

# Executive Summary

## Brief Overview of Results

The 2006 Judicial Reform Index (JRI) assessment for the Philippines manifested major strengths, as well as concerns, regarding the judicial system. As noted in the Table of Factor correlations, the Philippines scored positively on nine of the thirty JRI factors and neutrally on twelve factors. Among the positive factors are all of those related to quality, education, and diversity of the judiciary, the code of judicial ethics, and guaranteed tenure. Neutral factors include adequacy of judicial salaries, as well as most factors related to judicial powers, structural safeguards for the judiciary, and transparency of the judicial system. The remaining nine factors received a negative correlation, including most factors related to financial resources and efficiency of justice. As this report is the first JRI conducted in the Asia region, there is no basis for comparison with other similarly situated countries in the region; however, results of JRI assessments conducted in other countries can be found on ABA/CEELI's website.<sup>1</sup>

## Strengths of the Philippine Judiciary

The Philippine judiciary has many strengths, which makes it a model for other countries in the region. While some educational and legal reforms were adopted during the first half of the 20th century, the most significant factor in recent reform efforts has been the vision of former Chief Justice Hilario G. Davide, Jr. in initiating the Action Program for Judicial Reform (APJR) in 2001 and organizing the Program Management Office (PMO) within the Supreme Court to implement its goals. The APJR has been widely accepted because it was initiated within the judiciary rather than imposed from outside, and it has included partnership with other stakeholders in the justice system and with civil society organizations. Some of its achievements thus far include project proposals, diagnostic studies, systems development and reports, with initiation of some specific administrative programs, and training workshops for judges and court staff. Continued pro-active leadership throughout the court system can ensure that these reforms will yield practical results in the future.

Examples of specific successful programs related to APJR, as well as other strengths include:

- Capacity building and rules promoting **transparency** in the Judicial and Bar Council's **judicial selection process**;
- Formalization, curriculum expansion, and capacity building of the Philippine Judicial Academy, with a **mandatory pre-judicature course** and **career enhancement training** for judges and court staff;
- Ability of individuals, agencies, and others to **contest the constitutionality of laws** and **the legality of administrative actions**, and to **remedy violations of civil rights** through judicial intervention;
- The **finality of Supreme Court decisions**, which may not be modified or reversed except by the Court itself sitting *en banc*, and the **general respect accorded to court decisions** at all levels;
- A 100% **increase in judicial salaries** over the past four years following legislation that authorized such increase through a special allowance, and a resulting increase in the number of judicial applicants;
- Adoption of a **new Code of Judicial Conduct** based on the Bangalore Principles of Judicial Conduct, as well as a **Code of Conduct for Court Personnel**, and training related to these Codes;
- Vigorous **oversight and investigation of conduct complaints** against judges and court staff, including complaints submitted by members of the general public; and

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<sup>1</sup> See <<http://www.abanet.org/ceeli/publications/jri/home.html>>.

- Development of **court automation systems**, including the Court Administration Management and Information System, the Case Flow Management, and the Case Management Information System, which should prove fruitful in reducing backlogs and increasing efficiency of case management.

## Concerns Relating to Inefficiency of the Judicial System

Inefficiency, frequently resulting in a filing-to-completion period of five or more years in civil and criminal cases, is significantly related to a judicial mindset that is inherent in a busy system. This incapacity has manifested itself in a lack of courtroom control. Complicating factors are the insufficient attention to, and training in, courtroom management, as compared to case management, and the use of enforcement tools.

