

Minutes of the 5th Meeting of the Rule of Law Working Group

PHILIPPINE DEVELOPMENT FORUM

17 September 2012, Monday

2:00 pm - 4:00 pm

Pan Pacific Hotel, Manila

A. Welcoming Remarks. PDF Working Group Chair Assistant Secretary Geronimo Sy (ASec) of the Department of Justice (DOJ) asked the attendees to introduce themselves and their institutions. (Please see attached attendance list and for the complete list of PDF members.) Gloria Steele, co-convenor of the PDF Rule of Law Working Group, represented USAID while another co-convenor, Ms. Nancy Domingo represented Undersecretary Austere Panadero of the DILG.

B. Agenda

1. Approval of the Minutes of the 4th PDF Meeting dated 17 April 2012.

Prior to the approval of the minutes of the 4th PDF meeting, corrections were made in the assignment of the different agencies to the different clusters. Cluster B to include DILG and PNP while Cluster E to the Bureau of Corrections, PDEA, BI and LGA. ASec Sy clarified that the assignment of agencies to a specific cluster is not meant to be fixed but instead is inclusive and should not be construed as being limited to the agencies assigned. He also added that the SC and DILG are included in all the clusters to provide structural direction.

Gerry Porta of USAID clarified his statement on page 11 of the draft minutes from April 17 to mean that the passage of the comprehensive Juvenile Justice Law has been criticized by several sectors because it resulted in minors being exploited by others to commit crimes knowing that minors are unlikely to be prosecuted or arrested due to confusion and the lack of alternatives to incarceration anticipated by the juvenile justice law. There is a need then for local government units to immediately address the problem of creating segregated detention facilities and diversion programs for juveniles, as mandated in the law.

On page 13, Mr. Scott Ciment of ABA ROLI made a clarification that it is USAID and not ABA ROLI that funds the assistance to the OADR.

2. Action Items Arising from the 4th Meeting

Partnership for Growth (PFG) Developments

Gloria Steele, USAID. USAID has been working to develop programs and has met with the technical groups involving different government agencies on the PFG. Solicitations for some PFG projects were issued since the previous PDF ROL meeting. The selection process is on-going.

On September 14, USAID, together with Ambassador Harry Thomas, made a courtesy visit to the newly appointed Chief Justice, Maria Lourdes Sereno and subsequently, met with seven associate Justices. During the meetings, the Supreme Court leadership emphasized the need to reinforce judicial reform measures. USAID assured the SC that the programs are broad enough to incorporate additional reforms and actions that the judiciary wants to include and that the new Chief Justice is welcome to add more inputs in the development of the program.

Antoine Gouzee, EU Delegation Manila. The EU-funded project will be signed in a matter of weeks, though the process has been cumbersome and lengthy. EU is currently working on the details of the financing agreement with the involved agencies and stakeholders in the program because the assistance covers the whole justice system. As the EU finalizes the four-year technical assistance program, sign-off by DILG is needed before EU can engage with technical consultants. Operations are expected to begin in two months, or before December 2012. EU is maintaining program design flexibility to allow it to accommodate developments that arose since the program's conception date. EU assures that there will be a full consultative process with all agencies prior to its commencement.

Regular Updates on Projects with Development Partners and Agencies

ASec Sy stressed the need for two way communication between development partners and beneficiary agencies to ensure that both sides are aware of key developments. ASec Sy requested that in the next PDF meeting, the Land Registration Authority (LRA) report on the status of the Land Registration Systems, Inc. (LARES) project.

As a follow up on the previous meeting regarding project updates, the DOJ issued a memorandum two months ago to all its attached agencies to report any past and present projects and for succeeding projects to be cleared by the Office of the Secretary of Justice to ensure consistency.

ASec Sy mentioned how PAO (Public Attorneys Office) had included in their response to DOJ certain reform programs that at the time of the request had already been green-lighted, ASec Sy emphasized the need for Executive agencies to coordinate their reform efforts to maximize resources, citing as an example the Information Systems Strategic Plan (ISSP) for the government, which is subject to ICT (Information Communication Technology Committee) approval. ASec Sy explained how only one integrated ISSP is being developed for all DOJ agencies. The previous practice was to have individual IT plans for the different agencies. As a result, only one signature and approval is needed, making procurement of ICT equipment easier. This particular initiative is one area PDF will report on.

Creation of a Repository of all the Information and Projects Undertaken to Ensure Sustainability

ASec Sy solicited members about how to best track progress on reform projects and collate studies concerning the justice sector. He noted that various studies abound on the justice sector but that the ability to capture all of these systematically remains a challenge.

