



Legal Accountability and Dispute Resolution (LADR) Program

A SEMI-ANNUAL REPORT FROM THE ASIA FOUNDATION  
TO THE UNITED STATES AGENCY FOR INTERNATIONAL DEVELOPMENT  
01 JULY 2005 – 31 DECEMBER 2005

(GRANT AGREEMENT NO. 492-G-SS-98-00032-00)

## **The Asia Foundation**

### **Legal Accountability and Dispute Resolution (LADR) Program (Grant Agreement No. 492-G-SS-98-00032-00)**

**July 1, 2005 – December 31, 2005**

#### **SUMMARY**

This semi-annual report covers activities from July 1, 2005 to December 31, 2005 under the Legal Accountability and Dispute Resolution (LADR) program, under a grant from the U.S. Agency for International Development to The Asia Foundation. LADR, along with its predecessor program, Reforming the Administration of Justice through Coalition Advocacy (RAJCA), runs from September 14, 1998 to September 30, 2007. LADR, like RAJCA, has the goals of: increased popular participation in and impact on the formulation of laws and policies; increased popular participation in ensuring accountability in the enforcement of laws and policies; and strengthened individual and organizational capacities. Specifically, LADR program aims to promote alternative dispute resolution processes within and outside the formal judicial system, ensure transparency and accountability in the judiciary, build stable constituencies for judicial reform, and strengthen public access to information in order to increase transparency and improve access to justice. Drawing on its long-standing partnerships with the courts, lawyers' groups, and other Philippine stakeholders in addressing important legal and judicial reform issues, The Asia Foundation implements LADR through four major components, namely: (1) institutionalizing alternative dispute resolution processes; (2) ensuring judicial transparency and accountability; (3) building constituency for reform; and (4) strengthening public information and access to justice.

Between July 1, 2005 and December 31, 2005, The Asia Foundation (the Foundation) continued to work with its existing partners and also forged several agreements with new partner institutions. With the approval of the program expansion in September 2004 and September 2005, the Foundation is further advancing the program to expand the coverage of docket decongestion, access to justice, and judicial capacity building activities. This would be undertaken through case clearance and jail decongestion initiatives, enhancing the court's capacity through the use of *amicus curiae* (friends of the court), promoting judicial education and gender training activities for the judiciary, and improving judicial accountability through clinical legal education programs. Another development would be

increasing public information and access to justice in Muslim Mindanao with focus on the Code of Muslim Personal Laws.<sup>1</sup>

Initiatives on alternative dispute resolution (ADR) processes undertaken during this period ranged from continued capability-building and skills enhancement activities in the expanded areas for both court-annexed and out-of-court mediation to efforts that seek to enlarge the promotion of its use among stakeholders. The value of ADR as an alternative paradigm to traditional litigious framework is also beginning to take root in the law academe as institutions attempt to incorporate ADR in the law school curriculum, integrate mediation curriculum and training programs, and focus on ADR pedagogy and research.

The Foundation partnered with the following organizations:

- § Philippine Judicial Academy on the expansion of court-annexed mediation in all first- and second-level courts in the cities of Tacloban and General Santos, and in the Court of Appeals
- § Institute of Social Studies and Action on the integration of PhilJA mediation curriculum and training programs;
- § *Adhikain Para sa Karapatang Pambata* (Child Rights Desk) on the conduct of ADR sessions for family court judges in its regional workshops;
- § Asian Institute of Journalism and Communications on the development of a communications program for court-annexed mediation;
- § Center for Public Resources Management on an organizational and financial study of the Philippine Mediation Center and its units;
- § Conflict Resolution Group on working with the Department of Justice for the mediation of estafa (swindling and other forms of deceits) and bouncing checks cases as well as on the promotion of mediation in business, including support for the organization of the National Center for Mediation;
- § Office of the Government Corporate Counsel in partnership with the Institute of Social Studies and Action on its capability-building project on ADR;
- § Council of Engineering Consultants of the Philippines for its nationwide awareness drive on the ADR law of 2004 and its impact on the construction industry, with focus on promoting arbitration;
- § Philippine Mediation Foundation on the revision of law school curriculum and training of change agents in law schools; and
- § University of the Philippines College of Law Development Foundation on the establishment of the Law Center Institute on Dispute Resolution.

---

<sup>1</sup> The Code of Muslim Personal Laws provides rules governing the personal status, marriage and divorce, matrimonial and family relations, succession and inheritance, and property relations of spouses in Muslim communities.

Efforts to advance judicial transparency and accountability were pursued by the Foundation during this period by supporting the activities of a consortium of legal professionals and civil society organizations in enhancing citizen participation in the process of appointing Justices of the Supreme Court, and the second phase of the court monitoring project of the Paglilingkod Batas Pangkapatiran Foundation (*Service in Law for Solidarity*). Review of gender and development in the justice system is also being undertaken through partnership with the University of the Philippines – Center for Women Studies Foundation. Court capacity enhancement activities geared towards achieving judicial accountability were also carried out through the following initiatives: (1) video production on the conduct of pre-trial in civil and criminal cases and use of deposition-discovery measures; (2) development of a manual on judicial writing for the Supreme Court; and (3) production of e-learning modules on remedial law and civil law. These materials are being prepared in coordination with the Supreme Court’s Office of the Court Administrator, Program Management Office, and the Philippine Judicial Academy, respectively. In response to the results of previous public perception surveys on the state of the judiciary and the legal profession, a diagnostic study of the challenges in the judiciary was also commenced by the Social Weather Stations during this period.

To build constituencies for the judicial reforms, the Foundation, in partnership with the Supreme Court, completed the second round of dialogs between the judiciary and the business sector. The dialogs expanded the “Chamber to Chamber” series to the foreign business community and included discussions about integrating mediation in business. Previous efforts to strengthen the relationship between the judiciary and media sectors will be bolstered through the publication by the Asian Institute of Journalism and Communication of guide materials for journalists covering the courts and for readers on judiciary-media relations. Support was also provided to the conduct of an international judicial reforms conference and showcase in November 2005, which provided a global institutional forum for the exchange of ideas and experiences on judicial reforms. All initiatives were carried out in coordination with the Supreme Court’s Program Management Office.

Finally, efforts to strengthen public information to increase transparency and access to justice focused on three areas: (1) promoting citizen awareness and participation in rule-making, the judicial reform process, and the rule of law; (2) clinical legal education; and (3) jail decongestion initiatives. These efforts have progressively involved more Muslim partners and Mindanao-based organizations. Partnerships were entered with the following:

- Cyberspace Policy for Asia-Pacific on an eRuleMaking pilot project with the National Telecommunications Commission;
- Lawyers’ League for Liberty in collaboration with the Department of Education and the Philippine Supreme Court for the development of teaching exemplars on the judiciary and the rule of law;

- Al-Mujadilah Development Foundation for the popularization of the Code of Muslim Personal Laws in the Autonomous Region of Muslim Mindanao;
- Women’s Legal Bureau for the conduct of dialogs between Muslim and Christian lawyers on laws affecting women’s rights;
- Social Weather Stations on the conduct of a focus group discussion on Shari’a legal reform;
- Ateneo Human Rights Center on its initiatives concerning law student internship and alternative lawyering as means to strengthen access to justice of vulnerable groups, and the impact of its internship program;
- Sentro ng Alternatibong Lingap Panligal (Alternative Legal Assistance Center) for the establishment of Bangsamoro Consortium of Lawyers and training support to Western Mindanao State University law students; and
- Integrated Bar of the Philippines (National Office and Quezon City Chapter) and the Humanitarian Legal Assistance Foundation on jail decongestion efforts.

During the period covered by this report, The Asia Foundation awarded 16 new grants to 14 partners. Of the 25 grants issued in the preceding period, fourteen are ongoing and eleven were completed in 2005. Only four grants issued in 2004 are continuing up to this time.

## **HIGHLIGHTS AND OUTCOMES OF SIGNIFICANT ACTIVITIES**

### ***I. Towards the Institutionalization of Alternative Dispute Resolution Processes***

#### *Court-Annexed Mediation*

***Regional Mediation Training and Establishment of Philippine Mediation Center Units in General Santos and Tacloban Cities.*** The success of court-annexed mediation in selected courts in Metro Manila, Cebu, and Davao City encouraged the Philippine Judicial Academy (PhilJA) to pursue expansion of court-annexed mediation in other judicial areas of the country, starting with Cagayan de Oro City and then in General Santos and Tacloban cities.

This period saw the near-completion of the mediation projects in General Santos City and Tacloban City, including its adjacent court stations. Foundation support covered a one-day public information campaign on court-annexed mediation in each of the cities, a five-day basic mediation seminar, a one-day mediation training activity for lawyers expected to become advocates of court-annexed mediation, and a month-long internship program to provide the participants with an opportunity to mediate actual cases. The basic mediation seminar for both cities was attended by a total of 119 participants consisting of lawyers, prosecutors, retired judges, media people, academic and business professionals, as well as government and religious officials. The advocates’ forums included 205 lawyers and judges from the two cities.

