



Legal Accountability and Dispute Resolution (LADR) Program

**A SEMI-ANNUAL REPORT FROM THE ASIA FOUNDATION
TO THE UNITED STATES AGENCY FOR INTERNATIONAL DEVELOPMENT
01 JANUARY – 30 JUNE 2007**

(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)

January 1, 2007 – June 30, 2007

SUMMARY

This semi-annual report covers activities from January 1, 2007 to June 30, 2007 under the Legal Accountability and Dispute Resolution (LADR) program. LADR is funded through 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.

This reporting period marks the beginning of an end as LADR draws to a close in September 2007. From January 1, 2007 to June 30, 2007, The Asia Foundation (the Foundation) and its implementing partners continued to work on remaining activities in order to complete project deliverables as scheduled. With a number of activities successfully concluded, this period provided opportunities for reflecting on past experiences, exploring future prospects, consolidating gains, and assessing weaknesses in the specific project components, namely:

- institutionalization of alternative dispute resolution processes;
- ensuring judicial transparency and accountability;
- building constituency for judicial reforms; and
- strengthening public information and access to justice.

Initiatives on **promoting alternative dispute resolution (ADR) processes within and outside the formal judicial system** undertaken during this period build on the initial gains of previous ADR work of concerned institutions and stakeholders. For court-related ADR, there was ongoing emphasis on solidifying impact and addressing sustainability. Foundation efforts for this period included close monitoring of cases referred for mediation, printing and dissemination of information, communication and education materials on court-annexed mediation, further study of organizational and financial options for court-annexed ADR, and specialized training for family court mediators. The *National Conference on Prospects and Perspectives in Philippine Alternative Dispute Resolution* was also held during this period. During the conference, public and private ADR practitioners discussed concerns and future directions of ADR in the country. The institutionalization of ADR mechanisms outside the courts, particularly in all agencies of the Executive Department were in full swing this period as hundreds of executive officials completed ADR training and internship.

The Foundation's partners on ADR initiatives, as in the previous semi-annual report, include the following:

- **Philippine Judicial Academy (PhilJA)** on the continued implementation and monitoring of court-annexed mediation, as well as the dissemination of information, education, and communication materials for court-annexed mediation;
- **Asian Institute of Journalism and Communication** on the printing of information, education, and communication materials for court-annexed mediation;
- **Center for Public Resources Management** on the presentation of additional options for the organizational and financial set up of the Philippine Mediation Center and its units;
- **Conflict Resolution Group** on the ADR training of officials in the executive department; and
- **University of the Philippines College of Law Development Foundation** on the *National Conference on Prospects and Perspectives in Philippine Alternative Dispute Resolution*, and publication of a quarterly newsletter on ADR.

Past LADR initiatives to **advance judicial transparency and accountability** have shown promising results. With the success of the Judicial and Bar Council's earlier efforts to encouraging law practitioners to apply for judicial posts, the Foundation supported the conduct of another dialogue with various sectors. Complementing this support to the Judicial and Bar Council is the crucial partnership with a consortium of legal professionals and civil society organizations in enhancing citizen participation in the process of appointing Justices of the Supreme Court. During this period, the consortium formally capped its monitoring activities through a public presentation of its recommendations on the appointment process. Despite the culmination of the project, the consortium remains active in monitoring the appointment of magistrates to the High Court especially with the recent vacancy in the Associate Justice post. The consortium is also preparing to expand its watchdog role to judicial appointments in the Court of Appeals and regular courts. In Mindanao, the Foundation has supported related activities through the finalization of a manual for court monitoring.

As part of ongoing efforts to ensure the effective, efficient and transparent handling of cases, the enhanced case flow management system was finalized for pilot testing in Pasay courts. Towards the same objective, the Foundation supported the overseas training on case flow management of a long-time TAF partner and newly-appointed Assistant Court Administrator of the Supreme Court. In line with these efforts to streamline the judicial process, the Foundation continued its partnership with the Supreme Court – Office of the Court Administrator in convening dialogues on the proper conduct of pre-trial and use of deposition and discovery procedures to abbreviate court proceedings. This period also saw trial court judges complete online courses on remedial law and civil law through e-learning modules offered as a court capacity enhancement activity geared towards achieving judicial accountability.

Aside from the JBC, the Foundation's other partners in judicial transparency and accountability initiatives include:

- **Supreme Court - Office of Court Administrator** in the dialogues on the conduct of Pre-Trial in Civil and Criminal Cases and the Use of Deposition and Modes of Discovery Procedures;
- **Transparency and Accountability Network** on monitoring the nomination and appointment of members of the Supreme Court and presentation of the Supreme Court Appointments Watch recommendations;
- **Paglilingkod Batas Pangkapatiran Foundation** on the finalization of a manual for court monitoring;
- **Philippine Judicial Academy** on the use of e-Learning Modules on Remedial and Civil Law; and
- **Softrigger Interactive** on the finalization of the enhanced Caseflow Management for pilot-testing in Pasay courts.

To **build constituencies for judicial reform**, particularly in Mindanao, the Foundation, in partnership with the Social Weather Stations, completed reports on the study on the administration of the Code of Muslim Personal Laws (CMPL) which aims to assimilate the views of Muslim influential leaders, Muslim scholars and Muslim opinion makers as to how the CMPL can be better implemented and/or be reformed to best serve the interest of Muslim Filipinos; and the survey on Muslim law and social justice which focused on how the legal frameworks and institutions of Philippine laws and of Islam can be pivotal to the achievement of social justice by Filipino Muslims. It also investigated Muslims' values and attitudes concerning their basic rights, equality and non-discrimination as a means of achieving an adequate standard of living, role of law in achieving social transformation, and role of social justice as a means of achieving long-term peace.

Finally, efforts to **strengthen public information to increase transparency and access to justice** focused on three areas: promoting citizen awareness and participation in the judicial reform process and the rule of law; access to justice by marginalized groups; and jail decongestion initiatives. In the area of promoting citizen awareness, support was continued for the enhancement of the capacities of prosecutors to handle children's cases in line with the passage of the landmark legislation on juvenile justice in May 2006. Moreover, increased awareness, understanding, and proper implementation of the Code of Muslim Personal Laws (CMPL) and the Anti-Violence against Women and Children Act (R.A. 9262) were likewise supported. During this period, a comprehensive communication plan on the CMPL was finalized, and more basic legal literacy trainings in post-conflict communities in Mindanao were conducted. As part of ongoing efforts to increase access to justice, the Foundation-supported a project that recognizes customary justice and governance systems through the training of a new generation of tribal justice leaders and the construction of an indigenous justice hall in Maguindanao Province. Further, the Foundation continued supporting the consolidation of Muslim lawyers, through the newly-organized Bangsamoro Lawyers' Network, to address the access to

justice needs specific to the Muslim populace in Mindanao. As for jail decongestion initiatives, the Foundation's partners facilitated the release of overstaying detainees, with special focus on the discharge of children in conflict with the law as mandated by the Juvenile Justice and Welfare Act. Among the current partners are the following:

- **Upholding Life and Nature** for the launch of video materials on legal topics useful for paralegal training activities;
- **Al-Mujadilah Development Foundation** for the translation of primers on the Anti-Violence against Women and Children Act into five major Bangsamoro languages;
- **Moroweave** for the conduct of workshops on violence against women;
- **Philippine Judicial Academy** for strengthening the implementation of the CMPL;
- **Social Weather Stations** for a survey on law and social justice among Filipino Muslims, and a study on the administration of the CMPL;
- **Lumad Development Center** on the documentation of indigenous justice systems, training of a new generation of tribal justice officers, and the construction of an indigenous justice hall;
- **Bangsamoro Lawyers' League** for the conduct of popular education seminars, paralegal workshops, and grassroots education on the CMPL;
- **Child Protection Unit Network** for training prosecutors in handling children's cases;
- **Philippine Deaf Resource Center, in partnership with the Philippine Federation of the Deaf and Filipino Deaf Women's Health and Crisis Center**, to develop instruments for evaluating sign language interpreting skills which can be used in courts and a Seminar on Sign Language Interpreting; and
- **Integrated Bar of the Philippines (Quezon City Chapter) and the Humanitarian Legal Assistance Foundation** on jail decongestion efforts, including a study on the new dangerous drugs law as it relates to prison conditions.

With a few months remaining before LADR ends, The Asia Foundation awarded only one new grant during the period covered by this report. Of the 77 grants issued from 2005 to this reporting period, 14 are ongoing and 63 were completed as of this date.

HIGHLIGHTS AND OUTCOMES OF SIGNIFICANT ACTIVITIES

I. Towards the Institutionalization of Alternative Dispute Resolution Processes

The Asia Foundation's strategy on institutionalizing alternative dispute resolution processes involves working with the courts through the court-annexed mediation project as a means of de-clogging court dockets, and working with different non-judicial institutions by sifting cases that will go to the courts as part of its court decongestion project.