Mr. Apolinar Diana of the DILG-LGA described the information system for the Local Governance Resource Center (LGRC) for local governments. He suggested that the members visit the LGRC site where its repository of information can be found. This system is accessible in all regions. The rationale behind the system is based on the knowledge management principle that knowledge is created, utilized, and shared, thereby making valuable information readily accessible.

Mr. Apolinar Diana described the seven competency areas required of LGUs; organization and staffing, legislative support for any enabling mechanisms, transparency mechanisms, management systems, participatory processes, continuing innovations and improvement, and customer service. DILG works with LGUs to build their capacity in these areas and welcomes assistance from donor institutions for LGUs with identified weaknesses. The areas of competencies DILG is considered weak in are identified and are open to interested service providers and donor institutions who can find their needs on the Local Governance Resource Center.



(<http://lgrc.lga.gov.ph/lgrrc.html>). For the justice system, he suggested that of the resource center members can be the judges or employees of the court, as well as administrative agencies who wish to enhance the justice system. In summary, this is how the LGRC website operates and it is currently working on more enhancements.

Ms. Gloria Steele asked Mr. Diana if the DILG is managing the LGRC.

Mr. Diana replied that the National LGRC is presently lodged with the Local Government Academy. In the case of the justice system, the DOJ and the Supreme Court (SC), and perhaps all the administrative agencies can become members of a knowledge management based community whose primary objective is to enhance the justice system.

According to ASec Sy, initial efforts have made in this direction. He mentioned that the DOJ is drafting an EO (Executive Order) to create a Justice Research and Training Institute that will serve as a repository of information. The institution will rank justice

sector institutions with clear metrics. The Secretary has approved the concept in principle. DOJ will begin ranking itself and assessing DOJ processes.

ASec Sy also stated that the EO will be submitted to the president when the DOJ finishes its first round of reforms and initiatives by 2012 and start the Justice Center Reform Research Institute by 2013. Ideally, instead of development partners going from one department or agency to another, they will only need to go to this institute to determine the technical assistance needed. Another reason is that there is no existing project study that will guide the creation and management of the institute.

ASec Sy asked the development partners if there is room to accommodate this initiative under any of their ongoing programs. If there is, he is offering the DOJ as a partner in this initiative.

Paul Schafer of Hans Seidel Foundation asked ASec Sy if there was an existing concept paper, outline or framework that the DOJ can provide to be able to help him mobilize possible funding for this initiative. He cited that Germany has a similar institution which he wants to look into.

ASec Sy will convert the draft EO into a concept paper and email it within the week. DOJ will look into the Max Planck model and has engaged the Korean Institute of Criminology (KIC) which has a similar center as the LGRC. Priority will be given to PDF members who can be of assistance in this effort particularly in sharing possible best practices. Copies of the concept paper will be given to all the PDF members.

Another initiative that the DOJ is developing is a Justice Center to house all institutions dealing with the justice sector in one building. The DOJ already has a copy of the justice center concept paper funded by the World Bank and will hopefully proceed with the assessment study within the year. ASec Sy stated that there is a need to know the resource requirement. In the meantime, the PDF can make a case study of the Justice Center.

ASec Sy added that the DOJ has begun collecting studies from the 1960s to 2012. This is available in hard copy and is available in the Planning and Statistics Division. It is not digitized but can be easily retrieved if needed in PDF.

“History of Preliminary Investigation” Presentation; “Systems Approach to Development Partnerships”; and JSCC Work Plan

ASEC Sy informed the body that a copy of the “History of Preliminary Investigation” has been disseminated to the PDF members. The paper was presented four months ago during the National Prosecutors’ Convention and is for publication in the Integrated Bar of the Philippines (IBP) journal. The paper resulted in the Criminal Investigation Bill penned by DOJ which fuses the investigation and prosecution of crimes. The procedural hurdles created by the current preliminary investigation (PI) process came about over 20 years of conflicting approaches to PI. This causes a delay on average of two years in the PI, thereby causing significant delay to the entire

criminal justice system. The proposed bill, which currently has two versions, will be circulated to everyone for comments.

ASec Sy informed the body that the Data Privacy Act and Cybercrime Prevention Act have been passed into law. Under the Cybercrime Prevention Act, an Office of Cybercrime under the DOJ is created. Another pending bill is the Freedom of Information Act.

In preparation for the opening of the 16th Congress, the DOJ is lining up three major bills, namely, (i) the Criminal Code, (ii) the Criminal Investigation Bill, and (iii) the Obstruction of Justice on the Anti-wire Tapping bill. The DOJ has nine (9) months to prepare.