By the end of this period, PhilJA reported that Tacloban House Representative Remedios Petita allotted a sum of two million pesos for the building of a Philippine Mediation Center in the city, which began construction in December 2005. Two rooms were also designated by a Regional Trial Court judge in General Santos City for use of its Philippine Mediation Center Unit. The internship period was recently concluded.<sup>2</sup> Evaluation of mediation in both areas will be conducted in January 2006.

**2005 Settlement Period.** This project seeks to enhance the impact of mediation in areas where it is already in place, particularly where PMC Units have been established with support from The Asia Foundation's LADR program<sup>3</sup> and those areas under the Justice Reform Initiatives Support or JURIS project funded by the Canadian International Agency for Development (CIDA). With the declaration by the Supreme Court of the months of June and July 2005 as a Settlement Period, all first and second level trial court judges in the covered areas were directed to consider the possibility of amicable settlement of all civil cases, settlement of estates, and cases covered by the Rule on Summary Procedure (except those which by law may not be compromised), cases cognizable by the Peace Council under the Barangay Justice Law, civil aspects of the Bouncing Checks Law, civil aspects of quasi-offenses defined under the Revised Penal Code, and civil aspects of estafa and libel where damages are sought.

As of September 2005, a total of 2,248 cases completed mediation, out of which 1,421 were settled. All pending cases were returned to the court at the conclusion of the settlement period. An evaluation of the project is due for submission to the Foundation.

***Court of Appeals Mediation Project (Phase Two): Internship Program for Newly-Trained Mediators in the Court of Appeals.*** Beginning in January 2004, The Asia Foundation provided support to PhilJA for the institutionalization of mediation in the Court of Appeals by offering litigants in the appellate court the opportunity to resolve their disputes outside the regular court proceedings.<sup>4</sup> To pursue this objective, a core of twenty well-screened trainers from the legal, business, and academic professions was developed. Mediation skills-building workshops were subsequently organized for two batches of participants consisting of retired Court of Appeals Justices, retired judges, senior members of the Philippine Bar, and senior faculty members of law schools. Further support was provided by the Foundation in March 2005 for the establishment of a Philippine Mediation Center – Court of Appeals Unit, conduct of an internship program

---

<sup>2</sup> Based on PhilJA's report, out of the 381 cases actually mediated in Tacloban City, 107 cases were settled in December 2005 and 254 still pending resolution by the parties. In General Santos City, 119 cases underwent actual mediation. Of this number, 41 cases reached settlement while 62 are still pending.

<sup>3</sup> The Asia Foundation's court-annexed mediation project areas are Metro Manila, Cebu City, Mandaue City, Lapulapu City, Davao City, Digos City, Tagum and Panabo of Davao del Norte, and Cagayan De Oro City.

<sup>4</sup> A total of 22,587 cases were pending at the beginning of the year 2002. During the year, 12,672 new cases were filed while 11,752 cases were disposed of. In 2003, 11,745 new cases were filed and the court disposed of 11,729. By the end of the year, a total of 22,603 cases remained.

for the trained mediators, and promotion of the appellate court mediation to key stakeholders.

After consultations with the Presiding Justice and other Justices of the Court of Appeals, including the clerks of court and division clerks of court, the project was formally launched in August 2005, with then Supreme Court Chief Justice Hilario Davide Jr. delivering the keynote speech. A total of 1,113 cases have been provided by the Divisions for possible mediation (exceeding original target of 1,020 cases at 60 cases per division), with 794 cases qualified for mediation based on the nature of cases, residence of parties, and cases with complete addresses of parties. Reports demonstrate that between June 2005 and December 2005, parties in 216 cases have agreed to refer their cases to mediation, with 70 cases reaching settlement and 52 still going through mediation. This activity is still ongoing and will be extended as a result of additional cases that qualified for mediation.

***Workshops on Dispute Resolution for Family Court Judges.*** Adhikain Para sa Karapatang Pambata, in partnership with the Philippine Judicial Academy and the United Nations Children’s Fund, is presently conducting the regional workshops on “Juvenile Justice, Domestic Relations, and Dispute Resolution” for family court judges, court social workers, and selected members of the civil society. The workshops aim to familiarize the participants with recent laws, Supreme Court rules, and decisions affecting women, children and the family. Case studies on marriage and violence in the family, child abuse, diversion of children in conflict with the law, and adoption is being used to engage the participants in an analytical understanding of the various laws and rules affecting family, women and children using a multi-disciplinary approach.

The Asia Foundation is supporting the portion of the workshops on dispute resolution skills building. The specific objectives of the session are as follows: (a) to focus on the underlying concepts and skills of mediation to help participants see how they rely on these skills in their day to day work in Family Courts; (b) to introduce the different models of mediation currently practiced in the Philippines and the world; (c) to consult the participants as to the current activities and programs on mediation; (d) to explore participants’ openness to and interest in expanding the use of family mediation elements in Family Courts; and (e) to address questions and concerns of the participants on mediation in Family Courts.

The dispute resolution skills session also serves as a consultation with judges about the expansion of mediation among Family Courts nationwide. As of the writing of this report, workshops have already been conducted in Manila and Bohol, benefiting a total of 117 Family Court judges, Branch Clerks of Court, and Court Social Workers in the National Capital Judicial Region and Regions 7, 8 and 9. A similar workshop for Region 4 and Manila Family Court stakeholders is scheduled in January 2006.

***Integration of Mediation Curriculum and Training Programs.*** As the component unit for court-referred, court-related mediation cases and other alternative dispute resolution mechanisms, PhilJA is mandated to implement training programs for judges, mediators, court personnel and lawyers. Course curricula and training materials are continuously being developed and collected as a result of these trainings. In partnership with PhilJA, and with additional support from the Justice Reforms Initiatives Support (JURIS) project of the Canadian International Development Agency, the Institute of Social Studies and Action is presently implementing the Integration of Mediation Curriculum and Training Programs project.

The over-all objective of this project is to integrate the existing curricula and develop them into a standard format with accompanying materials and teaching notes. Specifically, the project aims to establish the most relevant and appropriate curriculum design and training process for the courses in mediation and ADR; establish a uniform curriculum design for all courses; and publish the integrated curricula in both hard and soft copies for future reference and distribution. The integrated curricula will become the standard for all ADR training necessary to secure accreditation from the Supreme Court.

The Workshop on the Integration of the PhilJA Basic Mediation Courses was held in November 2005, with 22 representatives from the Institute, PhilJA, Canadian International Development Agency, The Asia Foundation, and selected court-annexed mediators. The final draft of the integrated program and training manual on basic mediation is being reviewed for the consideration and approval of the Project Planning Committee. The revised version will be presented in January 2006. Also in progress is the integration of the trainers' training course and orientation course for lawyers on mediation.

***Communication Program for Court-Annexed Mediation.*** This project takes off from the results of previous studies supported by The Asia Foundation's LADR program that highlighted the value of information, education, and communication strategies in promoting court-annexed mediation, and indicated the need to address the attitude and behavior of mediation stakeholders, particularly judges, lawyers, and litigants, which affect the quality of support for alternative dispute resolution. In coordination with PhilJA, the Foundation is working with the Asian Institute of Journalism and Communication towards increasing disputants' awareness of their responsibility in deciding whether to use alternative dispute resolution mechanisms or the courts in resolving their disputes.

Specific activities planned under the project include: (1) preparation of a Communication Plan for Court-Annexed Mediation; (2) development of information, education, and communication materials, including news articles and feature stories on mediation; and (3) case studies of successful mediation cases and outstanding mediators which will be utilized as inputs for media stories, training tool, or case presentations in future mediation conferences.



During this reporting period, all existing PhilJA communication materials on mediation have been inventoried. A consultation meeting was held in August 2005 for the presentation and discussion of the proposed case study outline, options for case studies, materials development, and story ideas on court-annexed mediation. Another meeting was held in November 2005 for the approval of the revised concept papers on specific cases studies and topics for feature articles. Activities for implementation in the next period include the preparation of the case studies, feature articles, and print materials on mediation, conduct of workshop on the use and dissemination of the print materials, and preparation of communication plan for court-annexed mediation.

***Organizational and Financial Study of the Philippine Mediation Center and its Units.***

The Asia Foundation, after a competitive bidding process, contracted the services of the Center for Public Resources Management Consultants, Inc. to undertake a study on the present organizational and financial structures of the Philippine Mediation Center (PMC) and its existing units. The study is part of PhilJA's efforts to implement an effective and sustainable expansion of court-annexed mediation.