Court-Annexed Mediation

Establishment of Philippine Mediation Center Units in Selected Areas. The Foundation has supported the establishment of mediation centers, including the training of mediators, in the National Capital Region, the provinces of Cebu, Davao, and Leyte, as well as in General Santos City and Cagayan de Oro City. As of this reporting period, 53 of the total 113 Philippine Mediation Center (PMC) units nationwide have been established through LADR.¹ The Justice Reform Initiatives Support Project of the Canadian Agency for International Development supported the creation of 40 other PMC units, while the PMC itself funded the remaining 20 units using the Mediation Fund or fees collected from litigants who avail of court-annexed mediation.

With mediation services offered in more than one hundred PMC units nationwide, the Philippine Judicial Academy (PhilJA) reported that from January to March 2007, a total of 9,040 cases were referred for mediation. Of this number, 3,633 cases underwent the mediation process, out of which 2,584 were settled, revealing a success rate of 71 percent. (See Annex A for a complete statistical update on the court-annexed mediation project starting 2002.) The number of referred cases for the first three months of this year (9,040) represents almost half of the total cases referred for mediation from January to December 2006 (21,210). This initial increase in referral shows that efforts to promote court-annexed mediation – such as PhilJA’s one-on-one meetings with judges, educating them about the advantages of mediation, and encouraging them to comply with the Supreme Court’s directive to refer cases; and the dissemination of posters, primers and communication materials – are starting to bear fruit. Further, the 71 percent success rate for the first three months of this reporting period shows a notable increase from the average 63 percent in 2006.

From 2002, when PhilJA first set up mediation centers, to March 2007, 84,636 cases have been referred to the court-annexed mediation system. Of this number, 42,546 were mediated, out of which a total of 29,678 cases were successfully settled and consequently removed from court dockets, contributing to the decline in the caseload of courts.² Average success rate of actual mediations from 2002 to March 2007 is 70 percent.

It is worth noting that during this period, the Foundation did not award new grants or provide funds for the creation of more mediation centers and training of mediators. The

¹ These PMC units are located in NCR (Caloocan, Las Pinas, Makati, Malabon, Mandaluyong, Manila, Marikina, Muntinlupa, Navotas, Paranaque, Pasay, Pasig, Pateros, Quezon City, San Juan, Taguig, Valenzuela); Cebu Province (Cebu City, Mandaue, and Lapu-lapu City); Leyte (Tacloban, Abuyog, Alangalang, Basey Samar, Carigara, Dagami, Dulag, Jaro, Burauen, Capoocan, Palo, Tanauan, Tolosa, Naval, Baybay, Ormoc, and Hilongos); Cagayan de Oro City; Davao Province (Davao City, Digos, Tagum, and Panabo); and SOCKSARGEN (General Santos, Maasim, Saranggani, Polomolok, Koronadal, Tupi, Tampakan, Surallah, Banga – South Cotabato, Noralala-South Cotabato, and Tantangan-South Cotabato).

² Data from the Statistical Reports Division of the Supreme Court’s Office of the Court Administrator reveal a decline in the number of cases pending in courts from 2002 to 2006. Caseload of the judiciary dropped from 809,903 pending cases in 2002 to 769,837 by the end of 2006.

milestones reported are among the enduring outcomes of earlier efforts to institutionalize mediation in the court system, demonstrating the sustainability of court-annexed mediation.

Specialized Training of Family Court Mediators. Among the cases resolved through court-annexed mediation are intra-family disputes such as cases involving child custody (including habeas corpus), support, guardianship, property settlement between spouses, and settlement of estates. There are potentially 156,647 mediatable cases in courts every year,³ so the 38,998 family law cases pending in all Family Courts in the country⁴ comprise 25 percent of cases that can be referred to court-annexed mediation. In family disputes, mediation can be an effective alternative to the traditional adversarial litigation process that tends to strain personal relationships. Thus, in mediation of family disputes, the success of a resolution is not only judged by whether a dispute is settled or not, but also by the degree to which familial relationships are preserved, and reconciliation promoted. The unique context of family disputes and the complex relationships that exist within the family structure require specialized training for mediators tasked with guiding parties through the mediation process. This need was reiterated in the recent *National Conference on Prospects and Perspectives in Philippine Alternative Dispute Resolution*. Law practitioners raised the importance of having mediators who are sensitive and who understand the dynamics of family life in resolving family issues.

In light of these, the Foundation partnered with PhilJA in training selected accredited mediators in handling family disputes to enhance the quality and efficiency of resolving cases, and consequently ease the burgeoning caseload of family courts in the country. Preparations for the orientation and screening of mediators and finalization of the training module are underway to ensure the completion of the trainers' training on family court mediation by September 2006. PhilJA has scheduled four trainings for mediators in the National Capital Region, Luzon, Visayas, and Mindanao in August 2007.

Communication Program for Court-Annexed Mediation. After securing approval from PhilJA's Alternative Dispute Resolution Committee⁵ and USAID, the Asian Institute of Journalism and Communication (AIJC) printed the following communication materials that it developed as part of the communication program for court-annexed mediation: (1) *Primer on Court-Annexed Mediation: Settling Disputes is in Your Own Hands* (2,000 copies); (2) *Primer on Mediation in the Court of Appeals* (2,000 copies); and (3) five posters promoting court-annexed mediation (1,000 copies each), including a flowchart

³ "Court-Annexed Mediation", lecture delivered by Dean Eduardo de los Angeles (Chairperson, Alternative Dispute Resolution Committee, Philippine Judicial Academy) in *the National Conference on Prospects and Perspectives in Philippine Alternative Dispute Resolution*, April 25, 2007.

⁴ Caseload of Family Courts as of August 2004 provided by the Court Management Office, Office of the Court Administrator, Supreme Court.

⁵ PhilJA's ADR Committee is composed of the following: Justice Ameurfina Melencio-Herrera, Justice Justo P. Torres, Deputy Court Administrator Bernardo Ponferrada, Deputy Court Administrator Jose P. Perez, Dean Eduardo de los Angeles, Chairman Alfredo F. Tadiar, Dean Pacifico A. Agabin, Dean Eulogia Cueva, and Commissioner Linda L. Hornilla.

poster on the mediation process, posters of the Mediator's Prayer and the Mediator's Ten Commandments. PhilJA is already distributing the posters and primers to various courts, particularly in areas where mediation centers are about to be established. According to PhilJA, the communication materials aid them in introducing court-annexed mediation to judges, court personnel, potential mediators, litigants and their counsel. AIJC's article entitled "*Settling Disputes without Trial*", describing the successful implementation of court-annexed mediation in the cities of Cagayan de Oro and Davao, was published on the front page of the Philippine Daily Inquirer on February 2, 2007. The article included first hand accounts of judges, mediators, and litigants about the benefits of mediation.

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

Based on the study, the Center for Public Resources and Management Consultants, Inc. (CPRM) initially recommended that PhilJA consider an outsourced delivery and operations management set up as an efficient and cost-effective organizational model for the delivery of mediation services. During this period, CPRM presented two additional options for the Philippine Mediation Center (PMC) and its units, in response to the request of PhilJA Chancellor Ameurfina Melencio-Herrera. Thus, the study in the end proposed a total of three options for PhilJA's consideration. These options are:

- (1) PhilJA's full administration of the PMC and its units, i.e. mediation centers will be established and operated directly by the PMC and will be fully staffed using Supreme Court funds;
- (2) Outsourcing of mediators while the PMC assumes operational management; and
- (3) Outsourced delivery and operations management (which was CPRM's original recommendation), i.e. delivery of mediation services including its operational management will be contracted out while policy formulation and oversight functions will remain with the Supreme Court.

Option 2 replicates the current arrangement of the PMC and its units. It is the set-up which gives PhilJA a more direct control over the PMC units' operational management, unlike in Option 3. At the same time, Option 2 allows for flexibility in terms of funding and manpower because mediators are outsourced and need not be regular employees of PhilJA as in the case of Option 1.

Based on CPRM's study, full roll-out of court-annexed mediation under Option 2 will require financial resources that cannot be shouldered by mediation fees alone. PhilJA is therefore carefully exploring variations of Option 2, including the possibility of rationalizing the establishment of PMC units all over the country by limiting mediation centers to courts with extremely congested dockets and employing Judicial Dispute Resolution (JDR)⁶ in courts handling fewer cases. In the meantime, to strengthen the

⁶ JDR, a component of Canadian International Development Agency's Justice Reform Initiatives Support (JURIS) Project, seeks to move the process of mediation and conciliation to the level of the judge in order to decongest court dockets, contribute significantly to the fair resolution of mediatable cases, increase satisfaction of litigants in the court process, as well as bring greater access to justice, especially by the poor. JDR is currently being pilot tested in five model cites outside Metro Manila. Later this year, JDR will be introduced in Makati City.

