

## **Minutes of the 7<sup>th</sup> Meeting of the Philippine Development Forum Rule of Law Working Group**

January 11, 2013, Friday  
2:00 – 4:00 pm  
Bayview Hotel, Manila

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### **A. Call to order**

The PDF Working Group Chairperson Assistant Secretary Geronimo Sy formally opened the 7<sup>th</sup> Meeting of the Rule of Law Working Group (ROL WG). Before going through the agenda of the meeting, ASec Sy requested for a brief introduction from all the attendees<sup>1</sup>, and for each attendee to share his/her wishes for the country and the justice sector for the year 2013. He acknowledged Ms. Gloria Steele, Mission Director of the United States Agency for International Development (USAID), the Co-Convenor of the PDF, who thanked the members for their efforts towards achieving the working group's objectives in the past year. The attendees were then reminded about the upcoming PDF meeting to be held on February 4-5, 2013 in Davao City.

### **B. Agenda**

#### **1. Approval of the Minutes of the 6<sup>th</sup> PDF Meeting dated December 3, 2012**

The attendees were requested to make a page-by-page review of the minutes of the December 3, 2012 PDF meeting, copies of which were distributed prior to the meeting.

The minutes of the 6<sup>th</sup> PDF Meeting dated December 3, 2012 was approved and seconded subject to the corrections raised.

#### **2. Action Items Arising from the 6<sup>th</sup> PDF Meeting**

##### ***Finalization of the Working Group Report for the Department of Finance and World Bank***

ASecSy informed the attendees that the PDF Rule of Law Working Group Progress Report had already been submitted to the Department of Finance (DOF) and World Bank (WB) in December 2012. A copy of the report was distributed to the attendees at the start of the meeting.

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<sup>1</sup> Please see attached attendance sheet.

### ***Identification of the Five (5) Stakeholder Organizations and their Invitation to the 7<sup>th</sup> PDF Meeting***

A Sec Sy reported that a successful meeting was conducted with the five (5) stakeholders identified by the group, namely the, Movement for Restoration of Peace and Order (MRPO), Justice Reform Initiative (JRI), Alternative Law Groups (ALG), Humanitarian Legal Assistance Foundation (HLAF), and Integrated Bar of the Philippines (IBP).

### ***Submission of the List of Stakeholders to the DOF for the January PDF Meet***

A Sec Sy further stated that the list of stakeholders was already submitted last year to the DOF along with the Working Group Progress Report.

### ***Updating of the Approval of the Draft Strategic Plan of the Justice Sector Coordinating Council (JSCC) by the High Level Executive Committee***

A Sec Sy updated the members on the status of the Judicial Sector Coordinating Council (JSCC) work plan which is still pending approval with the high level executive committee. He does not foresee any problem other than finding a common time for Chief Justice Meilou Sereno, Justice Secretary Leila de Lima and Local Government and Interior Secretary Mar Roxas to meet in order to officially approve the plan.

### ***Conversion of the Draft Executive Order of the Justice Research and Training Institute into a Concept Paper for Purposes of Dissemination***

Asec Sy announced that the draft Executive Order (EO) has already been converted into a concept paper. He said that, in principle, the Max Planck Institute in Germany has agreed to partner with DOJ and its agencies to come up with the first Max Planck Institute in Asiato be based in the DOJ. The idea behind the establishment of a Max Planck Institute in the Philippines is for the DOJ to have a comparative legal research on all of its legal requirements to be benchmarked on a global basis. It is a long-term project that will be supported by Hans Seidel Foundation and the German Embassy.

### ***Updates on DOJ Projects***

A Sec Sy apprised the members on the status of the inmate biometric system of the Bureau of Corrections (BuCor) which has been successfully bid out. According to him, the inmate biometric system will be administered in all of DOJ's correctional penal facilities to effectively monitor the ingress/egress of inmates. The terms of reference (TOR) was changed because it was belatedly decided that the biometrics should first start with the prison guards. The project is expected to be completed within nine months, in time for the DOJ's anniversary in September 2013. The information systems for the corrections will include the Parole and Probation Administration (PPA) and Board of Pardons and Parole (BPP). With the biometrics in place, persons granted executive clemency need not stay an hour more in jail than is necessary.