After undertaking research, site visits, and focus group discussions with relevant stakeholders, the Center for Public Resources Management submitted its inception and assessment reports during the last quarter of 2005. PhilJA is in the process of reviewing the assessment report. The assessment report provided a review of the overall context, organization, framework and performance; review of mediation system finance; internal capacity assessment; proposed design framework; and the site visit findings and observations. The proposed organization model sorts the functions in the management and operation of the court-annexed mediation system and allocates the functions to the entity (public sector or private sector) that will do it best from the point of view of efficiency. The model works in such a way that the judiciary will provide the policies, establish operating standards and procedures for the operation of the court-annexed mediation, and engage in partnership with private sector mediation organizations for the delivery functions. A Mediation Center established by the Supreme Court will be the oversight agency for the system. To address sustainability issues, the study further proposes a framework for enunciating the pricing policy for mediation services, regarded as an impure or marketable public good, where portions of the fee for mediation are market driven and other portions supported by government funds since the benefits accrue to purely government functions like the administration of justice.

The Center is currently refining its recommendations as to the organizational structure and financial status of the PMC, and the feasibility of establishing PMC units nationwide, including the organizational and financial requirements.

### *Out-of-Court Mediation*

***OGCC Alternative Dispute Resolution Capability-Building project.*** The overall objective of this project is to develop the capacity and skills of the Office of the Government Corporate Counsel (OGCC)<sup>5</sup> on alternative modes of dispute resolution relevant to its mandate. It specifically aims to introduce the different alternative dispute resolution (ADR) mechanisms to its lawyers and the representatives of its client government-owned and controlled corporations; identify modes of ADR relevant to the mandate of the OGCC; draft related internal rules and regulations; provide necessary ADR skills to its lawyers; and conduct a pilot-test of the internal rules and regulations on ADR.

This activity is currently implemented by the Office of the Government Corporate Counsel with technical assistance from the Institute for Social Studies and Action. The following activities were undertaken during the reporting period: Needs Assessment Workshop; Orientation Workshop on Alternative Dispute Resolution; Writing workshops for the drafting and validation of the OGCC Internal Rules on ADR; and Mediation and Arbitration Training Workshops. As a preparation for its publication, a draft of the Internal Rules has been prepared and is in the process of review.

Using actual pending lawsuits, case conferences among OGCC lawyers and disputants were held in November 2005 for the pilot-testing of the draft Internal Rules on ADR, using mediation and arbitration. The next conferences are scheduled in January 2006.

***Institutionalizing Mediation at the Department of Justice (Focus on Bouncing Checks and Estafa Cases).*** In its continuing effort to institutionalize the use of mediation in the Department of Justice, the Conflict Resolution Group with support from The Asia Foundation's LADR program is currently implementing this project in Metro Manila prosecution offices, with a strong emphasis on the use of mediation for bouncing checks and estafa cases, in order to prevent further entry of these cases into the court system. Components include mediation training for prosecutors and public attorneys from Manila and Quezon City areas; a refresher course for previously trained prosecutors in Makati and Pasig cities; and a month-long settlement period in all four cities.

A Memorandum of Agreement with the Department of Justice was signed in August 2005 to ensure the Department's support to the project. In September and October 2005, mediation training activities were undertaken in Manila and Quezon City areas with a

---

<sup>5</sup> The Office of the Government Corporate Counsel (OGCC), an attached agency of the Department of Justice, provides legal services to all government-owned and controlled corporations, their subsidiaries, other corporate offsprings and government-acquired corporations. Under Presidential Decree No. 242 (1973), cases involving mixed questions of law and of fact or only factual issues, with respect to disputes or claims or controversies between or among government-owned and controlled corporations or entities being served by the OGCC, shall be submitted to and settled by the Government Corporate Counsel. It is also authorized under the law to refer to an arbitration panel the determination of questions of fact.

total of 127 participants from the Justice Department. 106 of those trained participated in the month-long internship program. The settlement period ended in December 2005.<sup>6</sup>

***Nationwide Awareness Drive on the Alternative Dispute Resolution Act of 2004 and Its Impact on the Construction Industry.*** Following the enactment of the ADR law of 2004, which re-affirmed the jurisdiction of the Construction Industry Arbitration Commission over construction disputes and mandated the referral of all pending construction cases in courts to the Commission for arbitration, the Council of Engineering Consultants of the Philippines is conducting a nationwide awareness campaign on the impact of the law to the construction industry.

The awareness drive was first launched in November 2004 in Manila and was well-attended by arbitrators and members of the business sector and construction industry. The campaign is being carried out in the regional centers of the country in coordination with the Commission, the Philippine Constructors Association, the Philippine Technological Council, and the Confederation of Filipino Consulting Organizations. The latest forum on the ADR law was held in December 2005 in Cebu City where approximately 24 stakeholders from the construction industry and the legal profession attended. In the next reporting period, pocket sessions on ADR (small or mini-sessions organized in conjunction with regular activities) will be undertaken in coordination with professional organizations. A handbook on ADR will also be prepared.

***Alternative Dispute Resolution in Business.*** With support from The Asia Foundation, the Conflict Resolution Group expanded during this period the scope of the business mediation initiative to four additional areas, namely, Baguio, Clark, Bacolod, and Cagayan de Oro cities. The project also re-visited Cebu City where mediation of family business-related disputes has already been initiated.

The series of five-day mediation training activities was completed in the covered areas from July to September 2005, which benefited 75 leaders of business chambers, companies, and human resources departments, as well as lawyers, labor relations personnel, and entrepreneurs. A two-day refresher course for 21 previously-trained mediators based in Cebu City was also held in August 2005. Advocacy for the use of mediation was launched during this period through participation in business forums and inclusion of the effort in broadcast and print media.

By the end of this period, the Conflict Resolution Group worked towards the setting up of mediation units in the covered areas. They also coordinated with the National Center for Mediation chapters on their individual strategic plans for the promotion and operation of their respective mediation centers.

---

<sup>6</sup> Statistics from the Conflict Resolution Group shows that out of 912 cases that were accepted for mediation, 606 were settled as of December 2005, while 165 are still in progress. 52 cases failed mediation, while 89 cases were returned to the Department of Justice without action.

***National Center for Mediation Organizing Committee Planning Workshop.*** As a result of advocating the use of mediation in the business sector in eight areas in the country (Metro Manila, Cavite, Davao, Baguio, Clark, Bacolod, Cebu, and Cagayan de Oro cities), a National Center for Mediation was resolved to be created, with each area having its own chapter and elected officers. Three representatives from each chapter have been nominated to form part of a National Organizing Committee to strengthen the National Center for Mediation.

This project supported the conduct of a planning workshop to gather all members of the National Organizing Committee along with representatives of the nine convening business organizations.<sup>7</sup> Held in December 2005, the workshop formally resolved to create the National Center for Mediation umbrella organization; establish a cohesive set of mission, vision, policies, procedures, and structure for the Center; and develop a unified strategy to promote the use of mediation in business contracts and the services of the National Center for Mediation to the business sector.

***Online Dispute Resolution Project (Implementation Phase).*** Following the launch of the Philippine Dispute Resolution website<sup>8</sup>, the Cyberspace Policy Center for Asia-Pacific proceeded to deploy the online dispute resolution (ODR) software and implement the recommendations of the initial phase. One of the components of the implementation phase included an information campaign to familiarize users on the utility of the software and its advantages. Initial efforts revealed that there remains a significant lack of awareness and understanding on the existing ODR service among stakeholders. Since its launch, only a few cases have been submitted to the ODR process, and most have been unable to proceed due to hesitation of the parties involved.

In an effort to advance the promotion of the service, the Center partnered with the Philippine Franchise Association, one of the selected target groups for the service, to endorse the ODR service to its members. Hence, in conjunction with the Mindanao Business Conference held in September 2005 in Davao city, The Asia Foundation provided support to the Center for the conduct of a special session on Online Dispute Resolution. Topics discussed relate to achieving win-win franchise relationships, improving collection of receivables using ODR, and a walk-through of the ODR service.

---

<sup>7</sup> These are the following: Employers' Confederation of the Philippines (ECOP), Personnel Managers Association of the Philippines (PMAP), Federation of Filipino-Chinese Chambers of Commerce and Industry, Inc. (FFCCCII), Philippine Chamber of Commerce and Industry (PCCI), Federation of Philippine Industries (FPI), Philippine Exporters Confederation (PHILEXPORT), Chambers of Commerce of the Philippines Foundation (CCPF), Management Association of the Philippines (MAP), and Philippines, Inc. These business organizations signified their commitment to advocate, promote, and encourage the use of mediation in business disputes.

<sup>8</sup> <http://www.disputeresolution.ph>

***From Litigation to Mediation: Re-Orientation of Lawyer's Role.*** Taking off from a Supreme Court guideline calling for a change in the orientation of lawyers during mediation, the Philippine Mediation Foundation, Inc. conceptualized this project to encourage lawyers, starting with law students who are the future lawyers of the country, to participate constructively as problem solvers and providers of prompt, appropriate and affordable justice in court-annexed mediation proceedings. With support from The Asia Foundation, this project aims to review the current law school curriculum and institute revisions to include ADR subjects, and to develop a core of professional ADR trainers in selected law schools in Metro Manila who will assist in the training and re-orientation of prospective lawyers.