PMC's oversight role in the implementation of court-annexed mediation, PhilJA submitted to the Supreme Court for approval, a draft administrative order that outlines the PMC's organizational structure, including its powers, functions and staffing requirements. Further, to ensure the financial sustainability of court-annexed mediation, the Office of the Court Administrator issued Circular Nos. 56 and 58, reiterating its earlier directives on the collection and disbursement of mediation fees.

Out-of-Court Mediation

National Conference on Prospects and Perspectives in Philippine Alternative Dispute Resolution. As a culminating activity, the U.P. Law Center Institute on Dispute Resolution organized a one-day *National Conference on Prospects and Perspectives in Philippine Alternative Dispute Resolution* on April 25, 2007. The conference gathered around 150 mediators, arbitrators, judges, legal scholars, as well as law and ADR practitioners to discuss how various modes of ADR have been used, and to explore future directions of ADR in the country. In bringing together related discussions on court-referred and private mediation, construction and commercial arbitration, conciliation under the barangay justice system, and online dispute resolution, the conference provided participants with an informative view of the entire spectrum of ADR mechanisms available in the country, and a realistic assessment of the gains and challenges in their respective ADR practices. The conference also served as a forum for understanding, if not completely reconciling, divergent views and approaches in the practice of ADR. Through the conference, practitioners were able to identify issues and gaps in the use of ADR such as the failure of judges to refer all mediatable cases to court-annexed mediation, difficulties in the enforcement of compromise agreements, unwarranted court intervention in arbitration cases, and defects of domestic ADR laws. In the end, participants agreed to work together in promoting non-litigious means of settling disputes and in lobbying for the immediate approval of the Implementing Rules and Regulations of the Alternative Dispute Resolution Act of 2004.

The fourth issue of the Institute's quarterly newsletter, *Consensus*, produced under this project, was distributed to conference participants. The newsletter contains articles on the role of principled negotiation in consensus building, third-party mediation in resolving inter-ethnic violence and civil war, and bridging the gap between Muslims and Christians in the Philippines.

Instituting the Use of Alternative Dispute Resolution in the Executive Department. In line with Executive Order No. 523, entitled "*Instituting the Use of Alternative Dispute Resolution in the Executive Department of Government*" (EO 523), which directs all the executive agencies to promote the use of alternative modes of dispute resolution in resolving disputes filed before them, the Conflict Resolution Group, Inc. (CORE Group) conducted the sixth and last ADR pre-training workshop for 214 executive branch officials in January 2007. The workshop provided participants with an overview of EO523 and the ADR program and structure under it. As a prelude to ADR trainings, the workshop gave the participants a glimpse of how these trainings will be conducted to

encourage them to enroll and comply with EO523's mandate that each executive agency train at least two of their senior officials in the field of ADR.

The impact of pre-training workshops was apparent from the active participation of more than 20 executive offices in the subsequent ADR trainings. Introduction of ADR in the Executive Department went full swing during this period as the CORE Group conducted six batches of academic training and internship for officials of various government agencies from February to June 2007, as follows:.

Batch	Number of participants	Number of executive agencies represented
1	23	17
2	17	13
3	26	18
4	15	10
5	26	20
6	24	16

Academic training took up five days or 40 hours of classroom sessions involving lectures on ADR, role plays, case discussions, and written exercises. Each academic training was followed by 10 half days of internship where participants mediated actual cases filed with the National Labor Relations Commission (NLRC), Department of Trade and Industry (DTI), and the Philippine Overseas Employment Authority (POEA). Results of the internship show that mediation can facilitate the efficient and effective resolution of administrative cases. For Batches 1 to 6, 468 cases pending with the NLRC, DTI and POEA were referred to the interns for mediation. Of this number, 190 underwent mediation during the 10-day internship period, 172 of which were successfully resolved, thus demonstrating a success rate of 91 percent. Notably, 219 of the 468 referred cases were merely reset and will still be mediated after the internship.⁷ Only 25 out of the 468 cases involved parties who outrightly refused to mediate. The CORE Group is currently preparing for six last batches of ADR training scheduled in July and August 2007.

The ADR trainings inspired the participating agencies to use ADR in settling internal office disputes and complaints brought to them by the public. The Department of Finance and its auxiliary agencies, Landbank of the Philippines, Local and Water Utilities Administration, Metropolitan Waterworks and Sewerage System, and the Department of Social Welfare and Development already sought the CORE Group's assistance in setting up mediation facilities within their respective offices. Recognizing the value of mediation in reducing the pile of administrative cases filed before them, other agencies with quasi-judicial functions like the Housing and Land Use Regulatory Board and the Department of Agrarian Reform, particularly its Bureau of Agrarian Reform and Legal Assistance,

⁷ Some of the parties were not available during the internship dates so mediation proceedings were reset to a later date. These cases will be mediated by the next batch of interns or by the trained mediators of the concerned agency.

conducted survey and mapping activities to identify specific mediatable cases, draft mediation guidelines and procedures, and formalize a structure with trained personnel who can provide quality mediation services.

Drafting of the Implementing Rules and Regulations (IRR) for the Alternative Dispute Resolution Law of 2004. Almost three years has passed since the enactment of the Alternative Resolution Act but the Joint Congressional Committee still has not approved the draft Implementing Rules and Regulations submitted by the Department of Justice. The Department sees a renewed opportunity to present the draft IRR to the Joint Congressional Committee, especially with the opening of the 14th Congress which may bring about changes in the Committee's composition. In this context, the Department will be conducting consultations with ADR and legal practitioners and other key stakeholders in Metro Manila and Cebu to gather additional inputs and galvanize support for the draft IRR, before presenting it again to the Committee. The consultations are scheduled to be completed in August 2007.

II. Judicial Transparency and Accountability

Judicial and Bar Council Dialogue with Various Sectors. With support from the Foundation, the Judicial and Bar Council held the last in the series of dialogues in April 2007. A total of 103 prosecutors, public attorneys, judges, clerks of court, and representatives from the Integrated Bar of the Philippines, the academe, and local governments from Region III attended the dialogue in Pampanga. The dialogues discussed concerns regarding the Council's search, screening and selection of nominees to the judiciary, and recommendations on how to improve the recruitment and selection of applicants for judicial positions. Participants highlighted the need for transparency particularly in the Council's submission of the shortlist of nominees to the president.

Significantly, after the dialogue, the number of the court vacancies in Region III decreased from 24 vacant courts as of March 22, 2006 to 11 vacant courts as of April 30, 2007. A similar trend was observed in other regions where previous dialogues were held. A chart showing the number of vacant courts in Regions I, III, IV, VII, and X before and after the Council's dialogues are shown in Annex B. Region VII posted the highest percentage of vacancies filled at 100%, seven months after the dialogue in Bohol. Although the decline in vacancies cannot solely be attributed to the dialogues (there are other factors affecting vacancy rates such as judges leaving the region due to retirement or promotion), the dialogues prove to be an effective mechanism for bringing the Council closer to the public, encouraging stakeholders to actively participate in the selection of applicants, and enticing qualified lawyers to apply for judicial posts.

Dialogues on the Conduct of Pre-Trial in Civil and Criminal Cases and the Use of Deposition and Modes of Discovery Procedures. During this reporting period, the Foundation and the Supreme Court – Office of the Court Administrator conducted the last five dialogues for Regions X (Cagayan de Oro), IV (Pasay City), III (Pampanga),

VIII (Tacloban City), and VII (Cebu). A total of 1,755 judges, court personnel and law practitioners attended these dialogues which acquainted stakeholders with the Supreme Court guidelines on pre-trial and deposition-discovery methods designed to abbreviate court proceedings, ensure prompt disposal of cases, and decongest court dockets.⁸ Part of the program was a video presentation on pre-trial and deposition-discovery measures produced by the Foundation in partnership with the Supreme Court-Office of the Court Administrator in 2004. The videos proved to be effective in stimulating the audience to recall their experiences and ask questions about specific situations in court. Queries raised relate to the number of allowable pre-trial conferences, non-attendance of parties during preliminary conference, difference between preliminary and pre-trial conferences, and use of judicial affidavits, among others. Participants recommended that clarifications to these matters be incorporated in the guidelines. Participants also raised common issues in the implementation of court-annexed mediation and judicial dispute resolution, including how these mechanisms relate to efforts to settle the case during preliminary and pre-trial conferences.

Pursuant to a Supreme Court resolution,⁹ a committee composed of justices, judges and law practitioners will conduct an assessment and survey report on the application of pre-trial and deposition-discovery procedures after the conduct of dialogues in all 12 judicial regions. The Supreme Court believes that it should first promote the proper application of the guidelines to the bench and the bar nationwide before it considers amendments to the rules. The LADR project supported dialogues in only seven judicial regions.¹⁰ The Supreme Court - Office of the Court Administrator is therefore looking for other funding sources for the conduct of dialogues in the five remaining judicial regions.