- Judges are **unduly reluctant to use the contempt and subpoena powers available to them** under the law to: require parties to abide by time frames by denying requests for postponements; ensure appearance of witnesses; and refer attorneys to the disciplinary authority for unprofessional and frivolous delaying tactics.
- The judiciary suffers from the **inordinate backlog of cases**, with over 800,000 cases pending at the end of 2005. Many of these backlogged "archived" cases involve defendants who were never found. Additionally, many cases were settled, but not dismissed. No case events were set to monitor resolution. In addition, a significant segment of the backlogged cases are the so-called "bounced check" cases with simple facts and legal issues. However, the Philippine legal system **does not provide for a small claims procedure** for disposition of such cases. It would be beneficial to implement a short-term, emergency mechanism to deal with the current backlog, following which the existing **sequential trials should be replaced with continuous ones**. Thus, the concern that backlogged cases would suffer if judges had to focus on continuous trials would no longer be valid.
- The **Speedy Trial Act** of 1998 and related Rules of Court have proven **ineffective** in curing the judicial delays. The required "speed" starts and ends only with the actual trial, and the Act contains numerous exclusions and exceptions for granting continuances. Furthermore, it is not uniformly enforced.
- Large numbers of **court personnel are not efficiently allocated**. For instance, many stenographers and sheriffs are presently underused and, to increase efficiency, could be pooled and used where the need is greatest.
- While **significant computerization** of the courts has been **achieved**, there is a **need for underlying effective systems** that, when computerized, will increase efficiency. Although court clerks are required to keep ledgers of case events and produce monthly reports, most branches do not use an individual simple case monitoring technique such as a summary sheet at the front of the file which lists all case events. This summary, combined with routine calendaring for appearances or submission of documents, should significantly alleviate the "archived case" problem.
- Although **outside of the direct control of the judiciary**, one element of inefficiency that affects the functioning of the courts is the **shortage in the number of prosecutors and public attorneys** under the jurisdiction of the Department of Justice. This inadequacy results in scheduling conflicts and delays, lowers conviction rates as witnesses fade away, and decreases incentives for plea bargaining. Moreover, poor pay scales exacerbate the shortage of public attorneys, which not only hampers the efficiency of the judiciary, but also limits access to justice by indigent persons.

## Concerns Relating to Corruption in the Judiciary

While the extent of corruption in the judiciary is difficult to measure, the prevailing view is that its magnitude has decreased since implementation of the APJR and the promulgation of the new codes of judicial conduct and court personnel conduct in 2004. Related training workshops and public news releases regarding the codes of conduct, as well as enforcement of judicial discipline and the enhanced judicial selection process, have also contributed to improvement.

- Nevertheless, **public perception of significant judicial corruption remains**, and is itself an obstacle to the administration of justice. The 2005 PMO report on implementation of the APJR recognized that **certain areas of court operations are vulnerable to corruption**. The most vulnerable areas appear to be those where court officials are entitled to fees for services to litigants, e.g., sheriffs in enforcement actions, stenographers in preparation of transcripts, and commissions to which certain court clerks are entitled.
- Several **cultural phenomena**, such as the culture of "gratitude" of judges to the appointing authority or the pervasive reach of influential family and other relationships, **may also contribute to the situation**. Furthermore, many litigants apparently come to their attorneys expecting to have to pay for a favorable result, and some attorneys have apparently lost clients when they refused to do so.

## Concerns Relating to Financial Resources

Lack of reasonable budget support for the judiciary by the Philippine government is a factor complicating the inefficiency and corruption problems, and has resulted in over-reliance on donors.

- While the higher level courts (Supreme Court and Courts of Appeal) appear to have sufficient material resources and personnel, the **lower courts are not receiving an adequate allocation of funds to meet their needs**. The greatest deficiency exists in maintenance, equipment, and supplies, and some courts are relying on the local governments to supplement costs. Judges and clerks often purchase or obtain (from "friends") their own computers. In some courts, judges have expended personal money to purchase furniture or supplies.
- **Many court buildings are in poor condition, while courtrooms are small and overcrowded**, often with insufficient chairs or benches. There are insufficient and poorly maintained restrooms, limited accessibility for the disabled, and no meeting areas for litigants and their counsel. Due to the absence of central archival storage space, **case files are stored in public hallways or under stairwells** without security.
- Judicial security is the responsibility of the Philippine National Police; however, in practice, **no resources are allocated to security measures**, with the exception of the higher level courts. While courthouse security does not appear to be a concern, **security for judges outside the courtroom is an issue**, as ten judges have been killed since 1999, none of them on court premises. These cases remained pending in the courts at the end of 2005.