A Sec Sy also extended his appreciation to the International Committee of the Red Cross (ICRC) for its support, especially in the conduct of the ground breaking study of the Manila City Jail. According to Asec Sy, the DOJ plans to adopt the recommendations of this study once the jail

management system is implemented. The project, advocated by DOJ and its partner institution, is estimated to cost Php14 million and is regularly funded under the NJIS. For this year, an estimated Php 70 M has been allotted with a total of Php 160 million having been allocated for the past year and a half. The project is regularly budgeted so that sustainability and institutionalization of the project is not an issue.

ASec Sy announced that the oral argument on the Cyber Crime case is set on Tuesday, January 15, at 2 p.m. A Php 20 million start-up fund has already been allocated to the operationalization of the Office of Cyber Crime. DOJ is eyeing partners for this project particularly the US and EU in the area of transnational crimes such as trafficking.

### **3. Preparation for the February 2013 PDF Meeting**

Drawing from the presentation made at the 6<sup>th</sup> PDF Meeting last December 3, Director Monica Pagunsan of the DOJ then delivered a powerpoint presentation on the working group's programs and projects, as well as the justice sector's key policy issues and priority action areas. Copies of the powerpoint presentation made by Director Pagunsan were disseminated to the attendees at the start of the meeting.

In Director Pagunsan's report, she identified the accomplishments of the DOJ, beginning with the conduct of the 1<sup>st</sup> Criminal Justice Summit in December 2011 up to the development of a National Justice Information System. She then proceeded to enumerate fourteen justice sector key policy issues and categorized these issues under three priority action areas, namely (i) establishing good governance in the justice sector toward equal and inclusive access to justice, (ii) developing capacities and strategies in detection, prevention, and reduction of crime and speedy resolution of investigations and cases, and (iii) effective corrections and institutionalizing restorative justice.

At this point, ASec Sy directed the members to review the three tables bearing the key priority action areas and to comment particularly in the "responsible agency" and "development partner" columns in order to ensure that the information contained therein are correct.

Commenting on the "key policy issues" column where the "high cost of justice and geographical accessibility" is identified as a concern, Mr. Gerry Porta of USAID, shared how the small claims courts initiative supported by USAID has brought down the high cost of litigation particularly for small scale litigants due the institutionalization of small claims courts procedure in several second level courts.

Mr. Antoine Gouzee of EU announced to the members that the EU's Access to Justice Project has already began this year. The current program has two core focuses, namely access to justice and criminal justice. The other component of the project includes the monitoring and evaluation and oversight. With the scope of the project, he believed that EU can provide assistance to almost all areas but EU will try to sufficiently restrict itself on certain areas. Mr. Gouzee offered to work closely with the secretariat with respect to where EU can be actively involved after it has finalized its workplan. At this stage, however, Mr. Gouzee expressed that EU's assistance can fall under integrity development, transparency and accountability.

Ms. Bernadette Cariaga of the Australian Agency for International Development (AusAID) stated that on the issue regarding “heavy dependence on testimonial evidence” under Table 2, AusAID is supporting the Commission on Human Rights (CHR) in its forensic capacity building and should therefore be added under the “development partner” section. ASec Sy then suggested that CHR be part of the DOJ protocols where a set of standards has been developed for all government forensic laboratories to follow.

Meanwhile, Atty. Jun Lopez of the American Bar Association Rule of Law Initiative (ABA ROLI) queried whether the alternative use of the terms “Supreme Court” and “judiciary” was deliberate. Asec Sy then pointed out that, for consistency, the matrix should only use “Supreme Court” when referring to the institution responsible for key policy issues and areas of concern pertaining to the judiciary.

Mr. Roy Valenzuela of the Legal Services Department of the Bureau of Jail Management and Penology (BJMP) requested that they be included in relation to the issues concerning “outdated and fragmented penal laws” and “delays in case decongestion during preliminary investigation”.

Ms. Auralyn Pascual of the National Bureau of Investigation (NBI) is requesting for capacity-building assistance from AusAID to complement the current and future construction of NBI forensic laboratories in Cebu and Cagayan de Oro. Ms. Cariaga of AusAID responded that NBI and AusAID can schedule a separate meeting on that matter.