Supreme Court Appointments Watch. After the appointment of Chief Justice Reynato Puno, the Supreme Court Appointments Watch (SCAW), a consortium of legal professionals and civil society organizations working with the Foundation on this project, closely monitored the public interviews and appointment of a new Associate Justice of the Supreme Court. On January 31, 2007, President Gloria Macapagal-Arroyo appointed then Solicitor General and former Presidential Legal Counsel Antonio Nachura as Associate Justice of the Supreme Court.

As a concluding activity, the consortium organized a forum, *Creating an Independent Judiciary: Is the JBC Process Working?* in March 2007. Around 50 representatives from various civil society organizations attended the forum which showcased the SCAW experience in monitoring the appointment of magistrates to the High Court. The highlight of the forum was the presentation of the consortium's recommendations to improve the Judicial and Bar Council's screening process, which include the use of a point system for evaluating nominees and open (instead of secret) voting of Council members to ensure

⁸ Administrative Matter No. 03-1-09-SC, approving the Proposed Rule on the Guidelines to be Observed by Trial Court Judges and Clerks of Court in the Conduct of Pre-Trial and Use of Deposition-Discovery Measures.

⁹ Administrative Matter No. 06-8-19-SC, August 22, 2006.

¹⁰ Two other dialogues were conducted in NCR and Region I during the previous reporting period.

greater transparency. Representing the Council during the forum was retired Supreme Court Justice Regino Hermosisima who welcomed the recommendations, subject to study and approval by the Council. He proudly shared that the Council is already carefully considering the proposed point system. Chief Justice Puno himself has also issued statements in support of these reforms in the judicial appointment process.

In May 2007, the consortium convened a strategic planning meeting to assess the gains and weaknesses of SCAW, and discuss prospects of expanding its watchdog role after the project ends in August 2007. Recognizing the importance of public participation in appointing members of the judiciary, the consortium members agreed to continue their work beyond the SCAW project and expand their monitoring activities to cover appointments of justices to the Sandiganbayan and Court of Appeals, and of judges to trial courts. SCAW will become the Judicial Appointments Watch (JAW). Due to limited funds, the consortium agreed to start with activities that would require minimal resources such as monitoring the Judicial and Bar Council's website and filling in information gaps through maintaining a JAW website.

The consortium continues to actively monitor appointments to Supreme Court, including the recently recalled appointment of Sandiganbayan Justice Gregory Ong as Associate Justice due to questions raised concerning his citizenship.¹¹ In May 2007, the consortium released a statement on this issue, explaining that the recalled appointment of Justice Ong shows the need for critical reforms in the judicial appointment process. With remaining funds, the consortium is planning to hold a final forum in August 2007 to discuss issues relating to Justice Ong's appointment.¹²

Civil Society Engaging the Courts II. For this project, Paglilingkod Batas Pangkapatiran Foundation (PBBF) will refine its previously developed court monitoring tool to come up with a Civil Society Manual for Court Monitoring that can be used to institute judicial accountability mechanisms in communities. Using its old monitoring instrument, PBBF conducted initial monitoring work – involving regular court visits, review of case records, interviews with court personnel and litigants, observations of court proceedings, with particular attention to postponements of hearings, judges' punctuality and compliance with laws, rules and judicial ethics – in selected courts in Davao, Cagayan de Oro, and General Santos cities. Results of this initial monitoring guided PBBF in improving its old monitoring instrument and in writing the draft manual. During this reporting period, PBBF, conducted its final activity – the validation workshop with lawyers to review the draft court-monitoring manual and synthesize the results of the monitoring. Nine partner lawyers, including a city prosecutor and a lawyer from the National Commission on Indigenous Peoples, participated. They proposed recommendations to address the reported issues and observations of the court monitors. Recommendations include the use of vernacular language in trial court proceedings, the setting up of information desks with

¹¹ The vacancy in the Supreme Court Associate Justice post was brought about by the retirement of Associate Justice Romeo Callejo on April 27, 2007.

¹² On July 3, 2007, the Supreme Court enjoined Justice Ong from accepting an appointment to the High Court until he has completed the correction of his birth certificate which stated that he is a Chinese citizen.

staff who can assist litigants in courts, increasing the number of trained legal researchers and stenographers in courts, and the establishment of a civil society-validated reward system for judges and court personnel, among others. PBPF is now finalizing the manual and preparing for the submission of the final report for this project. Although the manual is originally intended for use by civil society organizations, the Supreme Court – Project Management Office intends to adapt the manual as the High Court’s guide for evaluating court performance.

e-Learning Modules Production on Remedial Law and Civil Law of the Philippine Judicial Academy With technical assistance from GoVida Studios and support from the Foundation, the Philippine Judicial Academy offered the Civil Law Module online from January to March 2007. Of the 186 judges who enrolled for this subject, 96 learner judges completed the course. The Remedial Law Module, on the other hand, was offered from February to March 2007. Out of the 158 judges who enrolled for this online course, 90 were able to complete the module. Through e-learning, judges from different courts all over the country refresh and update themselves on relevant substantive and procedural laws without having to travel and without taking considerable time off their busy court schedules. Online courses are also cost effective, simultaneously catering to more than 100 learners from various locations in each session via the internet. However, some of the judges who enrolled were not able to complete the courses because of internet connectivity problems, inadequate computer literacy skills, limited access to computer units, and time constraints. Although the courses were no longer offered online after March 2007, assisting writers continued to respond by email to the participants’ queries about the lessons. In the remaining period, Go Vida Studios will produce compact disc versions of the two modules and distribute these to the participants.

Development and Pilot Implementation of an Enhanced Case Flow Management System. During this period, Softrigger Interactive, Inc., the Foundation’s partner in developing the software for the enhanced Case Flow Management (*eCFM*) System, improved the software’s interface for entering parties and counsel, simplified the interface for inputting new case descriptions, standardized labels and terminologies, and revised database tables to accommodate alterations. Based on the final *eCFM* software, Softrigger developed a user’s manual which was used during the Orientation and Users’ Training in June 2007. One hundred fifty-one judges, law practitioners, prosecutors, clerks of courts, and other court personnel participated in the four-day training which included discussions on caseload management procedures, functions and roles of court personnel under the enhanced system, hands-on use of the system, and tips for troubleshooting. Softrigger and the Supreme Court’s Management Information Systems Office deployed the system server in Pasay City in preparation for the system’s pilot test in Pasay City courts, which will begin after the *eCFM* formal launch in August 2007.

Participation of Supreme Court Assistant Court Administrator in the Seminar on the Fundamental Issues of Case Flow Management. The Foundation’s LADR program supported the participation of Supreme Court Assistant Court Administrator (ACA) Nimfa C. Vilches in the National Center for State Courts “*Seminar on the Fundamental*

Issues of Case Flow Management” in Orlando, Florida in March 2007. As a newly appointed Assistant Court Administrator, ACA Vilches benefited from the seminar lessons on basic case flow management, strategies to create or enhance a case flow management program, and how to put in place an effective differentiated case management plan. The three-day seminar will be useful to her work in the Office of the Court Administrator where she oversees five offices including the Court Management Office that is tasked with reviewing the work systems, procedures and processes of courts, and is coordinating with the Supreme Court – Management Information System Office in implementing the Foundation-supported enhanced Case Flow Management System. Upon her return, ACA Vilches immediately echoed the seminar to judges who attended the Philippine Judicial Academy’s trainings on executive management.

III. Building Constituency for Reforms

Study on the Administration of the Code of Muslim Personal Laws. The Social Weather Stations (SWS) completed the final report on the study during this period. The study, which aimed to assimilate the views of influential Muslim leaders, scholars, and opinion-makers in order to strengthen the justice system created under the Code of Muslim Personal Laws (CMPL), surveyed 709 respondents, of whom 107 are Shari’a lawyers and 602 are Muslim influentials. Two questionnaires were developed by the SWS on the basis of results that emerged from a focus group discussion and a questionnaire workshop.

The results of the survey point to the need to disseminate the CMPL and precepts of Islamic law on which most of the codal provisions are derived. Thus, it was recommended that the CMPL be translated into local languages and with the help of local governments, launch a massive advocacy campaign in the Muslim communities. It was also recommended that colleges and universities be encouraged to offer Shari’a courses and seminars be conducted on issues on the CMPL that are not sufficiently understood. The survey also stresses the urgency of initiating reforms on certain aspects of the law. The study cautioned that reforms must be made on the *fiqh* aspects of the law only, and not the basic doctrines that underlie it. The study suggested that the amendments be made to the CMPL such as making prenuptial agreements mandatory to safeguard the rights of the spouses and that the age of marriage should be increased to 18. It also suggested that the law be amended to include provisions against unscrupulous conversions (when non-Muslims convert to Islam not on the basis of a strong conviction but out of convenience). Other reforms recommended expanding the jurisdiction of courts using CMPL and strengthening the relationship between the courts and the Office of the Jurisconsult, including the possibility of making the office a collegial body that is reflective of the different schools of law in Islam and the different Muslim ethnolinguistic groups.

