

Minutes of the 6th Meeting of the Rule of Law Working Group

PHILIPPINE DEVELOPMENT FORUM

December 3, 2012, Monday

2:00 – 4:00 pm

Hortencia Room, Traders Hotel, Manila

A. Call to order

The 6th Meeting of the Rule of Law Working Group was formally opened by Director Monica Pagunsan of the Department of Justice (DOJ), in the absence of PDF Working Group Chairperson Assistant Secretary Geronimo Sy. Before going through the agenda of the meeting, Director Pagunsan requested for a brief introduction from all the attendees. (Please see attached list of attendees.)

B. Agenda

1. **Approval of the Minutes of the 5th PDF Meeting dated September 17, 2012.**

The attendees were requested to make a page-by-page review of the minutes of the September 17, 2012 PDF, copies of which were distributed prior to the meeting. In the list of acronyms attached as the last page of the document, it was pointed out that “LGA” stands for “Local Government Academy,” and not “Local Government Authority.”

Subject to this correction, and upon motion made and duly seconded, the attendees resolved to approve the minutes of the 5th PDF Meeting dated September 17, 2012.

2. **Action Items Arising from the 5th PDF Meeting**

Status of the Computerized Land Registration Systems, Inc. (LARES) Project

Atty. Sedfrey Garcia of the Land Registration Authority (LRA) reported that the agency is already 92% computerized. Out of the 163 field offices, more than 110 are already using LARES. These offices include the National Capital Region (NCR), except Muntinlupa and Antipolo. Among the various transactions that are already computerized are the issuance of titles and the use of the tracking system through the internet.

LRA’s aim is to computerize all 163 field offices of the agency by February 2013, provided all system enhancements can be completed.

Converting the draft Executive Order of the Justice Research and Training Institute into a concept paper for dissemination

Director Pagunsan reported that the DOJ is working on the conversion of the draft Executive Order of the Justice Research and Training Institute into a concept paper for dissemination.

Proposed Criminal Investigation Bill for Comments and Circulation to PDF Members

Director Pagunsan informed everyone that the draft of the Criminal Investigation Bill was sent to PDF members through email and a copy is attached in the agenda materials. Comments and suggestions were solicited from the members to enhance the proposed draft bill.

Project Monitoring/Coordination Matrix of the Working Group

Director Pagunsan announced that the project and monitoring/coordination matrix of the Working Group was presented and discussed during the previous meeting. The Secretariat is expecting comments and suggestions from the members, otherwise, the working group can already use the matrix in its succeeding regular meetings.

Director Pagunsan reiterated that the Secretariat will map out the projects in the matrix and distribute to the members as soon as completed.

Distribution of the Clean Copy of the Justice Sector Coordinating Council (JSCC) Workplan

Atty. Carolyn A. Mercado of The Asia Foundation (TAF) informed the participants that the draft strategic plan was already prepared. However, the draft cannot be distributed as yet pending approval by the High Level Executive Committee of the JSCC composed of the Chief Justice and the Secretaries of the DOJ and Department of the Interior and Local Government (DILG). It is included in the agenda of the meeting of the High Level Executive Committee slated this December 2012. Copies of the strategic plan will be made available after its approval.

Atty. Mercado stated that the Chief Justice already expressed that her priorities for the JSCC will center on case decongestion and jail decongestion across the justice sector.

Circulation of version 6 of the National Justice Information System (NJIS) Concept Paper

Director Pagunsan mentioned that copies of the concept paper are included in the materials distributed during the meeting. Comments on the concept paper are still welcome.

As to the status of implementation of the NJIS, Director Pagunsan said the DOJ is now starting the procurement of the national connectivity plan for all the DOJ offices nationwide. DOJ will also procure the inmate information system which will start off the first component of the NJIS. DOJ will start with the development of an automated finger print identification system with the Bureau of Corrections (BOC).

Detailed discussion on the NJIS

NJIS discussion is deferred. The working group decided to concentrate more on the upcoming PDF in January 2013 in Davao. Tentative date is January 31, subject to confirmation and availability of the President.

3. January PDF

3.1. Submission of the Working Group Progress Report

Overview of the PDF – Program and Participation

Mr. Reed Aeschliman, Deputy Mission Director for USAID Philippines, when providing the overview of the PDF, referred everyone's attention to Executive Order No. 43, which lays down the pursuit of the social contract with the Filipino people through the reorganization of the Cabinet clusters, including the Security, Justice and Peace Cluster, to which the Rule of Law Working Group (ROL WG) belongs.