Major project activities include the (a) conduct of exploratory meetings with concerned law school deans, Philippine Association of Law Schools, and Commission on Higher Education; and (b) training of “change agents” from selected law professors and lecturers. It is anticipated that this project will generate a core group of “change agents” who will serve as champions of ADR in the legal profession, a revised law school curriculum, and a new method of instruction in the law schools, which integrates the principles and processes of ADR, specifically negotiation and mediation.

During this reporting period, a Project Steering Committee consisting of former and current law school deans was mobilized. The Committee led the drafting of a proposed revised law curriculum, which was presented during a convention of law school deans held in November 2005. Potential change agents from pilot law schools<sup>9</sup> were also identified and given orientation about the project during this period. The re-orientation seminar on dispute resolution is set to take place in February 2006.

***Establishment of the U.P. Law Center Institute on Dispute Resolution (IDR) and Other Related Projects.*** Despite significant developments in the field of ADR in the Philippines, it is recognized that no institution has yet been established that focuses on ADR pedagogy and research, particularly as this relates to law school instruction and the practice of law. The Asia Foundation is supporting the initial activities of the Institute on Dispute Resolution (IDR), which is currently being set up by the University of the Philippines Law Center.

The Institute is envisioned as a vehicle for improving the theory and practice of all forms of dispute resolution by encouraging new thinking in negotiation theory and ADR, providing a forum for discussion of ADR ideas and practices, increasing public awareness of ADR modes, and providing ADR services to the general public. The Institute further aims to establish a national network of ADR academics and practitioners which can guide the development of ADR in the country and coordinate efforts on a national basis to afford a level of uniformity in ADR instruction. It targets the legal

---

<sup>9</sup> The pilot law schools are as follows: University of Santo Tomas, University of the Philippines, San Beda, Ateneo, Far Eastern University-La Salle, and Manuel Luis Quezon University.

community starting from law students, practitioners, law professors, lecturers, and researchers. Specific component activities of this project are: (a) publication of ADR Quarterly Newsletter; (b) organizing an ADR Conference; and (c) ADR Courseware Development.

As of this reporting period, the office of the Institute has been set up, with completion of its key positions. The first quarterly newsletter, *Consensus*, was also finalized in November 2005 for dissemination to target stakeholders. This period also saw structural changes in the UP College of Law, which to some extent posed a challenge to the project's progress. Discussions with the new administration are underway in seeking clarity to the terms of the initiative.

## **II. Judicial Transparency and Accountability**

***Supreme Court Appointments Watch.*** With the vacancies occurring in the seats of the Chief Justice and Associate Justice of the Supreme Court beginning in December 2005, citizen participation in the judicial appointment process is limited only to the Judicial and Bar Council<sup>10</sup>, with no significant civil society involvement in the process. Ultimately seeking to increase transparency and accountability in the judicial appointments process, this project aims to enhance venues for citizen's participation in the process and selection of the succeeding High Court Justices, raise the level of public awareness about the appointment process, and contribute to the formulation of institutional mechanisms that would enhance the transparency and accountability of the appointments process.

With support from The Asia Foundation's LADR program, a consortium of legal professionals and civil society organizations<sup>11</sup> banded together to ensure active participation in the Judicial and Bar Council's process of selecting nominees for the vacant posts. They launched a nationwide public information campaign focusing on increasing public awareness about the appointment process, educating the public on how they can participate in the process, and informing the public about the candidates to the vacant positions.

After the project's launch in September 2005, the consortium met with the Judicial and Bar Council where they obtained commitment to conduct, for the first time, public

---

<sup>10</sup> The 1987 Constitution of the Republic of the Philippines vests the authority to nominate appointees to the judiciary in the Judicial and Bar Council. From a list of at least three nominees, the Philippine President makes appointments to vacant judicial posts without requiring any further confirmation. Direct citizen participation in the judicial appointment process may be seen in the presence of four regular members of the Council, namely, a representative of the Integrated Bar of the Philippines, a professor of law, a retired member of the Supreme Court, and a private sector representative.

<sup>11</sup> The Supreme Court Appointments Watch Consortium is led by the Transparent Accountable Network (TAN) and the Alternative Law Groups, Inc. together with the Lawyers' League for Liberty, Integrated Bar of the Philippines, Philippine Association of Law Schools, and the Association of Law Students of the Philippines.

interviews of the nominees for the Chief Justice post. Public forums were likewise held by the consortium in Manila, Baguio, Cebu and Cagayan de Oro cities. The forums were attended by members of the academe and representatives of civil society, and received significant attention from both print and broadcast media. Developments in the process were closely monitored by the consortium. During this period, various information materials, including profiles of the nominees, were prepared and disseminated to the public via web and print media.

The Judicial and Bar Council, though, decided to cancel the scheduled public interview in December 2005, so the consortium immediately submitted an inquiry to the Supreme Court and issued a public statement on the matter. It is currently preparing for the upcoming nominations process for the Associate Justice post.

***Civil Society Engaging the Courts II.*** In its effort to design an effective tool for court monitoring and to develop civil society court monitors in three key cities in Mindanao<sup>12</sup>, *Paglilingkod Batas Pangkapatiran* Foundation (Service in Law for Solidarity) is in the process of improving the research and groundwork for the development of a Civil Society Manual for Court Monitoring.

During this period, three workshops were held with court monitors from the first batch to generate recommendations for improving court monitoring. A total of 23 visits to the different Regional Trial Courts in the covered areas were conducted as of November 2005. An initial list of second batch court monitors was also drawn up.

***Davide Watch Gender Review project.*** Through a grant to the University of the Philippines Center for Women Studies Foundation, this project reviewed the Action Program for Judicial Reform and the Davide Watch (Chief Justice Davide's inaugural statement of priorities) in terms of gender and development in the justice system. Supreme Court policies and programs on gender, its gender sensitivity trainings, and related jurisprudence were analyzed during this period. The research results, which will be published in book format, will document the term of Chief Justice Hilario Davide Jr. (November 1998 to December 2005) as a benchmark for the Supreme Court's gender mainstreaming efforts, and is expected to contribute to judicial reform, the amendments of the Rules of Court, the Rules on Sexual Harassment, and the new Code of Judicial Conduct. It is envisioned that a similar review of the terms of succeeding Chief Justices will be done in the future as a useful way of tracking the judiciary's performance on gender mainstreaming from the perspective of women's rights advocates and independent writers.

To date, the research team has already collected, summarized, and assessed 155 gender-related cases. Drafts of each chapter of the proposed book have been finalized for further revision. A prototype of the draft publication has been launched by the Supreme Court in

---

<sup>12</sup> Areas covered are the cities of Davao, Cagayan de Oro, and General Santos.

December 2005. With its expected completion in February 2006, the final study will be formally launched in March 2006.

***Video Production on the Conduct of Pre-Trial in Civil and Criminal Cases and the Use of Deposition-Discovery Measures.*** In order to promote effective and efficient disposition of cases through effective use of pre-trial and deposition-discovery methods, The Asia Foundation supported the Supreme Court's Office of the Court Administrator in producing five video presentations on the use of pre-trial procedures in civil and criminal cases in the first and second level courts and the use of depositions and other modes of discovery procedures. The video materials are intended to be used as demonstration materials in its future training activities.

During this reporting period, post-production work on the videos, including editing, was fully accomplished. The final product was formally launched in November 2005 at the Supreme Court Session Hall. Discussions are in progress on how the videos will be appropriately utilized by its target beneficiaries.

***Manual on Judicial Writing for the Supreme Court of the Philippines.*** This material is intended to serve as a uniform reference guide for the Supreme Court justices, their lawyers, and legal researchers in the drafting of their decisions, memoranda, and other legal documents. With support from the Foundation, the Supreme Court-Program Management Office contracted a legal consultant to develop the guide material.

Final draft of the manual was submitted to the Supreme Court during this period. A soft launch of the manual, along with two other publications, was conducted by the Supreme Court in December 2005.<sup>13</sup>

***e-Learning Modules Production on Remedial Law and Civil Law of the Philippine Judicial Academy.*** Following the Pilot Project for the Judiciary (Modules on Electronic Evidence and Psychological Incapacity), which was successfully launched in 2004, PhilJA will now develop, produce, and offer via internet the following learning modules: (1) Remedial Law, specifically on Investigation, Arrest, Search and Seizure; and (2) The Developing Jurisprudence in Civil Law. The subject matter of the modules was chosen based on the present needs of the judges to be informed and updated on the relevant laws and jurisprudence.

This project aims to develop and produce the two e-Learning modules; offer the two e-Learning modules online via the internet to 200 judges per module (a total of 400 judges); and analyze and evaluate the impact of the two e-Learning modules on the participating judges.

---

<sup>13</sup> With similar funding from The Asia Foundation's LADR program, the two other publications – *Gender Sensitivity in the Family Courts* and *Engendering the Judiciary* – were prepared by the University of the Philippines Center for Women Studies Foundation.



