary to unclog the judicial system of cases, such as violations of Batas Pambansa 22, and others that involve the poor and disadvantaged sectors. These special courts may focus and specialize on newly enacted laws. They may give particular attention to the rights and welfare of the specific Basic Sectors, such as the youth, children, fisherfolk, indigenous peoples, overseas contract workers, and persons with disabilities. Through these courts, the Judiciary may be able to give undivided and immediate attention in resolving cases involving the Basic Sectors. Their cases need not anymore compete with other cases handled by the regular courts.

Moreover, these small claims courts may adopt summary procedures for small claims. Special courts may also initiate the conduct of proceedings using the vernacular or the specific

dialect of the community. These courts may also address physical, linguistic/communicational and other hindrances that lessen the access to the judicial system of some Basic Sectors such as persons with disabilities and the IPs. For instance, the deaf may be provided with interpreters and those with physical disabilities may be provided with the means to physically access courtrooms, *i.e.*, with provision of wheelchairs. The Association of the Deaf and Blind may be tapped to assist in addressing the need for interpreters.

Furthermore, studies and adjustments may be done with regard to the possible impact and prospective requirements of newly enacted laws, such as the Family Courts Act in the case of existing Juvenile and Domestic Relations Courts. These studies may take into account the jurisdiction of courts and the number of available salas where related cases can be heard.

○ Fully utilize alternative dispute settlement mechanism or arbitration

The Judiciary may also open opportunities for citizens to become more aware and encourage them to use other alternative dispute settlement mechanisms, such as the Lupon Tagapamayapa. Efforts may be initiated to conduct extensive training and retooling of the members of the Lupon in handling local disputes.

The media, education institutions and NGOs may be tapped to raise the level of Basic Sectors' awareness and participation in the speedy and efficient administration of justice. The Judiciary may develop alternative mechanisms for resolving disputes to make the judicial processes more efficient and equitable for the Basic Sectors. It may adopt and expand the mediation mechanisms used in DAR, DENR and DOLE to resolve disputes involving the farmers, workers, fisherfolk and indigenous peoples.

In addition, it may initiate a legislation to require mandatory arbitration of commercial disputes and encourage the use of mediation, arbitration and other alternative methods of settling disputes.

7. *Ensure competent judges, whose decisions may be morally and socially more ACCEPTABLE*

○ Conduct a review and analysis of the court decisions and mechanism for “weeding” out corrupt and incompetent judges, including filing of cases against them and applying appropriate sanctions after due process.

There is a need to address the corruption in the Judiciary and the legal profession. The Judiciary may conduct a review of complaints filed against corrupt practices, unethical behavior and unprofessional conduct of some members of the Judiciary. After which, it may develop the mechanisms for resolution of complaints based on the findings and analyses.

Moreover, the Supreme Court may initiate a periodic performance monitoring including a feedback mechanism for assessing the work and behaviors of judges, prosecutors and personnel. It may also conduct regular consultations with the Basic Sectors and local communities to generate information and feedback as well as to clarify issues and problems besetting the legal sector in relation to the Basic Sectors and arrive at their solutions. The results may provide the Judiciary with the bases for concrete and immediate action. Likewise, it can explore and use the media and public opinion to elicit fair reportage and encourage scientific opinion polling.

The Supreme Court may issue a directive for the strict observance of the Code of Judicial Conduct and Code of Professional Responsibility. It may undertake a continuing review and assessment of legal rules and procedures to assure production of quality decisions, free from the corrupting influences of money, politics and patronage. In addition, the Supreme Court may establish a public information scheme on the judicial disciplinary system to include data on judges that have been sanctioned by the SC.

○ Conduct research and an assessment on the possibility of issuing a new or an Enhanced version of the existing Court Circular on current procedures for litigating death penalty cases from trial onwards including the qualification of defense and prosecution lawyers to ensure fair trial.

Proposed Legislative Measures to Enhance the Judicial System

These responses are focused on elements of the judicial system that are lacking in the laws or that create ambiguities in the laws. The inadequacy of legislation and policies needs to be addressed in ensuring

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that justice is served to the Basic Sectors. These also cover legislative initiatives that generally emphasize the transformation or creation of more responsive and accountable structures and support mechanisms for the justice system to perform effectively and efficiently.

- Increase budget of the Judiciary and the legal support for the disadvantaged through the Department of Justice

The Judiciary accounts for a measly two (2) percent of the total government budget. For the Judiciary to adequately perform its mandate and increase the access of the Basic Sectors to justice, Congress should legislate a measure for substantially increasing the budget of the Judiciary. This measure may be necessary to ensure adequate appropriations for the Judiciary every year. With additional budget, it can fully implement laws that up to now have remained unimplemented for lack of funds. In the same manner, the budget of the Department of Justice for legal assistance for the disadvantaged sectors must also be increased substantially.