Within the next period, the final report, entitled “*The Code of Muslim Personal Law in Practice: What Influential Muslims and Shari’a Lawyers Think*” will be published in monograph form and distributed to the stakeholders of the court system. Given the limited number of substantive materials on the CMPL, the monograph is the first of its

kind and provides a solid empirical basis for continuing systemic reforms in the Shari'a court system. More important, the survey settles once and for all the question of where the weight of Muslim opinion falls with regard to the contentious aspects of the CMPL.

Filipino Muslim Survey on Law and Social Justice. The Social Weather Stations (SWS) has completed the survey and presented to the Foundation and USAID the preliminary report containing the marginal results. The survey includes sections devoted to ordinary Filipino Muslims' understanding of and knowledge about Code of Muslim Personal Laws as well as their sentiments regarding its effectiveness and accessibility. This survey is distinct from the mid-2006 survey conducted by SWS and The Asia Foundation on the administration of the CMPL that aimed to assimilate the views of Muslim influential leaders. The results of the new survey provide a unique opportunity to compare views of ordinary Muslim citizens with their opinion-makers and leaders.

Based on the survey, a vast majority of Filipino Muslims have very little knowledge about the CMPL. A mere 4 percent report that they know the CMPL very well, another 7 percent say they know the most important parts. An alarming 76 percent report that they don't know anything about the CMPL. It is even more surprising that knowledge is much lower in ARMM provinces than in the non-ARMM cities. These results signal a clear problem with awareness. With such low levels of knowledge, Filipino Muslims cannot be expected to turn to the legal system in seeking justice. By comparison, many Muslim influentials profess to know the CMPL very well.

In general, ordinary Filipino Muslims feel that the CMPL is an accurate reflection of true Shari'a Law. A solid majority of study participants agree that the CMPL is truly reflective of the Shari'a. Agreement is higher among the upper social classes than in the lower classes. There is also an interesting urbanity difference, with more Filipino Muslim urban residents saying they agree compared to rural residents. However, a large majority of these respondents report having very little to no knowledge about the CMPL. In contrast, amongst the Muslim influentials, only 54 percent agree that the CMPL is truly reflective of Shari'a Law.

Regard for the justice system is low in the provinces of Sulu and Lanao del Sur and generally high in Tawi-tawi and Maguindano.

Roughly half of Filipino Muslims are of the opinion that the powers of the courts set up under the CMPL, Shari'a Courts, should be expanded beyond personal laws. Fifty-five percent think that criminal cases like theft and murder should be tried in Shari'a courts and not just regular courts. The poor are more likely to be pro-expansion than the rich. Lanao del Sur, the province which exhibits the most satisfaction in its justice system, has the highest percentage of respondents supporting expansion into criminal cases. Fifty-seven percent of all respondents think that the Shari'a courts should be expanded to include cases regarding disputes in trade and commerce. Residents in ARMM are more likely to support this kind of expansion than non-ARMM residents. Results of the study will be distributed to the Regional Legislative Assembly of the Autonomous Region in

Muslim Mindanao, the Office of Muslim Affairs, the Philippine Judicial Academy, civil society organizations, and other partners of the Foundation to aid them in evaluating policy and program considerations related to the implementation of the CMPL.

IV. Public Information and Access to Justice

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

Enhancing the Capacities of Prosecutors in Handling Children's Cases. For this project, the Foundation partnered with the Child Protection Unit Network (CPU Net) and the Department of Justice (DOJ) to train prosecutors in handling children's cases, including those involving children in conflict with the law who are subject to the Juvenile Justice and Welfare Act of 2006. From February to March 2007, CPU Net conducted seminar- workshops on handling children's cases in Cagayan de Oro for Mindanao prosecutors, in Iloilo City for prosecutors in the Visayas, and in Manila for Region V prosecutors. A total of 138 senior state prosecutors and regional, provincial, and city prosecutors (mostly those assigned to Family Courts) participated in the seminars. Seminar topics touched on the situation of children in the country, international legal framework on child abuse and exploitation, problems and issues encountered in child abuse cases, and special laws on children. CPU Net and DOJ are currently preparing for the last seminar for Region IV prosecutors in August 2007. Part of the project deliverables is a *Prosecutor's Handbook on How to Handle Children's Cases*. The committee, created by the DOJ to develop the handbook, is already drafting this. To assess the impact of the trainings, CPU Net will conduct a post-training evaluation three months after the project. The evaluation will look into improved skills or techniques acquired by the prosecutors, using as baseline the data in the surveys conducted before each training activity.

Film Documentary on the State of the Philippine Penal System. The Lawyers' League for Liberty (LIBERTAS) is implementing this project with the Jesuit Communications of the Ateneo Loyola Schools handling the film production, and the Integrated Bar of the Philippines (Quezon City Chapter) and the Humanitarian Legal Assistance Foundation undertaking the research aspects.

LIBERTAS, through the assistance of the League of Cities of the Philippines, visited city and provincial jails, drug rehabilitation centers, and youth rehabilitation centers in Cebu City and Davao City. During the visits, the production team interviewed inmates, wardens, public attorneys, and concerned local government officials about issues confronting the jail system. The footage and interviews will be edited to produce four short film documentaries depicting the lives of different characters in Philippine jails. During this reporting period, the production team was also able to interview Chief Justice Reynato Puno regarding his views about the country's penal system and the Supreme Court's initiatives to address penology issues. The team is in the process of consolidating

the film footage, interviews, and photos gathered based on the scripts discussed for the documentaries.

Promoting awareness and understanding of the Code of Muslim Personal Laws

In partnership with various Muslim civil society organizations and the Philippine Judicial Academy, the Foundation has embarked on a series of activities aimed at promoting a better understanding and ensuring proper implementation of the Code of Muslim Personal Laws among lawyers, judges and court personnel, the Muslim community, as well as non-Muslim judges of regular courts and other stakeholders.

Seminars on Strengthening the Implementation of the Code of Muslim Personal Laws. The Department of Shari'a and Islamic Jurisprudence of the Philippine Judicial Academy (PhilJA) continued to spearhead the seminars to fulfill its mandate to provide adequate and appropriate training for lawyers and judges and to strengthen the system as an instrument for continuing legal reform in the administration of the Code of Muslim Personal Laws. The seminars, which focused on salient features of the CMPL, the Code of Conduct for Court personnel, and even basic computer literacy, were held in Cagayan de Oro, Davao, and Zamboanga in March 2007. A total of 106 participants consisting of Shari'a Court and regular court judges, clerks of court, stenographers, and other court personnel, representatives from the National Bureau of Investigation, Commission on Human Rights, Department of Interior and Local Government, public attorneys, and private law practitioners attended the seminars. As a result of feedback during the previous seminars, open forums were also added as a new session in order to tackle issues confronting the Shari'a court personnel. The seminars equipped judges and personnel of both Shari'a and regular courts with a better understanding of the CMPL. The open forum gave participants an opportunity to candidly ask questions and raise concerns regarding the implementation of the CMPL. Among the issues discussed was the need to expand the jurisdiction of, fill vacancies in, and establish more courts using CMPL. Participants also emphasized the importance of educating the public in general, and not only court personnel, on the salient provisions of the CMPL.

Within the remaining program period, additional seminars aimed at familiarizing non-Muslim judges of regular courts and other stakeholders on the salient features of the CMPL and sensitizing them to the needs of the Muslim population will also be conducted by the PhilJA in Cebu and Baguio cities.

Development of a Comprehensive Information-Education-Communication (IEC) Plan on the Code of Muslim Personal Laws The Foundation's study on the administration of the Code of Muslim Personal Laws highlighted the need for a massive advocacy campaign on the law. Thus, the Foundation partnered with the Asian Institute of Journalism and Communication (AIJC) in drafting of a communication plan on the CMPL. The communication plan is aimed at increasing the quantity and quality of information concerning the laws and legal and administrative institutions affecting the Muslim population. In the last reporting period, a survey of existing information,

education, and communication materials on the CMPL, was completed. This survey informed the focus group discussions and interviews which provided the stakeholder inputs for the development of the IEC Plan.

During this reporting period, the AIJC completed the layout design and content of three posters aimed at promoting usage of the CMPL. The translations of the posters have also been completed (Tausug, Maguindanaon, and Maranao). After pre-testing the poster designs in Muslim communities in Zamboanga, Cotabato, and Marawi cities, a few revisions were made. The third poster, which cited advantages of using CMPL in the courts, had to be overhauled to include details on the jurisdiction of the courts as well as other services offered by the Shari'a courts. The primers on the salient features of the CMPL and the Sharia court system have also been drafted.

Two feature articles on the Code of Muslim Personal Law system have been written and will be published in newspapers of general circulation. One article is entitled "*Hip Shari'a Judge Advocates the Use of Islamic Law*" and follows the travails of a Shari'a judge, a nominee for the 2003 Awards for Judicial Excellence, and his advocacy for strengthening the implementation of CMPL. Another article, entitled "*A Battered Woman Speaks*", describes how a Muslim woman sought remedies under the CMPL and took recourse to the Agama arbitration council created under the same law to obtain financial settlement from a husband who had physically abused her.