As of this reporting period, PhilJA is in the process of developing the two modules, with the assistance of Go Vida, an Information Technology Consultant, in order to complete the on-line implementation of the modules.

***Survey of the Judiciary and the Legal Profession.*** This project is a replication of the Social Weather Stations' 1993-1996 series of statistically representative surveys of the opinions and attitudes of judges and of lawyers on the state of the judiciary and of the legal profession. This material was previously published in a monograph. The current survey is intended to find out if there have been changes in attitudes and opinions on the state of the judiciary and the legal profession, particularly on the administration of justice and judicial problems and solutions.

The conduct of focus group discussions, mail survey of judges, and face-to-face interviews with private lawyers nationwide were completed in 2004. Results of the survey have also been presented to the Supreme Court, judges, lawyers, academe, and the general public in early 2005. The grant was extended to enable the Social Weather Stations to accomplish the publication of a monograph on the "Survey of the Judiciary and the Legal Profession".

***Survey of Judges: A Diagnostic Study of the Challenges in the Judiciary.*** Based on the Social Weather Stations survey on the "State of the Judiciary and the Legal Profession in the Philippines" the Supreme Court Committee on Public Information, PhilJA and Program Management Office saw the need to conduct a more in-depth scientific survey among the judges and law practitioners to specifically identify the underlying causes of the problems in the judiciary. The over-all objective of the survey is to provide qualitative and quantitative diagnostics to the challenges facing the judiciary as seen from the point of view of the respondent-judges.

The project includes: (a) focus group discussions nationwide; (b) dissemination of survey questionnaires to first and second level courts; and (c) presentation of survey results to the judiciary. The project was amended in November 2005 in order to include a module of questions within the Social Weather Stations' 4<sup>th</sup> Quarter National Survey to provide a comparison of the public opinion with the judges' opinion.

After the conduct of focus group discussions participated in by lower court judges, SWS developed the questionnaire for the survey and distributed them to all lower court judges. As of the writing of this report, the Social Weather Stations has already retrieved 940 completed questionnaires out of a total of 1,483 mailed in October 2005, or a partial return rate of 63%.

### **III. Building Constituency for Reforms**

***Chamber to Chamber Phase II: Dialogs with the Foreign Business Sector and Integration of Mediation in Business.*** In its effort to promote better understanding

between the judiciary and the business sector, a second series of dialogs with the business chambers in the country was supported by the Foundation in partnership with the Supreme Court's Program Management Office. Similar to the first series, these dialogs discussed the role of the judiciary, its reform agenda, and the business sector's concerns regarding the administration of justice in the country. Additional features of the dialogs were sessions on the use of ADR mechanisms in resolving business-related disputes and inclusion of the foreign chambers of commerce.

All the dialogs with the local chambers in the target areas and with the foreign business chambers were completed by the third quarter of 2005. Specific dialogs held within the reporting period took place in Pampanga, Butuan City, Bohol, Roxas City, Dipolog City, and Marawi City. The foreign chambers that have been engaged during this period were the Korean, French and Spanish chambers. A dialog with the Bankers' Association of the Philippines was also held in October 2005 to raise the specific concerns of the banking industry about the administration of justice in the country. Among the persistent issues raised during the dialogs include court delays, court issuance of temporary restraining orders, and negative impact of court decisions on business cases.

It is noted that the dialogs resulted into an increased appreciation by the business sector of the role of the judiciary. The sessions on ADR also raised their level of awareness about the process. Many businesses pledged their support to the efforts of de-clogging court dockets and to the work of the Philippine Mediation Center. Members of the judiciary, on the other hand, considered the business sector concerns as valuable input to the ongoing efforts to improve the administration of justice in the country. A report of the significant highlights of the judiciary-business dialogs is being prepared by the Supreme Court's Program Management Office and will be distributed to the business community.

***Publication and Dissemination of Materials Related to the Strengthening of Judiciary-Media Relations Initiatives.*** In 2004, the Asian Institute of Journalism and Communication, in coordination with the Supreme Court, embarked on a project that sought to strengthen the working relationship of the judiciary and media. As a result of this effort, prototype versions of a "Guidebook for Journalists Covering the Courts (with Glossary of Legal Terms for Journalists without Legal Background)"<sup>14</sup> and "Justices to Journalists, Journalists to Justices: A Reader on Judiciary-Media Relations"<sup>15</sup> were

---

<sup>14</sup>The *Guidebook for Journalists Covering the Courts* is a reference tool for journalists as they cover the courts for their newspaper, radio and television stations, and electronic media. It is envisioned to foster greater understanding and appreciation of the judicial branch of government, so that as media fulfills its watchdog role, it can act more responsibly toward the Judiciary. The *Glossary of Legal Terms for Journalists without Legal Background* is a companion volume which was developed as an articulated need from media practitioners who participated in the nationwide consultation workshops conducted under the past project. With this material, journalists are expected to become better-equipped in understanding the language and workings of the Judiciary.

<sup>15</sup>*Justices to Journalists, Journalists to Justices: A Reader on Judiciary-Media Relations* is a compilation of speeches and papers presented by the Supreme Court Justices, judiciary officials, and media executives

produced. Contents of these materials were validated with the Supreme Court's Program Management Office and PhilJA in a Focus Group Discussion workshop held in August 2005.

Further support was provided to the Asian Institute of Journalism and Communication for the revision of the design, publication, and distribution of 1,000 copies each of the abovementioned materials. A dissemination plan will be prepared in connection with the distribution and utilization of the published materials among the targeted audience, specifically journalists covering the courts in Metro Manila and in the provinces. The plan will include a feedback system to confirm that the materials reach their intended audience and to examine the effectiveness of the materials.

As of this period, the first draft lay-out of the two publications has been accomplished. Review of the draft is ongoing.

***International Conference and Showcase on Judicial Reforms: Strengthening the Judiciaries of the 21<sup>st</sup> Century.*** Since the crafting of the Action Program for Judicial Reform in 2000, the Philippine Supreme Court has implemented projects aimed at enhancing judicial institutions and improving the delivery of judicial services. Other countries have similarly launched their judicial reform initiatives. Despite these successful country-led efforts, no regional institutional forum for the exchange of ideas and experiences on judicial reforms had yet been initiated.

Project support facilitated the successful conduct of an International Judicial Reforms Conference and Showcase in Manila on November 28, 2005 to November 30, 2005 in the country. Specific objectives of the conference were as follows: (a) facilitate sharing of ideas, experience, best practices, and reform initiatives that address issues on judicial independence, integrity, transparency, accountability, efficiency, and access to justice; (b) identify areas of collaboration among Asia Pacific justices, judges and legal institutions to promote legal and judicial reforms; and (c) institutionalize a knowledge-sharing and knowledge management mechanism through the organization of an Asia Pacific Judicial Reform Network.

The three-day activity consisted of sessions on topics of judicial independence, integrity, education, transparency and accountability, access to justice, judicial reform management, as well as a showcase of judicial reform projects. Over 300 delegates consisting of Chief Justices, heads of the judicial reform programs of the Asia Pacific region, members of the Asia Pacific Judicial Educators Forum and development partners from forty-five countries graced the event.

---

during various forums organized under the past project. It is packaged in monograph form to serve as a handy reference primarily for journalists.

The Asia Foundation, with USAID, supported in part the physical and technical production of the conference, and hosted a luncheon on the final day of the conference which highlighted some of the LADR project's initiatives. Other resource requirements for the entire conference were generated by the Philippine Supreme Court from other partner institutions, such as the Asian Development Bank, Canadian International Development Agency, United Nations Development Program, and the World Bank.

The conference resulted to the signing of the *Manila Declaration* where the delegates expressed their commitment to pursue judicial reform in their respective countries, establish the Asia-Pacific Judicial Reform Forum, and launch the judicial reform network website. The event further led to ongoing discussions about the next international conference that may be hosted by Malaysia and other judicial reform meetings in Australia and Pakistan.

A written record of the conference, which will cite, among others, the ideas, experience, best practices, and reform initiatives presented and discussed; showcase of judicial reform projects; consensus on areas of collaboration; and the organization of the judicial reform network is expected to be submitted by the Supreme Court's Program Management Office in January 2006.

#### **IV. Public Information and Access to Justice**

*Promoting citizen awareness and participation in rule-making, the judicial reform process, and the rule of law*

***The National Telecommunications Commission eRulemaking Project: Pilot Implementation Phase.*** To demonstrate the potential of simple technological tools to enhance citizen participation in administrative rule-making, the Cyberspace Policy Center for Asia-Pacific in consultation with the National Telecommunications Commission developed a software system that allows the Commission to directly consult the public in drafting discussion papers or regulations through a website.

Following the successful launching of the project in June 2005, the pilot implementation of this eRulemaking project was further supported by The Asia Foundation. The eRulemaking facility is now accessible from the National Telecommunications Commission's website<sup>16</sup> but is not yet open to the public. It is expected that the utilization of the site will commence in January 2006. Consultation meetings are being arranged to resolve technical issues raised by the Commission.