- Pursue the passage of critical bills and review of existing laws to provide parameters in adjudication

To ensure that adequate laws are in place as bases for adjudication, legislators need to prioritize critical social reform bills in the 11th Congress. The list includes, among others: the Land and Water Use Code, Coconut Levy Act, Domestic Violence Bill, Trafficking of Women Bill, and the Magna Carta for Students. With adequate and responsive laws, justice may be made more accessible to the Basic Sectors. In addition, Congress needs to prioritize the review of existing laws that directly impact on the Basic Sectors, such as the Mining Act, Local Government Code, and the Investments Act, among others. Moreover, Congress needs to review the law expanding the jurisdiction of municipal courts. The law did not provide for a corresponding increase in the number of branches.

Proposed Executive Measures to Complement the Judiciary's Initiatives

The Executive offices and enforcement organizations of government play crucial and pivotal roles in the administration of justice and the enforcement of laws. As such, executive measures and strategic interventions are necessary to ensure that justice and peace reign.

- Strengthen the enforcement, implementation and the monitoring of compliance to social reform-related laws

One of the ways to prevent the clogging of cases in the Judiciary is to ensure that laws are strictly implemented at all levels. Compliance monitoring must be done on a regular basis together with the Basic Sectors and concerned NGOs and legal associations. Sanctions for agencies and private groups must be strictly enforced. Local government units play important roles in ensuring that these laws are adequately operationalized in their respective communities. For instance, the laws on youth offenders should be implemented. At the same time, efforts to provide separate quarters for these youth offenders should be undertaken. There should be a continuing monitoring and assessment on the conditions of detention cells and the roles of local government units in constructing and/or maintaining of these structures.

- Increase legal support for disadvantaged sectors and implement a “Lawyer to the Barrio” program

Substantial increase in the budget provision for legal support to the Basic Sectors and poor barangays should be initiated by the Department of Justice. This effort will complement the Judiciary’s programs for the poor litigants. In addition, the DOJ may design and implement a “Lawyer to the Barrio” program to ensure that communities are able to access legal services.

- Strengthen local and agency internal mechanisms to prevent and mitigate effects of sectoral displacement

Although this is currently being installed, there is still a need to strengthen the enforcement of these mechanisms and policies particularly at the local level. Regular reviews of these mechanisms need to be undertaken to determine gaps in policy implementation. The community should also be encouraged to get involved in the enforcement of these policies. Through this approach, filing of court cases will be minimized, if not avoided. In the process, justice is immediately administered to the aggrieved parties and the corresponding sanctions/penalties are meted out.

To sustain and ensure the success of these efforts, awareness raising activities should be done involving all concerned sectors. Local government units and their personnel should undergo continuous training for preventing and mitigating situations that may result to sectoral displacements.

- Conduct massive information campaigns at all levels on newly enacted laws and executive issuances

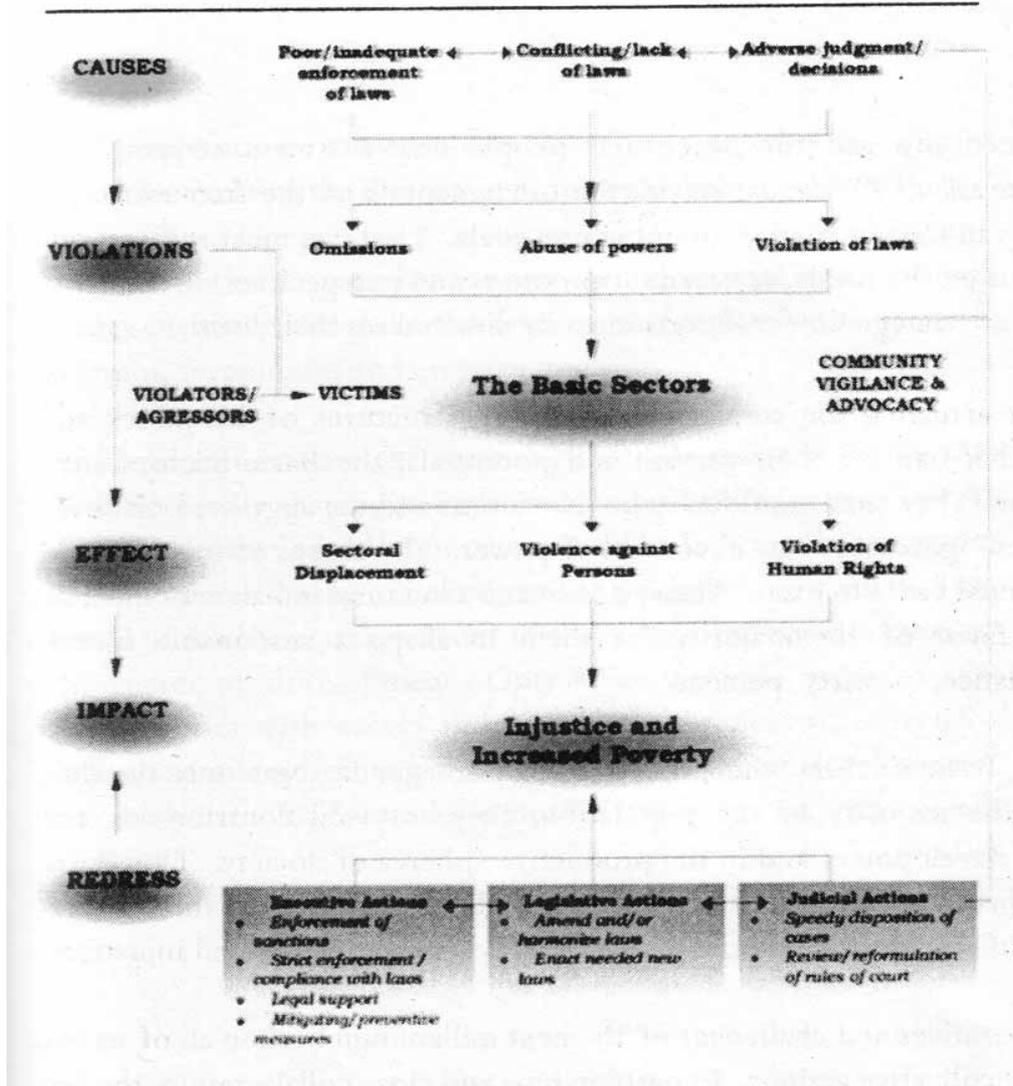
The Executive branch, in coordination with the Judiciary, should fast track and facilitate the conduct of information campaigns on old and new laws, particularly those which affect the Basic Sectors, at all levels. Both branches may harness the local government units down to the barangay level in localizing a massive information campaign using local tri-media, schools, civic organizations and private institutions to reach as many people as possible.