According to Mr. Aeschliman's understanding based on discussions with other development partners, the report for the 2013 PDF which the ROL WG is working on will be submitted and not read into the record. This is to ensure a very interactive process. Thus, instead of reading formalistic statements and state responses, the idea is to have statements drafted that will be in the record and probably posted in the website to allow people to review it prior to the meeting. Then, at the 2013 PDF itself in January, there will be a substantive and interactive discussion particularly during break-out sessions.

Mr. Aeschliman clarified the task ahead to include the following:

- a. Review of the substance of the draft statement and priorities of the working group; and
- b. Identifying stakeholders who will be invited to attend the January PDF.

Ms. Catherine Hamlin of USAID pointed out to the members the Guidance on the Upcoming 2013 PDF document which was distribute before the meeting. She added that the PDF secretariat needs input for discussions during break-out sessions of the cabinet clusters and the proposed names of stakeholders to be invited who are not represented by the development partners and the government.

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She also emphasized that the deadline for the submission of the PDF statement is this coming Friday, December 7, 2012.

According to Ms. Hamlin, one thing that can be considered by the body is the participation of the Judiciary in the January 2013 PDF given that the judiciary is a member of the ROL WG and some priority issues of the justice sector are related to courts.

In relation to this, Director Pagunsan mentioned that she already requested the Department of Finance (DOF) and the World Bank to possibly extend the PDF invitation to the Chief Justice to participate in the forum although the PDF is an activity of the Executive Branch.

Ms. Evelyn Dumdum of the Asian Development Bank (ADB) explained that there are actually two working groups that cut across all sectors: (1) the Working Group on Local Government and Decentralization and (2) the Working Group on Mindanao. These two working groups may participate in any of the break-out sessions. Each working group is expected to develop three key actions that may be recommended to the national government for prioritization, in addition to one more recommended key action focused on Mindanao.

Draft Report/Statement of ROL WG for the January 2013 PDF

Director Pagunsan discussed the contents of the draft report beginning with the background of the PDF ROL WG including the elevation of the ROL sub-working group under the Good Governance and Anti-corruption cluster to a working group, assignment of USAID as DOJ's co-convenor, the number of meetings conducted and the cross cutting membership of the ROL WG in several clusters mainly in Good Governance and Anti-corruption and Security, Justice and Peace.

She proceeded to walk everyone through the contents of the major policy issues and progress section in the report. Mr. Ryan Thomas of DOJ followed through with his discussion on the five key result areas (KRAs) as set out in the JSCC work plan, the challenges identified in the justice sector and the working group's policy recommendations. The major points of the report are summarized as follows:

- Major policy issues include the following:
 - ✓ Resource constraints in terms of personnel, equipment and facilities caused by high resource-demand gap, lack of sector-wide perspective in supporting and financing the justice system, and limited or inadequate resource management capability among justice agencies.
 - ✓ Complicated procedural rules and requirements resulting to red tape and delays.
 - ✓ Highly fragmented justice system resulting from decades of traditional institutional territorial mindset and functional compartmentalization.

- ✓ Laws and government structures/mechanisms that are no longer responsive to transnational and technology-based crimes.
- The policy issues identified resulted to capability gaps and delays in the resolution of investigations of cases and high cost of justice, and rendered the justice system extremely vulnerable to politicization, influence and corruption.
- Five priority policy areas culled from the JSCC work plan and mapped out in terms of progress made are as follows:
 - ✓ Good governance in the justice sector
 - ✓ Detection, prevention and reduction of crime
 - ✓ Speedy resolution of investigations, complaints and cases
 - ✓ Corrections and restorative justice
 - ✓ Greater, equal and inclusive justice to justice
- The following challenges were also identified:
 - ✓ Change in leadership at the highest levels, specifically the appointment of a new management, thus making coordination more challenging for a period of time
 - ✓ Lack of planning or program/project units, personnel and/or capability in certain justice sector agencies.
 - ✓ Heavy workload of agency personnel and managers
 - ✓ Limited program/project scope, time, personnel, and funding
 - ✓ Inadequate monitoring and evaluation of program and projects
- In line with these policy priorities and issues, the following recommendations were included in the draft report:
 - ✓ Improve justice sector capability and access to justice by mitigating resource gaps, optimizing resource management, addressing inefficiencies and corruption, enhancing the legal framework, building core competencies, maximizing information technology, mainstreaming restorative justice and strengthening alternative dispute resolution;
 - ✓ Address procedural delays, congestion and cost in the justice system including investigation, court adjudication and corrections through reforms in systems and procedures; and
 - ✓ Strengthen economic justice including the legal framework on competition, contract enforcement and property rights.