ASec Sy emphasized the coordinative and demand-driven format of the PDF where government assesses its needs and development partners respond to these.

ASec Sy updated the members of the status of the new biometrics clearance system of NBI which is already 82% compliant. The target completion of the project is within the year.

ASec Sy also informed the members that the Bureau of Immigration (BI) is about to pilot test the first auto gate system where BI terminals will already be biometric-ready with camera. The proof of concept is expected to be completed this quarter. The “auto gate” system that will be piloted in the Ninoy Aquino International Airport (NAIA) Terminal 2 will enable the Bureau to better and more closely identify who is coming in and out of the country.

ASec Sy also shared with the members the DOJ’s digitization program where all DOJ cases will soon be available electronically. The plan is to have the digitization process ISO-certified. The Office of the Government Corporate Counsel (OGCC) will complete the digitization project by June 2013 and the Office of the Solicitor General (OSG) will begin by July 2013.

Another update that ASec Sy discussed with the members is the issuance of a circular on the bail bond policy by the bail committee. The idea behind it is that if the accused is qualified for probation (i.e., punishable by imprisonment of not more than six years), there should be no requirement to post bail. This will be the first circular that will be issued on bail bond with a department-wide concern. A Department Circular on the bail bond is forthcoming.

Ms. Sherisa Nuesa of the Judicial Reform Initiative (JRI) maintained that her organization can fall under the “ineffective enforcement of economic justice”. She however expressed reservations in leading the effort but has committed to support the priority programs and projects of said key policy issue. Further, on the issue concerning “heavy dependence on testimonial evidence”, she

suggested greater focus on physical evidence rather than testimonial evidence only. ASec Sy clarified that physical evidence not subjected to corresponding testimony cannot be submitted to the courts for appreciation. Thus, the establishment and maintenance of forensics lab are necessary.

Thereafter, Mr. Antoine Gouzee of the EU, stated that EU should be included as a development partner –in the area where “high cost of justice and geographic accessibility” is an issue as well as with all the key programs under Table 2 --Developing capacities and strategies in detection, prevention and reduction of crime and speedy resolution of investigations and cases except under the “outdated and fragmented penal laws.”

ASec Sy informed the attendees that confidential projects of AusAID are not included in the table but DOJ is tracking it.

Ms. Auralyn Pascual of the NBI then commented on the issue under Table 1 particularly on the “severe inadequacy in the core manpower complement.” She expressed optimism that this concern can be addressed prior to the enactment of an NBI modernization law. ASec Sy then suggested to have SC and DOJ added in the “responsible agency” column and remove “NPS”.

ASec Sy reiterated PDF’s commitment to channel all its resources to the field where resources are very limited.

Ms. Pamela Grafilo of United Nations Development Program (UNDP) suggested that the PDF ROL WG look into the issue of environment justice of Supreme Court where it can be used as a handle to look into corruption issues. When one looks at environment justice and environment rights, corruption in the justice system occurs in extractive industries. Since the organization is also working closely with the SC on the issue of “high cost of justice” in the formal and informal justice systems, the ROL WG may be able to link both concerns.

Mr. Roy Valenzuela of the BJMP also emphasized the urgency of the problem of jail congestion where BJMP is experiencing high rate of death or mortality among inmates(1 inmate/day). It is a serious justice issue because 95% of BJMP clients are undergoing trial. ASec Sy then requested BJMP to submit next week latest 2012 data to the Bail Committee.

In relation to the issue on “jail and prison congestion,” Ms. Johanna Caparos-Montecino of Humanitarian Legal Assistance Foundation (HLAF) requested that DSWD be included in the responsible agency as DSWD not only holds children in conflict with the law but children facing interventions from the government. Asked by ASec Sy whether they add to jail congestion, Ms. Caparos affirmed this and cited the detention center in Molave, Quezon City as an example. Because the children referred to covers also children that are situated in DWSO detention centers, ASec Sy expressed reservations in including it on the table explaining that this inclusion may require a different approach as this is strictly not a justice sector issue. He, however, committed to consider the comment. He also added that DOJ issued a directive to the BuCor to ensure that no minors stay in jail and asked Ms. Montecino if its organization can assist all BuCor agencies in providing a feedback to support this objective.