***Public Education on the Rule of Law Advancement and Support (PERLAS) project.*** A joint initiative of the Supreme Court's Program Management Office, the Department of

---

<sup>16</sup> [www.ntc.gov.ph](http://www.ntc.gov.ph)

Education, and the Lawyers' League for Liberty, this project aims to enhance the public understanding of the fundamental principles that govern the operation of the judiciary. The objective of the project is to educate and inform the general public, specifically students from public schools, both elementary and high schools, on the judiciary and the rule of law through the use of teaching and learning materials appropriate to their learning competencies. As such, the project will enrich the existing curricula of the Department of Education for public schools, and at the same time, broaden the community support base for the ongoing judicial reforms through the use of educational materials. Expected outputs from the project include: (a) Teaching Exemplars for Classroom Use for Elementary Students; (b) Teaching Exemplars for Classroom Use for High School Students; and (c) Student Handbook for High School Students.

During this period, research and consultative workshops were held with representatives from the legal and education professions. The workshops were meant to develop core messages and concepts that would be included in the teaching exemplars. Writing workshops and review of the draft exemplars were subsequently conducted. The first batch of 50 exemplars was ultimately submitted to the Supreme Court in November 2005 in book format.

The Teaching Exemplars for Classroom Use for Elementary and High School Students was launched in November 2005 during the International Judicial Reform Conference organized by the Supreme Court of the Philippines. Prototype copies of the book were printed and distributed to the conference delegates. As of the writing of this report, the Lawyers' League for Liberty is in the process of finalizing the Student Handbook for High School Students, which will be launched in March 2006. With support from the Foundation, a small pilot project that will train teachers on the use of the exemplars will also be conducted.

The publication and nationwide dissemination of the exemplars will be supported by the World Bank.

***Popularization of the Code of Muslim Personal Laws in the Autonomous Region of Muslim Mindanao (ARMM) (Phase II) and Conduct of Focus Group Discussions with Shari'ah Court Judges, Lawyers, and Muslim Communities.*** The Al-Mujadilah Development Foundation previously received Foundation support to popularize the Code of Muslim Personal Laws<sup>17</sup> in five areas of the Autonomous Region of Muslim Mindanao through the translation of the Code of Muslim Personal Laws in Sama and Maguindanaon languages, and publication of illustrated primers in five local languages (Tausug, Maranaw, Yakan, Sama and Maguindanaon), including an illustrated primer in English language for use of law students and researchers. The Maguindanaon, Maranaw and English versions had already been published and disseminated to target areas.

---

<sup>17</sup> Presidential Decree No. 1083 (977), otherwise known as The Code of Muslim Personal Laws (CMPL), provides the rules governing the personal status, marriage and divorce, matrimonial and family relations, succession and inheritance, and property relations of spouses in Muslim communities.

The Sama, Tausug and Yakan versions were finalized and printed during this reporting period. Community-based education sessions on the Code of Muslim Personal Laws with women leaders, community leaders, and representatives of non-governmental organizations and the academe were also accomplished.

***Creating an Environment for Dialogue and Cooperation among Muslim and Christian Women Lawyers: Engaging the Law to Foster Understanding and Advocacy for Women's Rights.*** An initiative of the Women's Legal Bureau, this project sought to create an environment for critical dialogue and discussion between Muslim and Christian women lawyers on specific areas of law that promote or affect women's rights, as well as the barriers to their enforcement in Muslim Mindanao. The Bureau convened a Technical Working Group composed of its current and prospective partners based in Mindanao that brainstormed on the appropriate content and process of the conference.<sup>18</sup>

With support from The Asia Foundation's LADR program, 34 Christian and Muslim women lawyers and legal advocates in the country gathered for the first time in September 2005 for a two-day dialogue conference in Zamboanga City. The activity provided a venue for the exchange of views and ideas, and opened a critical dialogue and discussion among the participants. The central theme of the discussion was that women's rights, enshrined in laws and anchored on the respect for dignity and equality of men and women, are part of universal human rights that ought to be respected regardless of race, creed, or religious belief. This activity also recognized that no other people can invoke their rights better than the primary stakeholders themselves – in this case, Muslim women.

The Technical Working Group met anew in October 2005 to look into the results and recommendations presented during the conference and came out with a plan of action to address the identified needs. Based on this discussion, a proposal for a project that will promote Muslim women's empowerment and increase their capacity in accessing justice is being drafted.

***Focus Group Discussion on Legal Reform for Muslims.*** The Supreme Court of the Philippines identified in 2004 the following key reform issues in the area of Muslim legal reform: (a) inaccessibility of justice; (b) need to enhance perceptions of the integrity of the justice system and to improve confidence of Muslims in the justice system; (c) lack of resources and un-operational courts handling the Code of Muslim Personal Law; (d) need to improve court administrative management capacity and resources; (e) lack of training and continuous education for court judges and personnel; (f) issues related to the applicability of Islamic laws in the Philippine Code of Muslim Personal Law (including

---

<sup>18</sup> The partners of the Women's Legal Bureau include the Regional Commission on Bangsamoro Women, Sentro ng Alternatibong Lingap Panligal, Al-Mujadilah Development Foundation, and former Senator Santanina T. Rasul, who is a member of the Advisory Council of Muslim Women Peace Advocates.

application of Philippine laws, rules and procedures of general application); and (g) under the Code of Muslim Personal Law, lack of practicing lawyers, and law colleges.

In order for the Supreme Court and its partners to effectively address the abovementioned issues, a one-day focus group discussion among the key officials of the Supreme Court, civil society members from Mindanao, Muslim leaders and Foundation staff was held in December 2005 for identification of specific actions and recommendations. Based on the results of the discussion, a proposal for the conduct of a survey which will investigate Muslim public awareness and understanding of the government-established Code of Muslim Law and its role in providing access to justice is being prepared by the Social Weather Stations.

*Clinical legal education and access to justice by marginalized groups*

***Strengthening Access to Justice of Vulnerable Groups through the Formation of Law Students and Lawyers Towards Alternative Lawyering and Legal Assistance.*** This project regards the value of law school-based institutions in harnessing law students, lawyers, and grassroots leaders in responding to the identified legal needs of disadvantaged people and in improving their access to justice.<sup>19</sup> In line with this, the Ateneo Human Rights Center is currently undertaking various modes of internship and legal assistance initiatives with support from The Asia Foundation's LADR program (semester, summer, graduate, or replication internships for law students coming from province-based law schools). The internship program is envisioned to encourage participants to consider alternative lawyering as a career, and particularly during the replication internship, to set up and strengthen legal aid centers in law schools around the country.

As of this reporting period, the semestral break internship was concluded with 18 participating law student-interns. The basic orientation seminar was held in October 2005, followed by an immersion by the interns with Mangyan communities in Occidental Mindoro, and an evaluation of the internship program in November 2005. During the 1<sup>st</sup> Internship Congress organized by the Center with support from the United Nations Commission on Human Rights in December 2005, the learning and experiences of the summer and semestral break internships were shared.

***Public Interest Law Internship Program Impact Assessment.*** Eighteen years since its inception in 1987, the public interest law internship program of the Ateneo Human Rights Center has produced more than 600 student-interns from the Ateneo School of Law and selected law schools nationwide. After passing the bar examinations, a number of the

---

<sup>19</sup> Beyond mere formal legal representation in the courts, this project broadly views "access to justice" as the ability of the disadvantaged people to obtain legal assistance (including information, basic legal advice, initial legal assistance and legal representation); participate effectively in the legal system (including access to courts, quasi-judicial bodies, and alternative dispute resolution mechanisms); and participate effectively in law reform processes.

lawyers engaged in alternative law practice, while others decided to undertake private legal practice, teach in educational institutions, or enter government institutions.

This project will assess, quantitatively and qualitatively, the program's impact on the society in general, human rights and developmental advocacy, developmental legal institutions, legal education, law schools, partner communities, and legal aid clients. The result of the assessment is expected to assist the Ateneo Law School - Human Rights Center in its organizational and strategic planning on public interest law and will also benefit law schools and other members of the Alternative Law Groups, Inc. currently implementing public interest law internship or apprenticeship programs.

As of the writing of this report, a preliminary assessment based on the interviews conducted has already been presented. Results of the survey questionnaire, needed for statistical analysis, are being processed. The final results of the assessment will be presented in February 2006.

***Improving Access to Justice and Legal Accountability through Video Training.*** This project will undertake the video production of four basic legal materials employed in many paralegal training activities by using the “constructivist learning approach” or learners constructing knowledge for themselves. With support from the Foundation, the Upholding Life and Nature organization will produce the video materials on the following topics: (a) civil procedure; (b) criminal procedure; (c) ADR law and related developments; and (d) accountability of local government officials. A total of 100 copies each of the video materials will be distributed to target organizations, such as the Alternative Law Groups, Philippine Association of Law Schools, legal government offices through the Department of Justice, Supreme Court, local government units, non-governmental organizations, and other civic organizations. The materials will be evaluated after actual usage in connection with its employment in paralegal training activities.