For a more detailed discussion, please see “Report for the 2013 PDF Submitted by the PDF WG on ROL” as distributed during the meeting.

Draft Matrix of Reform Activities

In addition to the draft report, Mr. Thomas presented a draft matrix of reform activities. The matrix is divided into five main areas, including: **key policy issues, priority action areas, priority programs, responsible agencies and development partners.** The main areas of responsible agencies and development partners are not required in the matrix and the group can decide later whether to include or delete them. With regard to the column on development partners, the column is still incomplete. The members are invited to complete the list of development partners for each priority program or projects.

Discussion

Ms. Dumdum stated that the five KRAs listed in the draft report were from the JSCC work plan which is still subject to approval by the High Level Executive Committee. She suggested the inclusion of a collatilla that the list of KRAs is still a draft. Director Pagunsan replied that a footnote to the items mentioned has been provided.

Atty. Virginia C. Abella of the Court of Appeals (CA) stated that it has submitted its matrix just that afternoon. The three items which the CA focused on are (i) good governance in the justice sector, (ii) speedy resolution and investigation of cases, and (iii) greater equal and inclusive access to justice. Atty. Abella added that even if the CA does not have a program management office, Presiding Justice Andres Reyes is hands-on in the projects of the CA. Despite the challenges of the CA, the key programs which Presiding Justice Reyes wants to emphasize are the case-ageing project, zero-backlog project, and creation of an integrity program. Considering that the CA has stations in Cebu and Cagayan De Oro, the CA of Manila will also be able to access data from these two places. The CA is also accessible online through the kiosk and the CA website.

As regards the bail reform project in the matrix, Atty. Mercado inquired whether the DOJ's bail reform project is in line with that of the Supreme Court Committee on Jail Decongestion led by Justice Abad. Director Pagunsan clarified that the DOJ's efforts are being aligned with that of the SC's.

Dr. Volker Steigerwald and Atty. Mark Robert Dy of GIZ Philippines informed the group that it has an existing project with the DOJ which will last until 2014, and which is still subject for renewal. The project – the Competition, Policy and Law Project - is Asean-wide and is based in Jakarta.

Mr. Joven Balbosa of the ADB commented that the report and the matrix should be clearer and more specific. He posed the question to the group: *“If there is one thing that we would like to achieve at the end of the President Noyonoy Aquino Administration and if we are a corporation branding ourselves, what would that be?”* He thinks the report needs something to grasp on – a specific outcome indicator. He added, as an example, that as a KRA, good governance may be too broad. Integrity and transparency which is only subsumed under good governance may be a better and clearer KRA. He mentioned that what the report and matrix need further are publicly-accessible indicators that can be tracked over time.

Mr. Balbosa stated further that with all the key policy issues to be presented by other working groups, the list would already be mind-boggling. The group should be able to identify specific indicators that can get the attention of the President and the leadership. These indicators should be strategic, such that the group can set medium-term agenda and cascade the priorities. At present, all KRA's and activities are in the priority action area, and a better sense of prioritization should be achieved.

Director Pagunsan responded that the outcome indicators were not included since the KRAs are in the report. She added, however, that it may actually help if the outcome indicators are placed in the report. These outcome indicators are already in the JSCC strategic plan, and it will only be a matter of adding them. It was also explained that at the end of the Aquino Administration, the goal is that all the outcome indicators included in the JSCC strategic plan should have been achieved.

Director Pagunsan also mentioned that in the Partnership for Growth (PFG) with the United States Government, the World Justice Project indicators were used. She stated that there is also an existing challenge in coming up with national/local indicators which can be benchmarked against existing global indicators.

Mr. Aeschliman stated that, in relation to the mention of the PFG, it is a good idea to link those indicators being tracked by the scorecard of the National Competitiveness Council to those that are contained in the draft report and matrix.

Mr. Antoine Gouzee of the EU Delegation Manila agreed that indicators need further elaboration and fleshing out. The same is necessary for the Working Group to identify where it is and where it wants to go. For example:

- Extrajudicial killings were mentioned, but the specific goals such as reduction of extra-judicial killings, were not specified.
- As regards the Action Program for Judicial Reform, it is difficult to identify what has been already achieved.

Mr. Gouzee believes that there being limited resources, the strategy should be to establish priorities. Also, the road map seems to be missing. There is a need to identify how the KRAs could be achieved and be able to provide a timetable for these.