ASec Sy explained that President Aquino is fully supportive of the Criminal Code Project and will consider it a priority bill. The DOJ has conducted regional roadshows to gather consensus and input around the country. He also has met with key leadership in the Congress to gather support. Additional roadshows are planned in the future. PDF members are welcome to attend.

Systems Approach to Development Partnership

In line with the proposal to formulate a systems approach to development partnership, ASec Sy proposed to develop a better matrix to effectively monitor the development of all projects with donor agencies. The proposed matrix is aligned with the Department of Budget and Management's AO (Administrative Order) 25 mandating a results-based performance management system approach to all government matrices. This approach allows a successful program to be easily identified for future funding, duplication and sustainability, not by the development partners as much as by the government.

Ryan Thomas of the Planning and Statistics Division (PSD) of DOJ brought the body's attention to the proposed new development partner Rule of Law PDF coordination matrix format. The new matrix will provide more detail on projects and the focus is directed on the programs rather than on the recipient agencies and partners. In this manner, the system of reporting past, future and on-going projects between DOJ and the PDF members is programmatic. Upon approval of the matrix format, DOJ will populate it with relevant information on reform projects in the justice sector. (Please refer to matrix for details).

Gerry Porta of USAID commented that normally this type of format works very well for discrete-output oriented projects. For larger, more complex programs however, it may be best to input on a per component basis, in order to capture the specificities of the components of a larger, justice sector program. The JUSTICE program, for example, has different components, partners, and methodologies, and it is probably more useful for these complex programs to have their own segregated matrix, perhaps as part of a larger whole.

Gloria Steele asked whether the database can be updated to reflect what donors are working on and planning for in the future. Mr. Thomas assured her it could and ASec

Sy added that the database will be an accompanying document when DOJ prepares its budgets in the succeeding years.

ASec Sy replied to a query by Antoine Gouzee, explaining that the matrix will be accessible on the internet. Mr. Gouzee then suggested adding a column where specific activities of programs can be linked within the JSCC strategic framework. He agreed with Ms. Steele's comments that the matrix would be most useful if it can identify precisely what donors are doing, provide agency specific program information, and what the specific objective of the program is, perhaps referring to the stated goals of the agency's strategic plan. This way we can relate it to specific project results and outcomes.

ASec Sy commended Mr. Gouzee's suggestions and even added that the matrix can serve as a primary attachment when the JSCC plans are considered for approval.

Scott Ciment of ABA ROLI recommended that DOJ take advantage of technology by engaging a programmer who can develop a simple excel program to allow staff to enter data easily and that can contain basic search features. The program could enable DOJ to encode and retrieve data easily, thereby allowing users to have access to both a broad picture of all activities, and then get more detailed information about the specific projects if desired.

ASec Sy welcomed the idea and will assign personnel to develop a prototype.

Paul Schaefer commended the matrix saying that it is clear and easily understandable and does not leave room for different interpretations. Ms. Domingo of DILG echoed the same sentiment, adding that the matrix is relatively simple to navigate, although it may look initially difficult to understand.

ASec Sy then instructed Mr. Thomas to validate the matrix with the different development partners in the next two months so that the matrix can then be issued in December. He also requested Atty. Mercado of TAF to consider Mr. Gouzee's suggestions of anchoring the matrix to the JSCC.

JSCC Workplan

ASEC Sy informed the body that they are going through the process of briefing the new DILG secretary, Secretary Mar Roxas. He is also waiting for Chief Justice Sereno to respond to DOJ's letter recommending convening the JSCC as the primary body to oversee the justice reform agenda. He said that as soon as a clean copy of the JSCC workplan is available, it will be sent through email to everyone for comments.

ASec Sy went on to briefly present the contents of the JSCC workplan. In the first slide, he discussed the process and history of JSCC with the ADB. He then explained how a criminal justice summit took place last year where all justice sector agencies had an opportunity to diagnose the ills of the justice system. According to ASec Sy, the output publication of the summit will be ready in the next few weeks and will contain everything from the President's speech to the notes of the members of the

secretariat. The document will contain the Philippine Development Plan (PDP) and court reform agenda.

ASec Sy stated how the JSCC plan contains a very clear vision that has been validated at the technical working level and shared with the principals. He then focused on the development of key results areas (KRAs) where the JSCC needed to work on. According to ASec Sy, critical to the success of the KRAs will be the Supreme Court's role in handling the speedy disposition of cases in partnership with the DOJ, DILG and civil society. The National Justice Information System will also play a critical role. It is estimated that the government will need PhP 8 billion pesos to implement these reforms for a period of four years.