In relation to the discussion regarding Children in Conflict with the Law (CICL), Mr. Gerry Porta commented that one of the shortcomings of the “Comprehensive Juvenile Justice Welfare Act” is that it was mandated to create diversion systems which local government units were

tasked to underwrite, but had failed to provide funding. Since the DILG has a role in overseeing the implementation, he then asked DILG if the department can provide some solutions to this on-going concern.

Still in line with the issue on “jail/prison congestion”, Mr. Edilberto Davis of the Supreme Court Project Management Office (SC PMO) pointed out that the Supreme Court should be included as one of the responsible agencies.

Ms. Auralyn Pascual of the NBI sought the members’ assistance in building the capacity of the Bureau as well as providing more equipment and tools for investigation in handling transnational crimes. ASec Sy added that the NBI is the number one priority in said key policy issue.

Finally, Ms. Cariaga requested that AusAID be added as a development partner in the issue regarding “impunity and human rights violation”.

#### **4. Policy Action Priorities/Target-setting for 2013**

Ms. Gloria Steele of USAID requested the members to let the Secretariat know if there are any additional comments on the priority table.

ASec Sy requested Ms. Cariaga to submit a list of AusAID’s completed and ongoing assistance to DOJ.

On another matter, Ms. Cariaga of AusAID suggested that focus should also be given to persons with disabilities. She said that currently AusAID is supporting a group that provides free sign language training to the police and the justice system. She asked if the government can provide a budget support for this disadvantaged sector. In response, ASec Sy directed all member agencies, starting on the Monday immediately following the 7<sup>th</sup> PDF meeting, to map out all of their respective employees and clients who suffer a disability/disabilities, and to report on the matter on or before the end of the month of January. He also instructed agencies to consider special procedures, lanes or counters to assist PWDs. He stated that the initial target budget for 2014 to address the issue is at one percent to serve the 15% of the population who are considered PWDs.

Ms. Gloria Steele also shared with the members USAID’s assistance on specialized areas like PWD where financial or technical assistance is needed and encouraged everyone to participate in the proposal submission. USAID would be happy to provide interested parties more information about the PWD grant.

ASec Sy also asked stakeholders who have partners with PWD-oriented institutions to provide feedback to determine whether DOJ is compliant with the implementation of a special procedure for PWD and the target for this is by September 2013.

Mr. Antoine Gouzee of EU asked whether, in the priority action areas, PDF ROL WG will have targets or indicators in its priority projects. In response, ASec Sy said that under the JSCC workplan, a list of priority projects has already been drawn. As soon as the Philippine government assesses the project as a priority, the specific agency needs to fast-track its workplan. Regular monitoring will be conducted on the submission of workplan and if the agency fails to

submit, DOJ will remove this agency from their loop and said agency is required to report to its head agency for failure to comply with the submission of the workplan.

In relation to the query of Mr. Gouzee, Director Pagunsan brought up the previous query of Mr. Joven Balbosa during the previous PDF meeting regarding the development of indicators. She assured Mr. Balbosa that the matter will be taken up during the February PDF meet.

Mr. Joven Balbosa of the Asian Development Bank (ADB) responded that development of the indicators comes naturally in the workplan drafting process. The road map has already been initially established such that the formulation of the outcomes and indicators can consequently follow.

## **5. Other Matters**

Asked by Mr. Antonie Gouzee on how the table relates to the three recommendation of priority action that are in the report that will be submitted to the WB, ASec Sy explained that PDF ROL WG identified three nominal areas of priority action areas to comply with DOF's requirements. DOJ's submission will then be consolidated with other agencies' submission. Development partners will be asked to comment in these areas. ASec Sy emphasized that although the priority action has been narrowed down to three for reporting purposes to the PDF, all projects of justice sector remain a priority.

Asked by Mr. Balbosa of the ADB on how PDF wants to address Mindanao related issues and the prioritization of the projects, ASec Sy replied that every project or program is Mindanao-linked, since the PDF will not break things down geographically. To address the issue of prioritization of areas, he suggested a conscious Mindanao-centric approach of channelling resources.

## **C. Adjournment**

The meeting adjourned at 4:00 p.m.