In the remaining period, all the information materials under this project will be printed and disseminated to the target audiences.

Increasing Muslim women's awareness of the Anti-Violence against Women and Children Act

Popularization of the Anti-Violence Against Women and Children Act in the ARMM. The Al-Mujadilah Development Foundation (AMDF) continued its efforts to popularize the Anti-Violence against Women and their Children Act (Republic Act No. 9262), among the Bangsamoro women, their families, and communities. During this period, AMDF finished the translations of the previously developed English primer¹³ of the law into the five major Bangsamoro local languages: M'ranao, Maguindanao, Tausug, Yakan, and Sama. The translations of the legal primer have already been validated in Muslim communities in Basilan, Tawi-Tawi, and Cotabato. Illustrations for the primer have also been completed.

As of this reporting period, the AMDF is finalizing the layout design of the validated, illustrated, and translated legal primer for printing and reproduction. After publication, the primers will then be presented to the communities in the five areas of the

¹³ The Sentro ng Alternatibong Lingap Panligal (SALIGAN), an alternative law group, developed the English primer of R.A. 9262.

Autonomous Region of Muslim Mindanao.¹⁴ It is also expected that copies of the primer, including a consolidated documentation of the proceedings, will be submitted to the Foundation by the end of the grant period.

Weaving the Muslim Community into Action for its Fight against VAW and for Greater Access to Justice. The Women’s Legal Bureau (WLB), on behalf of the NGO consortium (now called MoroWeave), initiated this project to address access to justice issues confronting Muslim women, specifically their lack of information and awareness on laws and remedies on violence against women (VAW).

Focus group discussions and orientations on VAW were conducted by the MoroWeave in various areas. In Lanao, around 52 participants coming from six barangays attended the discussions. In Basilan, 49 participants coming from eight barangays took part in the discussions held in Maluso and Lamitan. In Tawi-tawi, 60 participants attended coming from eight barangays. In Sulu, 90 individuals attended the discussions, representing nine barangays.

The focus group discussions generated information about the VAW situation in the community and how the communities actually respond to the problem. Muslim communities have different appreciation of VAW as a problem, and have a unique way of responding to the issue. In some cases, indigenous justice systems were discussed in order to cull the principles in the community’s sense of justice. Documentation of the VAW cases at the barangay level created baseline data on the VAW situation in Muslim areas. As part of the output, individual community actions plans included data on Anti-VAW law implementation challenges at the local level, and community recommendations to address the relevant concerns.

Since no research on VAW had ever been conducted in the ARMM, MoroWeave broke new ground with the output of these discussions, a community-based research entitled “*Violence Against Women in Bangsamoro Communities.*” Designed to help women advocates understand the veracity and situation of VAW in Mindanao, the research method also capacitated around 251 Muslim women participants with knowledge and skills on VAW laws and remedies. The research, completed during this period, revealed the many forms that VAW takes in Bangsamoro households and communities. Descriptions of VAW ranged from verbal, physical, mental, emotional, and financial forms. Participants cited various causes for the persistence of VAW in communities: human weakness or poor impulse control, ignorance of the rights of women, modeling/learning/socialization, and dysfunctional relationships. VAW occurred in varying levels and intensity among the Maranaos, Maguindanaos, Yakans, Tausugs, and Samals. Amongst the various groups, the preferred mode of resolving disputes arising from VAW is informal, that is, at the community level with the assistance of traditional leaders. The participants in the discussions also came up with community action plans on how to respond concretely to the issue of VAW in their areas.

¹⁴ Marawi and Lanao del Sur; Maguindanao Province; Basilan; Sulu; and Tawi-Tawi.

The frank and candid discussion of VAW, a topic that has long been considered as taboo in Muslim communities, was a liberating experience for many participants. In fact, popularization of the rights of Muslim women under this project led to the filing of the first VAW case in ARMM. A Muslim woman filed a complaint against her physically abusive husband for violations of both the Code of Muslim Personal Laws (CMPL) and the R.A. 9262. Although the woman later withdrew the criminal case under R.A. 9262 to spare her husband from public humiliation, she was able to get a favorable settlement (including monthly support) based on CMPL provisions through the Agama arbitration council created under the same law.¹⁵

Access to justice by marginalized groups

Establishment of the Bangsamoro Consortium of Lawyers and Training Support to Western Mindanao State University (WEMSU) Law Students. As the project winds up, the core group members of the Bangsamoro Lawyers' Network (BLN) met in Zamboanga City for an evaluation meeting. During this period, the BLN continued to consolidate the ranks of Muslim lawyers with recruitment meetings for lawyers and by hosting a testimonial for the new batch of Muslim lawyers. These meetings were attended by 23 individuals. Around 46 Muslim lawyers participated in trainings and seminars on legal updates, documentation, and popular education conducted in Davao and Zamboanga.

The establishment of the Bangsamoro Lawyers' Network is an unprecedented initiative in the Muslim legal community. It is the first network that actively organizes and mobilizes Muslim lawyers and legal advocates in the ARMM, Metro Manila, Cotabato, Davao, and Zamboanga cities for purposes of litigation, policy advocacy, research and documentation, legal literacy and paralegal education. The BLN has also conducted capacity building activities for its network of lawyers for free. Within the first year of its establishment, the organization has conducted grassroots legal literacy trainings in various communities in the ARMM and other critical areas. The BLN pioneered an internship program with Muslim law students from the Western Mindanao State University and has organized a conference for Muslim law interns throughout Mindanao. This internship program, in turn, has led to the creation of an association of Muslim law students. Through the joint efforts of its network of lawyers and law students, short primers on arrests, searches and seizures, and zoning were translated into Maguindanaon, Tausug, and Maranao languages. Further, the BLN has actively pursued partnerships with other organizations. It is now a member of the Mindanao Martus Management Committee (MMMC) and the Philippine Martus Committee on human rights documentation; it has met with the Asian Muslim Lawyers' Network in Malaysia; and it has also forged partnerships with other lawyers' groups and civil society organizations, especially in Mindanao.

¹⁵ This success story will be featured in an article entitled "A Battered Woman Speaks", as part of the communication materials produced under the project Development of a Comprehensive Information-Education-Communication Plan on the CMPL, supported by the Foundation.

Grassroots Education on the Code of Muslim Personal Laws: Increasing Access to Justice in Peace and Development Communities. During this reporting period, the Bangsamoro Lawyers' Network (BLN) conducted legal literacy trainings to facilitate the formation of paralegal teams in the peace and development communities (PDCs). PDCs are post-conflict areas organized by the Government of the Philippines-United Nations Multi-Donor Programme as lead communities that will commit to and benefit from social and economic transformation with the assistance of development partners to sustain peace and development in the area. The paralegals, chosen from the leaders of these communities, will become frontline facilitators for Muslim residents to refer their grievances to the nearest Shari'a courts or to the appropriate dispute settlement body as the case may warrant. The trainings used the modules developed during the needs assessment and orientation workshop held in the previous reporting period. The module consisted primarily of topics on the Philippine legal system and its grievance machineries. The trainings focused primarily on the Code of Muslim Personal Laws but there were also topics on: 1) Overview of the Philippine legal system; 2) Code of Muslim Personal Laws; 3) Civil and Political Rights; 4) Legal Skills; 5) Katarungang Pambarangay (Barangay Justice) and the Alternative Dispute Resolution Act.

The legal literacy trainings were conducted in the following areas: Tictapul, Zamboanga City (40 participants); Tenan, Ipil, Zamboanga Sibugay (35 participants); Labatan, Ipil, Zamboanga Sibugay (35 participants); Muricay, Pagadian City (35 participants); New Labangan, Pagadian City (15 participants); Marang-Marang, Tawi-Tawi (41 participants); Indanan, Sulu (43 participants); and Maimbong, Sulu (46 participants). During the last core group meeting of the Bangsamoro Lawyers Network, task assignments were parceled out to the member lawyers who will handle the rest of the trainings to be conducted in South Central Mindanao for the remainder of the project period. Trained leaders are now organizing themselves into paralegal teams to assist community members bring their disputes to appropriate bodies or government agencies.

Equal Access to Communication for the Deaf in Legal Proceedings. As a partner of the World Bank's program, the Foundation supported the implementation of this winning proposal to the World Bank's Philippines Development Innovation Marketplace, *Panibagong Paraan* (New Ways) 2006: Development and Equity. Spearheaded by the Philippine Deaf Resources, Inc. (PDRCI), the project addresses the inequalities in access to communication by the deaf in the Philippine justice system due to an absence of an organized and nationally mandated system of sign language interpreting.