Pre-production activities have already commenced as of this reporting period. This includes the conduct of legal research to identify the content of the scripts, development of storyline, and identification of production crew. Actual production is expected to happen in April 2006.

***Establishment of Bangsamoro Consortium of Lawyers and Training Support to Western Mindanao State University (WEMSU) Law Students.*** Recognizing that legal knowledge and skills are powerful tools that can be used in the protection and promotion of legal rights of the members of Philippine Muslims, a select group of Muslim lawyers met in Cotabato City in 2004 and agreed to rise to the challenge of being leaders of the Bangsamoro (Muslim nation). With the support from The Asia Foundation, the Sentrong Alternatibong Lingap Panligal (SALIGAN) – Mindanao Branch will facilitate the formation of a core group of Moro lawyers committed to improving access to justice of Moro communities.



A strategic planning was conducted in Davao City in November 2005 to focus the efforts into strategic steps towards the formation of the Bangsamoro Consortium of Lawyers. The following activities will be conducted by the Consortium during the duration of the project: core group meetings; sub-regional meetings and consultations; lawyers' fora on legal issues and situation facing the Moro communities; awareness and legal education trainings; legal representation and services; publication of materials on Moro legal issues; website development; and periodic evaluation and planning.

The second major component of the project is the training support and apprenticeship for the benefit of selected law students of Western Mindanao State University in Zamboanga City. This component aims to strengthen access to justice of Muslim communities by providing support to legal institutions, organizations and individuals based in Western Mindanao and the island provinces of Sulu, Basilan and Tawi-Tawi. Support will be provided to the university by providing legal training to selected law students and exposing them to services provided by non-governmental organizations which aim to improve Moro communities' access to justice.

*Jail decongestion and access to justice by overstaying prisoners*

***Decongesting the Philippine Jails: Development of a Detainee's Notebook and Research on the State of the Philippine Penal System.*** This project takes cognizance of the alarming increase in jail inmate population in the Philippines.<sup>20</sup> In order to address the current jail situation, the Humanitarian Legal Assistance Foundation has developed a *Detainee's Notebook*, a reference and guide material for all inmates that will contain information of their personal and case profiles, including updates of their court cases. The project is also conducting research on the *Philippine Penal System and Its Implications on the Administration of Justice*, which will essentially provide a larger picture of the penal situation of the country.

Within the *Detainee's Notebook* component, the project completed during this period its conduct of weekly seminars on the rights of the accused, criminal procedure, and the different modes of release at the Quezon City jail. The activity aimed to educate the inmates of their rights so they can later make effective use of the *Detainee's Notebook*. Five hundred copies of the *Detainee's Notebook* will be produced under this project.

***Jail Decongestion Projects of the National Integrated Bar of the Philippines.*** This project considers the perennial problem of jail congestion in the country which has arisen due to inadequate prison facilities for the corresponding number of prisoners. The situation is attributed to various factors, such as numerous court vacancies nationwide,

---

<sup>20</sup> With an annual increase of 12% in the number of inmates based on the records of the Bureau of Jail Management and Penology, existing prison facilities have been severely cramped over the years. Nationwide congestion rate has been pegged at 200%, with the urban jails having as high as 400% of rated capacity, with inmates being terribly crowded together.

decisions rendered after lapse of excessive time, and practice of jacking up bail bond premiums. The primary reason however is the lack of adequate legal representation available to the accused, particularly the impoverished who could not afford to post bail or to appeal a court sentence. As a result, there are many “overstaying prisoners” in the Philippines.<sup>21</sup>

The Integrated Bar of the Philippines is thus implementing jail decongestion projects since November 2003 where lawyers are mobilized to train paralegals and to provide legal representation to overstaying prisoners. An objective of the project is to determine who are eligible for release so appropriate legal service can be rendered towards that end.

As of December 2005, a total of 2,359 overstaying prisoners were released from Manila and Pasay City jails.<sup>22</sup> Meetings between the Integrated Bar of the Philippines, at the national and regional levels, and The Asia Foundation are being arranged for discussion of strategies that can better facilitate the effective implementation of the nationwide jail decongestion initiative.

***Makati City Jail Decongestion Project.*** Recognizing the need for a coordinated effort to address the problem of jail congestion in Makati City,<sup>23</sup> representatives of the city’s Regional Trial Court, Public Attorney’s Office, Prosecutor’s Office, and representatives of Caritas Manila and Barangay Bel-Air in Makati formed the Makati Integrated Jail Group. In partnership with the Ateneo Human Rights Center, a paralegal training course on topics like criminal law and procedure, evidence, and affidavit-making is currently implemented for the city’s prisoners. A databank of individual cases for easier facilitation and monitoring of cases by public attorneys and detainees is also being undertaken by the Center’s law student-interns with the assistance of the jail cell representatives.

During this reporting period, 60 junior and senior law students assisted in the building of the databank of detainees’ cases. Law students likewise prepared information sheets of Makati City Jail detainees which were submitted to the Public Attorney’s Office,

---

<sup>21</sup> “Overstaying prisoners” are the following: (a) those who have already served the maximum penalty imposable by law for the crime for which a detainee has been accused or is being tried; (b) those who have already served the maximum period of the penalty imposed by the court; and (c) those who are qualified for parole, commutation of sentence, or pardon, as may be determined by the Board of Pardons and parole of the Department of Justice.

<sup>22</sup> As of the writing of this report, a total of 2,663 overstaying prisoners were released under the various jail decongestion projects of The Asia Foundation. This includes the IBP Quezon City jail decongestion initiative which in a six month period was able to release 258 overstaying prisoners; the initial IBP National jail decongestion initiative (*Baliklaya* or Return to Freedom), which has the following record of release: 562 in FY2004, 1,562 in FY2005, and 235 in FY2006; and the IBP National nationwide jail decongestion project that has released 46 overstaying prisoners since its inception in May 2004.

<sup>23</sup> The Makati City Jail, with a prison capacity of only 200 persons, currently houses around 1,700 detainees.

followed up with the courts the status of cases, drafted needed pleadings for filing by the Public Attorney's Office, and coordinated with relatives and witnesses of the detainees.

***Quezon City Jail Decongestion Project.*** Taking note of the increasing number of detainees in Quezon City jail<sup>24</sup> and assessing the adequacy of legal service that the detainees receive from the Public Attorney's Office of the Department of Justice, The Asia Foundation provided support to the Quezon City Chapter of the Integrated Bar of the Philippines to provide the more than 3,512 persons detained in Quezon City Jail with access to adequate and effective legal representation and to facilitate the early release of qualified detainees in accordance with law. This project, which started on June 1, 2005 and ended in November 2005, was implemented by volunteer lawyers from the city, in cooperation with lawyers from the Public Attorneys' Office and the Quezon City Public Assistance and Legal Affairs Office.

While the project aimed for the release of 200 detainees, it actually resolved the cases of 916 people, thus reducing overcrowding in the city jail.

***Malabon, Navotas, and Valenzuela Jail Decongestion Project.*** This project seeks to contribute to current initiatives of arresting the injustice suffered by those who continue to languish in jails, most of which are not fit for human habitation. In particular, this project aims to decongest the jails in three selected areas in Metro Manila, namely, Malabon, Navotas, and Valenzuela, by securing the immediate release of qualified and eligible detainees. Focus is made on these three areas for the reason that their location also contributes to the worsening of the jails and prisoners' condition -- the jails in these areas get flooded during high tide, and during these times, prison inmates could be witnessed standing for hours in flood waters.

In pursuit of these objectives, the Humanitarian Legal Assistance Foundation, with support from The Asia Foundation, is carrying out the following activities: (a) set up paralegal coordinators among the inmates to empower them as active participants in the resolution of their cases and their fellow inmates; (b) conduct paralegal training activities for the paralegal coordinators and other inmates on important legal topics needed to provide understanding of legal rights and processes; (c) review inmates' cases and documents for identification of eligibility for release; and (d) file appropriate action in the courts.

To date, a paralegal training was conducted for inmates of Malabon City Jail where each of the cells was represented. Inmate paralegal coordinators of the city jail were also oriented on various law topics. Cases eligible for release of detainees are currently being reviewed. Paralegal training activities for Navotas and Valenzuela prison inmates are scheduled in January 2006.

---

<sup>24</sup> As of May 30, 2005, 3,512 persons are detained in Quezon City Jail. The IBP-QC expects that this figure will continue to increase every month. The jail facility, unfortunately, is designed to accommodate only 815 persons.

***Study of the Comprehensive Dangerous Drugs Act of 2002.*** The Philippine National Police and Bureau of Jail Management and Penology wardens observed the increase in number of persons charged and detained under R.A. No. 9165, otherwise known as the Comprehensive Dangerous Drugs Act of 2002. Based on the statistics provided by the Bureau of Jail Management and Penology, violations of R.A. No. 9165 are the topmost criminal charge filed against persons in detention since 2003. This has contributed to the increase in the number of persons detained considering that most of the offenses under the law are not bailable. Hence, the Integrated Bar of the Philippines – Quezon City Chapter is presently conducting a review of the provisions of the law.