All in all, these are some measures with which the three branches of government can effectively complement each other. A stronger collaboration is desired among all the stakeholders in ensuring access of the Basic Sectors not only to the Judiciary but also to the whole Justice System. Unless the whole machinery of Government closely works in tandem with the Basic Sectors and the rest of civil society, these measures may not be sustainable and effective.

Already, the government has installed the necessary groundwork for creating the environment conducive for empowering the Basic Sectors. But the gains of past efforts must be cultivated further; these gains must be sustained and enhanced. This continuing effort to succeed in bringing the people's agenda to its fruition requires regular dialogues and collective action of government and civil society.

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Proposed Framework JUSTICE SYSTEM & EMPOWERMENT



CONCLUSION

To heed the call for peace and people empowerment requires the commitment of all. We must secure the fundamentals of the framework for action that can lead us toward attaining our goals. First, we must redirect our central focus on the needs, concerns, aspirations and perspectives of the Basic Sectors. Our strategic interventions must be situated on their lives.

Without arresting the continuing legacy of structures of inequities and injustices that hamper their growth and potentials, the Basic Sectors shall remain poor. They shall continue to be the victims and the aggrieved majority, while the few aggressors stay in control of power. The causes of injustice and inequities must cease to exist. The systemic and structural imbalances must be leveled in favor of the majority for them to shape a sustainable future. Without justice, poverty persists.

Put the Basic Sectors, the poor first in our agenda. Not only do they constitute the majority of the population, they are vital contributors and partners in development and in the productive spheres of society. The Basic Sectors' capabilities and numerical superiority have been proven through the centennial of revolutions and people's struggles against poverty and injustices.

The imperatives and challenges of the next millennium beckon all of us for focused and collective actions. In partnerships and close collaboration, the key stakeholders are called upon to recognize the interwoven issues and concerns that hinder these sectors from accessing the judicial system. Government, with its three branches, and the rest of civil society must adopt a balanced perspective on the protection and exercise of people's rights.

Compliance to and enforcement of laws are very significant aspects in creating the desired environment where justice and peace reign. But, in carrying out these mandates the concomitant obligations that these rights connote should likewise be promoted. Such sensitivity can make the framework for development more relevant, meaningful and empowering.

Social reforms are the empowering tools that can fortify the Basic Sectors in shaping an improved quality of life for themselves, the next generation, and our own, too. The Judiciary has much to contribute in allowing social reforms to permeate our society. The hands of justice must reach out farther to put the Basic Sectors at the center of development. Only when we have provided the Basic Sectors with access in all spheres of endeavor, especially in law, can our nation as a whole savor the fruits of development and truly benefit from the potential value of an empowered majority.

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REFERENCES

1. The Philippine Constitution of 1987
2. Recommendations from the nationwide consultations of the National Unification Commission (1992-1993)
3. Philippine Human Rights Plan (1996-2000)
4. National Anti-Poverty Summit documents (1996)
5. Annual Reports of the Supreme Court
6. Reports of the 9th and 10th Congresses of the Philippines (1992-1998)
7. The Rules of Court
8. Monitoring the State of the Judiciary & The Legal Profession, 1996
9. Handbook on the Courts and the Criminal Justice System,
by Chief Justice Andres Narvasa
10. Social Reform Agenda Annual Reports (1995-1997)
11. Sourcebooks on the Social Reform Agenda, Volumes I to VIII (1998)