During the reporting period, PDRCI revised the test instruments based on dry run of evaluations for hearing interpreters as well as the testing of other deaf interpreters. The PDRCI also attended meetings to discuss the legal needs of deaf inmates in the Quezon City jail. In relation to the proposed expansion of a Supreme Court Memorandum Order No. 59-2004 on the participation of sign language interpreters in court proceedings, the organization also coordinated with the Office of the Court Administrator and continued discussions with various legal experts on the proposed changes to the order.

During this period, the PDRCI completed the preparations for a national seminar on “*Sign Language Interpreting and Access of the Deaf to the Legal System*” in partnership with the Philippine Federation of the Deaf, Inc., and the Filipino Deaf Women’s Health & Crisis Center, Inc. The objectives of the seminar are : (1) present and disseminate research results on sign language interpreting in a legal context; (2) recommend technical standards for the evaluation and placement of interpreters for legal proceedings; (3) provide a forum to discuss these findings and recommendations; and (4) heighten the awareness of the participants regarding abuse of deaf women and children, and increased access of the deaf to the legal and judicial system.

The seminar will also tackle □ recommendations for the revision of Supreme Court Memorandum Order No. 59-2004 on sign language interpreters, □ sign language and voice interpreting (in spoken English, Filipino, Filipino sign language and nonstandard signing), deaf interpreting, □ legal terms in Filipino sign language, □ cases on abuse of deaf women and children, and barriers to access to justice.

Community Access to Justice through the Recognition of Indigenous Justice System Project. Also a winning proposal to the World Bank’s Philippines Development Innovation Marketplace, *Panibagong Paraan* (New Ways) 2006: Development and Equity, this project seeks to recognize and promote the indigenous peoples’ right to use their own commonly accepted justice systems and other customary laws and practices within their communities. As a partner of the World Bank’s program, the Foundation works with the Lumad Development Center, Inc. (LDCI) in this effort to support a community-based justice system among the Teduray and Lambingan peoples in Maguindanao.

After developing the “*Kefedewan Training Module: A Handbook for the Project on Community Access to Justice through Recognition of Indigenous Justice System*”, which contains relevant information on the indigenous justice system of the Tedurays, the LDCI set out to identify training participants, youths ranging from ages 16-26, who will become the second generation tribal justice leaders. The participants, to be endorsed and chosen by the practitioners of the indigenous justice system, will be trained using the module. As part of the training, a number of cases will be tried and resolved through the system, which would show that the indigenous system is not merely a method of conflict resolution but a community building process.

Forty-three young Kefedewan were chosen to participate in the training, four of them women. The training was conducted in Upi, Shariff Kabunsuan, and facilitated by instructors coming from the Council of Chiefs of the Timuay Justice and Governance and justice officers of *Fagilidan*.

LDCI will reproduce one hundred copies of the module to be distributed in the different villages and to be used in the trainings. The module will be applied to the actual Tiyawan, as a number of pending Tiyawan are now awaiting trial by Kefedewan practitioners using

the module. LDCI will improve the recording of resolved conflicts and unresolved conflicts that will be brought to the Kefedewan for trial in the remaining project period. The LDCI will also continue to lobby for the recognition of the Tiyawan system. A group of Kefedewan from and the Fagilidan will work with the Regional Legislative Assembly in the Autonomous Region in Muslim Mindanao for the recognition of the Tiyawan system in conflict resolution throughout the Teduray and Lambanggian ancestral domains.

Strengthening Access to Justice of Vulnerable Groups through Video Production and Training on Basic Legal Materials. The Foundation supported the *Upholding Life and Nature* (ULAN) organization in the production of four video materials on civil and criminal procedure, ADR law, and accountability of local government officials. During this reporting period, final edited copies of the videos were launched in Manila, Baguio, Cebu and Davao, and distributed (500 copies per video) to members of Alternative Law Groups, Foundation for Philippine Environment, Upland NGOs Action Committee, University of the Philippines Institute of Agro-Forestry, Institute of Popular Culture, Manila Jaycees, and other partner organizations of ULAN. The recipients can easily reproduce the videos since ULAN voluntarily waived its intellectual property rights over the materials. ULAN and its partner organizations have already used the videos as effective teaching tools in paralegal trainings in Cagayan, Zambales, Palawan, Mindoro, and in a number of provinces in Mindanao.

Jail decongestion initiatives

These projects consider the perennial problem of jail congestion in the country which has arisen due to inadequate prison facilities for the corresponding number of prisoners.¹⁶ The situation is attributed to various factors, such as numerous court vacancies nationwide, 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.¹⁷

In partnership with the Integrated Bar of the Philippines -Quezon City Chapter (IBP-QC) and the Humanitarian Legal Assistance Foundation (HLAF), The Asia Foundation launched jail decongestion projects in specific jails. With the enactment of the Juvenile

¹⁶ 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.

¹⁷ “Overstaying prisoners” are the following: (a) those who have already served the maximum penalty imposed 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.

Justice and Welfare Act of 2006 prohibiting the detention of children behind bars, and consistent with the president's recent issuance of Executive Order No. 633¹⁸ directing the Department of Justice to immediately facilitate the release of all minors from jails, the projects took this into account. The IBP-QC and HLAJ incorporated training on the new law and the release of children in conflict with the law as key components of their jail decongestion efforts.

During this period, the IBP-QC coordinated with the Quezon City Social Services and Development Department, Public Attorney's Office, Quezon City Police District, City Prosecutor's Office, and the Department of Social Welfare - National Capital Region to facilitate the release of minors and overstaying inmates from the Quezon City Jail, Camp Karingal Female Dormitory, and the Molave Youth Home. Their collaborative efforts resulted in the release of 492 detainees, including 48 minors, from January to March 2007. Along with these initiatives, IBP-QC holds continuing orientation seminars on the Juvenile Justice and Welfare Act for barangay officials who are the frontline implementers of the law. As of March 2007, IBP-QC has trained 87 barangay captains, 87 chairpersons of the Barangay Council for the Protection of Children, station commanders, investigators, and heads of the Women and Child Desks of 12 police stations in Quezon City. Although the project with the Foundation already ended in March 2007, IBP-QC continues its regular jail visits, free legal counseling for inmates, and collaborative work with public attorneys and prosecutors for the release of overstaying and minor detainees.

Like IBP-QC, HLAJ in coordination with the Malabon City Social Welfare and Development Department conducted orientation seminars on the Juvenile Justice and Welfare Act in five barangays in Malabon.¹⁹ A total of 218 barangay volunteers, officials, and residents learned the salient features of the law, the concept of restorative justice, and the role of the community in the implementation of intervention and diversion programs. HLAJ also secured the immediate release of 91 eligible detainees in Malabon, Navotas, and Valenzuela (MANAVA) jails from January to June 2007. This figure includes 56 minors.

A summary of The Asia Foundation-supported jail decongestion activities is in Annex C.

Auxiliary Jail Decongestion Initiatives

To complement the Foundation's jail decongestion initiatives, support was provided to the Integrated Bar of the Philippines – Quezon City Chapter (IBP-QC) for the conduct of a study on the Comprehensive Dangerous Drugs Act of 2002 (RA 9165), the violation of which was considered as the topmost criminal charge filed against persons in detention since 2003. Drug crimes account for at least 50% of the increase in the number of persons detained considering that most of the offenses under the law are not bailable.

¹⁸ Issued on July 25, 2007.

¹⁹ Barangay Tonsuya, Tugatog, Tanong, Longos, and Catmon.

IBP-QC notes in its study that in Quezon City, 538 of the 580 detainees are charged with violations of RA 9165.

IBP-QC finalized the results of this study during this reporting period. The study is based on legislative records of deliberations on RA 9165 and interviews with judges, prosecutors, public attorneys, police officers, social workers, detainees, and representatives from the academe, Bureau of Jail Management and Penology, Philippine Drug Enforcement Agency (PDEA), and non-governmental organizations. Except for the police and the PDEA, the interviewed stakeholders consider RA 9165 as non-reformative and too harsh. The study revealed that the explicit provisions of the law denying probation and plea bargaining to the accused, regardless of the amount of drug confiscated, contributes to jail decongestion and takes away the reformative aspect of the law. Because of the high penalties, a simple charge of selling even less than one gram of dangerous drug is already a non-bailable offense. The accused has no choice but to languish in jail pending trial, even if the miniscule amount of drug is merely planted evidence. Judges and prosecutors agree that the stiff penalties imposed by the law without making distinctions as the amount of drug involved only encourage law enforcers to plant evidence (using a very small amount of drug that can be bought with a few hundred pesos), and later extort money from the accused in exchange for being charged with a lower offense. The study thus recommends that Congress review and accordingly amend RA 9165, particularly the penalties imposed for drug crimes. Prosecutors also recommend that the doctrine of presumption of regularity accorded to law enforcement officers in the arrest of suspects and seizure of evidence in drug related cases be revisited, since most abuses are perpetrated under the cloak of this doctrine.