The study includes the following: review of related literature, data and statistics; summary of criminal charges for violation of R.A. No. 9165 filed against persons in detention in Quezon City Jail; personal interviews and dialogue with stakeholders; and consultation and validation workshops. The validation workshop was conducted in November 2005 and the Integrated Bar of the Philippines-Quezon City chapter is in the process of drafting the final report.

#### **V. *Related Program Activities***

During this reporting period, the Foundation through LADR, based on the endorsement of USAID, supported the participation of Atty. Rhoderick dela Paz, Deputy Director of the Integrated Bar of the Philippines-National Committee on Legal Aid, to the 36<sup>th</sup> Annual Study Session at the International Institute of Human Rights (Institut International de Droits de l’Homme) in Strasbourg, France from July 4 to July 29, 2005. This annual study session gathered around 400 advanced students in law, political science, human and social sciences; members of the academe; members of the legal profession; civil servants; and members of non-governmental organizations to undergo specialized courses and conferences on human rights issues. The study session provided advanced courses in international and comparative human rights law taught by specialists from around the globe. The Asia Foundation regards that the study session would be useful to Atty. De la Paz’ work in the Integrated Bar of the Philippines- National Committee on Legal Aid which handles its trainings, seminars, and other projects on legal assistance.

All of the Foundation’s law program staff separately attended international conflict resolution activities during this period. Senior Program Officer Atty. Carolyn Mercado participated in a symposium entitled “Intentional Conversations about the Globalization of ADR” organized by the Dispute Resolution Institute of Hamline University School of Law in Minneapolis from October 29, 2005 to October 30, 2005. The symposium brought scholars and practitioners to engage in purposeful conversation around critical issues in the field of conflict studies and conflict resolution. It also examined the growing use of mediation in courts and other professional settings around the world, and

looked into practical and theoretical issues that arise as mediation practices and programs spread across the globe. Atty. Mercado specifically talked about USAID-funded Foundation projects on ADR in the Philippines and across Asia.

Program Officer Atty. Brenda Jay Angeles-Mendoza attended the 2005 Association for Conflict Resolution (ACR) Annual Conference held in Minneapolis from September 28, 2005 to October 1, 2005. Entitled “Conflict Resolution in a Changing World: Building the Practice and Fostering Hope,” the conference gathered attendees from all over the world and provided opportunities for sharing conflict resolution experiences and learning from distinguished practitioners. The conference also offered several advanced level workshops and mini-plenary workshops on different conflict resolution issues, including pre-conference sessions on topics such as transformative mediation and public policy facilitation and mediation in community and court arenas.

Assistant Program Officer Lia Andrea Ramos participated in the Conflict Management Regional Training Workshop organized by the Southeast Asian Conflict Studies Network held in Pattaya, Thailand from September 26, 2005 to September 30, 2005. This activity gathered about 30 Southeast Asian and international participants from government agencies, non-government organizations, private companies, as well as research and educational institutions among others. Its objective was to increase the conflict management capacity of participants at the basic level; promote cooperation and collaboration among multi-sector society working in the field of peace and conflict studies in Southeast Asia; and promote the practice of peaceful conflict management. Drawing on the experience of the participants and trainers, the program explored strategies for designing conflict prevention and resolution processes and key skills that are required to make those processes effective.

Both the conference sessions and the training workshop prove useful to the law program management work of the Foundation staff, particularly in the aspect of promoting Alternative Dispute Resolution mechanisms within and outside of the courts system.

Finally, considering the influx of new partner institutions during the period, a two-day Grants Management Seminar with key Foundation partners was held in July 2005 in Tagaytay City. The Grants Management Seminar served as a venue to help partner institutions better understand how The Asia Foundation works with partner organizations. Through this activity, twenty-three participants from eleven partner organizations were made to appreciate the Foundation’s project management cycle, standard provisions, internal controls, financial reporting requirements, Quick Books accounting software, and relevant USAID rules, regulations, and branding guidelines.

## **CHALLENGES IN IMPLEMENTING THE PROGRAM**

In this reporting period, The Asia Foundation continued to launch significant projects with robust support from public and private partners towards the achievement of mutually-shared goals. Along with the expansion of the areas covered by its mediation efforts, the value of mediation as an alternative paradigm for dispute resolution has begun to take root in the law academe. Assessment of the financial and organizational structures has also triggered preliminary reflections on the directions for court-annexed mediation in the country. Court capacity enhancement activities have continued with the development of video materials on pre-trial and modes of discovery, manual on judicial writing, and elearning modules on remedial and civil law for the judiciary.

Citizen participation in the judicial appointment process has also been significant in terms of captivating media attention and raising public information about the Judicial and Bar Council's process of selecting nominees to key Supreme Court posts. Teaching exemplars on the judiciary and the rule of law developed by the Lawyers' League for Liberty, Department of Education, and Supreme Court have successfully caught the interest of the United States Supreme Court justices and other judicial leaders all over the world during the recent international conference and showcase on judicial reforms held in the country. More importantly, efforts to increase public information and access to justice have progressively involved more Muslim partners and Mindanao-based organizations during the period as the Foundation focuses on examining the efficiency and effectiveness of the Code of Muslim Personal Laws.

An on-going challenge to LADR program implementation is the problem of delay in the prompt execution of specific project deliverables by some of the Foundation's partners. For instance, the nationwide implementation of the jail decongestion project by the Integrated Bar of the Philippines has slowed down due to structural changes within the institution and ongoing review of its coordination mechanisms with the regional chapters. A similar setback was experienced by the Institute of Dispute Resolution project due to a change in leadership at the UP College of Law. Other illustrations of this problem are demonstrated by the difficulties encountered by some partners in finalizing dates of meetings where important policy and program decisions need to be accomplished, or in obtaining accurate data from relevant institutions. Progress, which is often dependent on such decisions or important data, is therefore affected. This was experienced by the Asian Institute of Journalism and Communications in the development of communication materials for court-annexed mediation, and by the Center for Public Resource Management in its study of the financial and organizational structures of the Philippine Mediation Center. In all cases, however, the Foundation has constantly endeavored to facilitate the resolution of sub-grant management concerns.

A fundamental challenge was linked to the retirement of Chief Justice Davide in December 2005. As the Foundation pursues the implementation of the LADR program, it has braced itself to face the challenge of sustaining the push for judicial reforms under

the promising, but brief, period of leadership of the newly-appointed Supreme Court Chief Justice Artemio Panganiban Jr. With barely eleven months to Justice Panganiban's retirement, The Asia Foundation confronts anew the challenge of determining priority reform areas that are not only feasible in the short term, but have the potential of creating huge impact in the administration of justice in the country. Sustainability and translation of these reforms through the succeeding Chief Justices will therefore be a constant concern even as the Foundation remains vigorous in overcoming any potential challenges and making perceptive program adjustments in the process.

## **PLANS FOR THE NEXT PERIOD**

In the next reporting period, The Asia Foundation will focus on consolidating the gains and lessons of previous and ongoing ADR efforts within and outside of the courts system. Interest in expanding court-annexed mediation nationwide will still be pursued subject to the final results of the financial and organizational study of the Philippine Mediation Center being undertaken by the Center for Public Resource Management and the consequent feedback from the Supreme Court's Philippine Judicial Academy. Developments in this matter will guide the Foundation as to the direction of court-annexed mediation in the country and will provide reflections on the course of its program work in this field.

The Foundation will also exert efforts to increase public information and access to justice that will progressively involve more Muslim partners and Mindanao-based organizations, particularly in the topic of the Code of Muslim Personal Laws. Through the LADR program, the Foundation plans to kick-off this initiative with a study on the administration of justice in Muslim Mindanao. The study will form part of the over-all effort to identify, develop, and implement initiatives towards the promotion and strengthening of the Muslim Filipinos' access to the justice system. Support will be considered with regards to the possibility of launching a legal literacy program for Muslim women, including popularization of the Anti-Violence against Women and Children Act in the Autonomous Region of Muslim Mindanao, as conceptualized during the initial dialog-workshop between Christian and Muslim women lawyers and legal advocates. Pending final assessment of its jail decongestion program component, the Foundation also plans to undertake legal assistance projects for Muslim prison inmates and Muslim women detainees in provincial and city jails.

The Asia Foundation will also take steps to ensure that critical reform efforts within the courts will be implemented under the new leadership of Philippine Supreme Court Chief Justice Panganiban. Dialogues with the stakeholders of the Office of the Court Administrator on the conduct of pre-trial in civil and criminal cases in the first and second level courts and the use of deposition and modes of discovery procedures will be undertaken. Dialogues between the Judicial and Bar Council and its external stakeholders, including improvements in the rules, proceedings, and systems of the

Council will be explored to facilitate an improved judicial appointments process towards greater transparency and accountability of the judiciary.