Providing a definition of “efficiency “on the part of the Philippine government

ASec Sy recalled Ms. Steele of USAID inquiring about measuring efficiency for monitoring and implementation of programs and projects. According to him, there is an on-going effort on how M & E for justice reform programs can be designed and implemented. The definition of efficiency is still open for discussion. He then suggested that this concern be shelved and discussed in the next PDF meeting.

National Justice Information System (NJIS)

ASec Sy updated the members of the status of the NJIS. The plan is to develop a universal set of forms for the justice system divided into sections for the needs of different agencies. He also mentioned that Secretary de Lima is reporting on the NJIS in her upcoming trip to Washington, D.C and that the President is very keen on this initiative.

Ms. Bernadette Bautista of the DOJ Management Information Systems Division was asked to provide details of the NJIS .

Ms. Bautista began the presentation with the issues that plague justice sector agencies. According to her, there are islands of information and that the system remains manual and is therefore subject to human error. Intensive efforts are needed just to be able to access and retrieve data. In response, each justice sector agencies developed their own systems. These different systems have no framework for data sharing. The absence of communication channels across agencies results in the inefficient and ineffective administration of justice. NJIS seeks to address these gaps by enabling the justice sector agencies to work together as a functional, integrated justice system while due process and separation of powers. In closing, she emphasized the need for coordination and how it will not affect institutional independence but rather promote and harness inter-dependence.

ASec Sy mentioned that version 6 of the NJIS concept paper will be circulated to those who are interested on Sept 18. This has been approved by the Secretary of Justice for transmittal to the President.

ASEC Sy said that the DOJ is carefully building the structure of the NJIS but not its procurement. Regarding the NJIS timeline, DOJ is working to prioritize two major clusters, starting with the corrections cluster. The terms of reference are already available. He asked development partners if they know of any interested parties with whom DOJ can build a good private sector partnership. He also added that DOJ has already started interconnecting their agencies and has installed broadband beginning with Luzon and hopefully by next year, for Visayas and Mindanao. As soon as this is completed, justice sector agencies and even the courts can be linked. The cost to implement the NJIS will be approximately PHP 200 million. Currently, funding is not the constraint; it is how to design the criminal justice system information structure. DOJ is talking with the British and Australian governments about studying their systems.

In the next PDF meeting, DOJ will engage in more detailed discussion on the NJIS, with an emphasis on developing particular metrics for its development, including a book of forms. He anticipates that it will take six months to develop a concept paper on the NJIS enterprise IT and the initial components can be developed thereafter within a 12 to 18 month window. The overall timeframe can be formulated after that.

Gloria Steele of USAID asked ASEC Sy if the projects are divisible, where certain development partners can fund certain components and whether there is oversight for all these projects. ASEC Sy replied that the DOJ already has one and cited PNP as an example where it has an existing partnership with EU. He mentioned that a focal unit on NJIS will be created through a presidential directive.

Should USAID be interested, it can be involved in the correction cluster. He noted ICRC's interest in working with Bureau of Corrections. Other areas that USAID may be interested in would be inputs to the cases and output to the court's system.

3. Other Matters

Ms. Steele noted that not all of the materials included in the agenda were shared with USAID prior to the meeting, making it impossible to prepare accordingly, and asked that this be remedied in the future.

Evelyn Dumdum of the Asian Development Bank informed the members that it has a new mission leader, Mr. Joven Balbosa who will represent ADB in the next succeeding PDF meetings.

ASEC Sy also welcomed ICRC as an additional member in the PDF.

ASEC Sy proposed to officially include in the PDF an initiative on the crime statistics where confusion stems on the differing definition of terms used for example in case resolution, case resolved and case pending which needs clarification and resolution.

Antoine Gouzee suggested a presentation be made on the accomplishments made on the JSCC. He likewise inquired about the status of the JSCC strategic plan of actions. ASEC Sy responded that once the new chief justice and new DILG secretary are ready,

the JSCC workplan will be formally presented for validation. After which, a signing of the JSCC workplan will then be held through a simple ceremony. As regards the financial requirement on the JSCC, Mr. Gouzee pointed out certain inconsistencies in the figures which ASec Sy noted and appreciated.

ASEC Sy requested Ms. Steele if USAID can make a presentation on the monitoring and evaluation of the justice sector programs.

Prior to adjournment, Assistant Secretary Sy advised the body that the next PDF meeting will be set on the first week of December 2012.