Mr. Gouzee also informed the group that EU will submit its matrix tomorrow. However, among its current projects, one involves access to justice and monitoring and evaluation which is implemented by the DILG, in partnership with the DOJ and the National Commission on Indigenous People. The project can provide a good platform for coordinating with all stakeholders.

Atty. Mercado responded to the comments that the actual indicators are not yet identified since the JSCC work plan is not yet approved by the High Level Executive Committee. After approval, the plan is to set up a permanent Secretariat and an action plan by 1st quarter of next year.

Atty. Abella explained that the justice system is inter-related starting from the barangay, to the DOJ, to the courts and to the corrections. She can speak in behalf of the court that the main goal is de-clogging of court dockets, with the purpose of hastening and determining delayed cases. The indicators under these are definitely quantified.

In relation to the fact that one priority action area for discussion in the security, justice and peace cluster break-out session in the January PDF meeting should be focused on Mindanao, Ms. Yvette Valderia of the Mindanao Development Authority, shared that the focus will be more on the development of the Bangsamoro framework and peace and development in Mindanao. She clarified from the group whether the stated KRAs and activities include Mindanao, considering that they are all nation-wide activities. The Working Group of Mindanao will also cover the programs and projects identified by the Working Group as it relates to the programs and projects under the Mindanao framework.

Ms. Hamlin informed the participants that in preparation for the PDF break-out session, there are three questions that need to be answered by the Working Group:

- What are the major challenges in achieving the targets under the social contract relevant to your cluster theme?
- Within a 3.5-year timeframe, what are the top 3 actions that the group recommends the Government of the Philippines to focus on, in relation to targets under your cluster theme, including 1 action relevant to Mindanao?
- How can the main stakeholder groups (private sector, civil society/academe, development partners) contribute?

She added that the challenge is for the group to identify which policy priorities will they really put on the table for discussion in the January PDF.

Since the deadline for submission of the PDF statement is on Friday, December 7, 2012, there shall be a small group discussion on December 5, 2012, two days before the meeting, to incorporate the additional inputs from the participants and additional submissions from agencies and development partners. The secretariat will thereafter send out the revised draft to all participants. She requested others to give their comments on the revised draft on December 5 or 6 (Wednesday or Thursday) so that the draft can be finalized in time for the deadline.

3.2. Five stakeholders to be invited in January

The group is expected to submit on December 7, 2012 five (5) stakeholders to be invited in the January PDF. These stakeholders should not be already represented by the development partners or the government. The group decided to initially invite the following stakeholders:

- Alternative Law Groups (ALG) - under good governance in the justice sector

- Movement for Restoration of Peace and Order (MRPO) – under detection, prevention and reduction of crime
- Integrated Bar of the Philippines – under speedy resolution of investigations, complaints and cases
- Women’s Legal Bureau (WLB) – under greater, equal and inclusive access to Justice

Mr. Aeschliman suggested the inclusion of a representative from the business, corporate and investment-related sector such as a business chamber or a private sector organization considering that one of the key constraints in inviting foreign direct investments is due to issues of fraud and poor perception of being able to enforce contracts in courts or even outside the courts.

Mr. John Forbes from the American Chamber of Commerce suggested inviting Atty. Francis Lim who is a private sector co-champion, former President and Chief Executive Officer, and known reformist. However, it was noted that invitations should be to an organization and not a private person.

Ms. Dumdum added that Atty. Francis Lim is part of the Justice Reform Initiative (JRI) which is a grouping of several business groups including the Makati Business Club. Atty. Mercado suggested the inclusion of the Humanitarian Legal Assistance Foundation under corrections and restorative justice.

The Working Group removed the WLB considering that it is already part of the ALG’s umbrella organization.

The final list of stakeholders agreed upon is as follows:

- JRI - under good governance in the justice sector
- Movement for Restoration of Peace and Order (MRPO) – under detection, prevention and reduction of crime
- Integrated Bar of the Philippines – under speedy resolution of investigations, complaints and cases
- Humanitarian Legal Assistance Foundation – under corrections and restorative justice
- Alternative Law Groups (ALG) – under greater, equal and inclusive access to justice

For the 2013 PDF in January, the ROL WG will submit the names to the DOF who will send out the invitations to the stakeholders. It will invite these civil society stakeholders for the next Rule of Law Working Group PDF meeting before the January PDF in Davao.

The meeting adjourned at 4:00 p.m.