CHALLENGES IN IMPLEMENTING THE PROGRAM

The Asia Foundation successfully navigated the uncertainties in the legal environment during this period and achieved significant gains in the pursuit of the main objectives of the Legal Accountability and Dispute Resolution (LADR) program. The impact of the institutionalization of alternative dispute resolution in the courts, as a strategy for decongesting court dockets, can be seen in the steadily declining number of pending cases in the all the courts, and in the sustained improvements in the court-annexed mediation system despite the absence of direct funding support from the Foundation. Outside the courts, this period has been one of taking stock and surveying achievements, as a national conference brought together hundreds of ADR practitioners to assess the gains and chart the future of ADR in the country. Further, the Foundation's support for institutionalizing ADR in the Executive Department is gaining ground as agency officials are trained and prepare for establishing mediation mechanisms in their respective offices.

Building on the inroads achieved in judicial transparency and accountability, particularly in the judicial appointments process, through a fruitful partnership with the Judicial and Bar Council especially during the last period, the Foundation continued working on enhancing the public's engagement in the nomination and

search processes for judicial posts. The Judicial and Bar Council conducted regional dialogues with the various sectors in areas where the rate of court vacancy is high. These regional dialogues had an immediate impact on filling up the vacancies in the courts. During this period, the Judicial and Bar Council confirmed its commitment to institute reforms in its screening process by openly considering the recommendations of a civil society watchdog monitoring the appointment of Supreme Court Justices. In order to improve efficiency in court administration, the Foundation also supported the development of an enhanced case flow management software system that will enable trial courts to effectively track the progress of their cases.

Efforts to build constituency for judicial reforms during this period saw the completion of a study on the administration of the Code of Muslim Personal Laws, and a survey on Filipino Muslim law and social justice that can guide policy-makers as well as public and private program implementers in addressing justice issues confronting Filipino Muslims.

There were important gains in the Foundation's efforts to strengthen public information and access to justice, as this period marked the increased involvement of more Muslim and Mindanao-based partner organizations in promoting citizen awareness on relevant legislation, focusing initially on the Code of Muslim Personal Law. Concrete efforts at Muslim judicial reform, through the Foundation's long-time partnership with the Philippine Judicial Academy and its newly-created Department of Shari'a and Islamic Jurisprudence, were also undertaken through the conduct of seminars for strengthening the implementation of the Code of Muslim Personal Laws. This period also saw the recently-established Bangsamoro Lawyer's Network, a consortium of Muslim lawyers, spearhead legal literacy trainings for post-conflict communities in Mindanao. The Foundation also supported the development of a comprehensive communication plan for the Code of Muslim Personal Laws.

An ongoing 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, especially now that the program is about to end. The Lawyers' League for Liberty, for instance, is still filming footages for the documentaries due to difficulties in scheduling visits and interviews in jails all over the country. Also, with a few months remaining before the close of the program, implementing partners tend to mechanically conclude activities without seriously and carefully reflecting on the impact of the project. The Foundation addresses this concern through continuing evaluation and discussions with partner institutions about the gains and weaknesses of the programs.

Another challenge to LADR program implementation during the period is navigating the changes in organizational leadership of partner institutions, such changes having consequences in the execution of specific project deliverables.

This proved to be true in the implementation of the enhanced Case Flow Management System under the auspices of the Supreme Court where the Associate Justice heading the Committee on Computerization resigned as committee chair. Similarly, the publication of a legal journal on the CMPL and conduct of roundtable discussions on legal and educational reform in partnership with the King Faisal Center for Islamic, Arabic and Asian Studies suffered a major set back (i.e. projects were discontinued) with the change in leadership in the Center.

PLANS FOR THE REMAINING PERIOD

As the LADR Program draws to a close, the Foundation's efforts for the remaining period will be focused on winding up activities to ensure the smooth and efficient closing of all grants. The Foundation will remain keen on consolidating gains and on laying a firm groundwork for future activities that can sustain and expand existing initiatives.

With mediation centers, the Mediation Fund, trained mediators, a communication plan in place, and with an organizational and financial study that can serve as basis for next steps, the Foundation will shore up current efforts to solidify the impact and address the sustainability of court-annexed mediation. The Foundation will continue to engage in activities that will strengthen the commitment of key stakeholders to support the institutionalization of ADR processes within the court system, such as the promotion and close monitoring of court-annexed mediation, and specialized training of mediators. The Foundation will also continue its partnership with the Philippine Judicial Academy in the establishment of mediation centers for the Court of Appeals stations in Cebu and Cagayan de Oro. Outside of the courts, the Foundation will build on the gains of efforts for further institutionalization of ADR in selected executive agencies, and capitalize on the newly-acquired mediation skills of government personnel in resolving administrative disputes during their ADR internship.

With respect to increasing judicial transparency and accountability, the Foundation will continue to back efforts to sustain and expand the work of the consortium of civil society and legal professionals that will actively monitor and participate in the judicial appointment process. Support for the pilot-testing of the enhanced Case Flow Management System in Pasay City courts will likewise be maintained in line with the Foundation's thrust to improve efficiency in court administration. Court capacity enhancement activities geared towards increasing competence will be pursued with PhilJA through a seminar on the comparative analysis of the Family Code and the Code of Muslim Personal Laws.

The Foundation will continue to exert efforts to increase public information and access to justice that have been initiated during the previous period, particularly in Mindanao. Another special training of prosecutors in the handling of children's cases will be conducted, to be complemented by the development of a prosecutors' handbook.

Over-all Court-Annexed Mediation Program

	2004	2005	2006	January – March 2007
The Asia Foundation*				
Referred	18,494	22,626	18,229	7,492
Actually Mediated	6,330	9,427	14,425	3,125
Settled	4,987	6,538	6,919	2,223
Failed	1,343	2,889	4,192	902
JURIS*				
Referred	1,783	3,119	2,981	1,548
Actually Mediated	1,160	2,290	2,442	508
Settled	912	1,088	1,240	361
Failed	248	1,202	699	147
TOTAL				
Referred	20,277	25,745	21,210	9,040
Actually Mediated	7,490	11,717	16,867	3,633
Settled	5,899	7,626	8,159	2,584
Failed	1,591	4,091	4,891	1,049

* Includes Philippine Mediation Center Units established through the Mediation Fund

The Asia Foundation-Supported Court-Annexed Mediation Program*

	2004	2005	2006	January- March 2007
Cagayan de Oro				
Referred	376	725	526	333
Actually Mediated	184	518	501	98
Settled	154	217	243	43
Failed	30	301	192	55
Metro Davao				
Referred	746	536	1,425	556
Actually Mediated	210	287	1,151	167
Settled	158	185	472	124
Failed	52	102	391	43
Metro Cebu				
Referred	673	774	1,159	373
Actually Mediated	167	302	816	226
Settled	163	207	376	116
Failed	4	95	251	110
Metro Manila				
Referred	16,699	19,832	13,561	5,667
Actually Mediated	5,769	8,080	10,801	2,458
Settled	4,512	5,738	5,175	1,796
Failed	1,257	2,342	3,007	662
General Santos				
Referred		152	488	155
Actually Mediated		57	358	81
Settled		41	235	63
Failed		16	107	18
Tacloban				
Referred		607	1,070	408
Actually Mediated		183	798	95
Settled		150	418	81
Failed		33	244	14
TOTAL				
Referred	18,494	22,626	18,229	7,492
Actually Mediated	6,330	9,427	14,425	3,125
Settled	4,987	6,538	6,919	2,223
Failed	1,343	2,889	4,192	902

* Includes Philippine Mediation Center Units established through the Mediation Fund

ANNEX B**Number of Vacant Courts in Regions with Judicial and Bar Council Dialogues**

REGION	Date JBC dialogue was held	Number of vacancies before the dialogue (as of 22 March 2006)	Number of vacancies after the dialogue (as of 30 April 2007)	Percentage of vacancies filled after the dialogues
I – Ilocos	July 13, 2006	42	17	60%
III – Pampanga	April 18, 2007	24	11	54%
IV – CALABARZON, MIMAROPA	December 4, 2006	39	22	44%
VII - Central Visayas	September 5 2006	9	0	100%
X – Northern Mindanao	October 3,2006	23	10	57%

Summary of The Asia Foundation-Supported Jail Decongestion Project

	IBP Quezon- City Chapter Phase II²⁰		HIAF MANAVA Decongestion Project²¹		Total
	March – December 2006	January – March 2007	January – December 2006	January – June 2007	
Detainees Released ²²	783	492	220	91	1,586
(i) Men	598	398	38	35	1,069
(ii) Women	88	46	1	-	135
(iii) Minors	97	48	181	56	382
a. Male	78	47	140	36	301
b. Female	19	1	41	20	81

²⁰ The IBP Quezon City Chapter Phase II Project includes working for the release of overstaying prisoners confined at the Quezon City Jail, Camp Karingal Female Dormitory, and Molave Youth Home.

²¹ HIAF MANAVA Jail Decongestion Project covers the city jails of Malabon, Navotas and Valenzuela.

²² Figures for men and women exclude minors.